

POPse! Roundtable, 10th May 2011
Do We Need a 'Community Right to Manage'?

Attendees

The discussion was led by Mark Walton from The Waterways Project and attended by; Paula Claytonsmith (Strategy and Policy Development Manager at Keep Britain Tidy), Chrisanthi Giotis (Assistant Editor at Social Enterprise Magazine), Kirsten van den Hout (Independent Consultant), James Lloyd (External Affairs Officer at the National Trust), Nigel Lowthrop (Founder of Hill Holt Wood), Sophie Marsden (Policy and Research Officer at Locality) and Charles Woodd (Community Development Team Leader at the Department for Communities and Local Government).

1. Background

On Tuesday 10th May 2011 a POPse! roundtable discussed whether a 'right to manage' would enable people to utilise local environmental assets such as woodlands and waterways to deliver economic, social and environmental benefits to for their communities.

The idea of a 'community right to manage' was proposed by The Waterways Project who described it as the 'missing link' in the Localism Bill, sitting somewhere between the new community rights to 'bid' to purchase buildings and 'challenge' to run services.

POPse! provided the ideal setting to examine the proposal in more detail and ask ourselves whether a community right to manage could help deliver environmental localism.

2. Policy & Politics

2.1 Policy

The idea of a 'community right to manage' was considered to fit well with Government thinking that has led to the proposals for community rights 'to bid' and 'to challenge' currently being consulted upon as part of the Localism Bill. It was noted that there are also strong links to the tenants 'right to manage' (Commonhold and Leasehold Reform Act 2002) which provides a no-fault process whereby leaseholders can take over management of the blocks they occupy. It also enables them to take control by compulsorily purchasing the freehold from the landlord.

However, seeking primary legislation to create a new 'right' in law was considered to be overly complex, time consuming and unnecessary. The need to develop a legal provision that can fit a wide variety of applications could result in a watering down of initial intentions through the consultation and drafting requirements of new legislation. By contrast the development of a *narrative* of environmental localism which promotes a 'presumption in favour' of utilisation of environmental assets for public benefit may be both more politically powerful and practically effective.

The leasing of land for a subsidiary use would be considered a 'disposal' and so is not subject to the same procurement issues as the contracting of a service.

A 'presumption in favour of community utilisation' could be built into the constitution of the new waterways charity, and adopted as a condition of any appropriate future government transfers or disposals of environmental assets. It could also be adopted by existing organisations in the charitable and private sectors which hold significant under-utilised environmental assets.

2.2 Politics

The fundamentally political nature of land ownership and management were debated, with repeated reference to the concept of 'the re-establishment of the commons' - and even to 'taking back rights that were lost at the point of a sword' over 300 years ago.

It was noted that the very word 'forest' derives from the Latin *forīs* ('outdoor, outside') which, like the term 'common' referred to the open spaces lying between enclosed or fenced areas.

The depoliticisation of the issue of land ownership and management rights in England and Wales during the 20th century was discussed. The following exceptions were noted:

- the Countryside and Rights of Way Act (2000) introducing of new access rights
- the Scottish Land Reform Act (2003) introducing the 'community right to buy'.

Whilst policy and practice relating to community asset ownership have developed rapidly in recent years it was agreed that issues relating to the community utilisation of environmental assets and environmental localism have largely been missing from this debate.

3. Environmental Localism – Where's The Debate?

Participants identified a number of issues which conspire to frustrate or prevent debate about the local utilisation of environmental assets, many of which are under managed or under-utilised. These included:

- An assumption that environmental assets need to be managed by large expert-led organisations either in the public or charitable sector
- A presumption in favour of managing for conservation rather than utilisation
- Opposition to any kind of development or economic use of natural assets – even if such use would be sustainable / beneficial

- A lack of transparency with regard to land ownership data – it's hard to find out who owns what
- Protection by landowners of long held inheritance rights and tax breaks which are justified in the name of 'stewardship'

These pre-existing issues were considered by some to have been exacerbated by Defra's reaction to the public outcry in response to the recent forestry consultation.

Both the department and its arms length bodies are felt to have retreated from any meaningful debate on issues of environmental localism, community ownership or community management of environmental assets. Concern was expressed that that the Woodland Panel set up following the withdrawal of the consultation does not include any social enterprise or community asset development organisations, despite significant lobbying that such interests should be represented.

It was also noted that the review of arms length bodies undertaken since the election has largely removed the policy and advisory functions from these organisations which used to provide a channel for engaging government in debate on policy.

4. Advantages of Community Management

The advantages of community management, as opposed to the transfer or sale of environmental assets, included:

- Maintaining the integrity of the overall asset / network which may have practical, economic and habitat benefits
- Maintaining a sense of common / public ownership
- Reducing the bar to access, enabling money and time to be spent on capitalising the business and focussing on delivery of mission rather than purchasing land
- Providing an entry point which may lead to transfer of ownership following the development of trust, track record and trading income

It was noted that conservation organisations, private and corporate landowners and farmers all tend to manage land for varying degrees for environmental and economic benefits with limited focus on social returns.

Communities on the other hand are often more likely to 'see the bigger picture' and deliver multiple benefits including employment, training, services, health and well being.

For example; in woodland management terms, conservation and forestry organisations tended to focus on the 'stand of trees' – either for their economic, biodiversity or heritage value - whilst communities are often more interested in the overall use of the land.

5. Capacity & Democracy

The roundtable discussed the need to balance interests of a wide range of stakeholders including; the asset owner, the local community and many who are geographically distant but who derive value it, e.g. from ecosystem services or as visitors.

The spectre of 'the balkanisation of middle England' was balanced by the recognition that such democratic debate, whilst messy, is much needed - especially in relation to the practical issues and trade-offs required to deliver sustainable development. Such practical engagement may also have positive implications for the development of more consensual approaches to wider issues of local planning and development

It was observed that, whilst 'communities of place' may not always have the full skills and knowledge required to undertake the day to day practice of management, they could provide governance and strategic oversight whilst drawing on 'communities of practice' to undertake specialist tasks. An example was offered of a community stipulating that a local wood was to be managed for continuous cover rather than clear felling and engaging a local woodland management social enterprise to develop and deliver an appropriate management plan.

The need to build confidence in innovative approaches at a national and local level was discussed, including the need for practical examples and some form of facilitation or mediation between the asset owner and the community.

6. Community Management in Practice

A range of existing practice was identified - from local authorities leasing or contracting out the management of specific assets, to the localising ambitions of the National Trust.

Examples included:

- National Trust and the RSPB delivering a local landscape management service for Sheffield City Council on the Eastern Moors
- Keep Britain Tidy developing local facilitation and brokerage services between local authorities and community organisations in relation to green space management
- West Lindsey Council contracting with a local social enterprise to deliver green space and woodland management

Other organisations such as the Environment Agency and Natural England are known to be actively considering how they localise their models of delivery and actively engage with communities. However, the roundtable felt that much of this work was being undertaken in silos with little sharing of learning and experience. This may be exacerbated by reductions in funding available for policy development and campaigning work.

The need for a shared resource, or coalition, to undertake research, share learning, provide critical analysis and peer support was discussed. It was felt that such a coalition would have the potential to provide a useful mechanism for creating greater understanding of the policy and practice of localism in relation to environmental assets.

Mark Walton, POPse!