CREATE streets foundation

February 2023

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Re-creating the platoons of place

Reforming regulations to tackle high street decline and transform empty shops to thriving local assets

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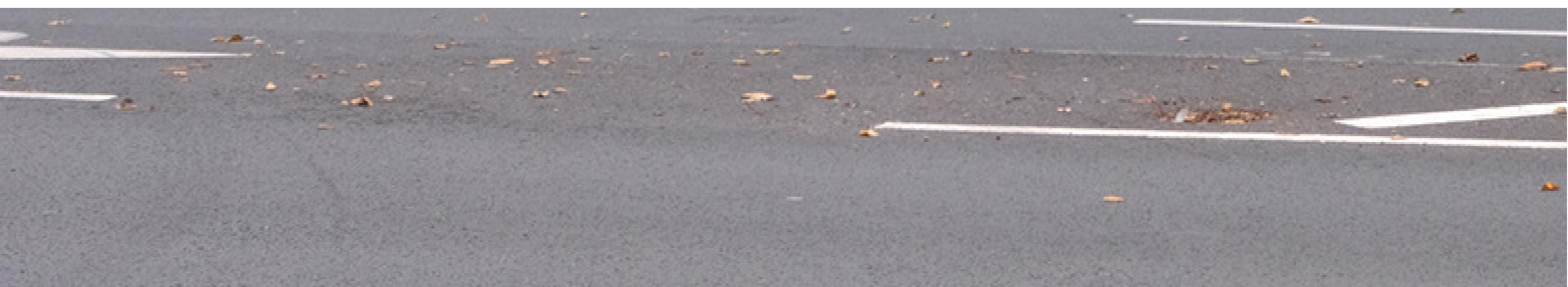


Re-creating the platoons of place

Reforming regulations to tackle high street decline and transform empty shops to thriving local assets

1. Introduction

"I understand the vital role high streets play in communities. I don't just want them to survive; I want them to thrive…I want to slash the number of empty shops by 2025 and make sure they are turned into thriving local assets, supporting skills, businesses, economies and creating jobs."

Rishi Sunak, July 2022[1]

"Vacant properties owned by absentee landlords are the scourge of community, holding back the transformation of our high streets."

Mark Robinson, Property Director and Co-Founder, Ellandi and Chair, High Streets Taskforce[2]

This report outlines a simple way for government to tackle the problem of vacant and derelict commercial property that is blighting many British high streets, by making it easier for community organisations to take ownership of unused and neglected assets. The model proposed relies on proactive leadership by local authorities committed to reversing high street and town centre decline, and on action by community organisations to identify, secure ownership of and use commercial properties that can catalyse high street revival.

This model deploys existing local authority powers, combined with proposed improvements to the system for registering Assets of Community Value, to create a genuine Community Right to Buy that would apply when suitable properties come up for sale. This report also proposes amendments to existing and draft legislation to encourage the owners of such properties to stop neglecting them or put them up for sale.

The proposals require only modest legislative or regulatory changes in line with government's stated policy aims and pose no "risk" to existing owners who are competently managing their property.

1 https://www.bbc.co.uk/news/uk-politics-61362442
2 Quoted in, Plumb, Roche, McNabola (2022), *Take Back the High Street: Why now is the time for a High Street Buyout Fund*.

"empty properties on the high street are like missing teeth in the smile of an old friend. You only need one or two for the whole thing to be ruined."

-Michael Gove

While these changes would create new opportunities for direct community acquisition, they would also result in increased letting of high street property and lower commercial rents. Enacting these proposals would make a significant and rapid contribution to the goals of the Levelling Up White Paper and help give local communities a strong sense of control and optimism about the future of their town centres.

2. Background

The high street: a history of vulnerability and decline

Since the mid twentieth century the high street has been thought of primarily as a place for retail. It was not always thus: in earlier times most high streets and town centres played richer and more complex roles as centres not just of shopping but of commerce and community life, of living and working, and their retail premises were often densely inter-mingled with homes and civic buildings.[3] In recent decades the retail-dominated British high street has been in decline, hammered first by the rise of car-oriented urban planning and the lure out-of-town shopping centres, then by online retail, and most recently by the covid pandemic and the rising cost-of-living. This story is well known. It has been clearly delineated in a series of government and independent reviews of the future the high street, from Mary Portas' and Bill Grimsey's reports, through the Building Better Building Beautiful Commission's Living with Beauty report, the Create Streets Foundation's No Place Left Behind Commission to the ongoing work of the High Streets Task Force.

Nothing exemplifies a high street in decline more than vacant retail and commercial property, which the Secretary of State for Levelling Up has likened to 'missing teeth in the smile of an old friend.'[4] This simile perfectly illustrates both how damaging boarded up store fronts are to communities' experience of their high streets and the extent to which high streets are uniquely social, even personal, parts of economic life. No-one would describe a change in interest rates, or a shift in international trade flows, by likening them to a friend's face. High streets are essential to our town and local centres, to the places where we come together as communities and neighbourhoods and to our very sense of home. They transcend the merely functional process of 'shopping'.

British Retail Consortium data shows that one in seven high street shops in Great Britain were empty – rising to around one in five in the worst affected region, the North East of England. This reflects

3 For more on this see, Boys Smith, Kwolek, Milner (2021), *Permitting beauty.* For more on the wellbeing and value premiums associated with mixed use areas see Boys Smith, (2016), *Heart in the Right Street* and Venerandi, Boys Smith, Toms (2017), *Beyond Location.*
4 https://www.telegraph.co.uk/news/2022/05/07/michael-gove-removing-prime-minister-now-would-bonkerooney/

ongoing polarisation between more affluent locations with 'prime pitches' and struggling towns.[5] While these figures are showing a continued slight improvement since the pandemic, there is no doubt that vacant shops are now an endemic feature of many British high streets.

The economics of vacant property

Concern for the declining high street is usually focused on the social impacts: the loss of neighbourly interaction, the undermining of local identity and 'pride of place', the social and cultural exclusion of places and people left behind. And yet, certainly as it evolved in the twentieth century, the high street is, fundamentally, a place of economic activity subject to market forces and the decisions of market actors. Addressing high street decline must therefore start with understanding the nature of the economic incentives at work. It is these that will determine vacancy rates, not communities' concern for their informal social functions – however much we may value these.

The debate on the economics of high street decline tend to focus on the drivers of retail demand – particularly the move to online shopping – and the impacts of the business rate system. The role of property ownership in the decline of the high street has been far less widely reported or understood. One exception was work by EG and Power to Change just before the pandemic, which showed that vacancy rates vary widely between different types of property owner; 'empty shops are much more likely to occur with the types of ownership most associated with the traditional mass retail model – UK real estate and property companies and overseas investors.'[6]

On the face of it, this should not be surprising. Different economic actors clearly have different priorities, incentives and options. Professionally managed investment funds, often operating globally, are inevitably focused on profit and the financial indicators by which they are judged. They are naturally less committed to the long-term success of specific places than individuals or firms with non-financial objectives or deep roots in a particular location. Corporate owners with large, dispersed property portfolios will similarly have greater access to finance, and hence more ability to weather economic downturns and cope with prolonged periods of vacancy than less well capitalised owners who are more likely to prioritise cash flow.

Large real estate companies are not only more able to survive enforced vacancies. They are also more inclined voluntarily to leave

5 https://brc.org.uk/news/corporate-affairs/rates-rise-puts-shops-at-risk/
6 Brett, Alakeson (2019) *Take Back the High Street Putting communities in charge of their own town centres.*

property empty rather than lower headline rent levels, because they are more likely to prioritise meeting financial targets other than short-run cash income, such as asset valuation. This may seem counter-intuitive. However, the relationship between rent levels, capital property values and the balance sheet position of highly financialised companies is complex and can be shaped by factors far away from a local high street.

The result is that it can make perfect business sense for property owners to hold empty property that brings in no income, rather than to lower rents to a point where a business might choose to take on the lease. There can be several reasons for this perverse situation, which can apply individually or simultaneously

- Corporate owners report the rent they charge as a key measure of their financial position. Lowering rents to find a tenant for an empty property means reducing this vital figure, and may encourage other tenants to seek lower rents. By contrast, the zero rents on empty stores are often not included in the reported 'headline rent'. The capital value of property assets which corporate owners or investment funds report in their accounts (normally known as 'book value') is largely based on the rental value it is deemed to have.[7] Lower rents mean a lower book value, potentially alarming investors and creditors and potentially risking a loss of confidence in the corporate owner or fund.[8] This perfectly rational phenomenon also explains the common commercial property practice of enticing new tenants by offering rent free periods, cash back or other sweeteners, rather than simply lowering the headline rent.[9]
- Occupied commercial property incurs multiple costs and risks for the owner – management, repairs, taxes, insurance etc – that vacant property does not. If rents are low and margins are tight, owners may simply choose to incur the small, predictable cost of holding a vacant property rather than take on the hassle and risk of letting it out.
- This is especially true if the owner believes that capital property values may rise in the future. Public investment in new infrastructure, changing tax and subsidy regimes, new planning rules, or simply changing fashions may all drive up property values independently of the economic use of the property in question. This may generate far more profit for the owner than letting property to businesses.
- Owners may plan to increase the property value themselves by applying for planning permission to improve or replace the

7 This is the so-called 'net present value' method of valuation whereby an asset is worth the future cash flow associated with the asset discounted for the investor's cost of capital.
8 Brett, Alakeson (2019) *Take Back the High Street Putting communities in charge of their own town centres.*
9 https://www.ft.com/content/6ba2aee8-68d5-11e8-aee1-39f3459514fd

building. Once a new, more valuable, permission is achieved the owner has the choice to carry out the development; sell the property at a new, higher value; or do nothing and simply report the increased book value of the asset. In some situations, this last option may represent the best outcome for the owner's risk-adjusted financial reporting.

- Some international investors regard UK property, protected by a strong legal system and reasonably stable currency, as a safe, low-scrutiny place to store wealth, and may therefore be less interested in its productive use. There are particular concerns about the attractiveness of UK property for money laundering purposes. In February 2022 Transparency International identified £6.7bn of investment into UK property from 'questionable funds' since 2016, including £1.5bn bought by 'Russians accused of corruption or links to the Kremlin.'[10]

It is difficult to determine the motivation of an individual owner of a particular high street property, and impossible to measure how prevalent any of these scenarios are across the UK. But they do demonstrate that it can be perfectly rational for owners to leave property vacant for many years. At any rate this is clearly happening in practice. There are several well-documented real world case studies.

Case study: The Observer Building, Hastings

While Hastings has seen new housing and employment space developed in recent years, many town-centre buildings have fallen into disrepair and now sit empty or under-used, feeding a sense of neglect amongst local people and visitors. The Observer Building on Cambridge Road demonstrates the troubling dynamics at play. Formerly the headquarters of local newspaper the Hastings Observer, the Observer Building closed for business in 1985, taking 500 jobs with it. The building quickly fell into serious dereliction.

Over the next 30 years, the Observer Building changed hands 13 times and had 10 different planning permissions approved. In each case, the approved plan was not delivered, but was used to trade the building on for a profit without improvement.. In one case, the approved plan was not even technically deliverable, but this did not prevent the owner profiting from the unfulfilled promise of development. One local community organiser described this process powerfully as "the farming of dereliction."[11]

10 https://www.transparency.org.uk/uk-money-laundering-stats-russia-suspicious-wealth

11 Create Streets Foundation (2021), *No Place Left Behind: report of the Commission into Prosperity and Community Placemaking.* Accessed online at: https://www.createstreetsfoundation.org.uk/wp-content/uploads/2021/10/8560_PS_Create_No_Place_Left_Behind_FINAL_amended.pdf

The Observer Building, Hastings [12]

As this example demonstrates, the direct harm and opportunity cost of vacant and derelict property is borne by the community, not the owner. In economic terms the costs are externalised – while the benefits are internalised. If it can make good business sense for commercial property owners, acting legally and rationally, to leave property empty and even allow it to fall into dereliction, then it is clearly insufficient to expect market forces alone to address the social and economic harm caused. This is an economic textbook case for focused policy intervention to improve local prosperity and economic growth, particularly in left behind and less vibrant town centres.

The case for community ownership of high street property

There is growing interest in the positive benefits generated by community businesses and organisations taking on a central role in the revival of high streets and town centres. From the Levelling Up White Paper and policy research by the No Place Left Behind Commission and think tanks such as UK Onward, to the grassroots programmes and campaigns led by Local Trust, Power to Change and others in the community sector, many more voices are recognising the potential of the community-led high street. Power to Change's evidence of the benefits of community ownership on the high street is particularly compelling.

12 "File:Observer Building, Hastings 2013.jpg" by Roypenfold is licensed under CC BY-SA 4.0.

> *'Community-owned spaces contribute £220m to the UK economy, and 56p of every £1 they spend stays in the local economy, compared with just 40p for large private sector firms... there are reduced vacancy rates on high streets where there is community ownership... community-owned town centre spaces serve as an important 'destination space', which drive footfall to other high street businesses ... these spaces provide affordable, appropriate services and products for the community – they more nimbly meet shifting local demand than traditional high street occupants.'*[13]

There have been some spectacular successes as in Dumfries.[14] Nevertheless, and despite widespread and growing support, the hard truth is that this sector is struggling to achieve its full potential – especially given the scale of the challenge in high streets and town centres around the country. In this context there is an urgent need to ask why despite multiple policy initiatives from successive governments over the years, community ownership remains rare and dereliction and vacancy on the high street all too common.

3. The existing policy framework

There is self-evidently much law, policy and practice covering planning, regeneration, property, highways, transport, the environment, local government and business regulations that shape the complex ecosystems of the high street. Here we focus on a few specific parts of the policy framework that are directly concerned with the problems caused by vacant and derelict property, and with enabling communities to acquire assets.

Tackling vacancy and dereliction

Section 215 of the Town and Country Planning Act 1990 gives local authorities a broad power that which can be used in respect of any land, including buildings, in use or vacant.[15] Councils can serve a Notice on an owner or occupier if the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land or property in their area. 'Amenity' is a broad common-sense concept and not formally defined in the legislation or procedural guidance. The Notice specifies the required steps for remedying the condition of the land within a specified timescale.

If a Section 215 Notice is not complied with the local authority can prosecute the owner, who can be fined up to £1,000 and then a further £100 each day until the requirements of the Notice have been fulfilled. [16] In addition to, or instead of, prosecuting the

13 https://www.powertochange.org.uk/wp-content/uploads/2022/03/Take-Back-the-High-Street-report.pdf
14 https://www.midsteeplequarter.org/
15 https://www.legislation.gov.uk/ukpga/1990/8/section/215
16 https://www.legislation.gov.uk/ukpga/1990/8/section/216

council can also choose to enter the property, carry out the works required, and place a charge on the property to secure repayment by the owner for the cost of the works. Repair Notices are a similar power that applies only to listed buildings, with the additional enforcement power that, if the owner does not comply within two months, the authority can compulsorily purchase the property (with the Secretary of State's approval). [17]

S215 and Repair Notices are not frequently used, or even widely known about – despite 2005 government guidance encouraging their proactive use.[18] Local authority capacity and culture may be significant barriers to greater use, but it is also clear that the existing powers are too weak. Most importantly authorities can only issue S215 Notices on the grounds that property that is falling into dereliction, not vacancy alone. The interpretation of 'amenity' also tends to restrict the works that can be required to the exterior of the building.

Property charges and enforced sales

As discussed above, Section 215 of the Town and Country Planning Act 1990 allows local authorities to place a charge on a property to cover the cost of works done in default. In fact, local authorities have many such powers to serve notice on an owner of property requiring them to carry out works, to carry out the works themselves, and to recover the cost via a charge on the property. Other statutes giving this power include the Prevention of Damage by Pests Act 1949 and the Environmental Protection Act 1990. The process of laying a local charge on the property effectively puts the authority in the same position as a mortgage lender. In consequence, and just as with a mortgage, if the owner does not repay the debt the authority can initiate an enforced sale to recover their costs. [19]

Enforced sale to recover charges on property is a straightforward process for local authorities. They do not need to get a court order, unless the property is occupied, and there is no minimum amount of debt required to trigger an enforced sale (though in practice most authorities do not bother for trivial amounts). The authority does have to seek the best price for the property, and to pay the owner anything that is left after the authority's charges and legal costs (and any other debts secured on the property) have been paid. In practice authorities often choose to sell at auction, but sale can also be to a preferred bidder.

17 Historic England (2011), *Stopping the Rot A Guide to Enforcement Action to Save Historic Buildings.* Accessed online at: https://historicengland.org.uk/images-books/publications/stoppingtherot/heag046b-stopping-the-rot/
18 MHCLG. Town and Country Planning Act 1990 Section 215 Best Practice Guidance. Accessed online at: https://www.gov.uk/government/publications/town-and-country-planning-act-1990-section-215-best-practice-guidance
19 https://www.nplaw.co.uk/wp-content/uploads/2016/03/nplaw-Enforced-sale-guide-Dec15.pdf

Letting Notices

The Levelling Up and Regeneration Bill, which is currently going through Parliament, includes a new power, set out in Part 10, for local authorities to issue letting notices requiring the owners of vacant commercial property in designated high streets and town centres to let it out. If the owner does not comply, the authority would have the power, under the act, to instigate a rental auction to identify a suitable tenant and the rent they would be willing to pay (Section 188). The Bill, as is normal for this sort of legislation, leaves much of the detail of how letting notices and rental auctions will work to subsequent regulations to be prepared by DLUHC. The department are currently consulting with stakeholders over how this new power should work in practice.[20]

Supporting community ownership – unfinished business from 2010-15?

Encouraging and enabling greater community ownership was a theme of the 2010-2015 Coalition government's 'Big Society' and 'Localism' agendas. In 2010 the government consulted on a proposed 'Community Right to Buy' for England. This was modelled on a similar right that had existed in Scotland since 2003 which gives local communities the right of first refusal to acquire assets of community value at a fair market value should they come up for sale. However, the UK Government then unexpectedly pulled back from their proposal to give communities in England the same rights as in Scotland. The response to the consultation cited concerns that "the impact on property owners would be more restrictive, especially on the sale price" and decided that the "disadvantages outweigh the potential to provide additional benefits to communities."[21]

Instead, the Localism Act 2011 created the Right to Bid, a far weaker power than the Scottish Community Right to Buy that gives community organisations the right to register property as 'Assets of Community Value' (ACV) and requires local authorities to keep lists of registered ACVs. The owner of a registered ACV must inform the authority if they want to sell the property, at which point the community organisation that nominated the property as an ACV can call on the local authority to trigger a moratorium period, during which the owner cannot sell the property. The first moratorium period is for six weeks, to give the community organisation time to decide if they want to bid for the property: if they do, they can trigger the second moratorium period, giving them six months to raise the money required to buy it. [22]

20 https://bills.parliament.uk/publications/49177/documents/2671
21 MHCLG (2011) *Proposals to introduce a Community Right to Buy – Assets of Community Value – consultation.* Summary of responses. www.gov.uk/ government/consultations/community-right-to-bid
22 https://mycommunity.org.uk/what-are-assets-of-community-value-acv

Each local authority manages its own list of ACVs, there is wide disparity in councils' policies and processes for accepting nominations and there is no official national database of the assets registered. A ministerial response to a Parliamentary Question in January 2017 stated that there were 4,000 ACVs listed in England. [23] While many more are likely to have been listed since then, listings only last five years, so this may well still be a reasonable estimate of the number of ACVs. It is not known how many of these assets are on high streets. However, it is likely to be a high proportion.

The Right to Bid itself has been used far less often than the ACV registration process – and much less than was expected. This is primarily because the Right to Bid leaves property owners free to sell to whomever they choose at whatever price they like, or not at all. By contrast, under the Scottish system communities can nominate assets and register their interest (as in England), but then have the right to buy the asset at a fair, independently assessed price.[24]

The second major barrier to the Right to Bid is the lack of funding. This most obviously includes capital funding for acquisition, but also pre-purchase funding for feasibility studies, which can lead to problems sustaining ownership after acquisition. Many groups struggle to develop viable business plans. While acquisition is expensive in high value areas, generating sufficient income from assets can be more challenging in lower value places, especially in the absence of revenue support for businesses and uses. In Scotland, community asset purchase is supported by Land Fund grants of up to 95 per cent of the asset price.

In addition to its fundamental weakness, there are also specific technical flaws in the Right to Bid:

- Chapter 3 of Part 5 of The Localism Act 2011 defines land or buildings as being eligible for ACV registration, requiring that it either currently 'furthers the social wellbeing or social interests of the local community' or did so in the 'recent past' – and can do so again within five years.[25] Buildings or land that might further the economic rather than social interests of the community, like many vacant high street properties, can fail this definition.
- Asset owners can sell the company owning an asset as a 'going concern', without triggering the moratorium on sale due to its listing as an Asset of Community Value.[26] While there are clearly good reasons for allowing sale of genuinely 'going concern'

23 https://researchbriefings.files.parliament.uk/documents/SN06366/SN06366.pdf
24 This process has been tested through Scottish and European courts and found to be sound in human rights law.
25 https://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted
26 https://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted Section 95,(5), f)

businesses to proceed, community practitioners report that this exemption can be exploited by property owners, a loophole that is likely to be used more often as more owners realise that it is there.

- Many communities want to acquire buildings precisely because they have been left empty for long periods. But the current rules require buildings to have been in community use 'in the recent past' to qualify as ACVs, precluding many vacant buildings from registration.
- New change of use and permitted development rights (PDRs) allow owners of commercial property to fundamentally change buildings even after a they have been listed as an ACV. While PDRs may play a useful role in reviving the mixed use of high streets, there are also cases where they could be exploited to undermine ACV listing, potentially destroying the community value of assets (for example if a pub becomes a home).

With so many weaknesses in the Right to Bid it is not surprising that, more than ten years after its introduction, only an estimated 15 out of every 1,000 ACVs listed in England (1.5 per cent) have actually been acquired by communities, nor that their distribution is highly unequal.[27] The highest numbers are in less deprived, rural local authorities, while the most deprived 30 per cent of neighbourhoods contain just 18 per cent of assets in community ownership. Practitioners generally advise communities to use other routes to acquire assets wherever possible, such as negotiated market sale or rural exception site planning policies.

Encouragingly, the current government recognises these limitations and has committed to addressing them. The Levelling Up White Paper promises to 'consider how the existing Community Asset Transfer and Asset of Community Value Schemes can be enhanced, and consult on options to go further to support community ownership.' [28]and dereliction and vacancy on the high street all too common.

4. Proposals for reform

The existing processes outlined in the previous section – Section 215 Notices, ACV registration, enforced sales and the proposed letting notices – are rarely considered together. But with modest reforms, using these powers together could create an effective way to bring vacant or derelict high street property back in to use, and generate opportunities for more community ownership. In essence, this proposal involves local authorities making greater use of S215 Notices to tackle dereliction, and government giving

27 https://www.powertochange.org.uk/wp-content/uploads/2019/07/Assets-Report-DIGITAL-1.pdf
28https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1052706/Levelling_Up_WP_HRES.pdf p215.

them a new power to prepare vacant premises for letting, secured by charges on the property. Charges under both powers could then trigger enforced sales – at which point communities could acquire the property under an improved ACV process – or the letting of the premises at significantly reduced rents. Either result would create new opportunities for community businesses and SMEs and help bring live and commerce back to ailing high streets.

Improving the registration of Assets of Community Value

Legislation (such as the Levelling Up and Regeneration Bill currently before Parliament, or a new Bill) should widen the scope of the Assets of Community Value registration process and address the technical flaws and loopholes in the existing and the resulting Community Right to Bid.

- The definition of Assets of Community Value should be widened to include economic (as well as social) wellbeing, and to apply to buildings and land that could reasonably support community wellbeing in the future, not only those that have done so in the past. This would change the definition in the Localism Act to: A building or other land is an asset of community value if its main use has recently been or is presently used to further the social or economic wellbeing or social or economic interests of the local community and/or could do so in the future.[29]
- Communities that currently have the right to bid must be given the right of first refusal to purchase Assets of Community Value that come to market, at a fair price assessed by an independent valuer.
- The six-month period for communities to mobilise and secure the funding and local support required should be extended to a year.[30]
- The exemption for ACVs that are sold as 'going concerns' triggering the moratorium should be tightened up to ensure that it applies only to genuinely live businesses.
- The new commercial to residential Permitted Development Rights should not apply to registered ACVs (as recommended by the MHCLG Select Committee).[31] This restriction is intended to prevent abuse of the new PDRs, not to undermine their potential to support the revival of mixed use high streets (Create Streets has set out how design coding can help with this).[32] Local authorities will need to be similarly live to the risk of ACV listing being abused to prevent changes of use that might be beneficial to high street regeneration.

29 https://mycommunity.org.uk/what-are-assets-of-community-value-acv

30 Locality (2018), *People Power Findings from the Commission on the Future of Localism*. Accessed online at: https://locality.org.uk/wp-content/uploads/2018/03/LOCALITY-LOCALISM-REPORT-1.pdf

31 House of Commons, Communities and Local Government Committee (2015) *Community Rights: Sixth Report of Session 2014-15*. Accessed online at: https://publications.parliament.uk/pa/cm201415/cmselect/cmcomloc/262/26205.

32 https://www.createstreets.com/wp-content/uploads/2021/03/Permitting-beauty_online.pdf

htm#a4

- Periods in which the asset was left vacant should be removed from the definition of 'recent past', so that such assets can still be listed as ACVs – closing an important loophole that currently incentivises leaving property empty.
- Properties registered as ACVs should also be automatically be subject to beneficial ownership reporting, to prevent property owners hiding behind off shore legal structures and increase transparency in the property market.

The intended effect of these reforms would be to enable community groups to register their interest in acquiring a broad range of high street property, as well as traditional Assets of Community Value, and to have confidence that this can be realised as and when the property comes to market.

Increasing the scope of Section 215 notices to tackle dereliction

Government should clarify, in legislation or regulation, that in the case of high street commercial premises 'amenity' includes the interior of buildings. This would allow local authorities to make much greater use of S215 Notices to require improvements to run down high street or town centre property, enabling them to take action before premises reach the point of serious dereliction and blight.

Government should also amend the Levelling Up and Regeneration Bill provisions giving councils the power to issue letting notices and hold rental auctions for vacant premises, to include the power (analogous to S215) to enter the property and carry out works necessary to render it suitable for letting. This would speed up the process of getting property up to standard and occupied – and also allow local authorities to lay charges on the property, giving them discretion to enforce a sale or hold a rental auction as they chose.

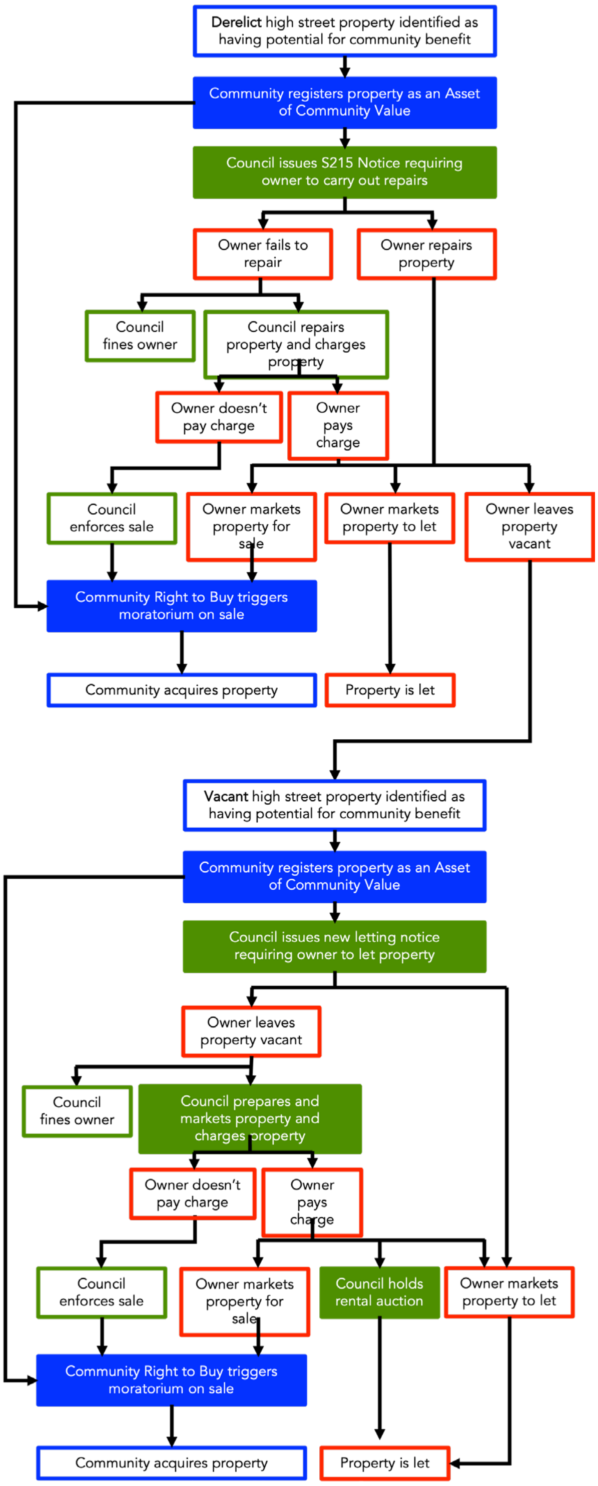
Increasing the use of Section 215 Notices

Local authorities should use the enhanced S215 power (and the existing power) much more proactively, giving owners the minimum times required to comply before proceeding to carry out works themselves, register the land charges and enforce sales as quickly as reasonably possible. They should not prioritise prosecution of non-compliant owners except in the most egregious cases, as the aim should be to secure the rapid improvement and letting of the premises.

Increasing the use of enforced sales

The above proposals would create more opportunities for local authorities to secure local land charges against vacant high street property. Councils should then use these charges wherever possible to proceed to enforced sales. Ideally, they would work closely with local community groups and businesses to line up preferred bidders to acquire the property sold in this way. But even if the auction route was used, if the property in question was listed under the proposed enhanced ACV process the Community Right to Buy would apply.

Illustrative flowchart of proposed system



Existing provisions are in outline: proposed new or reformed elements are in solid colour

5. Conclusion

None of the proposals outlined above are, in themselves, particularly radical. On their own would not be transformational. However, taken together and utilised coherently by proactive local authorities and community organisations they would create new opportunities for communities to acquire property – through voluntary sale, enforced sale to preferred bidders, and above all through the working of a revitalised Assets of Community Value process. These reforms could be seen as creating a genuine Community Right to Buy, as initially proposed by the Coalition government in 2011 – finally delivering on the promise of localism.

As currently drafted the Levelling Up and Regeneration Bill's measures to compel owners to let vacant high street property would not directly enable more community ownership – although the minor amendment proposed here would create another route to this outcome. But even as proposed in the Bill they would bring more commercial property onto the market, and compel landowners to accept lower rents rather than vacancy. This would create new opportunities for SMEs, community businesses and other community uses – and strengthen their negotiating hand with landlords with regard to repairs, improvements and rent increases. Other owners might choose to sell in the face of increased obligations and lower rents, giving community organisations more opportunities to acquire property. This in turn would promote more locally based retail, commercial and wider civic use in high streets and town centres This must be a good thing.

Improving the policy framework as proposed here could help to significantly increase community ownership and reduce vacancy rates on the high street. But the history of well-intentioned but little used policy levers suggests that policy tools alone are insufficient to secure change. Power to Change have made a compelling case elsewhere for the other vital driver of transformation – funding. A £100m grant from government could leverage £250m of social and commercial investment, creating a powerful fund that could achieve economies of scale and secure over 200 strategically important high street assets.[33] The final element needed is will: concerted, co-ordinated and committed action from all those involved in local economic renewal, to pull all the pieces together and drive real change on the high streets that are the vital centres of our communities and commercial lives.

33 https://www.powertochange.org.uk/wp-content/uploads/2022/03/Take-Back-the-High-Street-report.pdf

The opinions expressed in this publication are those of the author. They do not purport to reflect the opinions or views of Create Streets Foundation or of Power to Change.

About the author

Toby Lloyd is a fellow of the Create Streets Foundation and independent policy consultant. In 2020-21 he chaired No Place Left Behind: the Commission into Prosperity and Community Placemaking, set up by the Create Streets Foundation to explore the potential for community empowerment and placemaking to improve lives and neighbourhoods in left behind places. He was previously the No 10 Special Adviser on housing and local government to Prime Minister Theresa May.

About the Create Streets Foundation

The Create Streets Foundation is a Charitably Incorporated Organisation (CIO). It is separate from the wider Create Streets social enterprise.

Its aims "are to advance the education of the public in subjects related to the built environment, successful development and the associations between urban form and mental health, physical health, community cohesion and pro-social behaviour by:

- *providing training to community groups (above all in economically and socially disadvantaged areas) in the context of neighbourhood planning and urban design activities; and*
- *promoting study and research in such subjects and disseminating the useful results of such study to the public at large."*

The Create Streets Foundation are extremely grateful to Power to Change for their kind support of this report.

About Power to Change

Power to Change is the independent trust that strengthens communities through community business. We use our experience to bring partners together to fund, grow and back community business to make places thrive. We are curious and rigorous; we do, test and learn. And we are here to support community business, whatever the challenge.

power to change

CREATE streets foundation