



RIGHT TO REGENERATE

REFORM OF THE RIGHT

TO CONTEST

[This consultation](#) set out a number of questions relating to the effectiveness of Strand 2 (land owned by a local authority or certain other public bodies) of the Right to Contest under the Local Government, Planning and Land Act 1980 operated by the Ministry of Housing, Communities and Local Government.

Submission date: 12 March 2021

Do you consider the Right to Contest useful?

Whilst we have no direct experience of going through the Right to Contest process, it seems clear that reform of some kind is necessary. The fact that out of 192 requests submitted since 2014, 145 were refused, 10 withdrawn and 27 declared not valid is damning. Clearly the legislation, as it exists, is not useful and not delivering.

Do you think there are any current barriers to using the right effectively, and if so, how would you suggest they be overcome?

Some barriers to using the right effectively have been identified, including the fact that it is little-known and little-used. We suggest a couple of strategies to ensuring that the right is used more effectively and inclusively in the future. First, we suggest increasing transparency and improving public access to information about unused – or underused – land in local areas. Second, we suggest requiring landowners to work towards a reasonable timeframe for an unused or underused land to be brought back into untended use. Failure to do so should automatically activate the right of first refusal which should be granted first and foremost to the community.

Would a definition of unused or underused land be useful, and, if so, what should such a definition include?

For any Right to Regenerate programme to work well, it would clearly be useful to have a means for identifying and labelling land as unused or underused.

However, we must be very wary of any attempt to adjudicate on such matters from afar, or to define them in too rigid a way. Communities must be allowed to decide for themselves what is and what is not appropriate land-use in the areas that they live. What is an optimal use for one community might qualify as underuse in another, and the risk of setting out a definition in Whitehall to be applied all over the country is that these nuances – and the powers of communities to determine their own affairs – are erased.

Any definition of this concept needs to have some space for deliberation and democracy baked into it. It must also not be tied too tightly - or even tied at all - to any economic concept of 'unuse/underuse'. We must start from the principle that communities themselves are best placed to know what would and would not be useful land-use to help them to flourish, and it's unlikely that an economic formula or cost-benefit analysis is going to trump that local knowledge.

Should the government incentivise temporary use of unused land which has plans for longer term future use?

Yes, the government should incentivise temporary use of unused land, for example with an annual tax based on land value. Temporary use of unused land, especially those that have been unused for a long time can help energise an area and bring wider benefits to the local community both in the short and long term. It provides the opportunity to quickly bring life and activity to an area - and at the same time offers the opportunity to test the receptiveness of local community to a potential long-term use of the space.

Incentivising temporary use in this way can also spur creativity and rally the local community to work together to improve the appearance and feel of their local area. We suggest the government go further, and introduce grants to enable community groups to experiment and propose temporary, flexible and interchangeable uses to unused land and property in their areas.

Should the government introduce a requirement for local authorities to be contacted before a request is made?

We see no reason why it wouldn't be a good idea for there to be communication with local authorities and for them to at least be made aware of proceedings. Effective, joined up decision making is most likely when all stakeholders are involved in the process.

Do you agree that the government should require these publicity measures where requests are made under the right?

We do agree. If requests are to help mobilise communities and spark genuine democratic engagement with questions of land-use, then it is imperative that requests are accompanied with physical and electronic publicity measures.

Without such measures, there is a risk that the right becomes the exclusive preserve of those with the time and inclination to be already engaged with these matters. Furthermore, publicity will ensure that as wide as possible a group of people from the community can input into the process and make their views heard – a must if the right is to genuinely empower communities to take more control over the forces that shape the world around them.

Should government offer a ‘right of first refusal’ to the applicant as a condition of disposal?

Yes, but the ‘right of first refusal’ should only be offered to a) community and local charitable organisations and b) individuals or associations that can provide clear evidence of social value and local community support for their plans.

The timeframe covered by the ‘right of first refusal’ should be determined by national and local government in close consultation with Community Land Trusts and community groups who already have experience putting together bids for underused land or assets. It is only by understanding the experience of community groups seeking to purchase land for the first time – and how long it took them to develop solutions to any hurdles or challenges they faced – that an inclusive Right to Regenerate process (including a reasonable ‘right of first refusal’ timeframe) can be drawn up.

Should the government impose conditions on the disposal of land? And if so, what conditions would be appropriate?

Once land has been disposed of, there is a risk that land would remain unused in the hands of private individuals and corporations, who cannot be held accountable. We therefore suggest that the government impose a reasonable timeframe as a condition on the disposal of land to encourage progress and incentivise bringing an unused or underused land into use as soon as possible.

We suggest giving local authorities the power to impose a small annual tax – set at a level determined in consultation with the local community – on the land value of the underused or unused land if they remain unused beyond an agreed timeframe. This could be a Harberger tax where anyone, and not just the local planning authority, has the right to purchase the land at the value determined by the landowner.

These conditions should be set in the spirit of incentivising landowners to bring unused or underused sites into use at the earliest opportunity, within an agreed timeframe based on the level of complexity that a site might involve. If landowners choose to leave sites unused for a prolonged period, they should forfeit their right to the site, or pay a contribution to the community who have to suffer the negative impact of a site remaining vacant for a prolonged period, through a small annual tax.

Do you have any additional suggestions regarding reforms that could improve the effectiveness of the Right to Contest process?

The Right to Contest process would be improved through public investment in local community development. Many communities currently do not have the skills, connections and confidence to identify, purchase and redevelop underused land in their area. These qualities can be nurtured and encouraged through training courses on community rights and leadership; national and local investment in social infrastructure; and a more open, participatory and enabling culture within public institutions. We suggest implementing the recommendations in Danny Kruger MP's report, [*Levelling up our communities: Proposals for a new social covenant*](#), as a starting point to enhance community development and strengthen the role of civil society in public services.