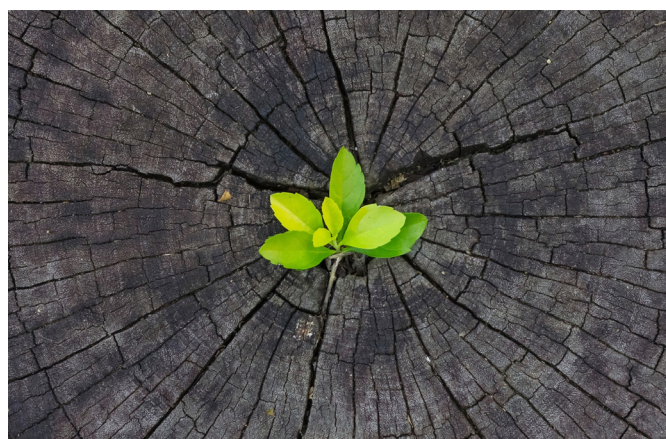


The government's current consultation on a right to regenerate should send alarm bells ringing through public authority halls while heralding new opportunities for individuals, social housing providers and developers.

Local authorities and developers will be (possibly) alarmed and (almost certainly) enthusiastic, respectively, over a recently announced government consultation aimed at challenging "the inefficient use of public sector land" by strengthening the public's "Right to Contest" into a rather more catchy, and potentially far-reaching, "right to regenerate" (the Consultation).



Concern about the under-use of public land and the impact of derelict buildings in communities is not new, and since 1980, in one form or another, the public has had the right to apply to the government to direct a relevant body to dispose of land where it is not being fully utilised. In its current form, it is a "Right to Contest". However, it is not working, and the government is keen to add clarity to the process and make it quicker and easier to "identify, purchase and redevelop underused or empty land".

Why is the process not working now, and what will change if the proposals take shape?

The Numbers

Some interesting statistics give context to the current strategy: over 100,000 empty council-owned garages were identified last year, as well as 25,000 vacant council-owned homes¹. Those numbers suddenly become very meaningful in light of the Consultation, the result of which may present a clear opportunity to redevelop some of those vacant properties. The Consultation identifies the provision of new homes as a primary objective of "cutting through the red tape" so the potential benefit of the proposals to developers and social housing providers, as well as the individual, is readily apparent.

How Effective Is the Right to Contest?

The Right to Contest applies to central government bodies (Strand 1) and specified public bodies (Strand 2, which includes county and district councils, statutory undertakers and other public corporations²). The power in relation to central government will remain unchanged, with only the Strand 2 right subject to the proposals.

Of the relatively few requests (192) received under the Strand 2 Right to Contest since 2014, only one resulted in a direction to order disposal. The majority of the remaining requests were refused (primarily because the public body indicated an intended use for the land). A small proportion were invalid, withdrawn or remain pending.

There are a number of factors likely to be contributing to the failure of the process to make any kind of meaningful impact. There is little awareness of the right, which is rarely used as a result, and it appears to be relatively easy to defeat. The questions raised in the Consultation will facilitate an analysis of how it might be made more robust.

Why Should You Respond?

The questions raised cover such issues as:

- Setting out a **definition of unused or underused land**. In future, it simply may not be enough that land is identified in a Local Plan to avoid the operation of the right to regenerate.
- **A public right of first refusal** to purchase underused land. This is critical if the right is to benefit any other than the party with the deepest pockets.
- **A default position that the land will be sold**.

The key theme running through the consultation is the provision of housing but the proposals could benefit property developers generally.

Affected bodies that have plans for vacant sites should step up, if they want to protect them. This includes town and parish councils, which could also be affected by any changes.

¹ Freedom of Information data.

² See <https://www.gov.uk/government/publications/part-x-land-held-by-public-bodies-schedule-16-bodies> for the full list

The Benefit?

Potentially, the proposals offer communities an opportunity to transform neglected land and buildings into assets of real community value. Changes resulting from the Consultation could present genuine, and needed, opportunities to increase housing supply, develop the social housing programme and increase development in key areas.



The Challenge

Housing Secretary, Robert Jenrick, expressed the view that the:

“Right to regenerate is the simple way to turn public land into public good.”

While, given the relative lack of success individual applications have had to date, the extent to which the proposals will benefit the individual directly are not entirely clear, they could well appease the exasperation of developers, who have long been frustrated with the public sector’s apparent lack of attention to unused real estate. The challenge is likely to be balancing private sector interests with genuine community benefit through development (including the provision of social housing) alongside ensuring that land that could genuinely work for public use, if managed properly by the relevant authority, is not lost forever.

A Bright Future for Community Development?

With the right safeguards in place, a positive outcome to the Consultation could genuinely benefit individuals, communities and businesses. There is room for all to benefit, and the proposed right to regenerate has largely been welcomed as a significant step towards helping “communities to turn abandoned and neglected land and buildings into fantastic community assets”³. Much will depend, of course, on the detail, and interested parties should take this opportunity to have their say.

Respond to the [Right to Regenerate: reform of the Right to Contest](#) consultation by 13 March.

If you want to find out more about the government’s land disposal strategy and programme follow the relevant links available through the [National Audit Office](#) website.

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³ <http://www.communitylandtrusts.org.uk/article/2021/1/16/government-launches-right-to-regenerate-consultation>