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Sent by email to:
righttocontestconsultation@communities.gov.uk

Dear Sir/Madam,

Right to Regenerate: reform of the Right to Contest Consultation

Thank you for giving the Society of Local Council Clerks the opportunity to comment on this important consultation document.

The Society of Local Council Clerks is the professional body representing town and parish council clerks in England and Wales. Approximately 3,700 local council clerks are in membership serving over 5,000 town and parish councils throughout England and Wales.

This is an issue of some interest to many of our members. This is reflected in the comments we have received on the consultation and their experiences more generally. As you will be aware, local councils have been at the forefront of taking forward the various 'Community Rights' as enshrined in the 2011 Localism Act. This includes the Right to Contest applications, though it would be fair to say the experiences of members who have submitted applications have been at best mixed.

In formulating this response, we have consulted widely with our members. This includes via a survey of members through our website. We have also urged our members to respond individually to it.

We have concentrated on those questions that are of the greatest relevance and significance to the sector.

Q. 1. Do you consider the Right to Contest useful?

Yes. It provides an important and much-needed mechanism for local councils and other bodies and individuals to seek the sale of potentially surplus or redundant publicly owned land or buildings where they could be put to better economic use. It is only right that if a community has a viable use for this land, they should be given the opportunity to take this idea forward into beneficial use previously neglected or under used land in public ownership.

This is especially important as obtaining land at an affordable price is often a major barrier to groups wishing to take forward worthwhile projects in their local area. The provision of affordable housing is just one good example.

Q2: Do you think there are any current barriers to using the right effectively, and if so, how would you suggest they be overcome?

Yes, the experiences of many of our members are that the present system is cumbersome, bureaucratic and lacks certainty. This acts as a major barrier in local councils and others in making applications. This is reflected in the relatively low number of successful applications made since its introduction, which we understand is one.

It requires major reforms to provide a quicker, easier and more certain route for the regeneration of underused or empty land.

Q3: Would a definition of unused or underused land be useful, and, if so, what should such a definition include?

Yes. It should exclude land where there is a purpose/future use identified in the local plan or neighbourhood plan.

Q4: Should the right be extended to include unused and underused land owned by town and parish councils?

No. We strongly disagree with this. We do not consider this to be appropriate, required or proportionate. Local councils are not major landowners and there is little evidence that they do not manage their limited land holdings effectively. We are not aware of any evidence from studies or consultation that the sector is holding onto surplus or redundant land which could otherwise be better used is an issue.

It would place an unacceptable and disproportionate burden on local councils to meet the Right to Contest requirements especially in response to any bids. It must be stressed that most local councils are small and have very limited resources (including land holdings); around 80% of town and parish councils represent populations of less than 2,500. Typically, they will have one part-time employee, the Clerk.

Q5: Should the government incentivise temporary use of unused land which has plans for longer term future use?

No. It might encourage landowners to leave their land unused until government provides funding.

Q6: Should the government introduce a requirement for local authorities to be contacted before a request is made?

Yes. It will reduce the burden on central government and speed up the process.

Q7: Should the government introduce a presumption in favour of disposal of land or empty homes/garages where requests are made under the right?

No. It could result in Councils having to buy back land at a later date at a higher cost, especially if it forms part of the larger development scheme. Also, there is no guarantee that the new owner would develop the land, especially if the proposed use is unsuitable in Planning terms.

Q8: Do you agree that the government should require these publicity measures where requests are made under the right?

No. It would be an onerous requirement. All the information can be made available on request.

Q9: Should government offer a 'right of first refusal' to the applicant as a condition of disposal?

No. This could lead to opportunistic developers attempting to acquire land for unsuitable development.

Q10: Should the government impose conditions on the disposal of land? And if so, what conditions would be appropriate?

Yes. A timeframe for disposal and a timescale for development – after which the land must be offered back to the original landowner - would ensure the land does not remain underused.

Thank you again for the opportunity to comment upon this consultation. If it would be helpful, the Society will be pleased to meet or speak with officials to explain in more detail its points and observations over this issue.

Yours sincerely,

A handwritten signature in black ink that reads "Rob Smith". The signature is written in a cursive style with a large, sweeping initial "R".

Rob Smith
Chief Executive