



Historic England

Right to Regenerate Historic England Consultation Response

Historic England is the Government's statutory adviser on all matters relating to the historic environment in England. We are a non-departmental public body established under the National Heritage Act 1983 and sponsored by the Department for Digital, Culture, Media and Sport (DCMS). We champion and protect England's historic places, providing expert advice to local planning authorities, developers, owners and communities to help ensure our historic environment is properly understood, enjoyed and cared for.

We welcome the opportunity to submit a response to MHCLG on the *Right to Regenerate: reform of the Right to Contest*.

Detailed Response

1. Do you consider the Right to Contest useful?

- According to paragraph 9 of the consultation document, out of a total of 192 requests since 2014, only 1 has been successful. Whilst the principles of Right to Contest seem to be useful, particularly in addressing blight within urban areas, the Right appears to have had limited effect to date. This is recognised and being addressed within the consultation.

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

- The barriers to the Right being effectively implemented may relate to a shared understanding of the intended use or allocation of land and buildings in the ownership of local authorities and public bodies as defined in the consultation.
- To overcome this barrier, guidance on the Right could require the applicant to seek information the site in question from local authorities including its current and future intended use. This would also enable the applicant to gain further details on the site including those relating to the historic environment such as the potential for archaeology or designated / non-designated heritage assets.
- The opportunity to highlight scope for early discussions between potential applicants and local authorities might reduce/avoid requests being submitted under the Right where the land is required for continued safeguarding of land identified for expansion of public services and other types of infrastructure is required. This would also support applicants in their understanding of current barriers for site delivery.

- The presence of heritage assets on unused or underused land may be perceived as a barrier by potential applicants. Emphasising the positive benefits of the historic environment, including opportunities for regeneration, in guidance accompanying the Right would address such perceptions and be supported by Historic England.

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

- Establishing a clear definition in guidance on the Right would enable individuals, businesses, community groups and organisations to identify whether potential sites are unused or underused. It would be useful for the definition to take account of the following:
 - Whether unused or underused land relates to brownfield or previously developed sites only (on the understanding some long-term vacant sites may have returned to green spaces).
 - That structures and buildings can be present on unused or underused land. For example, sites may include industrial heritage and infrastructure, or archaeology may be present.

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

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

- Allowing temporary use of unused or underused land which has a longer-term intended use or is a long-term allocation could offer opportunities for uses which benefit the community and enable an appreciation of the value of local heritage which may be present on a site.
- There needs to be careful consideration of the potential for unintended consequences, therefore it may be appropriate for discussions between the landowner, local authority and applicant on how to best deal with the land on a temporary basis pending long term use.
- Permission for temporary uses should take account of the sustainable use of the site including the conservation and enhancement of natural and built heritage assets.

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

- Introducing the requirement for local authorities to be contacted before a request is made to use the Right would result in greater transparency and improvements to the efficiency of the current process.
- Understanding the status of the land in question and wider considerations such as the presence of heritage assets allows the

applicant to gain a full appreciation of the site before proceeding with making a request under the Right.

- 7. Should the government introduce a presumption in favour of disposal of land or empty homes/garages where requests are made under the right?**
- 8. Do you agree that the government should require these publicity measures where requests are made under the right?**
 - Publicising requests made under the Right ensures communities understand where proposals are for unused or underused land to be brought into temporary or permanent use. It also encourages continued engagement in the planning process in relation to the site.
 - Reporting requests and the outcome of the requests by local authorities also provides a useful information source for future applicants, assisting in decision making and overcoming barriers to success.
- 9. Should government offer a ‘right of first refusal’ to the applicant as a condition of disposal?**
- 10. Should the government impose conditions on the disposal of land? And if so, what conditions would be appropriate?**
 - It is understood conditions proposed in the consultation relate to the Right and could include: transferring a percentage of land value uplift to the original owner (public body) and demonstrating public benefit (such as affordable housing and public open space).
 - Conditions may also be imposed to address existing problems of underuse and ensure they do not continue in the longer term under the new owner.
 - It is presumed the consultation is exploring the use of conditions relating to property rather than planning. Care would be required to ensure that the appropriate form of development (whether that was built or “open space”) related well to its environment, particularly if it was historic environment. In this case conditions relating to the historic environment including the assessment of the proposal upon significance of affected heritage assets would be addressed as part of the planning application process.
- 11. Do you have any additional suggestions regarding reforms that could improve the effectiveness of the Right to Contest process?**

*Sarah Lewis
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