

Report to Sustainable Development Panel
18 March 2021
Report of Director of place
Subject Right to Regenerate Consultation

Item

6

Purpose

To comment on Norwich City Council's response to the Right to Regenerate Consultation.

The Ministry of Housing, Communities and Local Government recently consulted on the Right to Regenerate. The government's aim is that through reforming the current Right to Contest and relaunching it as the Right to Regenerate, it will be easier for individuals, businesses and organisation to identify, purchase and redevelop underused or unused land which is currently in public ownership.

The consultation was published on 16 January 2021 and closed on 13 March 2021. Owing to the timescales the attached response has already been submitted, but the council has reserved the right to submit an amended response following the meeting.

Recommendation

To agree the contents of the Norwich City Council's response to the Right to Regenerate Consultation and note that the panel has the opportunity to submit further comments.

Corporate and service priorities

The report helps to meet the corporate priorities of great neighbourhoods, housing and environment, people living well and inclusive economy and the service plan priority to implement the local plan for the city.

Financial implications: None directly

Wards: All wards

Cabinet member: Councillor Stonard – Sustainable and inclusive growth

Contact officer(s)

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Background documents

None

Report

Introduction

1. Strand 2 of the Community Right to Contest allows members of the public to request that the government directs the disposal of unused or underused land, including vacant homes and garages, owned by public bodies. This right is little-known and little-used, with only one direction to dispose issued since 2014 (192 requests have been submitted under strand 2 and of these 145 were refused, 10 withdrawn, 9 are still pending, 27 were not a valid request). The right came in in 1980.
2. The government believes that reforming the Right To Contest and relaunching it as a new 'Right to Regenerate' could provide a quicker and easier route for individuals, businesses and organisations to identify, purchase and redevelop underused or empty land in their area. In turn, a strengthened right would support greater regeneration of brownfield land, boost housing supply and empower people to turn blights and empty spaces in their areas into more beautiful developments.
3. The government is recently consulted on the effectiveness of these requests as it considers reforms to make the process more efficient and more transparent. The deadline for responses was 13 March 2021 and the consultation document was available [here](#).¹

The current Right to Contest

4. Anyone can currently use Right to Contest to challenge Local Authorities about a site, as long as they believe that all the following apply:
 - The site is empty or under-used;
 - There are no plans to bring it back into use.
5. Nationally, most requests come in from members of the public rather than community groups or companies. The case is considered by MHCLG and the decision will be made on the basis of whether the land or property is in use or whether it is likely to be used in a suitable period of time.
6. The current reasons that Local Authorities give for not selling land under the Right to Contest is that the site is vital for operational purposes or other considerations will outweigh the potential better economic use. In the past refusals have largely arisen because the public body has a use/intended use for the land or it is allocated in the Local Plan.

¹ <https://www.gov.uk/government/consultations/right-to-regenerate-reform-of-the-right-to-contest>

What will be the implications of the Right to Regenerate for Norwich?

7. Strand 2 of the 'Right to Regenerate' only applies to land owned by Local Authorities and public bodies listed [here](#).² It does not apply to any privately owned land. It also only applies to unused or underused land. Currently there is no definition of what constitutes 'unused or underused land' and the consultation document asks if there is a requirement for this and what such definition should include.
8. There is no knowing what level of uptake there will be for the reformed Right to Regenerate both nationally or for Norwich itself. The sections below give an officer view as to the possible implications for Norwich City Council.

Resources

9. As part of the process there is likely to be a requirement for the Council to publish quarterly reports and where requests do come in then we will need to publish/publicise these.
10. Where requests are received (either informal or formal) this could potentially be quite resource intensive (especially if the Council needs to put together an argument to retain the land) and will need a quick turnaround.
11. Norwich City Council is likely to have the skills in house to accurately value and manage our assets but resources are stretched. As such Norwich City Council is of the view that new burdens introduced on Councils at this time is not helpful.

Towns Deal Fund

12. Norwich City Council has recently produced a Town Investment Plan which sets out a comprehensive package of eight schemes for investment totalling £26.13m. It is not considered that the Right to Regenerate is likely to have any implications on any of the projects.

Site allocations

13. Norwich City Council owns several sites which are currently allocated or proposed to be allocated within the GNLP. Only council owned sites that are underused or unused would be affected by the 'Right to Regenerate' and the level of vulnerability would be dependent upon timescales for bringing forward regeneration and development.

Garage sites and vacant Council housing

14. The strengthened right would apply to unused or underused publicly owned social housing and garages. The level of vulnerability would depend upon their level of use and timescales for regeneration and the precise wording of the Right to Regeneration legislation.
15. The replacement homes program seeks to identify small HRA sites (typically garages or vacant/underused land) with development potential and work with a partner registered provider to develop the sites for affordable housing. Norwich City Council is due to go through a procurement process to establish an RP partner to do this over the next 5 years.

Asset management strategy and any other land holdings/premises

16. It is currently anticipated that the Asset Management Strategy will lead to a re-categorisation of all Norwich City Council owned land over time. This will assist in identifying any underutilised land and indeed some land may be identified for disposal (in which case Norwich City Council may welcome a community group offering to take it off our hands).
17. It will also identify land designated for redevelopment / regeneration with the aim of having a clear plan and timescale for redevelopment of such sites. This will help reduce our vulnerability to the Right to Regenerate but the potential implications will depend upon timescales for redevelopment.

Response to Consultation

18. Overall Norwich City Council does not welcome the proposed Right to Regenerate. Not only could this potentially be resource intensive at a time when council resources are stretched but it could also hinder the council from achieving longer term wider regeneration proposals.
19. Furthermore the proposal lacks any evidence base as to the extent of land that is currently unused or underused which are owned by Local Planning Authorities and it seems perverse that nothing is being done to unlock land in private ownership that is unused or underused in urban areas. Moreover the council has concerns that assets could be transferred from public to private ownership and then remain undeveloped unless if there is a condition which requires the new owner to redevelop the site within a certain time period.
20. Officers have identified some allocated and non-allocated sites that could be vulnerable although the level of uptake of the right is unknown. To minimise the risk, the council needs to have clear plans for any unused or underused land and a clear timescale for regeneration.
21. The consultation sets out 11 questions. The questions along with Norwich City Council's response are set out in Appendix 1 of this report.

Appendix 1 - Responses to consultation

Dear Sir/Madam

Thank you for consulting Norwich City Council on the Right to Regenerate Consultation. Please find attached Norwich City Council's response to the consultation questions. This response has been produced by officers and is due to be considered by the Council's Sustainable Development Panel on 18th March 2021. The Council reserves the right to amend aspects of its response following the meeting.

I would be grateful if you could acknowledge receipt of our response.

Kind regards

Joy Brown

Response to questions

Increasing the usefulness and effectiveness of the right

The government is seeking view on the usefulness of the right as well as potential reforms to increase effectiveness.

Q1 – Is the Right to Contest useful?

This right is little-known and little-used, with only one direction to dispose issued since 2014 (192 requests have been submitted under strand 2 and of these 145 were refused, 10 withdrawn, 9 are still pending, 27 were not a valid request).

Evidence would suggest that Right to Contest is not useful. It is little-known and used with only one direction to dispose issued nationally since 2014.

Q2 – Do you think there are any barriers and how can these be overcome?

Evidence shows that the Right to Contest legislation is not currently useful. Norwich City Council is of the view that the proposal to change to the 'Right to Regenerate' will not be helpful especially in terms of the Council carrying out its strategic role. Furthermore the proposal is unlikely to tackle the problem of unused and underused land, as unused and underused land in private ownership is much more of an issue in Norwich than land in public ownership. A lot more development land could be unlocked by effective Right to Regenerate applying to private land in urban areas that has been derelict or under used for significant time periods and it is this barrier that needs to be overcome.

Making it clearer when land is unused or underused

The government is considering publishing a definition of land that is unused or underused, to help guide people in making applications.

Q3 – Would a definition of unused or underused land be useful and what should such a definition include?

Norwich City Council does not support the Right to Regenerate however if it is brought forward then a definition of unused and underused land should be included. Norwich City Council would suggest that the definition includes the following:

- *Length of time a site needs to be unused or underused.*
- *What is meant by underused.*
- *Clarification as to whether the right applies to existing buildings or just vacant land*
- *If part of a site is used and part is vacant how would the right work? i.e. if you had a garage site and half of the garages were in used whilst the other half were vacant.*
- *If it does apply to buildings clarification as to whether the right would apply if some floors of a building are in use and other are vacant.*
- *Whether the right applies to small areas of open space/amenity land.*

Extending the scope of the right

The government is interested in views as to whether the right should be extended to include land owned by town and parish councils.

Q4 Should it be extended to land owned by town and parish Councils?

No comment

Land where a public body has an intended use

Many requests are refused as the public body indicates that it has an intended use for the land. This may be some sites are left unused or underused for some time until those plans materialise. The government is considering incentivising temporary uses by ordering sales where temporary uses cannot be identified.

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

Norwich City Council does not support the Right to Regenerate proposal and does not agree with ordering sales where temporary uses cannot be identified. If the Council is required to find a temporary use for a site in order to retain it for longer term regeneration this could hinder the Council from achieving wider long term regeneration proposals. In particular, Norwich City Council has concerns that this could hinder site investigation. Furthermore, it could also be inappropriate on brownfield sites which have contamination as the costs of preparing the site for a temporary use could be disproportionate. In addition it could lead to issues when seeking to redevelop a site where the temporary use has to be removed (e.g. if the sites is used temporarily as a community garden), particularly if redevelopment plans are unpopular. There could also be potential issues in terms of the landlord and tenant act if temporary users gain more of an interest in the land or there could be legal issues around licenses.

A greater role for local authorities

The Right to Contest was designed as a last resort where listed public bodies have refused to engage with, or refused, a request to bring unused land into use. The government is inviting views as to whether it should require applicants making a request under the right to contact their local authority before making a request. The purpose would be for the applicant to find out more about the land and the likelihood of granting or agreeing to sale (a formal request may not then be needed).

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

Norwich City Council does not support the Right to Regenerate proposal; however if it is brought in Norwich City Council would support the requirement for early discussions with the applicant as this may remove the need for a formal request altogether.

Presumption in favour of disposal

The government welcomes views on whether there should be a presumption in favour of disposal. i.e. disposals will be ordered unless there is a compelling reason not to do so.

Q7 – Should the government introduce a presumption in favour of disposal?

Norwich City Council does not support the Right to Regenerate and would not support a presumption in favour of disposal. The proposal could hinder the Council from achieving wider regeneration proposals and prejudice the future long term development of some of our sites.

Publicity and reporting

To improve transparency the government is considering placing requirements on local authorities such as

- Quarterly reports by a local authority officer on the number of preliminary enquiries made
- Requiring the display of physical and electronic publicity where a request has been submitted for the release of a site
- Requiring local authorities to publish all requests, together with their outcomes and reasoning, on their websites.

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

Norwich City Council does not support the Right to Regenerate as it will place additional burden upon the Council at a time when resources are already stretched. Producing quarterly reports for example could be quite resource intensive and onerous. Therefore if the proposal is brought forward annual reporting would be more favourable and the Council would be willing to publicise any requests. However the consultation document fails to make clear what the purpose of publishing these

applications is. Is the public able to comment or are the publicity measures solely for notification purposes?

Right of first refusal

Successful requests lead to the land being placed on the open market. This can act as a significant disincentive for those putting in a request as community groups for example can struggle to raise finances quickly. The government is considering introducing a 'right of first refusal' to those who make the request recognising that they may need extra time to prepare a bid. This would usually be for market value and would be for a limited period of time.

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

Norwich City Council does not support the Right to Regenerate; however if it is brought forward then the Council would favour a right of first refusal but only where it is a community group that has put in the request.

Conditions attached to disposals

The SoS has the power to specify terms and conditions for disposal of the land. This could be for example that the sale could only be to someone with the intention to redevelop a site.

Q10 – Should the government impose conditions on the disposal of land?

Norwich City Council does not support the Right to Regenerate; however if brought in then the Council would strongly support the imposition of conditions. In particular it would be imperative that an applicant could demonstrate that there is a reasonable prospect of the site being redeveloped within a certain time period of the disposal (for example 2 years for commencement). The Council is extremely concerned that without such conditions assets could be transferred from public to private ownership and then remain undeveloped. It would then be more difficult to unlock development on land and assets which pass from public to private if they continue to be stalled.

Other suggestions

Q11 – Do you have any additional suggestions regarding reforms that could improve the effectiveness of the Right to Contest process?

Norwich City Council does not support the Right to Regenerate as the proposal lacks any evidence base as to the extent of land that is currently unused or underused which are owned by Local Authorities and it seems perverse that nothing is being done to unlock land in private ownership that is unused or underused in urban areas. Norwich City Council has concerns that assets could be transferred from public to private ownership and then remain undeveloped unless if there is a condition which requires the new owner to redevelop the site within a certain time period.

Land in private ownership is a much more significant problem in Norwich and one that Norwich City Council is seeking to address via a revolving fund as part of the towns deals package. However, CPO is time consuming, expensive and has risks

with it. A lot more development land could be unlock by effective Right to Regenerate applying to private land in urban areas that has been derelict or under used for significant time periods.

The Right to Regenerate would be more effective if community groups were able to identify, purchase and redevelop underused or empty land in their area which is currently in private ownership.