



Report to Cabinet

Date:	2 nd March 2021
Title:	Buckinghamshire Council response to the Right to Regenerate consultation
Relevant councillor(s):	Martin Tett, Warren Whyte, John Chilver, Steve Bowles
Author and/or contact officer:	Connor Sheffield / Lisa Michelson
Ward(s) affected:	None specific
Recommendations:	Cabinet is RECOMMENDED to: <ul style="list-style-type: none">• Agree the draft response to the Right to Regenerate consultation• Delegate responsibility for submission of the final response, incorporating any further changes after the Cabinet meeting, to the Corporate Director in consultation with the relevant Cabinet Members and Leader of the Council.
Reason for decision:	To ensure Buckinghamshire Council's view are submitted to the Ministry of Housing, Communities and Local Government for consideration prior to the consultation deadline of March 13 th .

1. Background

- 1.1 The 'Right to Contest' allows anyone – private citizen or organisation – to challenge the central government (strand 1) and other public bodies, including Local Authorities (strand 2) to sell land or property if they believe it's not needed or could be put to better economic use. The Ministry of Housing, Communities and Local Government (MHCLG) is proposing to reform to the Right to Contest, turning it into 'The Right to Regenerate', making the process more effective.
- 1.2 This report highlights the context of the consultation and the emerging thoughts of Buckinghamshire Council's response.

2. Introduction and Context

2.1 MHCLG argues that the reform of the Right to Contest would help to “encourage the public to drive regeneration and stimulate the more productive use of public land”. The reform particularly concerns Strand 2 of the Right to Contest, which allows members of the public to request that government direct the disposal of unused or underused land owned by public bodies. The Right to Contest is little known and little used, with only one direction being issued since 2014.

2.2 The proposed reforms are as follows.

- Increasing the usefulness and effectiveness of the right, taking into consideration how the reform could be used by private individuals and organisations.
- Making it clearer when land is unused or underused through the publication of a clear definition to help guide people making applications.
- Extending the scope of the right, questioning if including land owned by town and parish councils would increase the effectiveness of the right.
- If a public body has an intended use for the land in question, the government is considering incentivising temporary uses by ordering sales where temporary uses cannot be identified. This is suggested to help minimise blight until sites are put to better long-term use and help to keep neighbourhoods vibrant and productive especially in town centres and urban areas.
- To ensure a greater role for local authorities, anyone making a request under the right may be required to prove they have contacted their local authority, as the right to contest was designed to be a last resort.
- The ‘Presumption in Favour of Disposal’ reform questions if the Secretary of State should establish clearly that disposals will be ordered unless there is a compelling reason not to do so.
- To improve transparency around these requests, the government is considering requiring local authorities to: produce quarterly reports on the number of preliminary enquiries made, display physical and digital publicity where a request has been submitted for the release of a site, and publish all requests, together with their outcomes and reasoning online.
- If an application is successful, the government is considering offering the party who made the request first refusal.
- The Secretary of State has the power to specify in the direction, the terms and conditions, though this power has never been exercised. The

government is considering if conditions should be imposed on the disposal of land.

3. Buckinghamshire Council response

- 3.1 The premise of the proposed amendment appears founded upon positive direction to increase the success of the previously unsuccessful Right to Contest. It is considered that the proposed changes could have a positive impact on community involvement in place shaping and improve engagement between public bodies, including local authorities, and community groups.
- 3.2 However, there remains a significant number of unknowns and a lack of specific detail regarding the proposed reforms that bring into question its operational practicality. These are queried in the draft Buckinghamshire Council response found in the Appendix.
- 3.3 The key concerns for Buckinghamshire include:
 - A potential ‘presumption in favour of disposal’ which could result in public bodies having to release land should they not have a compelling reason not to do so. For public bodies with a substantial land ownership this may result in the need for all land either to have plans developed or face the potential for land to be released. Furthermore, as a newly established unitary council, Buckinghamshire is at a significant disadvantage in being able to determine the future uses of its estate. If imposed, we are suggesting a 5-year moratorium on the right should be granted to any recently established unitary local authority.
 - A lack of definition on what unused or underused land is. As a result, it is unclear what land could potentially be in scope under the proposed right reform. This concern is further emphasised in the fact that is not made clear at this stage whether differing spatial and conditional contexts will be applied.
 - There is also a lack of clarity from the government regarding the definition of key terms like ‘community’, ‘future use’, ‘better economic use’, ‘compelling reason’ and ‘market value’. This lack of clarity could lead to speculative applications from parties that do not truly reflect aspirations of the community and lead to implications on local authority resources from having to deal with process of the application. It may also result in proposals that diverge from emerging place-based strategies and lead to the Council being directed to dispose of land for an insufficient value.

- Government are also seeking views on potential conditions that should be imposed, it is considered that conditions would be essential in guaranteeing appropriate delivery. These could include:
 - Agreed uses for any land disposed of aligned to planning policies and regeneration strategies
 - Clear proof of plans, funding and ability to deliver regeneration to be included in any application
 - To enable public bodies to re-secure land should no regeneration work be started within a specific time limit
 - Valuation to based on any proposed specified uses to ensure the local authorities would receive the best value

4. Other options considered

- 4.1 Not to respond to the consultation – due to the significance of the proposals and potential impacts on the local authority and Buckinghamshire as a place, this option is not recommended.

5. Legal and financial implications

- 5.1 At this stage the proposed reforms are only at consultation stage; therefore, the consultation response itself has no direct financial or legal implication.
- 5.2 Should the proposed reforms be implemented by central government there may be legal and financial implications on the local authority.
- 5.3 This could include financial implications on resourcing to deal with the application process as well as from any land disposed of.
- 5.4 There may also be legal implications regarding the application process should successful applications occur as well as from implications of land disposal.

6. Corporate implications

- 6.1 This consultation response itself has no direct corporate implications

7. Local councillors & community boards consultation & views

- 7.1 Consultation has been carried out with the relevant Cabinet Members. These are Cllr Martin Tett, Cllr John Chilver, Cllr Warren Whyte and Cllr Steve Bowles.

7.2 Feedback received has included concerns regarding the impact of the proposed reforms should they be implemented on the Council's resources and concerns over the practical implementation of the right.

8. Communication, engagement & further consultation

8.1 No further consultation or engagement has been carried out.

9. Next steps and review

9.1 Any proposed amendments will be made, and the response will be submitted in accordance with the recommendation by March 13th.

10. Background papers

10.1 The MHCLG Consultation can be found here:

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

11. Your questions and views (for key decisions)

11.1 If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone 01296 382343 or email democracy@buckinghamshire.gov.uk.