

Submission to consultation on the *Right to Regenerate: reform of the Right to Contest*

This response to the consultation represents the views of residents, workers and partnership members from the 150 areas funded through the Big Local programme. Their views were collected through a survey¹.

Context

Local Trust was set up in 2012 to administer the Big Local programme which has given just over £1.1m each to 150 communities across England to spend over a 10-15 year period. Residents came together to form partnership boards to develop and implement spending plans based on extensive community consultation and research. Local Trust provides support and networking opportunities for residents to help the communities achieve their aspirations. We also undertake research and policy work to glean and disseminate learning from the programme.

Areas were selected for Big Local funding on the basis that they were multiply deprived and had missed out on their fair share of lottery and other statutory funding. Over the first 8 years of the programme, we have seen residents come together and deliver a range of projects improving their areas and their quality of life. Increasingly, Big Local partnerships are using their funding to improve the built environment – renovating parks, taking over community centres or buying land to develop for housing or other purposes. To date, 49% of partnerships (73) have purchased or funded the creation of a significant physical asset in their area.

Question 1: Do you consider the Right to Contest useful?

Based on evidence from the survey, it is clear that, in its current form, the Right to Contest is not useful for community groups. However, it is also evident that the Right to Regenerate proposals set out in this consultation could significantly strengthen it and make it more helpful for community groups that are looking to purchase disused land.

None of the respondents had made use of the Right to Contest, whilst 44% had never even heard of it. It is essential, therefore, that any changes to the Right to Contest are accompanied by a significant drive to promote the future Right to Regenerate and its benefits to local communities.

¹ The survey received 32 responses from 150 Big Local partnerships

In addition, responses suggest that the Right to Contest may be of limited use to some areas due to a lack of disused public land. Just 4 respondents had purchased land, 2 of which were purchased from private owners. In addition, 18% of respondents (7) noted that there is no disused publicly owned land in their area.

Finally, some respondents raised the concern that the Right to Contest benefits private actors as well as community groups and thus contributes to the privatisation of local infrastructure that is vital to support Big Local Partnerships. One of the respondents explained that they “cannot compete with private developers” in their efforts to purchase local land and noted that this has negatively impacted their partnership’s plans for local regeneration.

It was clear from answers to the survey that, although the Right to Contest has not been useful for Big Local partnerships, strengthening its mechanisms in favour of community groups and bringing in greater transparency over the process of putting disused public land on the market would be incredibly useful for communities across England. One respondent noted that the Right to Regenerate is “a great idea” as long as it prioritises community benefits over benefits to private developers.

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

There are a number of barriers to the effective use of the Right to Contest for community groups. These include a lack of guidance on the process through which communities can use this right, too much bureaucracy in the process of purchasing disused land and the affordability of land.

When asked about the main barrier to their partnerships approaching the local authority to request the purchase of disused land, two of the main reasons cited by Big Local partnerships were that they are “unsure of the process” (30%) and that there is “too much bureaucracy” (15%). Many respondents mentioned that they are unaware of which procedure to follow and who to talk to in order to use or purchase publicly owned land. Many respondents noted the slow process of negotiating with local authorities and the challenges of getting top-level sign off on an agreement. Respondents suggested that the Local Authority should inform residents and community groups like Big Local partnerships of what land is available. For example, a Big Local worker suggested that a centralised website could be set up which would incorporate all publicly owned lands under the jurisdiction of the local authority and whether there are any plans regarding its future use. It could also set out who is responsible for maintaining or selling the land within the Local Authority. This would provide transparent, clear information about which land community groups can buy and how they initiate the process. In addition, more advice and guidance could be given to community groups on using this right in particular.

A significant minority of the respondents (17.5%) mentioned that they lacked the funds to purchase land. Community groups have limited resources and often lack the capital reserves to purchase land. This is particularly the case in more deprived neighbourhoods, risking them falling further behind more affluent areas. In this context, we can see that private developers might be better placed to make use of this right and take public land into private ownership, a concern raised by almost every respondent to the survey. One temporary solution to this problem is to encourage temporary use of disused land (see Q5 below for further details).

Finally, 18% of respondents (7) had no disused public land in their area and would therefore be unable to make advantage of the new provisions.

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

15 respondents (49%) mentioned that they live under the authority of a town or parish council. Of these, 6 stated that their parish council owned disused land. All 6 felt this land could be put to better use. However, all respondents highlighted a desire to keep the land in public or community ownership and ensure it was used for public good. For example, one respondent wanted some allotments to be brought back to life whilst another wanted to work with the council to regenerate a local building and prevent fly-tipping.

The responses suggest that local residents do not want disused land to be put on the market, but rather they would like more opportunity to work alongside town and parish councils to ensure all land is better used to benefit the community.

Therefore, the Right to Regenerate, as set out in this consultation paper, should not be extended to town and parish councils. Other measures to protect disused land and encourage parish councils to work alongside community groups to ensure that regeneration efforts benefit the whole community would be more appropriate.

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

Government should incentivise the temporary use of underused land for the benefit of community groups.

When asked what prevents communities from approaching their Local Authority to request the purchase of disused land, one of the top three responses was financial barriers. One respondent highlighted that the “price of land is too expensive” and often beyond the reach of community groups, especially those which do not have a consistent source of funding or revenue. When land is sold via competitive bidding processes, another respondent highlighted that community groups often miss out as they do not have equal access to the funding and resources of private developers and other bodies.

As a result of this, the ability of communities to utilise disused public land on a temporary basis should be encouraged and regarded as a first step to ownership. Many highlighted the need to get activities, services, and events up and running as soon as possible, and in many instances the temporary use of public land has allowed for this. Over the long term, the temporary use of land can provide leverage for communities to purchase that land, or other publicly owned spaces in the neighbourhood. It can support communities to raise funds through income generating activities, and to grow in confidence and capacity to secure funding from other sources.

If temporary use is to be encouraged, government should set the standard for best practice. Respondents suggested that peppercorn rents or ‘social value’ payments might be most appropriate and would explicitly recognise the value of community use of land above selling to the private sector. Similarly, long notice periods must be put in place to provide a sense of security, giving community groups and organisations time to plan, develop and implement local activities and services.

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

The government should offer a ‘right of first refusal’ to benefit communities seeking to purchase public land. Local Trust’s survey found that 83% respondents stated that a ‘right of first refusal’ should be a condition of disposal, but only to the benefit of community and voluntary sector groups and organisations.

Respondents noted that many communities feel that they need extra powers to protect public land that can be used to provide vital community services, and that it should be regenerated into something that will have community benefit rather than being sold to private developers. One respondent stated that their neighbourhood “has already suffered significantly from the sale of public land and property” for private gain and that granting a ‘right of first refusal’ to all applicants risks further restricting communities’ access to local buildings and spaces. Comparatively, a ‘right of first refusal’ that benefits community and voluntary groups alone will ensure that vacant buildings and land has the best chance of being put back at the heart of the community, providing local people with the activities, services, and support that they need.

In addition, a significant number of respondents stated that offering a ‘right of first refusal’ to community and voluntary sector organisations is an important aspect of securing a “genuine transfer of power to communities”. The majority believe that the ‘Right to Regenerate’ has the potential to empower communities to secure local assets. However, survey responses also highlighted that in order to do so a mechanism is needed that “rebalances the power dynamics” between communities and private developers. Three respondents discussed cases where their Big Local partnership had attempted to purchase unused land but were unable to compete against private developers, who had “more money, power and experience to get in

first”. As a result, a ‘right of first refusal’ for community groups alone would provide a “more balanced approach”, helping local residents and civil society compete against private developers.

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

These reforms risk having no impact on the most deprived communities and could end up being used by private developers to take over increasing amounts of public land in places that already suffer from low levels of social infrastructure, including spaces and places for people to meet.

Local Trust (2019) has identified 225 neighbourhoods with high levels of social and economic deprivation. These neighbourhoods rank in the top 10% most deprived on the Index of Multiple Deprivation as well as a new Community Needs Index which maps social infrastructure in a community – defined as places to meet, community engagement and physical and digital connectivity. We believe that these neighbourhoods are perhaps the most ‘left behind’ in England. They lack the presence of a strong, well-resourced community and voluntary sector and, as such, are unlikely to access the benefits of the strengthened Right to Regenerate. This comparative absence of civic assets and community activity means that these communities are less well equipped to identify and purchase unused land.

Therefore, the Right to Regenerate is unlikely to help residents in ‘left behind’ neighbourhoods purchase public land unless it is accompanied by a policy and investment programme designed to develop community leadership and improve engagement with the planning process. This is essential to ensuring that ‘left behind’ neighbourhoods have the knowledge, capacity and resources to transform public land as easily as other areas.

One policy proposal that would support this is the Community Wealth Fund. This proposal, supported by an Alliance of almost 400 public, private and voluntary sector organisations, would see the expanded dormant assets scheme (funding from bonds, stocks, shares, insurance and pension policies) placed into a permanent endowment to invest in ‘left behind’ neighbourhoods. The Fund would invest almost £900m initially over a period of 10-15 years, giving residents control over decision-making. Funding invested in this way, with the appropriate support and guidance, would improve the social capital and civic capacity of these communities. This would enable residents in ‘left behind’ neighbourhoods to make better use of statutory mechanisms such as the proposed Right to Regenerate over the medium term. We would encourage the government to implement the proposals for a Community Wealth Fund alongside the proposed Right to Regenerate so as to ensure every community has the greatest opportunity to prosper.

References

Local Trust (2019) Left Behind? Understanding communities on the edge. https://localtrust.org.uk/wp-content/uploads/2019/08/local_trust_oci_left_behind_research_august_2019.pdf

Local Trust (2020) Left behind neighbourhoods. <https://localtrust.org.uk/policy/left-behind-neighbourhoods/>

Local Trust (2018) Strong resourceful communities: the case for a Community Wealth Fund: <https://localtrust.org.uk/insights/submission/community-wealth-fund/>

About Local Trust

Local Trust is a place-based funder supporting communities to transform and improve their lives and the places where they live. We believe there is a need to put more power, resources and decision-making into the hands of local communities, to enable them to transform and improve their lives and the places in which they live.

We do this by trusting local people. Our aims are to demonstrate the value of long term, unconditional, resident-led funding through our work supporting local communities make their areas better places to live, and to draw on the learning from our work to promote a wider transformation in the way policy makers, funders and others engage with communities and place

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