**Response to consultation on Right to Regenerate, February 2021**

**About the National CLT Network**

The National CLT Network is the official charity supporting Community Land Trusts (CLTs) in England and Wales. We are a membership body and represent over 340 CLTs, who together have plans to deliver 7,000 homes by 2025.

For further information on this response please contact Tom Chance, Chief Executive of the National CLT Network, on tom@communitylandtrusts.org.uk.

**Q1: Do you consider the Right to Contest useful?**

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

Not at present. Community Land Trusts would see little value in using the Right to Contest because:

1. It would result in the land being released into the market, and so would not be guaranteed any benefit for its work in bringing the land forward.
2. There is no provision for the land to be sold at a value which supports social value (economic, social, environmental) and so the Community Land Trust may be at a disadvantage in bidding for the site if private companies were to bid on the basis of minimising social value.
3. It is not aligned to other policy frameworks including the NPPF (and the proposals in the Planning White Paper) and the Green Book.
4. In most cases Community Land Trusts need to develop a positive relationship with their local authority, and so would be more likely to negotiate a disposal directly rather than moving to use the Right to Contest which could sour that relationship.

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

Yes. Guidance needs to be clear on what constitutes an “intended use” - it is currently too easy for a public body to state this and then to continue to neglect the land for another decade. Being allocated in the Local Plan should not constitute an “intended use”, nor should it preclude the Right to Regenerate being taken up - indeed the right will often be most useful on land allocated in the Local Plan, where a Community Land Trust has a proposal to bring forward a better use in line with the Local Plan.

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

Yes.

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

Yes.

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

Yes, this is reasonable so long as there is clear guidance about reasonable response times, so that Community Land Trusts are able to proceed to use the Right to Regenerate if the public body does not engage in timely informal discussions. We would also propose that the guidance encourages both the applicant and the local authority to use this stage in the process to engage the community local to the asset in a discussion about its use.

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

Yes, where requests are made by bodies like Community Land Trusts that will ensure the asset continues to be used for sustainable development in line with the NPPF and Local Plan. We would welcome the presumption in these cases to give a clear signal to public bodies.

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

Yes. As noted in our answer to question 6, we think a preliminary enquiry and a request both present an opportunity for the public body to engage in a wider discussion with the local community. This may lead to partnership approaches which could establish the best use for the asset.

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

Yes, we would like to see a ‘right of first refusal’ for Community Land Trusts, other properly constituted community and charitable organisations, and for individuals or associations of individuals bringing forward self and custom build housing proposals. This would align the policy with the Government’s ambition to diversify the housebuilding industry through these approaches, as stated for example in the Planning White Paper.

Without such a right, these stakeholders have little incentive to go to the trouble of pursuing the Right to Regenerate. Where these categories of stakeholder exercise the Right we think a right of first refusal is required to give effect to the policy.

However, there shouldn’t be a presumption that land is sold for “market value”. It should be the best consideration that can be reasonably attained, and what is reasonable should reflect the alignment of a council’s planning policies, corporate asset management plan and other spatially focused policy objectives to determine the correct valuation basis for the disposal. In doing so it should account for the social, economic and environmental outcomes. In a similar vein, the objective of the policy should not just be couched in terms of “better economic use” but more broadly in terms of “sustainable development”, so as to align with the NPPF.

In its 2020 Green Book Review, HM Treasury also made clear that “all proposals that concern... changes to the use of existing public assets and resources… both achieve government policy objectives and deliver social value - - i.e. that maximise the delivery of economic, social and environmental returns for UK society.”

The Right to Regenerate should be consistent with the NPPF, the Green Book and other aspects of government policy. This will not only be more consistent, it will also make the Right more effective.

For example, Bristol City Council has established policies for Social Value and for land disposal. The latter grounds decisions in its social value policy as well as its Local Plan. The council should be able to couch any valuation of assets in these policies, and not be required or encouraged to ascertain a “market value” outside these. If the policy is designed in this way, communities, self builders and the like across Bristol could use the Right to Regenerate as a means to raise and challenge the council on underused assets where the council is not proactively bringing it forward, and in a way that is then aligned with the council’s policies.

The Royal Institution of Chartered Surveyor’s Valuation Professional Standards sets out six bases of value. We would suggest that equitable value is a more appropriate basis for this policy than market value. This “requires the assessment of the price that is fair between two specific, identified parties considering the respective advantages or disadvantages that each will gain from the transaction”. Such an approach would enable a Community Land Trust and the public body to discuss the valuation to deliver a better use which would maximise social value for money.

We would note that there is a particular case for Community Land Trusts to enjoy this right, because the statutory definition of the CLT (in s79 of the Housing and Regeneration Act 2008) expressly requires that they then use the assets to further the social, economic and environmental wellbeing of the community. This further aligns the Right to Regenerate with the NPPF and the HM Treasury Green Book, and locks these objectives into the asset in perpetuity.

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

We have no firm view on this as proposed, but would be comfortable with conditions that require the better use of the site to be progressed within a defined timeframe to avoid the new owner continuing to leave the asset empty or underused.

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

We would like the Government to consider broadening the Right to Regenerate to apply to privately owned land and assets that are wholly or mainly, abandoned or neglected or where the underuse or management of the land is causing harm to the wellbeing of the community.

Such a right would be of transformative benefit in left behind communities, which are often blighted by privately owned land and homes (other than primary residences). In some cases there are risks to public safety; more often they have a detrimental effect on adjacent land and the local community and economy. They may be allocated for better use in the Local Plan.

Many Community Land Trusts in left behind communities focus on bringing assets of this kind into better use. A reformed Right to Regenerate would give them a stronger hand where publicly owned assets are the issue, but no recourse for privately owned assets.

It would also encourage private landowners to bring forward better use of their land and assets, and provide an impetus for informal discussions with their local authority and local community organisations who may be well positioned to establish partnership structures to help bring these uses about.