

Transparency and Competition: A call for evidence on data on land control¹

Response to call for evidence: Caroline Shah

General and Legal

This call for evidence was poorly signposted in the document Planning for the Future – there was no indication of what this document is about and how it links in to the proposals laid out in Planning for the Future. The deadline for submissions on this document is both unclear and contradictory, being stated as 31 October 2020 in one place and 6 November 2020 in another. *This consultation should be started again*, clearly stating its purpose and how it fits within reforms laid out Planning for the Future, and with clear, evidence based information and substantiated assertions throughout the text

This call for evidence *breaches the Consultation Principles published by the Cabinet Office* for the same reasons set out in my response to Planning for the Future dated 29/10/2020. It should therefore be started again

In particular, the call for evidence is unclear in its objectives and does not substantiate or provide evidence for many of its claims. It provides a lack of detailed information that would allow readers to make informed and intelligent and relevant responses. Examples of lack of substantiation of assertions include all the assertions made about the benefits for local communities of proposed reforms. Examples of lack of clarity include claims about the challenges for small builders of acquiring land and the benefits that these proposals will bring and the exact implications of the proposals for small developers. Another example is the proposed role of the PropTech sector which is mentioned in passing, and an explanation of the phrase that the proposed changes to the land registry will be “a useful tool for land assembly where local authorities are *innovative in doing so*.” I am having to guess at the meaning of many of the phrases and questions to which I have responded.

It is quite insulting that you ask in question 25: “*What impact, if any, do you think that these proposals will have on people who share protected characteristics? Please describe the effects and provide evidence.*”

Do you not have any regard to fulfilling these duties yourselves? You are asking the reader to provide *to the government* evidence of the effects that *your* unclear and unsubstantiated proposals will have on people with protected characteristics. This is not paying due regard to your public sector equalities duties. I believe you need to do an assessment of the possible effects of these proposals on people with protected characteristics and THEN ask people for their opinion of your assessment. This call of evidence should be started again with complete information in this regard.

The lack of any equalities, health, environmental or equalities assessment of any kind indicates that you have not considered the effect of these proposed reforms in the context

¹ Options and conditional contracts on land that facilitate the bringing forward of land for development

² Point 17 of the document

of the wider Planning Reforms of which they form part, namely the proposals in the White Paper: Planning for the Future. This is a great oversight that undermines both consultations.

1. Improved ability of local communities to play an informed role in the development of neighbourhoods

You state in this document that increased transparency of contractual arrangements used to exercise control over the buying and selling of land (such as the use options and rights to buy land when planning permission has been granted) will *“improve the ability of local communities to play an informed role in the development of neighbourhoods”*. You also state in point 9. (backed up by point 45) that *“without comprehensive information on those controlling land, local communities cannot fully understand the likely path of development in their area”*

However, the document provides absolutely no evidence of how any such improved ability of local communities to play an *“informed role in the development of neighbourhoods”* will come about and what the role will be.

Certainly, in the context of the proposed planning reforms of which this call for evidence forms part, there will be little scope for local communities to play any role at all in the development of their neighbourhoods, and the publication of *already existing contractual arrangements* to exercise control over the buying and selling of land is of little positive use or value to local residents.

It is also not possible to understand how land registry data on contractual arrangements on land will help communities *“fully understand the likely path of development in their area”*. According to the Planning Reforms, the likely path of development will be established in Local Plans when our neighbourhoods are designated as areas for *“growth”, “renewal”* or *“protection”*. *“Understanding”* when developers are acquiring land interests to push through the government plans is hardly a benefit for local communities. It is much greater benefit to developers and other people seeking to invest in land as they will be able to put pressure on other landowners in that *“path”* of development to enter in to similar contracts so that land clearance becomes a self-fulfilling prophecy.

Question One: Is there a public interest in collating and publishing additional data on contractual controls over land?

No. The disadvantages that accrue to communities from disclosing contractual matters outweigh the benefits that would accrue to developers from their publication.

By publishing the data on who has a contractual arrangement to buy and sell land where, you simply support the ability of developers and other people looking to acquire land as an investment to identify areas where some people may have entered in to such arrangements but others have not done so and may not wish to do so. Developers and other investors can then put pressure on people who do not wish to sell with the aim of clearing a large – or

smaller – area for development. This can make the lives of people in local communities all over England hellish and result in them feeling forced to leave so that developers can move in.

You mention in point 17 that these proposals will facilitate land assembly for development. From a local community point of view, the clearing of areas of our neighbourhoods in which we have our homes for redevelopment – whether such areas are large or small – is not something that should become seen as a commodity activity to support the building industry.

I find it worrying that you state in point 17 that one benefit of disclosing information on land control is that *“the public can see if private owners are stalling development”*. Firstly, it is not clear what is meant by this statement as ownership or right to ownership of land with planning permission does not automatically mean that the owner will build on it. Secondly, it is not clear how the disclosure of contractual interests in land will enable the public to see *“if private owners are “stalling” development, because the public will just see where such contractual arrangements exist and when they expire. If the original landowner wishes to hold on to their land, they have every right to do so, no matter the intentions of developers to develop the land around.*

Are you thinking of introducing a requirement that anyone who gets planning permission *must* go ahead with plans as per the planning permission granted? If not, it is hard to apply the statement that people are stalling development by not going ahead with building when planning permission has been granted.

Small builders and local communities

You state in points 19³, 20⁴ and 21⁵ that the proposals for land registry reform will benefit small builders as they will be able to see more easily where parcels of land exist on which contractual arrangements exist or where they may be able to enter in to contractual arrangements to acquire the land.

This appears to be a mechanism to facilitate **small site development** on a large scale that is being legislated for in the London Plan across Growth Areas, euphemistically known as *“opportunity”* areas, across Greater London and which could be extended across the country.

This is not in the public interest as it will facilitate the destruction of existing areas of land and local neighbourhoods as land rights are sold piecemeal to small development companies.

³ “19. The lack of transparency particularly affects SME builders who are more likely to find the effort required to identify and understand land affected by contractual controls onerous. The Government wishes to encourage more small builders and developers to enter the residential construction market to increase the number of houses built.”

⁴ “20: Both the HBF and the Federation of Master Builders (FMB) have identified a lack of small sites as a major barrier to their members”

⁵ “21. Although the land register contains information on land ownership and interests, it can be costly and time-consuming to identify suitable development sites. *A parcel of land must be found and then all interests in it—including contractual controls—must be individually assessed.* These costs make it harder for new firms or self-builders to find plots and enter the market, and for existing firms to expand beyond their locality.”

Question 20: Economic Impact

You ask only about the economic impact of the proposed reforms when you should be asking about whether these reforms will support sustainable development in terms of the environment, biodiversity, access to basic needs such as water and the socio-economic effects of the reforms.

The reforms will speed up *large-scale development on large and small sites* by large and small builders across the country bringing in big business and big money. This economic and development model will increase the gap between the rich and the poor and result in greater social exclusion.

Local people will end up feeling forced to leave the area as land is cleared around them for development or – if they are the last people left – may actually be forced to leave through the use of compulsory purchase orders. These reforms will not help to bring about sustainable development in any true sense.

Whilst the reforms will doubtless speed up the process of land acquisition by developers, local communities will have no say in what happens and receive no benefit from such activities.

Question 24: Trust in the Planning System

The likely pattern of development in any area will be determined in future by whether the area is designated for “growth”, “renewal” or “protection”.

The question whether the “lack of accessible and understandable data on contractual controls on land make it more difficult for local communities to understand the path of development” is a red herring.

It is misleading and the wrong question. It should not matter who owns land because planning legislation and laws protecting the environment, habitats, equalities and health should protect local communities from the wrong kind of development and should prevent development from going along the “wrong path”.

It is the failure of our public authorities to insist that developers follow legal requirements and the lack of robust environmental, equalities, biodiversity and health impact assessments that is the problem.

The proposed reforms to the planning system, including the ones suggested here, undermine my trust and confidence in the planning system to deliver truly sustainable development that delivers democratically-agreed outcomes for the environment, equalities, health and biodiversity alongside economic outcomes.

Desired economic outcomes, just like the scale of development, are being imposed by the government without any concern for the wider impacts on society, people and the environment of their plans.

Question 25: Public Sector Equalities Duty

It is not justified for you to ask the reader to say what the effects of these proposals will be on people with protected characteristics when you, as the Government, have carried out no assessment. There is nothing in this document to indicate you have taken this duty into consideration at all as at no other point, other than to ask for views, is it mentioned. Surely it should have been at the heart of a document that seeks to speed up the clearance of land for development and redevelopment across the country. Often it is people in the poorest areas of England who become displaced to make way for redevelopment, including many people of BAME origin. Older and disabled people are also vulnerable to predation by investors, developers and – I am sad to say – public authorities looking to push them out of their homes so they can be razed for development.