



RTPI

mediation of space · making of place

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Patron HRH The Prince of Wales KG KT PC GCB

13 May 2016

Dear Sir/Madam,

Response to consultation on moving Land Registry operations to the private sector

Thank you for the opportunity to respond to this BIS consultation. The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 23,000 spatial planners. The Institute seeks to advance the science and art of spatial planning for the benefit of the public. As well as promoting spatial planning, the RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

Yours Faithfully,

Joseph Kilroy

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General

The RTPI welcomes the opportunity to respond to this BIS consultation. We are concerned by the fact that the consultation takes quite a narrow view of 'housing supply, home ownership and economic growth'. It is our view that the management of Land Registry data should be available to underpin public and political discussion on land ownership and national housing policy not simply to assist individual property transactions. There is a powerful need for data on land ownership in aggregate, especially data on the ownership of land needed for development. This is vital in order to properly inform debates on issues such as alleged land hoarding.

Furthermore, an aspect of increasing interest to the public and the government is the issue of overseas ownership of land. Recent investigations into these aspects of UK land ownership have depended on Freedom of Information requests to obtain data.¹ It is unclear whether a privatised Land Registry would be subject to similar transparency requirements. We regard this as essential.

1. Do you agree that the ownership of the Registers should remain in government?

Yes No Not sure

Comments: The registers play a key role in evidence based policy making, and also ensure transparency of ownership and transactions. However we would recommend extending the registers to include ownership of land options.²

As an organisation we represent members working across all sectors of the economy who recognise the need for reliable, secure and accessible land ownership data. To properly assess land availability, the record of land owners and developers in bringing sites forward to actual development is critical. While land in and around towns and cities is necessary for their expansion, it is not always easy to find out who owns it or has an option on it.³ There is even some land which is not registered.

2. What steps should government take and what safeguards should it put in place to ensure continued and improved access to high-quality and reliable Land Registry data?

Comments: Government should maintain and operate this unique data process for national security reasons, and to continue to facilitate access to statistical analyses of the data as they do with the Office for National Statistics. In our view safeguards ensuring continued and improved access to this data will only be possible by retaining public ownership and operation of the Registers.

3. How could government use this opportunity to improve the quality and accessibility of data produced by Land Registry for all sectors of the economy?

Comments: Government should make the registration of ownership and transactions of land and land options with Land Registry compulsory. This will facilitate an informed national debate about land use, as well as strategic planning at the national, regional, and local level.

In addition an index which allows for all information in relation to any of parcel of land to be accessed is essential. There are still plots of land which are not registered. Finding out who

¹ See <http://www.private-eye.co.uk/registry>

² An option agreement is an agreement made between a landowner and a potential purchaser of their property. In simple terms, both parties enter into an agreement, in return for a non-refundable sum of money, the potential purchaser of the land has a legally binding option to buy at a certain date or within an agreed time-frame, or after completion of a certain event (for example after obtaining planning permission).

³ See <http://rtpi.org.uk/media/630969/RTPI%20large%20scale%20housing%20report.pdf>

owns land and where needs to be a priority for the Land Registry whichever form it takes going forward.

The Coalition Government's response to the previous consultation on creating a 'service delivery company'⁴ noted that the "single overwhelming theme" was "acknowledgement of the valuable work of the Land Registry.." and "a positive perception of the service". Almost all respondents (91%) said that the proposed service delivery company would not be more efficient and effective than the current model, and 89% said they "would not be comfortable with non-civil servants processing land registration information, even... within a framework set out in a... service contract.". The Coalition Government concluded the need for "further consideration before (any) change".

No justification or substantive evidence is given in the current Government's consultation to support taking a step beyond creation of a service delivery company to private sector operation of a Land Registry, judged to be "critical" to the national and public interest, other than it being required as "part of a wider aim to seek up to £5bn of asset sales by March 2020".

The consultation acknowledges that the Land Registry is already making a profit on services (total costs were £260.5m in 2014/15 total revenue for 2014/15 was £297.1m). Given the disproportionate role that property has as an investment good in the economy the predominant incentive for the private sector will not be the maximisation of freely available information which facilitates public decision making, but the selling on of data sets that are produced with the private sector in mind thus potentially undermining public confidence.

4. On what basis should government manage the relationship with a privately owned Land Registry to ensure Land Registry meets, as far as is reasonable, the data quality and availability requirements of all stakeholders?

Comments: Based on the consultation document it is not clear whether all rights to current or future data will be retained by government or how government would be able to transfer the operations of the register to another supplier if 'NewCo' failed to deliver on its commitments.

By the terms laid out in the consultation document passing the registry into private hands would create an immediate market monopoly. Creating a single holder of land titles will render existing private land data companies redundant and could end up creating a loss of data when these go out of business or start to roll back their research. Therefore a series of stringent regulations need to be placed on NewCo to ensure that it does deliver on its commitments.

5. Do you agree that the suggested safeguards should be included in any model?

Yes No Not sure

Comments:

6. Are there any other safeguards that you think should be included?

Yes No Not sure

⁴ BIS, July 2014, para 6

Comments: Whoever takes over the Land Registry must be required to provide information to the public in general as well as people who want to buy property. The document refers several times to the importance of the land registry to the property market, but it is inadequate to refer only to providing information to those who want to buy land. There is a housing crisis; land is critical to the debate on solving it and therefore there is a *general public interest* in aggregate information on land ownership. If the proposal goes ahead, there should be an obligation on the new company to provide responses to Freedom of Information Requests. And arguably any changes should be used to take the opportunity to *increase* public access to information on land ownership in aggregate. We are looking for an outcome in which the public have the same amount of access to information as they do now at no greater cost.

If this sale goes forward there should be additional safeguards, for example on initial and subsequent ownership of “NewCo” to prevent it being bought by any company part owned or controlled by a foreign government.

7. Do you agree with the preferred option?

Yes No Not sure

Comments: See response to question 8

8. What are your reasons for your answer to question 7?

Comments: The fundamental justification put forward for selling the Land Registry to a private sector company is ‘delivery of a capital receipt to the Exchequer’, but this relies on a very short term view of public finances. While there would be an initial windfall gain from selling off the Land Registry, given the fact that it turns a profit (Total costs were £260.5m in 2014/15, total revenue for 2014/15 was £297.1m) future profits from the Land Registry would outweigh the cash cost of a one-off sale after only 25 years. Therefore in the long run selling of this public asset does not make economic sense.

Infrastructure - such as the data registers maintained by the Land Registry - benefits from long-term strategic decision making. This challenges the approach in the consultation and the stated desire to ‘gain revenues by corporate and financial asset sales’.

The document characterises innovation as the preserve of the private sector even though there is a wealth of evidence of public sector innovation, some of which is mentioned in the document itself. The fact that the land registry needs to undergo a process of digital innovation is therefore not a justification for selling it off to the private sector.

Finally the preferred option would involve the creation of a monopoly which has negative implications for NewCo’s productive and allocative efficiency. Furthermore the “NewCo” model has not been demonstrated to provide a robust and secure context for dealing with sensitive data. In addition, the organisational structures proposed to deal with regulation appear both costly and cumbersome, involving public control over setting, monitoring and auditing standards, and regulation of fees. As a monopoly provider the “NewCo” would also need to come under the purview of the Competition and Markets Authority (CMA) for its commercial operations. The complexity of such oversight arrangements could lead to confusion, inaction or protracted disputes, any of which could disrupt this vital service and lead to increased costs and uncertainty.

9. Do you think an alternative model would be better and why?

Yes No Not sure

Comments: The current Land Registry would be the most prudent option, for the reasons set out above with the additional requirement that registration of land ownership, sales and ownership of land options is made compulsory.

10. Are there other key costs and benefits that you think we might have missed?

Yes No Not sure

Comments: There is insufficient assessment of the scale of potentially significant costs to the public purse arising from risks associated with private sector, profit-driven operation of the Land Registry, including those resulting from inaccurate processing of transactions.