

Contact Name: *Jan Debnam*

Tel No: *023 8028 5588*

E-mail: *jan.debnam@nfdc.gov.uk*

Date: *25 February 2014*

NOTIFICATION OF PORTFOLIO HOLDER DECISION

On 25 February 2015, Cllr Vickers the Planning and Transportation Portfolio Holder, made the following decision. Any member of the Council, who is not a Portfolio Holder, who considers that this decision should be reviewed should give notice to the Monitoring Officer (Grainne O'Rourke) (in writing or by e-mail) to be received **ON OR BY TUESDAY 4 MARCH 2014**.

Details of the documents the Portfolio Holder considered are attached.

DECISION:

To respond to a consultation on proposals for the Land Registry to take over the statutory land charges function currently carried out by local authorities, in the terms set out in the report considered by the Portfolio Holder.

REASON(S):

As set out in the report considered by the Portfolio Holder.

ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:

As set out in the report considered by the Portfolio Holder.

CONFLICTS OF INTEREST DECLARED:

None.

For Further Information Please Contact:

David Groom
Development Control Manager
Tel: 023 8028 5345
E-mail: david.groom@nfdc.gov.uk

PLANNING & TRANSPORTATION PORTFOLIO HOLDER DECISION
25 February 2014

PROPOSED RESPONSE TO THE CONSULTATION FROM THE LAND REGISTRY DATED JANUARY 2014 ENTITLED “LAND REGISTRY, WIDER POWERS AND LOCAL LAND CHARGES.”

1. INTRODUCTION

- 1.1 The Land Registry (LR) is proposing to take over from Local Authorities (LA's) the Statutory Local Land Charges (LLCR) function. This function basically involves the collation of information on land from a variety of internal and external sources into a multi part Register, information from which is disseminated to interested parties on request.
- 1.2 Requested information is disseminated in the form of responses to formal enquiries (LLC1) regarding entries on the Register concerning Conservation Areas, Listed Buildings, debts owed to the Local Authority and other restrictions and obligations and answers to enquiries to the Local Authority (Con 29) which involve permissions and consents granted and whether road or rail schemes in the vicinity are proposed. The Con 29 cross references back to the LLC1 so in reality they should be considered a single entity. Personal searches of the Register can also be undertaken.
- 1.3 No charge applies for personal searches of the Register in view of the Environmental Information Regulations. Fees are set for both LLC1 and Con 29 enquiries, which together are the official search, and other related questions with charges being set annually by the Council. In total around 3,000 searches are likely to be processed this year with the fees collected projected to be in the order of £430,000.
- 1.4 The Council has a core Team of two FTE's providing land charge information and keeping the Register up to date. They are directly supported in terms of line management from within Planning and Transportation and by a number of colleagues working across a variety of service areas who assist in terms of entering decisions made into systems that transfer the data to the Register and responding to queries raised when information is being provided. In addition Hampshire County Council provide highways information, for which they levy a charge, and the National Park advise of relevant decisions made by them.
- 1.5 The process is of critical importance in terms of property conveyancing and mortgage release and disclosing inaccurate or incomplete data can lead to major financial and other repercussions on the LA.
- 1.6 A copy of the consultation can be viewed by following this link to the Land Registry website. Comments are required to the LR by the 9th March 2014.

<http://consultations.landregistry.gov.uk/consult.ti/LLC1/consultationHome>
- 1.7 A linked consultation regarding the setting up of a Land Registry Service Delivery Company is also open but it is not considered any response is required.

2. THE PROPOSAL

- 2.1 LR propose to set up a new company to take over the maintenance of the Register, having captured the historic data in part from LA's, and to deal with LLC1 enquiries now and possibly Con 29's in the future. It is assumed they would also pick up on the additional questions routinely asked but this is not stated.
- 2.2 This proposal is part of a major government digital initiative designed to complement the other information streams LR deal with and respond to claimed concerns over inadequacies in the time and cost taken to provide property information by some LA's at present and inconsistencies in the level of information provided. Significant legislative changes would be required.

3. THE CONSULTATION

- 3.1 The consultation asks a series of questions and proposed answers to those it is felt a comment is required on are attached (in italics) as Appendix One. When viewing the proposed responses it is important to realise that LR accept this is at present only a high level consultation designed to identify whether the proposal should continue to be considered. In doing this they acknowledge that much further detailed work and in particular costings would be required later on.
- 3.2 Notwithstanding the lack of information currently available, key recurring issues come up now which LR need to be made aware of as these cast significant doubts as to whether the exercise should continue.

4. FINANCIAL IMPLICATIONS

- 4.1 The fees received for dealing with LLC1's and Con 29's is substantial and is required to support both the direct costs of the Land Charges Team and the additional costs across various service areas and from outside providers all charged back to the function to cover the work they undertake in terms of ensuring the Register is complete and responses are comprehensive.
- 4.2 LR indicate that if their proposals are accepted a Service Level Agreement would be proposed to cover the cost of LA's continuing to do their part in terms of the above. However no details of this or the transitional costs associated with transferring data to the LR, facilitating IT to allow data to be transferred in the future and how any redundancies or redeployments caused by the process would be covered is provided. This being the case it is at this time impossible to accurately assess the financial implications. Having said that they are potentially very significant and so it is crucial that any response identifies this as the main concern.
- 4.3 No crime and disorder implications would result.

5. ENVIRONMENTAL IMPLICATIONS

- 5.1 The provision of accurate and up to date Environmental Information is essential to ensure future investment in property is fully informed and that all relevant constraints are identified.

6. CONCLUSIONS

- 6.1 New Forest District Council provides an e enabled cost efficient and timely service in terms of both maintaining the Register and responding to requests regarding information on it. It has high levels of customer satisfaction and is unaware of any calls for a substantial change to the system.
- 6.2 It is clear from the Council's response that significant doubts exist as to whether, in principle, there is any benefit in LR progressing this initiative further. If it was, it is crucial that any proposed model is compared against an alternative based on an enhanced target led LA system with the model including the full capture of all Register data not just a meaningless 15 years worth.
- 6.3 This is a poorly judged consultation exercise. It demonstrates a complete lack of understanding of the impact and scale of the proposals under consideration which makes it impossible to provide a meaningful consultation response. In these circumstances it would be a massive risk to make an in principle decision as to the benefits of transferring all land charges data to a centralised system. If it failed it would cause chaos to the process of all property transactions which in turn would cause massive damage to the national economy
- 6.4 Finally it is very regrettable that no information has been provided in the consultation as to the success of the pilot project in terms of the time, accuracy and cost of the digital information transfer or the timeliness quality and cost of responses obtained from it

7. RECOMMENDATION

- 7.1 That New Forest District Council responds to the consultation as set out in Appendix One to this report.

8. PORTFOLIO HOLDER DECISION

I have agreed to the recommendations of this report.

Signed ...F P Vickers.....

Date ...25 February 2014.....

Date on which notice given of this Decision – 25 February 2014

Last date for call-in – 4 March 2014

For further information contact
David Groom
Development Control Manager
David.groom@nfdc.gov.uk

Relevant Documents

Consultation Document from the Land Registry entitled Land Registry, Wider Powers and Local Land Charges dated January 2014.

Appendix One: Proposed Responses.

Wider Powers

Question 1

Do you agree that there is the potential to (a) streamline and bring greater efficiencies to services in the property sector and (b) introduce new services?

Question 2

Do you agree that Land Registry should play a greater role in the property market by providing (a) information and register services additional to land registration services and (b) consultancy and advisory services relating to land and other property?

Question 3

Do you have any suggestions as to new services Land Registry could consider?

Question 4

Do you agree that Land Registry should have the power to set the charges for new services?

Question 5

Do you agree that Land Registry's power to form, purchase or invest in companies should apply to activities carried out under Wider Powers?

Question 6

Do you have any other comments relating to this part of the consultation?

The Council has no view on the general options for the future of the Land Registry so is not responding to Questions 1 to 6.

Local Land Charges

Question 7

Do you have any comments about the reasons to change Local Land Charge services and do you see any benefits?

The potential issues in terms of LA provision with regard to lack of standardisation, a variety of charges and variations in speed and calibre of service are understood. However no evidence is to hand as to the scale of the problem or the level of user dissatisfaction and the proposals fail to show that any advantages would accrue or that these could not accrue if the service was left in LA hands with more appropriate control requirements in place in terms of cost and service levels.

Question 8

Do you agree with the stated perception that the current Local Land Charges services would benefit from reform?

What perception and from where? All services can improve and the worst performers should be identified and assisted to improve. This need does not support a complete overhaul especially as the suggested replacement has not been fully developed or evaluated and the good practice in many LA's is not recognised.

Question 9

Do you think Land Registry has considered all feasible options?

No, many options including enhanced LA provision have not been considered and the options that have been looked at have seemingly been dismissed prematurely on the basis of a very poor evidence base.

Question 10

Do you agree that the definition of a Local Land Charge requires simplification?

No. No information is provided as to why this is required, what would replace it and why it would be any better.

Question 11

Do you agree that sections 3, 4 and 5 of the Local Land Charges Act 1975 should be amended as proposed?

No. On the basis of the information available and the case presented there is no evidence that LA's should not continue to provide these functions.

Question 12

Do you agree that Land Registry will provide Local Land Charge searches for a limited period going back 15 years?

No. In asking this question the entire basis and rationale for the proposals falls apart as the vast majority of entries on the Register pre date this period and all of the information is required to support the land conveyancing process. There is absolutely no rationale for not going back to "when records began" as LA's do at present. For example most of the entries re Conservation Areas and Ancient Monuments pre date the suggested 15 year cut off.

Question 13

Do you agree that sections 8 and 9 of the Local Land Charges Act 1975 should be amended as proposed?

For the reasons identified above there appears to be no case that searches of the Register should be moved away from LA's. This is particularly the case as Con 29's are not for now proposed to be moved. It is illogical to require searchers to go to two different sources to obtain information they currently can obtain from one. It also must be stressed that no information is provided as to why the current methods of communication, including electronic, to and from many LA's are not sufficient.

Question 14

Should Land Registry take over the Local Land Charge registration functions of Local Authorities?

See above, there is no evidence to support the benefits of any such move. In any case it is crucial that the body that maintains the register deals with the official search, all LLC1's and Con29's and associated questions

Question 15

Can you suggest other areas that could be considered under the proposed protocols?

Yes, protocols could be set up in order to deliver an enhanced consistent level of LA delivery based on minimal electronic data capture and data transfer. These could provide a response to all the issues identified by the LR as drivers for change.

Question 16

Do you agree that a record of appropriate dates relating to the creation of a Local Land Charge will be required in order that Land Registry can accurately maintain a Local Land Charges Register?

Yes with the record(s) being based on the full historic level of information currently held, handled by and provided by LA's.

Question 17

Do you agree that Land Registry should retain the option to insure against claims and provide compensation when a claim is valid?

Yes. Such cover is essential whoever provides the information. This will be more so if LR are responding as the local knowledge available to LA's will not be to hand increasing the chance for errors especially if properties are identified solely by their address rather than a polygon.

Question 18

Do you think an electronic process and providing digital information through a single registering authority will provide business with tangible benefits by being able to make LLC1 search applications by a method other than paper?

Yes as currently provided by, for example NLIS. However under current legislation a paper alternative exists and this is preferred by some users. Choice must continue to be provided so as not to disadvantage some customers.

Question 19

Do you think you will need to make changes to your internal processes to make LLC1 search applications through LR channels?

Significant changes would be required in terms of providing information to the LR and using it as a channel. These have not been explored and in the absence of this information the consultation is very premature as no idea of the scale of change and the likely costs is to hand to help support any business case.

Question 20

Has Land Registry correctly assessed the impact of its proposals on members of the public and businesses? Do you consider that Land Registry has missed or under-estimated any substantive impacts? If so, what are the nature and scale of these impacts?

No, the work produced to date by LR shows a lack of understanding of the impact and its scale. The nature and scale of the impacts cannot be answered through a response to this question but need to be commented on following a thorough review of the issues and sight of an informed proposal based on an understanding of these issues. Even at the highest level ("is it worth considering this approach point") no decision can be made in the absence of this information. In addition Personal Search Companies will still format their own divergent responses and theirs will go back through all records (if available at the relevant LA) not just 15 years worth meaning they potentially offer a better product.

There is a significant substantive impact on the public and businesses if the transfer of data does not take place efficiently or the national database subsequently fails. Delay to property transactions across the country has the potential to cause massive damage to the national economy.

Question 21

Do you think that any other approaches to improving the provision of Local Land Charge searches should be explored? If so, what are these? What would be the comparative advantages and disadvantages of any such approaches?

Yes. The ability of LA's to continue to provide this service on the basis of a consistent IT enabled approach with fixed costs and strict service levels should be explored and costed in parallel with the LR approach. Both options must keep LLC1's and Con 29's together and be based on a search of all data not just a fixed date that applies to other LR processes.

Question 22

Do you have any further comments relating to this part of the consultation?

New Forest District Council provides an e enabled cost efficient and timely service in terms of both maintaining the Register and responding to requests regarding information on it. It has high levels of customer satisfaction and is unaware of any calls for a substantial change to the system.

It is clear from the Council's responses that significant doubts exist as to whether in principle there is any benefit in LR progressing this initiative further. If it was, it is crucial that any proposed model is compared against an alternative based on an enhanced target led LA system with the model including the full capture of all Register data not just a meaningless 15 years worth.

This is a poorly judged consultation exercise. It demonstrates a complete lack of understanding of the impact and scale of the proposals under consideration which makes it impossible to provide a meaningful consultation response. In these circumstances it would be a massive risk to make an in principle decision as to the benefits of transferring all land charges data to a centralised system. If it failed it would cause chaos to the process of all property transactions which in turn would cause massive damage to the national economy.

Finally it is very regrettable that no information has been provided in the consultation as to the success of the pilot project in terms of the time, accuracy and cost of the digital information transfer or the timeliness quality and cost of responses obtained from it

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