



Department for
Communities and
Local Government

Consultation on the general consents issued under section 25 of the Local Government Act 1988

August 2013
Department for Communities and Local Government
Homes and Communities Agency
Greater London Authority

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About this Consultation

Scope of the consultation

Topic of this consultation:	The consultation is on a revised version of the general consents issued under section 25 of the Local Government Act 1988. The revised consents remove the requirement on local authorities to seek the specific consent of the Secretary of State to dispose at less than market value for the provision of privately-let housing accommodation of (a) vacant housing land, and (b) vacant dwellings to other registered providers.
Scope of this consultation:	This consultation seeks views on the revised general consents.
Geographical scope:	England
Impact Assessment:	There is no regulatory impact on the private sector and no impact assessment has been prepared.

Basic Information

To:	This consultation is aimed primarily at local authorities, especially local authority landlords. In addition, private registered providers and private developers may also have an interest in responding.
Body / bodies responsible for the consultation:	This consultation is being run by the Department for Communities and Local Government (DCLG).
Duration:	This consultation will run for six weeks from 5 August 2013 – 13 September 2013
Enquiries:	Please contact henry.boyce@communities.gsi.gov.uk
How to respond:	By e-mail to henry.boyce@communities.gsi.gov.uk

	<p>Or by post to:</p> <p>Henry Boye Department for Communities and Local Government Zone 1/B2 Eland House Bressenden Place London SW1E 5DU</p>
After the consultation:	<p>DCLG will analyse consultation responses with a view to publishing a final version before 2014.</p>

Background and Context

1. Ministers believe that, wherever possible, decisions about the disposal of local authority assets should be made by the local authorities themselves without unnecessary interference from central Government. The introduction last year of self-financing for council housing has made this particularly relevant for the disposal of housing assets. Ministers are also keen that local authorities make best use of all their assets to promote growth in the economy. It is against this background that we are proposing these amendments.
2. In short, we are seeking your views on our proposal that local authorities should no longer require the specific consent of the Secretary of State to dispose at less than market value of
 - a. vacant housing land
 - b. vacant dwellings to other Registered Providers of Social Housing (RPs):
i.e. social landlords (including local authority landlords) regulated by the Regulator for Social Housing.

Background

3. Section 24 of the Local Government Act 1988 (“the 1988 Act”) provides powers to local housing authorities to provide financial assistance in connection with privately-let housing accommodation. Section 24 lists the type of work that can be supported.
4. Section 25 of the 1988 Act requires that a local authority cannot exercise the powers provided by section 24 or use another power to provide financial assistance or gratuitous benefit towards works listed in section 24 without the consent of the Secretary of State. Gratuitous benefit includes the discounted disposal of an asset.
5. Section 26 of the 1988 Act provides that the Secretary of State may grant consent either specifically or generally.
6. The general consents under section 25 of the 1988 Act were last issued in July 2011 (Annex 2). The revised version, on which we are now seeking your views, introduces a new general consent (AA) and a revised general consent B (Annex 1). The remaining general consents (A, C, D and E) remain unchanged.

General consent A and AA

7. General consent A removes the requirement to seek the specific consent of the Secretary of State for the disposal of vacant land to RPs. The consent not only limits such disposals to RPs, but defines the purposes for which the land can be used and sets a limit on the total discount provided.

8. In May 2013 Ministers announced that the specific consent of the Secretary of State under section 32 of the Housing Act 1985 (“the 1985 Act”) would no longer be required for the disposal of vacant land held under Part II of the 1985 Act (i.e. land held in the Housing Revenue Account and commonly referred to as housing land), and that this would be without restriction.
9. Consent to dispose under section 32 of the 1985 Act does not however remove the requirement to seek consent under section 25 of the 1988 Act. This created a situation whereby vacant housing land could be disposed of at any price and for any purpose but not if the land were to be used for privately-let housing accommodation provided by a non-registered private landlord. This meant that local authorities were still required to seek the Secretary of State’s consent to dispose of housing land as part of a regeneration project where some of the land would be used to provide market rented homes. This is an anomaly we are seeking to address here.
10. The new general consent AA removes the requirement to seek the specific consent of the Secretary of State where a local authority wishes to dispose of vacant housing land at less than market value for use as privately-let housing accommodation. There is no limit on the discount that may be given and there is no restriction on use except that the land must be used as privately let accommodation as defined by the legislation.
11. We have retained general consent A as it stands and it will continue to apply to housing and non-housing land, although housing land will also have the benefit of consent AA. The approach taken in consent A reflects the approach taken in respect of other land under the Local Government Act 1972. A new power to issue a general consent for disposals of planning land at less than best consideration was included in the Growth and Infrastructure Act 2013 and has just come into force.

General consent B

12. The current general consent B removes the requirement to seek the specific consent of the Secretary of State for the disposal at less than market value of run-down vacant dwellings to RPs. The consent puts a cap on the number of properties that can be disposed of in this way.
13. There are often properties, other than those run down, that are difficult to let or maintain and where it makes long term sense to transfer the property to another RP. Disposal is often free or for a nominal sum in return for nomination rights. Ministers support such disposals and consider it unnecessary that the local authority has to obtain specific consent on each occasion.
14. Our revisions remove the requirement that the property be in need of renovation and the cap. Under the revised consent local authorities will be free to dispose without specific consent of any vacant dwelling at any price provided it is to another RP.

15. It however remains a condition that any such property be
- a. let by the RP as low cost rental accommodation on a periodic tenancy or a shared ownership lease or a lease for the elderly; or
 - b. used as temporary accommodation for a homeless person; or
 - c. used as a hostel; or
 - d. occupied by persons who, on account of mental illness or handicap, are receiving support from a local social services authority.

Your views

16. We would welcome by 13 September 2013 your comments on these revisions.

17. In particular, it would be helpful to know whether you think the reforms should go further in providing local authorities greater discretion or whether you think more conditions should be imposed. And in both cases, why?

18. We would also welcome your views as to whether any amendments should be made to general consents A, C, D or E. And again, why?

Annex 1

AA. The general consent under section 25 of the Local Government Act 1988 for the disposal of HRA land 2013

The Secretary of State in exercise of his powers under sections 25(1) and 26(1) of the Local Government Act 1988 (“the 1988 Act”), hereby gives to all local authorities in England the following general consent:

CONSENT

AA1 A local authority may provide any person, or body for the purposes of or in connection with the matters mentioned in section 24(1) of the 1988 Act, with any financial assistance or any gratuitous benefit consisting of:

- (a) the disposal to that person or body of HRA land for:
 - (i) development as housing accommodation or as housing accommodation and other facilities which are intended to benefit mainly the occupiers of the housing accommodation; or
 - (ii) the provision of access to land used or to be developed as housing accommodation; or
- (b) the grant to that person or body of any easement or right appurtenant to HRA land used or to be developed as housing accommodation.

AA2 Consent is given on condition that:

- (a) any housing accommodation on the land when the disposal is completed is vacant, and that the terms of the disposal provide that the housing accommodation (other than any accommodation which has been developed pursuant to the terms of the disposal) shall not be used again as housing accommodation and shall be demolished; and

(b) completion of the disposal is by transfer of the freehold, assignment of a lease with an unexpired term of 99 years or more or grant of a lease for a term of 99 years or more; and

(c) the terms of the disposal provide that the development of any housing accommodation on the land shall be completed by a date which is not more than three years after the completion of the disposal, but provision may be made for that date to be varied in the event of circumstances beyond the registered provider's control;

(d) subject to paragraph AA3, the terms of the disposal provide that any housing accommodation to be developed on the land shall be privately let as housing accommodation as defined by section 24(3) of the Local Government Act 1988; and

(e) the local authority are not, under any agreement or other arrangement made on or before the disposal, entitled to manage or maintain any of the housing accommodation to be developed on the land.

AA3 The condition specified in paragraph AA2(d) need not be binding on any mortgagee of the land or any person whose title is derived through such a mortgagee.

AA4 No further consent of the Secretary of State to a disposal under this consent shall be required by virtue of section 32(2) or 43(1) of the Housing Act 1985.

INTERPRETATION

AA5 In this consent:

“development” has the same meaning as in section 55(1) of the Town and Country Planning Act 1990;

“disposal” includes an agreement which provides for the registered provider or its contractors to occupy the land for the purposes of carrying out the development and for the registered provider to obtain legal title to the land when the development has been completed;

“dwelling-house” means a house or flat, including any yard, garden, out-houses and appurtenances belonging to or usually enjoyed with it;

“HRA land” means land in respect of which a local housing authority shall keep a Housing Revenue Account under section 74 of the Local Government and Housing Act 1989;

“house” has the same meaning as in section 183 of the Housing Act 1985;

“the land” means land disposed of under this consent;

otherwise expressions have the same meaning as they have in Part III of the 1988 Act.

CITATION, COMMENCEMENT AND REVOCATION

AA6 This consent may be cited as The general consent under section 25 of the Local Government Act 1988 for the disposal of HRA land and shall come into force on [XXXXX].

Jane Todorovic

Affordable Housing Management and Standards Division

Department for Communities and Local Government

August 2013

Annex 2

B. The general consent under section 25 of the Local Government Act 1988 for the disposal of dwelling-houses to registered providers of social housing 2013

The Secretary of State, in exercise of his powers under sections 25(1) and 26(1) of the Local Government Act 1988 (“the 1988 Act”), hereby gives to all local authorities in England the following general consent:

CONSENT

B1 A local authority may provide a registered provider (except a registered provider in which the local authority owns an interest), for the purposes of or in connection with the matters mentioned in section 24(1) of the 1988 Act, with any financial assistance or any gratuitous benefit consisting of the disposal of a dwelling-house to that registered provider for the purposes of the dwelling-house being used either wholly as housing accommodation or as housing accommodation and other facilities which are intended to benefit mainly the occupiers of the housing accommodation.

B2 Consent is given on condition that:

- (a) the housing accommodation is vacant when the disposal is completed; and
- (b) completion of the disposal is by transfer of the freehold, assignment of a lease with an unexpired term of 99 years or more or grant of a lease for a term of 99 years or more; and
- (d) the terms of the disposal provide that the housing accommodation must be occupied by a date which is not more than three years after the completion of the disposal, but provision may be made for that date to be varied in the event of circumstances beyond the registered provider’s control; and

(e) subject to paragraph B3, the terms of the disposal provide that the housing accommodation in the dwelling-house after the works shall be:

- (i) let by the registered provider as low cost rental accommodation (as defined by sections 69 and 71 of the Housing and Regeneration Act 2008) on a periodic tenancy or a shared ownership lease or a lease for the elderly; or
- (ii) used as temporary accommodation for a homeless person; or
- (iii) used as a hostel; or
- (iv) occupied by persons who, on account of mental illness or handicap, are receiving support from a local social services authority; and

(f) the local authority are not, under any agreement or other arrangement made on or before the disposal, entitled to manage or maintain the housing accommodation in the dwelling-house after the works; and

(g) where the dwelling disposed of to a registered provider was social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, the dwelling continues to be social housing and remains so unless and until it ceases to be social housing under the provisions of sections 72 to 76 of the Housing and Regeneration Act 2008.

B3 The condition specified in paragraph B2(e) need not be binding on any mortgagee of the housing accommodation or any person whose title is derived through such a mortgagee.

B4 No further consent of the Secretary of State to a disposal under this consent shall be required by virtue of section 26(4) of the Town and Country Planning Act 1959, section 123(2) of the Local Government Act 1972 or section 32(2) or 43(1) of the Housing Act 1985.

INTERPRETATION

B6 In this consent:

“dwelling-house” means a house or flat, including any yard, garden, out-houses and appurtenances belonging to or usually enjoyed with it;

“homeless person” means a person to whom the local authority owes a duty to secure accommodation, or is exercising a power to secure accommodation, under Part VII of the Housing Act 1996;

“hostel” has the same meaning as in section 622 of the Housing Act 1985;

“registered provider” has the same meaning as in Part 2 of the Housing and Regeneration Act 2008;

otherwise expressions have the same meaning as they have in Part III of the 1988 Act.

CITATION, COMMENCEMENT AND REVOCATION

B7.1 This consent may be cited as The General Consent under Section 25 of the Local Government Act 1988 for the disposal of dwelling-houses to registered providers of social housing and shall come into force on [xxxxx] .

B7.2 The General Consent under Section 25 of the Local Government Act 1988 for the Disposal of Dwelling-houses to Registered Social Landlords for Refurbishment 2010, is hereby revoked.

Jane Todorovic

Affordable Housing Management and Standards Division

Department for Communities and Local Government

August 2013