

British Property Federation press release 17 November

Gov't rates response is 'intellectually dishonest'

The British Property Federation (BPF) has dismissed claims that the removal of empty property business rate relief was recommended by two government reviews by Kate Barker and Michael Lyons as 'intellectually dishonest'.

In its desperate attempts to spin away the worsening effects of a stealth tax on business failure introduced by Gordon Brown, officials have missed many subtleties of the reviews' analysis while wholly ignoring other recommendations in a bid to excuse the tax.

The government has repeatedly claimed that empty rates were in response to recommendations made by Kate Barker's planning review and Sir Michael Lyons's local government inquiry.

In fact, Barker and Lyons's recommendations were based on a detailed and sophisticated examination of specific and localised problems. The government's sweeping and indiscriminate restriction of reform to a wholly inadequate grace period from paying empty rates – (three months for shops and offices and six months for warehouses and factories) - completely ignores the reasoning behind those recommendations.

Barker

In her 2006 report, Barker accepted the sound economic case for saying that some relief should be available to property that has been vacant for some period, and that a natural rate of turnover of property exists.¹ She also recognised that there may be a case for different levels of rates across retail, office and industrial property. These would favour industrial property because the peculiarities of the market mean that property often stays empty for longer.²

Barker was concerned, however, about inefficient use of property resulting from the behaviour of owners.

She identified owners letting property fall into disrepair or failing to think about better uses to which it could be put as problems, and particularly focused on owners who might keep property empty deliberately for speculative reasons – to sit on it and watch the value rise after gaining planning consent.

Barker recognised that none of these behaviours are the norm, but suggested that government look closely at the interaction between the planning system and business rates as a possible contributing factor to speculative behaviour.³

¹ Barker, para 2.22, p55.

² Barker, para 2.23, p55.

³ Barker, para 2.24, p55.

Crucially, Barker's conclusion was that "there is a case for a charge on some forms of previously developed land to raise the opportunity cost of holding them unused at times of high demand". She considered that little additional cost should be imposed on vacant property in low-demand areas.⁴ Nowhere in her Report is there any recommendation for an across the board removal of relief after a short grace period.

Lyons

Lyons had the benefit of Barker's report when he published the final report of his inquiry in March 2007, and he reiterated some of the points she had made. Lyons, too, focused in his analysis on the problem that vacant property is found in areas of high demand as well as in areas of low demand and former industrial areas.

He was keen to find a way to make it more expensive for people to hold on to unused land and property in areas of high demand, particularly at a time when demand for land for development was growing.⁵

Unlike Barker, Lyons did not accept the rationale for higher relief for industrial property,⁶ but he too recommended a rates reform to incentivise more efficient use of property for the benefit of the economy, including through a fall in rent levels.⁷

Lyons's headline recommendation was for full relief to be retained for a grace period of just three months for all commercial property, and for the rate of relief to be reduced thereafter.⁸ While he warned against imposing empty rates at a rate higher than the normal liability to business rates⁹, he did not make any particular recommendation as to the level to which relief should be reduced after the initial grace period – perhaps regarding that as a matter of relative detail on which the government should consult with stakeholders.¹⁰

The government response

The government announced its sweeping removal of business rate relief for empty property in March 2007 with no consultation.

In May 2007, it published a regulatory impact assessment which considered only three options: "do nothing", complete removal of the relief (including grace periods), and the virtually complete removal of relief that the government in fact adopted.

While the document repeated the claim that the proposed reform is consistent with Barker's and Lyons's recommendations¹¹, there was no consideration at all of any more targeted reform to address the problem with empty property in high demand areas and the interface with planning rules identified by Barker and Lyons. Equally, there was no

⁴ Barker, para 2.26, p56.

⁵ Lyons, para 8.84, p307.

⁶ Lyons, para 8.85, p307.

⁷ Lyons, para 8.86, p307.

⁸ Lyons, Recommendation 8.4, p308.

⁹ Lyons, para 8.88, p308.

¹⁰ Lyons, para 8.105, p312.

¹¹ RIA, para 12.2, p13.

assessment at all of the possible unintended consequences of the reform, particularly on property where demand is low.

In the face of almost universal opposition from private and public sector bodies, the reform was passed in July 2007 and took effect in April 2008. The government has resisted any reconsideration of the measure despite the collapse in demand for property, the fall in manufacturing output and the drop in high street spending. Ministers have refused to use a power reserved in the legislation to respond to these changing conditions in the property market¹² by reinstating partial rates relief.

Instead, they have continued to refer to Barker and Lyons in support of a measure that looks ever more like a desperate revenue raising measure with little real policy justification.

Liz Peace, chief executive of the BPF, said:

“Despite all the talk of open government, there was no consultation. Despite all the talk of supporting business, Gordon Brown continues to kick businesses in the teeth by taxing them on hardship. And despite all the talk of no spin, we’re given this poor excuse which tries to shift the blame to two reviews written in completely different economic circumstances.

“It’s now clear that the pressure on government over empty property rates has risen to the highest level. Immediate action is vital. Over 70 MPs have signed the Commons motion calling for its scrapping and with increasing economic gloom. It is inconceivable that Gordon Brown should want to continue with such an ill-thought out tax. The government cannot dither any longer over reintroducing the relief, and misrepresenting independent reviews is intellectually dishonest.”

Government accusations that landlords would deliberately keep buildings empty in a falling market have been universally derided.

Politicians and public bodies across the board have called for the relief to be reapplied. Birmingham Council leader Mike Whitby has echoed calls of Labour MP Chris Mullin, saying how empty rates is threatening regeneration and sending businesses bankrupt, while Tory business spokesman, Alan Duncan, called the tax ‘immoral’.

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¹² *Modernising Empty Property Relief: A Consultation Paper* (July 2007), para 1.2.1, p5.