



House of Commons

Tuesday 27 November 2012

PUBLIC BILL COMMITTEE PROCEEDINGS

GROWTH AND INFRASTRUCTURE BILL

[SEVENTH AND EIGHTH SITTINGS]

Roberta Blackman-Woods
Ian Murray

Clause 2, page 3, line 18, after 'direct,' insert 'subject to criteria set out in regulations'. *Withdrawn* 28

Roberta Blackman-Woods
Ian Murray

Clause 2, page 3, line 21, after 'directs,' insert 'subject to criteria set out in regulations'. *Not called* 29

Roberta Blackman-Woods
Ian Murray

Clause 2, page 3, line 33, after 'direct,' insert 'subject to criteria set out in regulations'. *Not called* 30

Roberta Blackman-Woods
Ian Murray

Clause 2, page 3, line 36, after 'directs,' insert 'subject to criteria set out in regulations'. *Not called* 31

Roberta Blackman-Woods
Ian Murray

Clause 2, page 4, line 2, after 'State,' insert 'subject to mitigating circumstances, to include circumstances beyond the control of the holder of the inquiry or hearing'. *Not called* 25

Roberta Blackman-Woods
Ian Murray

Clause 2, page 4, line 9, after 'direct,' insert 'subject to criteria set out in regulations'. *Not called* 32

Growth And Infrastructure Bill, *continued*

Roberta Blackman-Woods
Ian Murray

Not called 33

Clause 2, page 4, line 12, after ‘directs,’ insert ‘subject to criteria set out in regulations’.

Roberta Blackman-Woods
Ian Murray

Not called 26

Clause 2, page 5, line 2, leave out ‘if he thinks fit’ and insert ‘with the agreement of both parties’.

Roberta Blackman-Woods
Ian Murray

Not called 27

Clause 2, page 5, line 5, at end insert—

‘(12) The Secretary of State must publish—

- (a) the criteria that are to be applied by the Secretary of State in deciding whether sub-paragraph (11) should be employed; and
- (b) the reasons of the Secretary of State for directing that “anything” be done under sub-paragraph (11).’

Clause agreed to.

Roberta Blackman-Woods
Ian Murray

Withdrawn 61

Clause 3, page 5, line 11, after ‘applies’ insert ‘subject to mitigating circumstances to include circumstances beyond the control of the holder of the inquiry or hearing’.

Roberta Blackman-Woods
Ian Murray

Not called 62

Clause 3, page 5, line 16, at end add—

- ‘(c) to the costs of a local authority that is a party to a public local inquiry held in England in pursuance of this Act where one or more other parties does not attend the inquiry.’

Clause agreed to.

Roberta Blackman-Woods
Ian Murray

Withdrawn 63

Clause 4, page 5, line 23, leave out ‘reasonable’ and insert ‘appropriate’.

Growth And Infrastructure Bill, *continued*

Roberta Blackman-Woods
Ian Murray

Not called 64

Clause 4, page 5, line 25, leave out from ‘if’ to ‘that’ in line 26 and insert ‘the local planning authority considers’.

Clause agreed to.

Mr Nick Raynsford

Withdrawn 50

Clause 5, page 5, line 31, after ‘(1)’, insert ‘Subject to subsection (1A),’.

Mr Nick Raynsford

Not called 51

Clause 5, page 5, line 32, at end insert—

‘(1A) This section does not apply to planning obligations relating to article 1(5) land as defined in the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).’.

Roberta Blackman-Woods
Ian Murray

Withdrawn 65

Clause 5, page 5, line 34, after ‘may’, insert ‘after the expiry of the relevant period’.

Roberta Blackman-Woods
Ian Murray

Withdrawn 67

Clause 5, page 5, line 38, leave out from ‘(c)’ to ‘in’ in line 40.

Mr Nick Raynsford

Not called 6

Clause 5, page 5, line 42, at end insert—

‘(2A) An application made to an authority under subsection (2) shall be subject to a fee, which must cover costs incurred in determining whether paragraphs (a) or (b) of subsection (3) apply, including the costs of any specialist advice.’.

Roberta Blackman-Woods
Ian Murray

Not called 68

Clause 5, page 6, line 3, leave out ‘means’ and insert ‘is assessed by the local authority to be the foremost reason’.

Mr Nick Raynsford

Not called 7

Clause 5, page 6, line 9, at end insert—

‘(3A) The Secretary of State shall make an order by Statutory Instrument setting out the criteria by which viability is to be assessed.’.

Growth And Infrastructure Bill, *continued*

- (3B) An order shall not be made under subsection (3A) unless he has consulted those persons or organisations he considers to be appropriate and a draft of the Order has been laid before, and approved by resolution of, both Houses of Parliament.’

Roberta Blackman-Woods
Ian Murray

Not called 69

Clause 5, page 6, line 9, at end insert—

- ‘(3A) An authority can only make a determination in accordance with subsection (3)(a) if it is satisfied that—
- (a) it would not result in the development being in material conflict with the strategic policies of the development plan, and
 - (b) an alternative form of development in accordance with the development plan would not be economically viable.’

Mr Nick Raynsford

Not called 8

Clause 5, page 6, line 15, at end insert—

- ‘(4A) Second or subsequent applications made to an authority under subsection (2) shall be subject to a fee.’

Roberta Blackman-Woods
Ian Murray

Withdrawn 70

Clause 5, page 6, line 25, at end insert ‘or

- ‘(e) request that the requirement is to be met in part, or in full, by central government funding allocated for the delivery of affordable homes’.

Mr Nick Raynsford

Not called 9

Clause 5, page 6, line 35, at end insert—

- ‘(6A) Subsections (6)(b) and (c) shall not prevent the planning obligation being modified so as to change the timing of payments.’

Roberta Blackman-Woods
Ian Murray

Not called 71

Clause 5, page 6, line 39, at end insert—

- ‘(7A) Where the local authority has reasonable grounds to believe that the value of the land, on which planning consent with a planning obligation that contains an affordable housing requirement is placed, has risen and the original obligation has not been reasonably met at the end of one year they may—
- (a) determine that requirement is to have effect subject to modifications,
 - (b) determine that the requirement is to be replaced with a different affordable housing requirement, or
 - (c) determine that the requirement will be subject to review within a given time period.’

Roberta Blackman-Woods
Ian Murray

Not called 72

Clause 5, page 6, line 41, leave out ‘guidance issued by the Secretary of State;’ and insert ‘regulations, subject to consultation, setting out the criteria upon which viability,

Growth And Infrastructure Bill, *continued*

for the purposes of this section, is to be assessed.

- (8A) Regulations under subsection (8) shall be in the form of a statutory instrument and shall not be made unless a draft of them has been laid before and approved by both Houses of Parliament.’

Michael Fallon
Nick Boles

Agreed to 34

Clause 5, page 6, line 42, at end insert ‘—(a)’.

Michael Fallon
Nick Boles

Agreed to 35

Clause 5, page 6, line 43, at end insert ‘, or

- (b) if no period is prescribed under paragraph (a), within the period of 28 days beginning with the day on which the application is received, or such longer period as is agreed in writing between the applicant and the authority.’

Roberta Blackman-Woods
Ian Murray

Withdrawn 74

Clause 5, page 6, line 47, at end insert—

- ‘(10A) If, at the end of one year from the date set according to subsection (10) the obligation as modified has not been met, the modification ceases to have effect and the original obligation is reverted to.’

Roberta Blackman-Woods
Ian Murray

Withdrawn 75

Clause 5, page 7, line 10, after ‘market’ insert ‘but not including requirements for land on the site to be reserved and transferred at nil cost to a local planning authority or registered provider of social housing’.

Michael Fallon
Nick Boles

Agreed to 36

Clause 5, page 7, line 21, at end insert—

- ‘(12A) The Secretary of State may by order amend this section so as to modify the definition of “affordable housing requirement” in subsection (12).

- (12B) An order under subsection (12A) may have effect for the purposes of planning obligations entered into before (as well as after) its coming into force.’

Roberta Blackman-Woods
Ian Murray

Not called 66

Clause 5, page 7, line 21, at end insert—

“relevant period” means—

- (a) such period as may be prescribed; or
(b) if no period is prescribed, the period of two years beginning with the date of the planning permission for the development.’

Growth And Infrastructure Bill, *continued*

Michael Fallon
Nick Boles

Agreed to 37

Clause 5, page 7, line 37, leave out 'and in such manner'.

Roberta Blackman-Woods
Ian Murray

Not called 73

Clause 5, page 7, line 38, after 'Secretary of State', insert 'subject to published criteria'.

Michael Fallon
Nick Boles

Agreed to 38

Clause 5, page 7, line 38, at end insert—

(3A) If no period is prescribed under subsection (3), an appeal under this section must be made—

(a) in relation to an appeal under subsection (1)(a), within the period of 6 months beginning with the expiry of the period mentioned in section 106BA(9) that applies in the applicant's case, or

(b) otherwise, within the period of 6 months beginning with the date on which notice of the determination is given to the applicant under section 106BA(9).

(3B) An appeal under this section must be made by notice served in such manner as may be prescribed by the Secretary of State.'

Michael Fallon
Nick Boles

Agreed to 39

Clause 5, page 7, line 39, after first 'to' insert '(8), (10) and'.

Michael Fallon
Nick Boles

Agreed to 40

Clause 5, page 7, line 41, leave out '(5)' and insert '(4A)'.

Michael Fallon
Nick Boles

Agreed to 41

Clause 5, page 7, line 41, at end insert—

(4A) References to the affordable housing requirement or the planning obligation are to the requirement or obligation as it stood immediately before the application under section 106BA to which the appeal relates.'

Roberta Blackman-Woods
Ian Murray

Not called 76

Clause 5, page 7, leave out lines 46 and 47 and insert—

(6) Sections 106BA(5)(c) (removal of requirement) and 106BA(5)(d) (discharge or affordable housing requirement) do not apply under this section.'

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Michael Fallon
Nick Boles

Agreed to 42

- Clause 5, page 8, line 2, after 'State' insert '—
- (a) does not uphold the determination under section 106BA to which the appeal relates (if such a determination has been made), and
 - (b) '.

Michael Fallon
Nick Boles

Agreed to 43

- Clause 5, page 8, line 6, leave out from 'period' to end of line 17 and insert ' , the obligation is treated as containing the affordable housing requirement or requirements it contained immediately before the first application under section 106BA in relation to the obligation, subject to the modifications within subsection (8A).
- (8A) Those modifications are—
- (a) the modifications necessary to ensure that, if the development has been commenced before the end of the relevant period, the requirement or requirements apply only in relation to the part of the development that is not commenced before the end of that period, and
 - (b) such other modifications as the Secretary of State considers necessary or expedient to ensure the effectiveness of the requirement or requirements at the end of that period.'

Michael Fallon
Nick Boles

Agreed to 44

- Clause 5, page 8, line 18, leave out 'subsection (8)' insert 'subsections (8) and (8A)'

Roberta Blackman-Woods
Ian Murray

Not called 77

- Clause 5, page 8, line 18, leave out 'three years' and insert 'one year'.

Michael Fallon
Nick Boles

Agreed to 45

- Clause 5, page 8, leave out lines 21 and 22 and insert—
- '(10) Section 106BA and this section apply in relation to a planning obligation containing a provision within subsection (8) as if—
- (a) the provision were an affordable housing requirement, and
 - (b) a person against whom the obligation is enforceable were a person against whom that requirement is enforceable.
- (10A) If subsection (8) applies on an appeal relating to a planning obligation that already contains a provision within that subsection—
- (a) the existing provision within subsection (8) ceases to have effect, but
 - (b) that subsection applies again to the obligation.'

Clause, as amended, agreed to on division.

Growth And Infrastructure Bill, *continued*

Michael Fallon
Nick Boles

Agreed to **46**

Schedule 2, page 36, line 15, at end insert—

‘(2A) After subsection (1) insert—

“(1A) If no period is prescribed under section 106BA(9), the period of 6 weeks referred to in subsection (1)(b) that applies in relation to proceedings for failure to give notice as mentioned in subsection (9) of section 106BA begins with the expiry of the period mentioned in that subsection that applies in the applicant’s case.”’.

Mr Nick Raynsford

Withdrawn **60**

Schedule 2, page 36, line 19, leave out sub-paragraph (4).

Michael Fallon
Nick Boles

Agreed to **47**

Schedule 2, page 36, line 34, at end insert—

‘7A (1) Section 333 (regulations and orders) is amended as follows.

(2) In subsection (4) (power to make orders under Act exercisable by statutory instrument), after “87,” insert “106BA(12A),”.

(3) After subsection (5) insert—

“(5ZA) No order may be made under section 106BA(12A) unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.”’.

Michael Fallon
Nick Boles

Agreed to **48**

Schedule 2, page 36, line 37, leave out ‘1(1)’ and insert ‘1—

(a) in sub-paragraph (1)’.

Michael Fallon
Nick Boles

Agreed to **49**

Schedule 2, page 36, line 39, at end insert ‘, and

(b) after that sub-paragraph insert—

“(1A) If no classes of appeals under section 106BB are prescribed by regulations under sub-paragraph (1), all appeals under that section are to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.”’.

Schedule, as amended, agreed to.

Clause 6 agreed to.

[Adjourned until Thursday at 11.30 am