

# Housing and Planning Bill

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## LORDS NON-INSISTENCE, INSISTENCE, REASONS, AMENDMENTS AND AMENDMENTS IN LIEU

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[The page and line references are to HL Bill 87, the bill as first printed for the Lords.]

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### Clause 4

#### LORDS AMENDMENT 10

**10** Page 3, line 9, leave out subsection (3)

#### COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

*The Commons disagree to Lords Amendments 9 and 10, but do propose Amendment 10A in lieu thereof—*

**10A** Page 3, line 4, at end insert—

“( ) Where the Secretary of State makes regulations under this section, the regulations must give an English planning authority power to dispense with the condition requiring the starter homes requirement to be met where—

(a) an application is made for planning permission in respect of a rural exception site, and

(b) the application falls to be determined wholly or partly on the basis of a policy contained in a development plan for the provision of housing on rural exception sites.”

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#### LORDS NON-INSISTENCE AND AMENDMENT TO COMMONS AMENDMENT

*The Lords do not insist on their Amendments 9 and 10, agree with the Commons in their Amendment 10A in lieu, and propose Amendment 10B as an amendment to Amendment 10A—*

**10B** Line 10, at end insert—

- “( ) If a local authority so wishes, and can demonstrate a need for other kinds of low cost home ownership in its area, the authority may meet part or all of the starter homes requirement through the delivery of alternative forms of affordable home ownership.”

#### LORDS AMENDMENT 47

##### Clause 72

**47** Page 31, line 42, at end insert –

- “( ) If a local housing authority so wishes, and that authority can demonstrate, whether by reference to its local housing plan or otherwise, that there is a need in its area for social housing of the kind that it proposes to build, the Secretary of State shall enter into an agreement with that authority whereby it shall retain such part of the payment as may be required to fund the provision of a new dwelling to be let as social housing on terms (as to tenure, rent or otherwise) which are similar to those on which the old dwelling was let.”

#### COMMONS DISAGREEMENT AND REASON

*The Commons disagree to Lords Amendment 47 for the following reason –*

**47A** *Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

#### LORDS NON-INSISTENCE AND AMENDMENTS IN LIEU

*The Lords do not insist on their Amendment 47, to which the Commons have disagreed for their Reason 47A, and propose Amendments 47B and 47C in lieu –*

**47B** Page 31, line 35, at end insert –

- “( ) If a local housing authority so wishes, and the Secretary of State agrees, the Secretary of State shall enter into an agreement with that authority whereby it shall retain such part of the payment referred to in section 67(1) as may be required to fund the provision of a new affordable home.”

**47C** Page 32, line 2, at end insert –

- “( ) If a local housing authority can demonstrate to the Secretary of State, whether by reference to its local housing plan or otherwise, that there is a particular need in its area for social housing, the authority shall retain such part of the payment referred to in section 67(1) as may be required to fund the provision of a new dwelling to be let as social housing on terms (as to tenure, rent or otherwise) which are similar to those on which the old dwelling was let.”

## LORDS AMENDMENT 97

**After Clause 128**

97 Insert the following new Clause –

**“Neighbourhood right of appeal**

- (1) After section 78 of the Town and Country Planning Act 1990 (“the 1990 Act”) insert –

**“78ZA Neighbourhood right of appeal**

- (1) Where –
- (a) a planning authority grants an application for planning permission,
  - (b) the application does not accord with policies in an emerging or made neighbourhood plan in which the land to which the application relates is situated, and
  - (c) the neighbourhood plan under paragraph (b) contains proposals for the provision of housing development,
- certain persons as specified in subsection (2) may by notice appeal to the Secretary of State.
- (2) Persons who may by notice appeal to the Secretary of State against the approval of planning permission in the circumstances specified in subsection (1) are any parish council or neighbourhood forum, as defined in section 61F of the 1990 Act (authorisation to act in relation to neighbourhood areas), whose made or emerging neighbourhood plan includes all or part of the area of land to which the application relates, by two-thirds majority voting.
- (3) In this section an “emerging” neighbourhood plan means a neighbourhood plan that –
- (a) has been examined,
  - (b) is being examined, or
  - (c) is due to be examined, having met the public consultation requirements necessary to proceed to this stage.”
- (2) Section 79 of the 1990 Act is amended as follows –
- (a) in subsection (2), omit “either”, and after “planning authority” insert “or the applicant (where different from the appellant)”;
  - (b) in subsection (6), after “the determination” insert “(except for appeals as defined in section 78ZA (as inserted by section *Neighbourhood right of appeal*) of the Housing and Planning Act 2016) and where the appellant is as defined in subsection (2) of that section)”.

## COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

*The Commons disagree to Lords Amendment 97, but do propose Amendment 97A in lieu thereof –*

97A Page 71, line 42, at end insert the following new Clause—

**“Local planning authorities: information about neighbourhood development plans**

After section 75ZA of the Town and Country Planning Act 1990 (inserted by section 140 above) insert—

**“75ZB Reports to contain information about neighbourhood development plans**

- (1) This section applies where—
  - (a) a report of the kind mentioned in section 75ZA(1) recommends the grant of planning permission or permission in principle, and
  - (b) the proposed development is in an area for which a neighbourhood development plan (made under section 38A of the Planning and Compulsory Purchase Act 2004) is in force.
- (2) The report must—
  - (a) set out how the plan was taken into account in making the recommendation, and
  - (b) identify any points of conflict between the plan and the recommendation.””

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

*The Lords do not insist on their Amendment 97, disagree with the Commons in their Amendment 97A, and propose Amendment 97B in lieu—*

**After Clause 128**

97B Insert the following new Clause—

**“Neighbourhood right of appeal**

- (1) After section 78 of the Town and Country Planning Act 1990 (“the 1990 Act”) insert—

**“78ZA Neighbourhood right of appeal**

- (1) Where—
  - (a) a planning authority grants an application for planning permission,
  - (b) the application does not accord with policies in a made neighbourhood plan in which the land to which the application relates is situated, and
  - (c) the neighbourhood plan under paragraph (b) contains proposals for the provision of housing development,certain persons as specified in subsection (2) may by notice appeal to the Secretary of State.

- (2) Persons who may by notice appeal to the Secretary of State against the approval of planning permission in the circumstances specified in subsection (1) are any parish council or neighbourhood forum, as defined in section 61F of the 1990 Act (authorisation to act in relation to neighbourhood areas), whose made neighbourhood plan includes all or part of the area of land to which the application relates, by two-thirds majority voting.
- (2) Section 79 of the 1990 Act is amended as follows –
- (a) in subsection (2), omit “either”, and after “planning authority” insert “or the applicant (where different from the appellant)”;
  - (b) in subsection (6), after “the determination” insert “(except for appeals as defined in section 78ZA (as inserted by section (*Neighbourhood right of appeal*) of the Housing and Planning Act 2016) and where the appellant is as defined in subsection (2) of that section)”.

#### LORDS AMENDMENT 108

##### After Clause 143

**108** Insert the following new Clause –

##### “Carbon compliance standard for new homes

- (1) The Secretary of State must within one year of the passing of this Act make regulations under section 1(1) of the Building Act 1984 (power to make building regulations) for the purpose of ensuring that all new homes in England built from 1 April 2018 achieve the carbon compliance standard.
- (2) For the purpose of subsection (1), “carbon compliance standard” means an improvement on the target carbon dioxide emission rate, as set out in the Building Regulations 2006, of –
  - (a) 60% in the case of detached houses;
  - (b) 56% in the case of attached houses; and
  - (c) 44% in the case of flats.”

#### COMMONS DISAGREEMENT AND REASON

*The Commons disagree to Lords Amendment 108 for the following reason –*

**108A** *Because it could slow down or prevent the development of new homes.*

#### LORDS INSISTENCE AND REASON

*The Lords insist on their Amendment 108 for the following reason –*

**108B** *Because the amendment makes a necessary contribution to meeting our legally-binding greenhouse gas targets and saving energy costs to occupants.*

## LORDS AMENDMENT 109

**After Clause 143**

**109** Insert the following new Clause –

**“Affordable housing contributions in small scale development**

- (1) Local planning authorities may require sites falling within subsection (2) to make an affordable housing contribution, in cash or kind, determined by the requirements of the housing market of that area.
- (2) Authorities may require contributions from –
  - (a) developments of 10 units or less, and developments which have a maximum combined gross floorspace of no more than 1000sqm (gross internal area), and
  - (b) developments in a rural area or an area where –
    - (i) planning permission for the site was granted wholly or partly on the basis of a policy for the provision of housing on rural exception sites;
    - (ii) the site is in a national park or an area with equal protection to that of a national park; or
    - (iii) the site is in an area designated under section 82 of the Countryside and Rights of Way Act 2000 (designation of areas) as an area of outstanding natural beauty.
- (3) In subsection (2) a rural area is defined as –
  - (a) any settlement with a population of fewer than 3,000 people at the most recent national census, or
  - (b) any settlement with a population of between 3,000 and 10,000 people at the most recent national census, and designated as a rural area by the Secretary of State following representations from the relevant local authority.”

## COMMONS DISAGREEMENT AND REASON

*The Commons disagree to Lords Amendment 109 for the following reason –*

**109A** *Because the Lords Amendment represents an undesirable fetter on the powers conferred on the Secretary of State by the section inserted by clause 143.*

## LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

*The Lords do not insist on their Amendment 109, to which the Commons have disagreed for their Reason 109A, and do propose Amendment 109B in lieu –*

**Clause 143**

**109B** Page 72, line 35, at end insert –

“( ) This section does not apply in relation to a planning obligation if –

- (a) planning permission for the development was granted wholly or partly on the basis of a policy for the provision of housing on rural exception sites, or
- (b) the obligation relates to development in a National Park or in an area designated under section 82 of the Countryside and Rights of Way Act 2000 as an area of outstanding natural beauty.”

#### LORDS AMENDMENT 110

##### After Clause 143

**110** Insert the following new Clause –

##### “Sustainable drainage systems

- (1) The Water Industry Act 1991 is amended as follows.
- (2) After section 106(1B) (right to communicate with public sewers) insert –  
“(1C) The right under subsection (1) is subject to section 106AB.”
- (3) After section 106A insert –

##### “106AB Sustainable drainage systems

- (1) A person may only exercise the right under section 106(1) in respect of surface water if the relevant drainage system is designed and constructed according to –
  - (a) the non-statutory technical standards for sustainable drainage systems or any replacement standards as may be published by the Minister from time to time; and
  - (b) the planning permission or development consent order for the development drained by the drainage system in question.
- (2) In this section “drainage system” has the same meaning as in paragraph 1 of Schedule 3 to the Flood and Water Management Act 2010.””

#### COMMONS DISAGREEMENT AND REASON

*The Commons disagree to Lords Amendment 110 for the following reason –*

**110A** *Because the Lords Amendment is unnecessary and impractical.*

#### LORDS INSISTENCE AND REASON

*The Lords insist on their Amendment 110 for the following reason –*

**110B** *Because drainage systems for surface water should be sustainable.*

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LORDS NON-INSISTENCE, INSISTENCE,  
REASONS, AMENDMENTS AND  
AMENDMENTS IN LIEU TO THE  
**HOUSING AND PLANNING BILL**

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*Ordered, by The House of Commons,  
to be Printed pursuant to Standing Order  
Nos. 78 and 57A, 4 May 2016.*

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LONDON – THE STATIONERY OFFICE LIMITED  
Printed in the United Kingdom by  
The Stationery Office Limited  
£x.xx