

USE OF PROPERTY (PROTECTION) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Use of Property (Protection) Bill as introduced in the House of Commons on 4 July 2016 (Bill 35).

- These Explanatory Notes have been prepared by the Department for Communities and Local Government with the consent of Michael Tomlinson MP in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

1. This Bill places an obligation on the Secretary of State to issue guidance for local planning authorities in England on protecting established non-residential uses of land, i.e. existing businesses and other organisations such as churches and sports clubs, where it is proposed to locate new residential development in the vicinity of the land.

Policy background

2. Long-established premises like pubs, music venues, churches and sports venues which form part of the character of an area, often face complaints about their activities from occupiers of nearby new residential development, despite those activities pre-dating the residential development. This can lead to action against the established premises which can be mitigated where planning policies and decisions help ensure positive co-existence.

3. [The National Planning Policy Framework](#) sets out the Government's planning policies for England and how these are expected to be applied. The Framework already provides that planning policies and decisions should recognise that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since the businesses were established. Updated national planning guidance issued in December 2014 supports this by highlighting the potential impact that new residential developments can have on businesses, such as music venues, and underlines how planning conditions can be used to provide noise mitigation measures to help avoid complaints.

4. The Bill will require the Secretary of State to expand existing planning guidance to deal specifically with the protection of established non-residential uses of land where it is proposed to locate new residential development in the nearby vicinity. This will be taken forward by changing the National Planning Policy Framework and related guidance.

Legal background

5. Local planning authorities are obliged to have regard to guidance issued by the Secretary of State when preparing local plans and determining planning applications. This is by virtue of section 19(2) of the Planning and Compulsory Purchase Act 2004, which requires a local planning authority to have regard to such guidance in preparing a development plan document, and section 70 of the Town and Country Planning Act 1990 which obliges local planning authorities to have regard to material considerations when determining planning applications. Guidance issued by the Secretary of State is, where relevant, a material consideration.

Territorial extent and application

6. Clause 2(1) sets out the territorial extent of the Bill, that is the jurisdictions in which the Bill forms part of the law. The extent of a Bill can be different from its application, which is about where a Bill produces a practical effect. This Bill extends to England and Wales, but the provisions apply only to local planning authorities in England. As the Bill is a Private Members' Bill, the new English votes provisions in the House of Commons Standing Orders do not apply.

Commentary on provisions of Bill

Clause 1: Planning in England: established uses of land

7. This clause obliges the Secretary of State to issue guidance for local planning authorities in England on protecting established non-residential uses of land, i.e. existing businesses and other organisations such as churches and sports clubs, where proposed residential development is in the vicinity of that land.

Clause 2: Extent, commencement and short title

8. This provision is self-explanatory.

Commencement

9. The provisions of this Bill will come into force two months after Royal Assent.

Financial implications of the Bill

10. The Bill is unlikely to result in additional public expenditure. There are no Tax implications.

Parliamentary approval for financial costs or for charges imposed

11. No approval is required as no financial costs or charges are imposed.

Compatibility with the European Convention on Human Rights

12. In the Government's view the Bill is compatible with the European Convention on Human Rights.

Related documents

13. A Delegated Powers Memorandum will be published before the Bill passes to the House of Lords.

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Ordered by the House of Commons to be printed, 20 January 2017

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