

# Housing and Planning Bill

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AMENDMENTS  
TO BE MOVED  
IN COMMITTEE

*[Supplementary to the Third Marshalled List]*

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**Clause 136**

LORD ROTHERWICK

Page 66, line 36, at end insert –

“(4) Permission in principle may not be granted for a development of land which is an important part of the national infrastructure, or is the subject of national policy or interest, as defined by the Secretary of State in regulations made by statutory instrument.”

**Clause 137**

LORD ROTHERWICK

Page 69, line 21, at end insert –

“(5A) Regulations made under subsection (1) must specify that aerodromes will be excluded from the register of land if they have been operating for more than 28 days in a calendar year.”

**After Clause 141**

LORD DUBS

Insert the following new Clause –

**“Code of practice for subterranean development works**

- (1) A local planning authority may promulgate a code of practice on the excavation and construction of a subterranean development with a view to lessening the adverse impact of the excavation and construction on adjacent properties and their owners and occupiers and on the wider neighbourhood.
- (2) The code may include, but need not be limited to, the provisions listed in Schedule (provisions in local authority code of conduct for subterranean development).
- (3) Local planning authorities shall take account of any guidance issued by the Secretary of State in drawing up such a code of practice.

**After Clause 141 - continued**

- (4) If a local planning authority has promulgated such a code, it may make the granting of planning consent for a subterranean development conditional on the developer undertaking to abide by the code or specified elements of it.”

Insert the following new Clause—

**“Presumption against subterranean development**

- (1) A local planning authority may not grant planning permission on an application to the authority under section 58 of the Town and Country Planning Act 1990 (granting of planning permission: general) in respect of subterranean development which is either—
- (a) in a flood zone classified by the Environment Agency as subject to a high probability of flooding;
  - (b) within a terrace; or
  - (c) such that the local planning authority has reasonable grounds to believe that the subterranean development is likely to cause unreasonable interference to the use or enjoyment of the land of others either during its construction or after its completion;
- unless it can be demonstrated that the development will achieve substantial public benefits.
- (2) For the purposes of subsection (1)(b), a “terrace” means a row of adjoining buildings where each building has a wall built at the line of juncture between itself and the adjoining property which provides structural support to itself and a building on the adjoining property.”

Insert the following new Clause—

**“Notice to adjoining owners**

- (1) Any owner of a property intending to undertake subterranean development works shall serve notice for any subterranean development in the manner set out in section 6(5) (adjacent excavation and construction) of the Party Wall etc Act 1996 (“the 1996 Act”) as if the distance of six metres is replaced by a distance of 12 metres.
- (2) For the purposes of section 6 of the 1996 Act, where the buildings or structures of different owners are above the site of the subterranean development, the owners of those buildings or structures shall be deemed to be adjoining owners.
- (3) If a building owner fails to serve notice in accordance with this section and with the 1996 Act before commencing subterranean development works, he or she shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or 10 per cent of the contract value reasonably to be expected in relation to the notifiable works, whichever shall be the greater and which, in the absence of agreement, shall be determined by surveyors appointed in accordance with the 1996 Act or as otherwise directed by the Court.”

**After Clause 141 - continued**

Insert the following new Clause –

**“Expenses and losses**

- (1) Where an adjoining owner does not notify the building owner in writing within 14 days that the works notified under section (notice to adjoining owners) are agreed, or agreed subject to conditions that are acceptable to the building owner, and a dispute is deemed to have arisen, the surveyors appointed in accordance with the 1996 Act shall –
  - (a) determine a sum to be held as security for expenses and losses which reasonably reflects –
    - (i) the risk of damage to the adjoining owner’s building likely to occur in consequence of the works;
    - (ii) the likely cost of completing the works, sufficiently to safeguard the adjoining owner’s building and to leave it weather tight if those works are suspended or left incomplete;
    - (iii) the cost of any loss to the adjoining owner as a result of the adjoining owner being unable to sell or lease his or her property for the normal market value as a result of the subterranean development works; and
    - (iv) the cost of appropriate alternative accommodation if the surveyors determine that the adjoining owner or any member of his or her household who normally undertakes remunerative work in their building is unable to do so because of the disturbance caused by the subterranean development works, or that alternative accommodation is required for a member of the household seriously affected by the disturbance by reason of his or her physical condition; and
  - (b) hold and administer the determined sum.
- (2) Any liability arising from works shall remain with the owner or owners of the land or buildings where the subterranean works are taking or took place, and may be registered as a charge against the property for the purposes of the Land Registration Act 2002.”

Insert the following new Clause –

**“Other works taking place on the subterranean development site**

Non-subterranean works taking place on the building owner’s building during the period of the works on the subterranean development shall be treated –

- (a) as part of the subterranean development works for the purposes of sections 2 and 4 of this Act; and
- (b) as part of the works described in section 6(1) and (2) of the 1996 Act (adjacent excavation and construction) for the purposes of sections 7(1) and (2) of that Act (compensation etc).”

**After Clause 141 - continued**

Insert the following new Clause—

**“Subterranean development: definitions**

For the purposes of this Act—

“subterranean development” means development which comprises excavation or building below the prevailing ground level other than for the purposes of repairing, strengthening or supporting an existing building or structure; and

“owner”, “adjoining owner” and “building owner” have the same meanings as under the Party Wall etc Act 1996.”

**Clause 145**

LORD BORWICK

LORD CARRINGTON OF FULHAM

Page 74, line 21, at end insert—

“( ) The regulations may not allow a planning authority to delegate to a designated person any power to determine a planning application.”

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*3 March 2016*

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