

# Housing and Planning Bill

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NINTH  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN COMMITTEE

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*The amendments have been marshalled in accordance with the Instruction of 4th February 2016, as follows –*

Clauses 141 and 142	Clauses 170 to 176
Schedule 13	Schedules 17 and 18
Clauses 143 to 159	Clauses 177 to 182
Schedule 14	Schedule 19
Clauses 160 to 163	Clauses 183 to 186
Schedule 15	Schedule 20
Clauses 164 to 169	Clauses 187 to 193
Schedule 16	Title

*[Amendments marked ★ are new or have been altered]*

Amendment  
No.

**After Clause 141**

LORD DUBS

**101BB**

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 practice 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.
- (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.”

**After Clause 141 - continued**

**101BC** 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.”

**101BD** 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*

**101BE** 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.”

**101BF** 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).”

**101BG** Insert the following new Clause –

**“Subterranean development: definitions**

For the purposes of this Act –

**After Clause 141 - continued**

“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.”

## LORD GREAVES

**101BGA** Insert the following new Clause –

**“Community right of appeal**

- (1) The Town and Country Planning Act 1990 is amended as follows.
- (2) After section 78 (right to appeal against planning decisions and failure to take such decisions) insert –

**“78ZA Right to appeal against granting of planning permission in certain cases**

- (1) Where a local planning authority in England grants an application for planning permission or grants it subject to conditions, and the requirements listed in subsection (2) apply, a person may by notice appeal against the decision to the Secretary of State.
- (2) The requirements are –
  - (a) the application is a major planning application or an application for permission in principle,
  - (b) the appellant made representations to the local planning authority that they should refuse the application before it was determined by the authority,
  - (c) the appellant is a parish council or a neighbourhood forum, or if no such body exists in the relevant area, the appellant is supported by a petition of at least twenty per cent of the local government electors in the relevant local authority ward, and
  - (d) the decision of the local planning authority does not accord with the policies in an approved local development plan.
- (3) Subsections 78(3) and (4), and 79(1) and (2) apply to appeals under this section.
- (4) In this section –
 

“local authority” means the local planning authority that determined the application;

“relevant local authority ward” means the ward or division in which the land is situated.””

**Clause 142**

## LORD GREAVES

**101BGB** Page 72, line 14, after “effect” insert “ in relation to the provision of affordable housing”

**Before Schedule 13**

LORD DUBS

**101BH** Insert the following new Schedule –**“SCHEDULE****PROVISIONS IN LOCAL AUTHORITY CODE OF PRACTICE FOR SUBTERRANEAN DEVELOPMENT**

In constructing or excavating in respect of a subterranean development, a developer must, if the planning authority so directs, have regard to –

- (a) the studies and investigations to be carried out in advance of the application for planning consent in relation to the stability of structures and the minimising of adverse effects on adjoining owners;
- (b) the adequacy of technical skills for investigations to be carried out and for the design and execution of the works;
- (c) the methods, materials and equipment to be used;
- (d) the standards and monitoring arrangements to be observed in relation to noise and vibration levels;
- (e) the hours of construction and excavation, and of particularly noisy types of construction and excavation;
- (f) the provision of information to adjoining owners;
- (g) the protection of adjoining owners from the risks associated with defective investigation or design and the interruption of the contract of works once commenced;
- (h) the limitation of the effects of ground movements on third party property to damage capable of repair by decoration and the repair of minor cracking;
- (i) the protection of the subsoil environment including hydrological and hydrogeological conditions;
- (j) the adequacy of a contractor’s third party liability insurance; and
- (k) the adequacy of standards of post-construction monitoring.”

**Clause 143**

LORD SHIPLEY

**101C** Page 72, line 38, after “people” insert “across all tenures”**101D** Page 73, leave out lines 6 and 7

LORD GREAVES

BARONESS ROYALL OF BLAISDON

*The above-named Lords give notice of their intention to oppose the Question that Clause 143 stand part of the Bill.*

**After Clause 143**

LORD KENNEDY OF SOUTHWARK  
LORD BEECHAM

**102** Insert the following new Clause—

**“Minimum space standards for new dwellings**

In Part M of Schedule 1 to The Building Regulations Act 2010 (access to and use of buildings), after requirement M4 insert—

**“Internal Space Standards**

M5 New dwellings should meet the minimum standards for internal space set out in the nationally described space standard, March 2015”.”

**102A** Insert the following new Clause—

**“Planning obligations for student housing**

Upon commencement of this Part, the Secretary of State must incorporate planning for student accommodation into the National Planning Policy Framework so that it is planned for and included in local and neighbourhood plans and taken into consideration in planning decisions where appropriate.”

BARONESS ROYALL OF BLAISDON  
BARONESS PARMINTER  
LORD BEST  
THE LORD BISHOP OF ST ALBANS

**102B** 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 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

**After Clause 143 - continued**

- (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.”

LORD PALMER OF CHILDS HILL

LORD SHIPLEY

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

**102C** Insert the following new Clause—

*“Planning: community developments*

**Duty to ensure the use of local authority funding for community developments**

- (1) An English planning authority must carry out its relevant planning functions with a view to ensuring that funding is available for community developments.
- (2) The planning authority must ensure that its duty under this section is taken into account when it is carrying out its duty to promote starter homes under section 3 of this Act.
- (3) In this section, “community developments” means land that is developed to be used—
  - (a) as a library;
  - (b) as an educational institution;
  - (c) as an institution which promotes community culture;
  - (d) for public transport; or
  - (e) for other activities that are intended to benefit the local community.”

LORD GREAVES

**102CZA** Insert the following new Clause—

**“Limitations on planning obligations**

Regulation 123 of the Community Infrastructure Levy Regulations 2010 (further limitations on use of planning regulations) is repealed.”

**Clause 144**

LORD GREAVES

**102CA** Page 73, line 17, leave out “related” and insert “subsidiary”

**102CB** Page 73, line 20, leave out “Related” and insert “Subsidiary”

**102CC** Page 73, line 21, leave out “or includes”

**102CD** Page 73, line 23, leave out “or close to”

**102CE** Page 73, line 24, leave out from “(1)(a)” to end of line 25

**Clause 144 - continued**

**102CF** Page 73, line 27, at end insert –  
 “(e) is subsidiary to a development which is the subject of an application for development consent,  
 (f) is associated with that development, and  
 (g) does not use more than 10% of the area of that development.”

**102CG** Page 73, line 33, at end insert –  
 “(4D) In this section “associated” means occupied by persons who are employed or will be employed in the infrastructure project which is the subject of the application for development consent.”

**102CH** Page 73, line 34, leave out “related” and insert “subsidiary”

**102CJ** Page 73, line 38, leave out “related” and insert “subsidiary”

LORD CAMERON OF DILLINGTON  
 THE EARL OF LYTTON

**102CK** Page 73, line 40, at end insert –  
 “(7A) Guidance referred to in subsection (7) must include a requirement for the developer to pay development value for land that is compulsorily purchased for housing as part of any nationally significant infrastructure project.”

LORD SHIPLEY

*Lord Shipley gives notice of his intention to oppose the Question that Clause 144 stand part of the Bill.*

**Clause 145**

LORD GREAVES

**102CL** Page 74, line 6, at end insert –  
 “() A local planning authority may only be specified under subsection (1) if it so consents.”

**102CLA** Page 74, line 6, at end insert –  
 “() Any specification of a local planning authority under subsection (1) is on a pilot basis and must be for no more than three years.  
 () No more than six local planning authorities may be specified under subsection (1).  
 () Regulations made under subsection (1) cease to have effect four years after the commencement of this section.”

**102CM** Page 74, line 12, leave out subsection (3)



**Clause 145 - continued**

LORD BORWICK  
LORD CARRINGTON OF FULHAM  
LORD YOUNG OF NORWOOD GREEN  
BARONESS JONES OF MOULSECOOMB

**102D** 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.”

LORD GREAVES

**102DA** Page 74, leave out lines 29 and 30

LORD KENNEDY OF SOUTHWARK  
LORD BEECHAM

**102DAA** Page 74, line 31, leave out second “person” and insert “local authority or public body”

LORD GREAVES

**102DB** Page 74, line 36, at end insert “but such a designation may only be made with the consent of the responsible local planning authority”

**102DC** Page 74, line 36, at end insert –

“( ) The Secretary of State may not designate a person who –

- (a) provides services in a professional capacity to persons in connection with development proposals or applications for planning permission or is employed by or associated with a company which provides such services,
- (b) is employed or remunerated, whether on a full-time or part-time basis, by persons or companies which undertake development, or
- (c) has within the past five years been employed by a local planning authority in any capacity that involved dealing with planning applications.”

**102DD** Page 74, line 36, at end insert –

“( ) A designated person must –

- (a) provide information to applicants, statutory and other consultees, neighbours and members of the public in accordance with the policies for the provision of information and public consultation adopted by the local planning authority including on its website and at its offices;
- (b) provide advice and assistance to applicants and other persons on a consistent basis;
- (c) provide reports and all supporting information to the local planning authority before applications are determined;
- (d) provide a copy of all reports and other documents relating to an application to the local planning authority after an application has been closed.”

**Clause 145 - continued**

**102DE** Page 74, line 36, at end insert –

“( ) A designated person must deliver all reports, recommendations and supporting information to the local planning authority in accord with the decision-making timetable of that authority including its committee timetable, and allowing sufficient time for the authority’s planning officer to review the report, recommendations and supporting information before a determination of an application is made by Councillors or by delegation to an officer.”

**102DF** Page 74, line 36, at end insert –

“( ) Where an application has been submitted to one provider (whether a designated person or a local planning authority) and has been refused, any resubmission must be made to the same provider.”

**102DG** Page 74, line 36, at end insert –

“( ) A designated person must attend any official site visit by Councillors who have the responsibility for determining a planning application that is being or has been processed by that person.”

LORD SHIPLEY

**102E** Page 74, line 37, at end insert –

““fee flexibility pilot scheme” means an agreement between a local planning authority and the Secretary of State regarding the use of fees under specified conditions;”

LORD GREAVES

**102EA** Page 74, line 40, at end insert “(including permission in principle and technical details consent)”

LORD GREAVES

LORD BEECHAM

LORD KENNEDY OF SOUTHWARK

*The above-named Lords give notice of their intention to oppose the Question that Clause 145 stand part of the Bill.*

**After Clause 145**

LORD GREAVES

**102F** Insert the following new Clause –

**“Review of the plan-making process**

(1) Not less than six months after the coming into force of this section the Secretary of State must establish a comprehensive review of the procedures, costs, time-scales and efficiency of the plan-making processes under planning legislation (“the plan-making review”).

**After Clause 145 - continued**

- (2) The plan-making review must invite evidence from planning authorities, users of the planning system, and any other persons.
- (3) The report of the plan-making review must be sent to the Secretary of State and the Secretary of State must arrange for it to be laid before each House of Parliament.”

**Clause 146**

LORD GREAVES

**102FA** Page 75, line 3, leave out “, except in specified circumstances,”**102FB** Page 75, line 6, leave out “in specified circumstances”

LORD SHIPLEY

**102G** Page 75, line 7, at end insert –

“(c) allowing a responsible planning authority to enter into a fee flexibility pilot scheme.”

LORD GREAVES

**102H** Page 75, line 21, leave out paragraph (g)

LORD GREAVES

LORD KENNEDY OF SOUTHWARK

LORD BEECHAM

*The above-named Lords give notice of their intention to oppose the Question that Clause 146 stand part of the Bill.*

**Clause 147**

LORD GREAVES

**102J** Page 76, line 9, leave out “or a responsible planning authority”**102K** Page 76, line 13, leave out subsection (4)

LORD GREAVES

LORD KENNEDY OF SOUTHWARK

LORD BEECHAM

*The above-named Lords give notice of their intention to oppose the Question that Clause 147 stand part of the Bill.*

**Clause 148**

LORD GREAVES

102L Page 76, line 23, at end insert—

“but such regulations may not restrict the use by the local planning authority of any information relating to a planning application that it would be able to use if it were itself processing that application, or the disclosure of any information relating to such an application that it would make available in that case.”

LORD GREAVES

LORD KENNEDY OF SOUTHWARK

LORD BEECHAM

*The above-named Lords give notice of their intention to oppose the Question that Clause 148 stand part of the Bill.*

**After Clause 151**

LORD KENNEDY OF SOUTHWARK

LORD BEECHAM

103 Insert the following new Clause—

**“Development corporations: objects and general powers**

- (1) Section 136 of the Local Government, Planning and Land Act 1980 (objects and general powers) is amended as follows.
- (2) After subsection (2) insert --
  - “(2A) Corporations under this Act must contribute to the long-term sustainable development and place making of the new community.
  - (2B) Under this Act sustainable development and place making means managing the use, development and protection of land and natural resources in a way which enables people and communities to provide for their legitimate social, economic and cultural wellbeing while sustaining the potential of future generations to meet their own needs.
  - (2C) In achieving sustainable development and place making, development corporations should—
    - (a) positively identify suitable land for development in line with the economic, social and environmental objectives so as to improve the quality of life, wellbeing and health of people and the community;
    - (b) contribute to the sustainable economic development of the community;
    - (c) contribute to the vibrant cultural and artistic development of the community;
    - (d) protect and enhance the natural and historic environment;
    - (e) contribute to mitigation and adaptation to climate change in line with the objectives of the Climate Change Act 2008;
    - (f) positively promote high quality and inclusive design;
    - (g) ensure that decision-making is open, transparent, participative and accountable; and

**After Clause 151 - continued**

- (h) ensure that assets are managed for long-term interest of the community.”
- (3) Section 4 of the New Towns Act 1981 (the objects and general powers of development corporations) is amended as follows.
- (4) For subsection (1) substitute –
  - “(1) The objects of a development corporation established for the purpose of a new town or garden city shall be to secure the physical laying out of infrastructure and the long-term sustainable development and place making of the new community.
  - (1A) Under this Act sustainable development and place making means managing the use, development and protection of land and natural resources in a way which enables people and communities to provide for their legitimate social, economic and cultural wellbeing while sustaining the potential of future generations to meet their own needs.
  - (1B) In achieving sustainable development, development corporations should –
    - (a) positively identify suitable land for development in line with the economic, social and environmental objectives so as to improve the quality of life, wellbeing and health of people and the community;
    - (b) contribute to the sustainable economic development of the community;
    - (c) contribute to the vibrant cultural and artistic development of the community;
    - (d) protect and enhance the natural and historic environment;
    - (e) contribute to mitigation and adaptation to climate change in line with the objectives of the Climate Change Act 2008;
    - (f) positively promote high quality and inclusive design;
    - (g) ensure that decision-making is open, transparent, participative and accountable; and
    - (h) ensure that assets are managed for long-term interest of the community.””

LORD TAYLOR OF GOSS MOOR

LORD BEST

**103A** Insert the following new Clause –**“Designation of new town development areas: procedure**

- (1) Section 1 of the New Towns Act 1981 (designation of areas) is amended as follows.
- (2) For subsection (4) substitute –
  - “(4) Before making an order under subsection (1) in relation to land in England, the Secretary of State must consult –
    - (a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the proposed new town development area;

**After Clause 151 - continued**

- (b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the proposed new town development area;
  - (c) each local authority for an area which falls wholly or partly within the proposed new town development area; and
  - (d) any other person whom the Secretary of State considers it appropriate to consult.
- (4A) A statutory instrument containing an order made by the Secretary of State under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.”

**103B** Insert the following new Clause—

**“Designation of new town development corporations: procedure**

- (1) Section 3 of the New Towns Act 1981 (establishment of development corporations for new towns) is amended as follows.
- (2) After subsection (1) insert—
  - “(1A) Before making an order under this section in relation to a new town development corporation in England, the Secretary of State must consult—
    - (a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the proposed new town development area;
    - (b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the proposed new town development area;
    - (c) each local authority for an area which falls wholly or partly within the proposed new town development area; and
    - (d) any other person whom the Secretary of State considers it appropriate to consult.
  - (1B) A statutory instrument containing an order made by the Secretary of State under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.”

BARONESS ANDREWS

LORD BEECHAM

**103BA** Insert the following new Clause—

**“The plan-led system**

- (1) Section 38 of the Planning and Compulsory Purchase Act 2004 (development plan) is amended as follows.
- (2) In subsection (6), after “material considerations” insert “of exceptional importance”.

**Clause 165**

THE EARL OF LYTTON

- 103BAA** Page 84, line 17, at end insert “provided –
- (a) the owner, lessee or occupier would have been entitled to a notice to treat had the acquiring authority been aware of the existence of the owner, lessee or occupier, and
  - (b) the acquiring authority undertook reasonably diligent enquiries to ascertain the existence of those entitled to a notice to treat.”

**Before Clause 171**LORD BEECHAM  
BARONESS ANDREWS

- 103BB** Insert the following new Clause –
- “Acquisition of land by development corporations: compensation**
- Where the land of a private landowner is compulsorily purchased under section 10 of the New Towns Act 1981 (acquisition of land by development corporations) the Secretary of State may, by order, set out the formula for determining fair compensation to the landowner.”

**Clause 173**LORD CAMERON OF DILLINGTON  
THE EARL OF LYTTON

- 103BC** Page 89, line 6, at end insert –
- “( ) after subsection (10) insert –
- “(10A) If an acquiring authority fails to make an advance payment of compensation and the landowner has fulfilled all of the requirements to facilitate a payment, the acquiring authority may not take possession of the relevant land without the written permissions of the landowner or until an advance payment has been made.””

**Clause 174**LORD CAMERON OF DILLINGTON  
THE EARL OF LYTTON

- 103BD** Page 90, line 15, at end insert –
- “(1A) The rate of interest on compensation due to be paid in advance of entry, but paid late, shall be set at 8% above the Bank of England base rate.
- (1B) Interest on compensation that is paid after entry, but was not due in advance of entry, shall be paid at 4% above Bank of England base rate.”
- 103BE** Page 90, leave out lines 24 to 32

**After Clause 175**

LORD CAMERON OF DILLINGTON  
THE EARL OF LYTTON

**103BF** Insert the following new Clause –

**“Duty of Care**

- (1) The Secretary of State shall by 31 December 2016 make regulations establishing a duty of care upon acquiring authorities within the meaning of the Land Compensation Act 1973.
- (2) The duty of care established in regulations made under subsection (1) must include but not be limited to specifications regarding the treatment by acquiring authorities of those losing land or property to compulsory purchase.”

**Schedule 17**

THE EARL OF LYTTON

**103BG** Page 177, leave out lines 3 to 9 and insert “then the acquiring authority must not take possession of the land proposed to be acquired until –

- (a) the date specified in the notice of entry, or
- (b) 14 days after the date on which the acquiring authority served the owner with notice of their decision under paragraph 7 to accept the counter-notice or refer the counter-notice to the Upper Tribunal.”

**103BH** Page 177, leave out lines 28 to 36 and insert “the compulsory purchase order and the notice to treat are to have effect as if they include the owner’s interest in the whole of the land.

- 11 If the acquiring authority serve notice of a decision to accept the counter-notice in respect of the land proposed to be acquired the acquiring authority may serve a notice of entry under section 11(1) in relation to the whole of the land and they have already served notice of entry in respect of the land proposed to be acquired, that notice has effect as if it were served in respect of the whole land.
- 11A If the acquiring authority serve notice of a decision to refer the counter-notice to the Upper Tribunal and have already served a notice of entry in respect of the land proposed to be acquired, the notice of entry has effect subject to paragraph 5.
- 11B If the acquiring authority serve notice of a decision to refer the counter-notice to the Upper Tribunal and they have not served a notice of entry, the acquiring authority may serve a notice of entry under section 11(1) in relation to the land proposed to be acquired.”



**Clause 179**

BARONESS ANDREWS  
BARONESS PARMINTER

103C Page 93, line 21, at end insert –

- “( ) a right, easement, restrictive covenant, covenant, liberty or privilege in respect of land belonging to the National Trust for Places of Historic Interest or Natural Beauty (“the Trust”) which is held inalienably, within the meaning of section 18(3) of the Acquisition of Land Act 1981 (National Trust land held inalienably), or
- ( ) a restrictive covenant held by the Trust, within the meaning of section 8 of the National Trust Act 1937 (power to enter into agreements restricting use of land).”

**After Clause 179**

LORD SKELMERSDALE  
BARONESS BYFORD

104 Insert the following new Clause –

**“Presumed diversion or extinguishment of footpaths or bridleways which pass through the curtilage of residential dwellings**

- (1) Where a footpath, bridleway or byway passes through the curtilage of a residential dwelling, including the gardens and driveways of the premises, the council shall make, and the Secretary of State shall confirm, either –
  - (a) a public path diversion order, or
  - (b) a public path extinguishment order,
 unless –
  - (a) the Secretary of State or the Council are satisfied that the privacy, safety and security of the premises are not adversely affected by the existence or use of the footpath, bridleway or byway,
  - (b) the premises have been unlawfully extended to encompass the footpath, bridleway or byway,
  - (c) where a public path extinguishment order is considered, it would be possible instead to divert the footpath or bridleway or restricted byway such that the privacy, safety and security of the premises are not adversely affected by its use, or
  - (d) where a public path extinguishment order is considered, the footpath or bridleway or restricted byway provides access to a vital local service or amenity not otherwise reasonably accessible.
- (2) In this section –
  - “public path diversion order”,
  - “public path extinguishment order”,
  - “footpath”,
  - “bridleway”, and
  - “restricted byway”

have the same meaning as in the Highways Act 1980.”

**Clause 183**

LORD TOPE  
BARONESS VALENTINE

- 105 Page 95, line 15, after “authority” insert “outside Greater London”
- 106 Page 95, line 17, at end insert “as may be specified in regulations, and in such manner, form and circumstances as may be specified in regulations.”
- 107 Page 95, line 19, at end insert –  
“(3A) A relevant public authority inside Greater London must, in developing proposals for the disposal of the authority’s interest in any land, engage on an ongoing basis with other relevant public authorities inside Greater London, the Mayor of London, and such other relevant public authorities as may be specified in regulations, and in such manner, form and circumstances as may be specified in regulations.”
- 108 Page 95, line 22, at end insert –  
“( ) A body inside Greater London which is subject to a duty under subsection (3A) must have regard to any guidance given by the Mayor of London about how the duty is to be complied with.”
- 109 Page 96, line 13, at end insert “and includes the Greater London Authority”

LORD GREAVES

*Lord Greaves gives notice of his intention to oppose the Question that Clause 183 stand part of the Bill.*

**Clause 184**

BARONESS WILLIAMS OF TRAFFORD

- 109A Page 96, line 33, after “means” insert “–  
( ) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975), or”

LORD TOPE  
BARONESS VALENTINE

- 110 Page 97, line 4, after “reports” insert –  
“( ) provision about to whom the reports should be provided (including making provision for reports produced by relevant public bodies inside Greater London to be provided to the Mayor of London),  
( ) provision for the duty imposed by subsection (1) to be discharged by a mayoral combined authority on behalf of any one or more of its constituent councils,”

**Clause 184 - continued**

**111** Page 97, line 21, at end insert—

““mayoral combined authority” means a mayoral combined authority established under section 107A of the Local Democracy, Economic Development and Construction Act 2009 (power to provide for election of mayor);”

LORD GREAVES

*Lord Greaves gives notice of his intention to oppose the Question that Clause 184 stand part of the Bill.*

**After Clause 184**

LORD TOPE

BARONESS VALENTINE

**112** Insert the following new Clause—

**“Disposing of surplus public land in the area of a mayoral combined authority**

- (1) A relevant public body in the area of a mayoral combined authority shall not dispose of any surplus land (as defined in section 184(3), but subject to section 184(8)) without first giving the mayoral combined authority the opportunity, within a reasonable time-scale, to acquire or refuse to acquire the surplus land—
  - (a) for a sum that has been assessed as equivalent to the best consideration that can reasonably be obtained, or
  - (b) with the consent of the Secretary of State, for a sum that has been assessed as less than the sum referred to in paragraph (a).
- (2) Consent under subsection (1)(b) may be general or specific, and may be given unconditionally or subject to conditions.
- (3) If, having been given the opportunity to acquire or refuse to acquire any surplus land of a public body under subsection (1), the mayoral combined authority decides not to acquire that land, it must notify the public body of its decision in writing.
- (4) Upon receiving written notice given by the mayoral combined authority under subsection (3), the public body may dispose of the surplus land to which that notice relates to a person or body other than the mayoral combined authority, but only in accordance with a plan for disposing of the surplus land which has been approved by the mayoral combined authority.
- (5) A plan under subsection (4) must contain the public body’s proposals for disposing of the surplus land to which it relates and, in preparing and producing the plan, the public body must consult the mayoral combined authority and such other bodies as the mayoral combined authority may direct.
- (6) Regulations made under this Part may make further provision about—
  - (a) what constitutes a “disposal” under subsection (1);

**After Clause 184 - continued**

- (b) the process and means by which any surplus land may be assessed as equivalent to or less than the best consideration that can reasonably be obtained under subsection (1);
  - (c) the process by and terms on which a mayoral combined authority shall be given the opportunity to acquire or refuse to acquire surplus land under subsection (1); and
  - (d) the contents, nature, form and requirements of any plan for disposing of surplus land referred to in subsection (4), and the process by which that plan is to be produced and approved.
- (7) This section is without prejudice to section (*Disposing of surplus public land in Greater London*).
- (8) In this section a “mayoral combined authority” means a mayoral combined authority established under section 107A of the Local Democracy, Economic Development and Construction Act 2009.”

**113** Insert the following new Clause –

**“Disposing of surplus public land in Greater London**

- (1) A relevant public body in Greater London shall not dispose of any surplus land (as defined in section 184(3), but subject to section 184(8)) without first giving the Mayor of London the opportunity, within a reasonable time-scale, to acquire or refuse to acquire the surplus land –
  - (a) for a sum that has been assessed as equivalent to the best consideration that can reasonably be obtained, or
  - (b) with the consent of the Secretary of State, for a sum that has been assessed as less than the sum referred to in paragraph (a).
- (2) Consent under subsection (1)(b) may be general or specific, and may be given unconditionally or subject to conditions.
- (3) If, having been given the opportunity to acquire or refuse to acquire any surplus land of a public body under subsection (1), the Mayor decides not to acquire that land, he or she must notify the public body of his or her decision in writing.
- (4) Upon receiving written notice given by the Mayor of London under subsection (3), the public body may dispose of the surplus land to which that notice relates to a person or body other than the Mayor of London, but only in accordance with a plan for disposing of the surplus land which has been approved by the Mayor of London.
- (5) A plan under subsection (4) must contain the public body’s proposals for disposing of the surplus land to which it relates and, in preparing and producing the plan, the public body must consult the Mayor of London and such other bodies as the Mayor may direct.
- (6) Regulations made under this Part may make further provision about –
  - (a) what constitutes a “disposal” under subsection (1);
  - (b) the process and means by which any surplus land may be assessed as equivalent to or less than the best consideration that can reasonably be obtained under subsection (1);

**After Clause 184 - continued**

- (c) the process by and terms on which the Mayor of London shall be given the opportunity to acquire or refuse to acquire surplus land under subsection (1); and
  - (d) the contents, nature, form and requirements of any plan for disposing of surplus land referred to in subsection (4), and the process by which that plan is to be produced and approved.
- (7) This section is without prejudice to section 185.”

**Clause 185**

LORD TOPE  
BARONESS VALENTINE

**114** Page 97, line 30, after “authority” insert “outside Greater London”

**115** Page 97, line 33, at end insert –

“(A2) Where a body to which this Part applies is a relevant public authority inside Greater London, the Mayor of London may in specified circumstances direct the body to take steps for the disposal of the body’s freehold or leasehold interest in any land or any lesser interest in the land.”

**116** Page 97, line 34, after “(A1)” insert “or (A2)”

LORD GREAVES

*Lord Greaves gives notice of his intention to oppose the Question that Clause 185 stand part of the Bill.*

**After Clause 185**

LORD TOPE  
BARONESS VALENTINE

**117** Insert the following new Clause –

**“General duties of public bodies in the area of a mayoral combined authority**

- (1) In discharging any duties or functions under this Part, a relevant public body in the area of a mayoral combined authority must co-operate with the mayoral combined authority in such circumstances, manner and form as may be prescribed in regulations.
- (2) The mayoral combined authority may in such circumstances, manner and form as may be prescribed in regulations issue guidance to relevant public bodies inside the area of the mayoral combined authority as to the discharge of their duties and functions under this Part.
- (3) Regulations made under this Part may make further provision about –
  - (a) the circumstances, manner and form in which a relevant public body in the area of a mayoral combined authority shall be required to co-operate with the mayoral combined authority under subsection (1); and

**After Clause 185 - continued**

- (b) the circumstances, manner and form in which the mayoral combined authority may issue guidance to public bodies under subsection (2).
- (4) In this section a “mayoral combined authority” means a mayoral combined authority established under section 107A of the Local Democracy, Economic Development and Construction Act 2009.”

**118** Insert the following new Clause –

**“General duties of public bodies in Greater London under this Part**

- (1) In discharging any duties or functions under this Part, a relevant public body in Greater London must co-operate with the Mayor of London in such circumstances, manner and form as may be prescribed in regulations.
- (2) The Mayor of London may in such circumstances, manner and form as may be prescribed in regulations issue guidance to relevant public bodies inside Greater London as to the discharge of their duties and functions under this Part.
- (3) Regulations made under this Part may make further provision about –
  - (a) the circumstances, manner and form in which a relevant public body in Greater London shall be required to co-operate with the Mayor of London under subsection (1); and
  - (b) the circumstances, manner and form in which the Mayor of London may issue guidance to public bodies under subsection (2).”

**Clause 192**

BARONESS WILLIAMS OF TRAFFORD

**118A** Page 100, line 27, after “135,” insert “137,”

**118B** Page 100, line 32, leave out “, 137”

BARONESS PARMINTER

LORD KREBS

LORD GREAVES

BARONESS YOUNG OF OLD SCONE

**119** Page 100, line 34, at end insert “, subject to subsection (3A).

- (3A) The Secretary of State may not make regulations appointing the days on which any provision of Part 1 or Part 6 of this Act comes into force unless he or she has first made provision bringing into force section 32 of the Flood and Water Management Act 2010 (sustainable drainage).”

**Clause 192 - continued**

LORD KREBS  
BARONESS PARMINTER

**120** Page 100, line 34, at end insert “, subject to subsection (3A).

(3A) The Secretary of State may not make regulations appointing the days on which any provision of Part 1 or Part 6 of this Act comes into force unless he or she has first made regulations, which have come into force, requiring the housing developer to be liable for the full cost of flood damage to a new dwelling if such damage occurs within ten years of the property being first sold.”

# Housing and Planning Bill

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NINTH  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN COMMITTEE

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*23 March 2016*

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