

# Housing and Planning Bill

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## **REVISED**

### MARSHALLED LIST OF MOTIONS AND AMENDMENTS TO BE MOVED ON CONSIDERATION OF COMMONS REASONS AND AMENDMENTS

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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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## MOTION A

### LORDS AMENDMENT 1

#### Clause 2

- 1** Page 1, line 13, at end insert –  
“( ) is subject to a restriction requiring repayment of the 20% discount, reduced by 1/20th for each year of occupation by the purchaser, for a period of 20 years,”

#### COMMONS AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 1, but do propose Amendments 1A, 1B and 1C in lieu thereof –*

- 1A** Page 1, line 15, at end insert “(for more about regulations under this paragraph, see section (*Power to require payments or discounts on resale (subject to tapering) etc*)”

- 1B** Page 2, line 21, at end insert the following new Clause –

#### **“Power to require payments or discounts on resale (subject to tapering) etc**

- (1) The restrictions on sale that may be specified by regulations under section 2(1)(e) in relation to a dwelling that has been sold to a qualifying first-time buyer include, in particular, restrictions –

- (a) requiring a person who sells the dwelling within a specified period to make a payment to a specified person in respect of the starter homes discount, or
  - (b) prohibiting a person from selling the dwelling within a specified period unless the dwelling is sold to a qualifying first-time buyer at a discount.
- (2) Regulations made by virtue of subsection (1) must –
- (a) set out how the amount of the payment or discount is to be determined, and
  - (b) provide for reductions in the amount of the payment or discount according to the length of time since the dwelling was first sold to a qualifying first-time buyer.
- (3) The person specified in regulations under subsection (1)(a) may be the Secretary of State, a local planning authority in England or any other person.
- (4) Regulations under section 2(1)(e) may impose restrictions that require a person selling the dwelling to sell it subject to any restrictions to which he or she is subject.
- (5) Regulations under section 2(1)(e) may include provision about the legal mechanism by which any requirement is to be imposed.
- (6) The Secretary of State may by regulations make provision about the use of sums that are paid to a person in accordance with a requirement imposed by regulations made by virtue of subsection (1)(a) (including provision permitting or requiring the payment of sums into the Consolidated Fund).
- (7) In subsection (1)(a) “starter homes discount” means the discount mentioned in section 2(1)(c) or subsection (1)(b) above.”

**1C** Page 99, line 32, at end insert –

“( ) regulations under section (*Power to require payments or discounts on resale (subject to tapering) etc*)(6);”

**A** **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 1 and do agree with the Commons in their Amendments 1A, 1B and 1C in lieu.**

## MOTION B

### LORDS AMENDMENT 9

#### Clause 4

**9** Page 3, line 2, leave out subsection (1) and insert –

- “( ) An English planning authority may only grant planning permission for a residential development having had regard to the provision of starter homes based on its own assessment of local housing need and viability.”

#### LORDS AMENDMENT 10

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

#### COMMONS 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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- B** **Baroness Williams of Trafford to move, That this House do not insist on its Amendments 9 and 10 and do agree with the Commons in their Amendment 10A in lieu.**

- B1** **Lord Kerslake to move, as an amendment to Motion B, at end insert “, and do 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.””

### MOTION C

#### LORDS AMENDMENT 37

#### Clause 67

- 37** Page 29, line 27, after “may” insert “by regulations”

## COMMONS REASON

*The Commons disagree to Lords Amendment 37 for the following reason –*

**37A** *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.*

**C** **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 37, to which the Commons have disagreed for their Reason 37A.**

## MOTION D

## 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 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.*

**D** **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 47, to which the Commons have disagreed for their Reason 47A.**

**D1** **Lord Kerslake to move, as an amendment to Motion D, at end insert “, and do 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.”

## MOTION E

### LORDS AMENDMENT 54

#### Clause 78

54 Page 34, line 9, leave out “must” and insert “may”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 54 for the following reason –*

54A *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.*

**E Baroness Williams of Trafford to move, That this House do not insist on its Amendment 54, to which the Commons have disagreed for their Reason 54A.**

## MOTION F

### LORDS AMENDMENT 55

#### Clause 78

55 Page 34, line 10, at end insert—

“( ) The regulations must specify that the rent shall not equate to more than 10 pence for each pound of a tenant’s income above the minimum income threshold.”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 55 for the following reason –*

55A *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.*

**F**        **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 55, to which the Commons have disagreed for their Reason 55A.**

**F1**        **Lord Best to move, as an amendment to Motion F, at end insert “, and do propose Amendment 55B in lieu –**

**55B**        Page 34, line 10, at end insert –

“( ) The regulations must specify that for the first £10,000 of a tenant’s income above the minimum threshold the rent shall not equate to more than 10 pence for each pound.””

## MOTION G

### LORDS AMENDMENT 57

#### Clause 79

**57**        Page 34, line 25, at end insert “which will not be below £50,000 a year per household in London, or £40,000 per household outside London,”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 57 for the following reason –*

**57A**        *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.*

**G**        **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 57, to which the Commons have disagreed for their Reason 57A.**

## MOTION H

### LORDS AMENDMENT 58

#### Clause 79

**58**        Page 34, line 37, at end insert –

“( ) make provision for the level of household income, for the purposes of defining “high income”, to be increased every three years to reflect any increase in the consumer price index.”

## COMMONS REASON

*The Commons disagree to Lords Amendment 58 for the following reason –*

**58A** *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.*

**H** **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 58, to which the Commons have disagreed for their Reason 58A.**

**H1** **Lord Beecham to move, as an amendment to Motion H, at end insert “, and do propose Amendment 58B in lieu –**

**58B** Page 34, line 37, at end insert –

- “( ) The Secretary of State must, every three years, undertake a review of the definition of “high income” in order to consider any changes to the consumer price index within that three year period.
- ( ) A report on the outcome of the review must be laid before each House of Parliament.””

## MOTION J

## 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 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.””



**J** Baroness Williams of Trafford to move, That this House do not insist on its Amendment 97 and do agree with the Commons in their Amendment 97A in lieu.

**J1** Baroness Parminter to move, as an amendment to Motion J, leave out from “97” to end and insert “, do disagree with the Commons in their Amendment 97A, and do 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)”.

## MOTION K

### 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 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.*

**K** **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 108, to which the Commons have disagreed for their Reason 108A.**

**K1** **Baroness Parminter to move, as an amendment to Motion K, leave out from “House” to end and insert “do insist on its Amendment 108”.**

## MOTION L

### 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 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.*

**L** **Baroness Williams of Trafford to move, That this House do not insist on its 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.”

## MOTION M

### 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 REASON

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

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

**M** **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 110, to which the Commons have disagreed for their Reason 110A.**

**M1★** **Baroness Parminter to move, as an amendment to Motion M, leave out from “House” to end and insert “do insist on its Amendment 110”.**

## MOTION N

## LORDS AMENDMENT 111

## Clause 145

**111** Page 74, line 3, leave out subsections (1) and (2) and insert –

3 “(1) The Secretary of State may by regulations provide for temporary arrangements in particular areas to test the practicality and desirability of competition in the processing (but not determining) of applications to do with planning.

(1A) The regulations may make provision –

(a) for an application for planning permission that falls to be determined by a specified local planning authority in England to be processed, if the applicant so chooses, not by that authority but by a designated person;

(b) for any connected application also to be processed by a designated person and not by that authority.

(2) The regulations must specify a period after which any such provision ceases to apply.

That period (whether as originally specified or as subsequently extended) must end no later than five years after the first regulations under this section come into force.”

## COMMONS AMENDMENT TO LORDS AMENDMENT

*The Commons agree to Lords Amendment 111 and do propose Amendment 111A as an amendment thereto –*

**111A** Line 3, after “areas” insert “in England”

**N** **Baroness Williams of Trafford to move, That this House do agree with the Commons in their Amendment 111A.**

## MOTION P

## LORDS AMENDMENT 184

## Clause 190

**184** Page 99, line 32, at end insert –

- 2           “( ) regulations under section 67(1) that contain more than one  
4           determination or a determination that relates to more than one local  
          housing authority,  
          ( ) regulations under section 67(8),”

COMMONS AMENDMENT TO LORDS AMENDMENT

*The Commons agree to Lords Amendment 184 and do propose Amendment 184A as an amendment thereto –*

**184A**      Leave out lines 2 to 4

**P**           **Baroness Williams of Trafford to move, That this House do agree with the Commons in their Amendment 184A.**



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*4th May 2016*

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