

Housing and Planning Bill

REVISED

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

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

MOTION A

LORDS AMENDMENT 10

Clause 4

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.”

10

LORDS 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.”

COMMONS REASON

The Commons disagree with Lords Amendment 10B for the following reason –

10C *Because it would undermine the delivery of starter homes.*

A **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 10B, to which the Commons have disagreed for their Reason 10C.**

A1 **Lord Kerslake to move, as an amendment to Motion A, leave out from “House” to end and insert “do insist on its Amendment 10B as an amendment to Amendment 10A”.**

MOTION B

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.*

LORDS 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.”

COMMONS REASON

The Commons disagree with Lords Amendments 47B and 47C for the following reason –

47D *Because they 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.*

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

B1 **Lord Kerslake to move, as an amendment to Motion B, at end insert “, and do propose Amendment 47E in lieu –**

47E Page 31, line 42, at end insert –

“() The amount of any reduction agreed under subsection (1) must be sufficient to fund the provision of at least one new affordable home outside Greater London, and at least two new affordable homes in Greater London, for each old dwelling.

() Where the local housing authority can demonstrate, whether by reference to its local housing plan or otherwise, that there is a particular need in its area for social rented housing, the Secretary of State, as part of any agreement under subsection (1), must consider any application from the authority to fund the provision of a new dwelling to be let as social housing, in respect of each old dwelling.”

MOTION C

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.””

LORDS 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)”.

COMMONS REASON

The Commons insist on their Amendment 97A in lieu of Lords Amendment 97 and disagree with Lords Amendment 97B for the following reason –

97C *Because Lords Amendment 97B would add complexity and unpredictability to the planning system.*

C **Baroness Williams of Trafford to move, That this House do not insist on its disagreement with the Commons in their Amendment 97A in lieu of Lords Amendment 97 and do not insist on its Amendment 97B in lieu of that Lords Amendment, to which the Commons have disagreed for their Reason 97C.**

C1★ **Baroness Parminter to move, as an amendment to Motion C, leave out from “House” to end and insert “do insist on its disagreement with the Commons in their Amendment 97A, do not insist on its Amendment 97B, and do propose Amendment 97D in lieu of Amendment 97A –**

After Clause 140

97D Insert the following new Clause –

“Neighbourhood right to be heard

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

“75ZB Responsibilities of decision-makers in respect of neighbourhood development plans in the exercise of planning functions

- (1) For the purposes of this section –

- (a) an “emerging” neighbourhood development plan means a neighbourhood development plan that has been examined, is being examined, or is due to be examined, having met the public consultation requirements necessary to proceed to this stage, and
- (b) a “neighbourhood planning body” means a town or parish council or neighbourhood forum, as defined in section 61F of the 1990 Act (authorisation to act in relation to neighbourhood areas).
- (2) In considering whether to grant planning permission or permission in principle for development which affects land all or part of which is included within the area covered by a made or emerging neighbourhood development plan, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the policies and proposals of that neighbourhood development plan.
- (3) A planning authority must, before determining an application for planning permission or permission in principle, give any neighbourhood planning body whose made or emerging neighbourhood development plan includes all or part of the area of land to which the application relates, a period of 21 days, from the date of receipt of the application by the neighbourhood planning body, within which to make recommendations about the manner in which the application should be determined; and must take any such recommendations into account.
- (4) Where a planning authority does not propose to refuse an application for planning permission or permission in principle where a neighbourhood planning body has recommended, under subsection (3), that permission be refused, the planning authority shall not grant planning permission until it has consulted the Secretary of State following the procedures set out in provisions 10 to 12 of the Town & Country Planning (Consultation) (England) Direction 2009.”””

MOTION D

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.*

LORDS 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.*

COMMONS AMENDMENT IN LIEU

The Commons insist on their disagreement to Lords Amendment 108, but do propose Amendment 108C in lieu thereof –

- 108C** Page 76, line 26, at end insert the following new Clause –

“Review of minimum energy performance requirements

After section 2B of the Building Act 1984 insert –

“Duty to review minimum energy performance requirements

2C Review of minimum energy performance requirements

The Secretary of State must carry out a review of any minimum energy performance requirements approved by the Secretary of State under building regulations in relation to dwellings in England.””

- D** **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 108 and do agree with the Commons in their Amendment 108C in lieu.**

- D1★** **Baroness Parminter to move, as an amendment to Motion D, leave out from “108” to end and insert “, do disagree with the Commons in their Amendment 108C, and do propose Amendment 108D in lieu –**

After Clause 143

- 108D** Insert the following new Clause –

“Carbon compliance standard for new homes

- (1) The Secretary of State must within twelve months 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 44%.””

MOTION E

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.*

LORDS REASON

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

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

COMMONS AMENDMENT IN LIEU

The Commons insist on their disagreement to Lords Amendment 110, but do propose Amendment 110C in lieu thereof –

110C Page 77, line 42, at end insert the following new Clause –

“Sustainable drainage

The Secretary of State must carry out a review of planning legislation, government planning policy and local planning policies concerning sustainable drainage in relation to the development of land in England.”

E **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 110 and do agree with the Commons in their Amendment 110C in lieu.**

E1★ **Baroness Parminter to move, as an amendment to Motion E, leave out from “110” to end and insert “, do disagree with the Commons in their Amendment 110C, and do propose Amendment 110D in lieu –**

After Clause 151

110D Insert the following new Clause –

“Review of sustainable drainage

- (1) The Secretary of State must –
 - (a) carry out a review of planning legislation, government planning policy and local planning policies concerning sustainable drainage in relation to the development of land in England,
 - (b) carry out a review of the proportion of new developments in England that include sustainable drainage systems that are constructed and maintained in accordance with the non-statutory technical standards for sustainable drainage systems, or any replacement standards as may be published by the Minister from time to time,
 - (c) prepare a report setting out the findings of the reviews and any action that the Secretary of State proposes to take in response to those findings, and
 - (d) lay the report before Parliament no later than 31 April 2017.
- (2) In subsection (1) “development” includes both development that is major development (within the meaning given by article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (S.I. 2015/595)) and development that is not.””

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CONSIDERATION OF COMMONS REASONS AND AMENDMENTS**

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