

Neighbourhood Planning Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 26th January 2017, as follows –

Clauses 1 to 3	Clauses 9 to 12
Schedule 1	Schedule 3
Clauses 4 to 8	Clauses 13
Schedule 2	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Before Clause 1

BARONESS CUMBERLEGE

1★

Insert the following new Clause –

“Duty to uphold neighbourhood development plans

- (1) The Secretary of State has a duty to uphold neighbourhood development plans, and in fulfilment of that duty must not seek to override neighbourhood development plans except in exceptional circumstances of national importance.
- (2) The Secretary of State has a duty to ensure that local planning authorities have sufficient resources to enable them to own, implement and defend neighbourhood development plans.
- (3) If it is deemed necessary to override a neighbourhood development plan and require the provision of additional housing, the Secretary of State must –
 - (a) have regard to the policies of the neighbourhood development plan, in particular, policies on employment opportunities; and
 - (b) inform the local community of the number of houses and types of housing required.
- (4) If a neighbourhood development plan has been overridden in accordance with subsection (3), it is the responsibility of neighbourhood planners, in consultation with the local community, to decide where it is most appropriate to provide the additional housing, and their decision must be accepted by the Secretary of State unless there are exceptional reasons not to do so.”

Clause 1

LORD BOURNE OF ABERYSTWYTH

2 Page 1, line 13, after “(2)(aza)” and insert “(but subject to subsections (3BB) and (3BC))”

3 Page 1, line 22, at end insert –

- “(c) an examiner has recommended under paragraph 13(2)(a) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (examination of modified plan) that a local planning authority should make the draft plan, or
- (d) an examiner has recommended under paragraph 13(2)(b) of that Schedule that a local planning authority should make the draft plan with modifications.

(3BA) In the application of subsection (2)(aza) in relation to a post-examination draft neighbourhood development plan within subsection (3B)(d), the local planning authority must take the plan into account as it would be if modified in accordance with the recommendations.”

4 Page 1, line 22, at end insert –

“(3BB) A draft neighbourhood development plan within subsection (3B)(a) or (b) ceases to be a post-examination draft neighbourhood development plan for the purposes of subsection (2)(aza) if –

- (a) section 38A(4)(a)(duty to make plan) or (6)(cases in which duty does not apply) of the Planning and Compulsory Purchase Act 2004 applies in relation to the plan,
- (b) section 38A(5)(power to make plan) of that Act applies in relation to the plan and the plan is made by the local planning authority,
- (c) section 38A(5) of that Act applies in relation to the plan and the local planning authority decide not to make the plan,
- (d) a single referendum is held on the plan and half or fewer of those voting in the referendum vote in favour of the plan, or
- (e) two referendums are held on the plan and half or fewer of those voting in each of the referendums vote in favour of the plan.

(3BC) A draft neighbourhood development plan within subsection (3B)(c) or (d) ceases to be a post-examination draft neighbourhood development plan for the purposes of subsection (2)(aza) if –

- (a) the local planning authority make the draft plan (with or without modifications), or
- (b) the local planning authority decide not to make the draft plan.”

LORD STUNELL
BARONESS PARMINTER

5★ Page 2, line 3, at end insert –

“() In section 79 of that Act (determination of appeals), after subsection (1) insert –

Clause 1 - continued

“(1ZA) In determining an appeal on a planning decision under section 76E (applications under section 62A: determination by Secretary of State), 77 (reference of applications to Secretary of State) or 78 (right to appeal against planning decisions and failure to take such decisions), the Secretary of State must, in reaching his determination, give particular weight to any proposals contained in a neighbourhood development plan or a post-examination plan which includes all or any part of the application site.”

After Clause 1

LORD BOURNE OF ABERYSTWYTH

6 Insert the following new Clause –

“Notification of applications to neighbourhood planning bodies

- (1) Schedule 1 to the Town and Country Planning Act 1990 (local planning authorities: distribution of functions) is amended as follows.
- (2) Paragraph 8 (duty to notify parish council of planning application etc) is amended in accordance with subsections (3) to (5).
- (3) After sub-paragraph (3) insert –
 - “(3A) Sub-paragraph (3B) applies to a local planning authority who have the function of determining applications for planning permission or permission in principle if –
 - (a) there is a relevant neighbourhood development plan for a neighbourhood area all or part of which falls within the authority’s area, and
 - (b) a parish council are authorised to act in relation to the neighbourhood area as a result of section 61F.
 - (3B) The local planning authority must notify the parish council of –
 - (a) any relevant planning application, and
 - (b) any alteration to that application accepted by the authority.
 - (3C) Sub-paragraph (3B) does not apply if the parish council have notified the local planning authority in writing that they do not wish to be notified of any such application.
 - (3D) If the parish council have notified the local planning authority in writing that they only wish to be notified under sub-paragraph (3B) of applications of a particular description, that sub-paragraph only requires the authority to notify the council of applications of that description.
 - (3E) For the purposes of sub-paragraphs (3A) to (3D) –
 - “neighbourhood area” means an area designated as such under section 61G;
 - “relevant neighbourhood development plan” means –
 - (a) a post-examination draft neighbourhood development plan as defined by section 70(3B) to (3C), or

After Clause 1 - continued

- (b) a neighbourhood development plan which forms part of a development plan by virtue of section 38(3) or (3A) of the Planning and Compulsory Purchase Act 2004 (plans which have been made or approved in a referendum);
 “relevant planning application” means an application which relates to land in the neighbourhood area and is an application for –
- (a) planning permission or permission in principle, or
 - (b) approval of a matter reserved under an outline planning permission within the meaning of section 92.”
- (4) In the opening words of sub-paragraph (4) for “the duty” substitute “a duty under this paragraph”.
- (5) In the opening words of sub-paragraph (5) for “their duty” substitute “a duty under this paragraph”.
- (6) Paragraph 8A (duty to notify neighbourhood forums) is amended in accordance with subsections (7) to (9).
- (7) After sub-paragraph (1) insert –
- “(1A) Sub-paragraph (1B) applies to a local planning authority who have the function of determining applications for planning permission or permission in principle if –
- (a) there is a relevant neighbourhood development plan for a neighbourhood area all or part of which falls within the authority’s area, and
 - (b) a neighbourhood forum are authorised to act in relation to the neighbourhood area as a result of section 61F.
- (1B) The local planning authority must notify the neighbourhood forum of –
- (a) any relevant planning application, and
 - (b) any alteration to that application accepted by the authority.
- (1C) Sub-paragraph (1B) does not apply if the neighbourhood forum has notified the local planning authority in writing that it does not wish to be notified of any such application.
- (1D) If the neighbourhood forum has notified the local planning authority in writing that it only wishes to be notified under sub- paragraph (1B) of applications of a particular description, that sub-paragraph only requires the authority to notify the forum of applications of that description.”
- (8) In sub-paragraph (2) –
- (a) before the definition of “neighbourhood forum” insert –
 ““neighbourhood area” means an area designated as such under section 61G;”, and
 - (b) after the definition of “neighbourhood forum” insert –
 ““relevant neighbourhood development plan” means –
 - (a) a post-examination draft neighbourhood development plan as defined by section 70(3B) to (3C), or

After Clause 1 - continued

- (b) a neighbourhood development plan which forms part of a development plan by virtue of section 38(3) or (3A) of the Planning and Compulsory Purchase Act 2004 (development plans which have been approved in a referendum or made).”
- (9) In sub-paragraph (3) for “(3) to (6)” substitute “(3) and (4) to (6)”.
- (10) Section 62C of the Town and Country Planning Act 1990 (notification of parish councils of applications made to Secretary of State) is amended in accordance with subsections (11) and (12).
- (11) In subsection (2) after “paragraph 8(1)” insert “or (3B)”.
- (12) In subsection (3) after “Schedule 1” insert “or notifications received by the authority under paragraph 8(3C) or (3D) of that Schedule.”

Clause 2

BARONESS CUMBERLEGE

7 Page 2, line 16, at end insert –

“() A neighbourhood development plan may include a phasing condition on development which is agreed with the local planning authority.”

Clause 3

BARONESS CUMBERLEGE

8 Page 3, line 22, at end insert –

“() The Secretary of State must, by regulations made within one month of the coming into force of Part 1, define “modification” for the purposes of this Act.”

Schedule 1

BARONESS CUMBERLEGE

9 Page 38, line 24, leave out “general”

10 Page 38, line 26, leave out “written” and insert “oral”

11 Page 38, leave out lines 27 to 32

Clause 5LORD KENNEDY OF SOUTHWARK
LORD BEECHAM

12 Page 5, line 9, at end insert –

“with reasonable payments made by local authorities for the purposes set out in paragraphs (a) and (b) to be recovered from the Secretary of State.”

After Clause 5

LORD BEECHAM
LORD KENNEDY OF SOUTHWARK

13 Insert the following new Clause—

“Approval of draft neighbourhood development plans by referendum

- (1) Paragraph 14 of Schedule 4B to the Town and Country Planning Act 1990 (referendum) is amended as follows.
- (2) After sub-paragraph (2) insert—
 - “(2A) The outcome of such a referendum shall only be valid if the turnout is equal to or greater than 40%.”

LORD KENNEDY OF SOUTHWARK
BARONESS CUMBERLEGE

14 Insert the following new Clause—

“Permitted development: change of use to residential

Where the Secretary of State, in exercising the powers conferred by the Town and Country Planning Act 1990, makes a general permitted development in respect of change of use to residential use as dwelling-houses, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (a) transport and highway impacts of the development;
- (b) contamination risks on the site;
- (c) flooding risks on the site;
- (d) noise impacts of the development;
- (e) minimum space standards for the dwelling-houses;
- (f) in cases where the authority considers the building to which the development relates is located in an area that is important for provision of particular services (for example, offices), whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services;
- (g) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use to a use falling within Class C3 (dwelling houses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987;
- (h) impacts of air quality and noise on the intended occupiers of the development; and
- (i) the impact of neighbouring buildings and their uses on the intended occupiers of the development.”

After Clause 5 - continued

LORD KENNEDY OF SOUTHWARK
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

15 Insert the following new Clause –

“Land use following lapse of planning permission

If planning permission lapses, the local authority may direct the use of that land for purposes relating to priorities in the local development plan or neighbourhood plan.”

LORD GREAVES
BARONESS SCOTT OF NEEDHAM MARKET

16★ Insert the following new Clause –

“Reviews of neighbourhood areas

After section 61I of the Town and Country Planning Act 1990 insert –

“61IA Duty of local planning authority to review neighbourhood areas

- (1) A local planning authority must from time to time review the neighbourhood areas within its area with regard to –
 - (a) the number and distribution of such areas in the authority,
 - (b) the proportion of the authority covered by such areas,
 - (c) the progress made in the creation of neighbourhood development plans in those areas,
 - (d) the proportion of such areas in which the qualifying authority is a parish council or a neighbourhood forum respectively, and
 - (e) the extent and effectiveness of the promotion of neighbourhood planning within the authority.
- (2) A local planning authority must consider the review undertaken under subsection (1) and in doing so consider –
 - (a) how it may become more effective in promoting neighbourhood planning and adopting neighbourhood development plans,
 - (b) whether to review its statement of community involvement in relation to its policies on advice and assistance in relation to neighbourhood plans in its area, and
 - (c) whether to carry out a local governance review in any part of its area that is unparished.””

Clause 6

LORD BEECHAM
LORD KENNEDY OF SOUTHWARK
BARONESS CUMBERLEGE

17 Page 5, line 27, at end insert –

- “(1CA) The development plan documents must contain references to –
- (a) a threshold for social and affordable housing in the area;
 - (b) the impact of the proposals in the documents on energy efficiency in dwellings and infrastructure in the local area;
 - (c) flood protection for the local area;

Clause 6 - continued

- (d) the impact of the proposals in the documents on air quality in the area; and
- (e) the provision of green spaces and public leisure areas.”

LORD BEECHAM

LORD KENNEDY OF SOUTHWARK

18 Page 5, line 27, at end insert –

- “() A development plan must contain a minimum number of dwellings.
- () The minimum number of dwellings to be specified in a development plan must be consulted on and decided on locally.”

LORD BOURNE OF ABERYSTWYTH

19 Page 5, line 39, at end insert –

- “() In section 34 of that Act (guidance) –
 - (a) the existing words become subsection (1), and
 - (b) after that subsection insert –
 - “(2) The Secretary of State must issue guidance for local planning authorities on how their local development documents (taken as a whole) should address housing needs that result from old age or disability.””

After Clause 6

BARONESS CUMBERLEGE

20 Insert the following new Clause –

“Planning appeals

Where an application for planning permission has been refused by the relevant local planning authority, on the grounds that it is not in accordance with adopted local development plan documents, including adopted neighbourhood plans, and the applicant appeals the planning decision, the Secretary of State must uphold the decision of the local planning authority unless it contravenes a development scheme of national importance.”

Clause 7

LORD KENNEDY OF SOUTHWARK

BARONESS CUMBERLEGE

LORD SHIPLEY

The above-named Lords give notice of their intention to oppose the Question that Clause 7 stand part of the Bill.

Clause 8

LORD KENNEDY OF SOUTHWARK
LORD SHIPLEY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CUMBERLEGE

The above-named Lords give notice of their intention to oppose the Question that Clause 8 stand part of the Bill.

Clause 11

LORD BOURNE OF ABERYSTWYTH

21 Page 10, line 17, at end insert –

“() Section 18 of the Planning and Compulsory Purchase Act 2004 (statement of community involvement) is amended as follows.”

22 Page 10, line 18, leave out from “In” to “after” in line 19 and insert “subsection (2)”

23 Page 10, line 19, at end insert –

“() After subsection (3A) insert –

“(3B) The Secretary of State may by regulations prescribe matters to be addressed by a statement of community involvement in addition to the matters mentioned in subsection (2).”

After Clause 11

LORD BEECHAM

24 Insert the following new Clause –

“Guidance on clustering of betting offices and pay day loan shops

- (1) Before exercising his or her powers under section 41(1), the Secretary of State must issue guidance to local authorities on the granting of planning permission for change of use to betting offices and pay day loan shops.
- (2) This guidance must set out the manner in which policies in neighbourhood plans and local plans about the number, density and impact of betting offices and pay day loan shops are to be taken into account when determining applications for change of use, in a way which prevents a deleterious effect on the neighbourhood or local area.”

LORD CAMERON OF DILLINGTON

25 Insert the following new Clause –

“Right to reject a second development application

A local planning authority has the right to reject a planning application if the applicant, or any associated individual or body, already has planning permission to build 50 or more homes in the area.”

After Clause 11 - continued

BARONESS CUMBERLEGE

26 Insert the following new Clause—

“Community benefit from development

- (1) Local planning authorities must introduce the Community Infrastructure Levy within 12 months of the day on which this Act is passed.
- (2) The level of Community Infrastructure Levy to be provided to neighbourhood planning bodies with an adopted neighbourhood plan in place shall be 35%.”

BARONESS GARDNER OF PARKES

27★ Insert the following new Clause—

“Public consultations

A local planning authority must extend accordingly the length of any public consultations regarding a planning application if any public or bank holidays fall within the consultation period.”

Clause 12

LORD BOURNE OF ABERYSTWYTH

28 Page 10, line 27, after “a” insert “relevant”

LORD KENNEDY OF SOUTHWARK
LORD BEECHAM

29 Page 10, line 32, at end insert—

“(1A) Regulations made under subsection (1) must make provisions for local planning authorities to make exceptions to conditions relating to matters set out in paragraphs (a),(b) and (c) of subsection (1).”

LORD BOURNE OF ABERYSTWYTH

30 Page 10, line 35, after “a” insert “relevant”

LORD KENNEDY OF SOUTHWARK
LORD BEECHAM

31 Page 10, leave out lines 37 and 38

32 Page 11, line 3, at end insert “including in terms of sustainable development and public interest”

33 Page 11, line 5, at end insert “which must include consultation with local authorities.”

34 Page 11, line 5, at end insert—

“() Regulations made under subsection (1) must make provision for an appeal process.”

Clause 12 - continued

LORD BOURNE OF ABERYSTWYTH

35 Page 11, line 6, after “a” insert “relevant”

LORD KENNEDY OF SOUTHWARK
LORD BEECHAM

36 Page 11, leave out lines 8 to 10

37 Page 11, line 10, at end insert “, and where agreement cannot be reached a mediation system must be prescribed.”

BARONESS PARMINTER

38 Page 11, line 12, leave out “in such” and insert “for the delivery of sustainable drainage, or such other”

LORD BOURNE OF ABERYSTWYTH

39 Page 11, line 23, leave out “, or by virtue of,”

40 Page 11, line 24, after second “a” insert “relevant”

41 Page 11, line 27, leave out from “(b)” to end of line

42 Page 11, line 30, after “a” insert “relevant”

43 Page 11, line 31, leave out from “permission” to end of line 32 and insert “to develop land which is granted on an application made under this Part;”

LORD KENNEDY OF SOUTHWARK
LORD BEECHAM
BARONESS PARMINTER
BARONESS CUMBERLEGE

The above-named Lords give notice of their intention to oppose the Question that Clause 12 stand part of the Bill.

After Clause 12

LORD PORTER OF SPALDING
LORD KENNEDY OF SOUTHWARK
BARONESS CUMBERLEGE
LORD TOPE

44 Insert the following new Clause—

“Permitted development: cumulative impact assessments

- (1) A local planning authority may publish a document (“a cumulative impact assessment”) stating that the local planning authority considers that developments taking place under permitted development rights, including change of use, of a kind described in the assessment, are having an adverse impact on the sustainability of the provision of particular services in the area.
- (2) A cumulative impact assessment must set out the evidence for the authority’s opinion as set out in the assessment in accordance with subsection (1).
- (3) Where such a cumulative impact assessment has been published, the local planning authority may suspend, with immediate effect, the relevant permitted development rights, as described in the cumulative impact assessment.
- (4) Where a local planning authority publishes a cumulative impact assessment, as described in subsection (1), it may review the assessment, from time to time, to consider whether it remains of the opinion stated in the assessment.”

LORD KENNEDY OF SOUTHWARK
LORD SCRIVEN
LORD SHIPLEY
BARONESS CUMBERLEGE

45 Insert the following new Clause—

“Local authorities and development management services

- (1) A local planning authority may set a charging regime in relation to its development management services.
- (2) In setting the amount of a charge under subsection (1), a local planning authority must secure that, taking one financial year with another, its income from charges does not exceed the cost to the authority of delivering the development management services for which the charges are imposed.”

BARONESS YOUNG OF OLD SCONE
BARONESS PARMINTER

46 Insert the following new Clause—

“Planning: duty to have regard to the protection of ancient woodland and veteran and aged trees

In section 197 of the Town and Country Planning Act 1990 (planning permission to include appropriate provision for preservation and planting of trees), after paragraph (b) insert—

After Clause 12 - continued

- “(c) to refuse permission for any development which may result in the loss or deterioration of ancient woodland, and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location are wholly exceptional;
 - (d) to refuse permission for a development in respect of which there is insufficient provision made for the preservation of woodland and planting of trees; and
 - (e) to impose any such conditions and make any such orders as are necessary to protect woodland and trees.
- (2) The local planning authority must—
- (a) ensure that all planning applications are compatible with the protection and enhancement of the environment; and
 - (b) ensure that the protection and enhancement of the environment is identified as a strategic priority in the authority’s area under section 19 or 35 of the Planning and Compulsory Purchase Act 2004.
- (3) In this section—
- (a) “ancient woodland” means an area that has been continuously wooded since the year 1600;
 - (b) “veteran and aged trees” means trees which because of their age, size or condition are of exceptional value culturally, in the landscape or to wildlife.””

LORD TOPE
LORD SHIPLEY

47 Insert the following new Clause—

“Local authorities and development control services

- (1) A local planning authority may set a charging regime in relation to their development control services to allow for the cost of providing the development control service to be recouped.
- (2) Any such charging regime must be subject to consultation prior to implementation.”

BARONESS GARDNER OF PARKES

48★ Insert the following new Clause—

“Planning applications: setting of fees

- (1) Local planning authorities may make provision for the payment of fees or charges to them in respect of the performance of their functions and anything done by them which is calculated to facilitate or is conducive or incidental to the performance of their functions, and may vary such fees or charges according to the value of the project concerned or any other material concerns.
- (2) Fees or charges under subsection (1) may exceed the costs incurred by the local planning authority in performing functions relating to the relevant project.
- (3) Local planning authorities shall retain any fees or charges paid in accordance with subsection (1), and use them as they see fit.”

After Clause 12 - continued

49★ Insert the following new Clause –

“Retrospective planning permission

- (1) Where there has been a breach of planning control, as defined under section 171A of the Town and Country Planning Act 1990 (“the 1990 Act”), the person or body who has caused the breach must make a retrospective planning application for planning permission under section 73A of the 1990 Act (planning permission for development already carried out).
- (2) In respect of a retrospective planning application, the person or body who has caused the breach of planning control is liable for the payment of fees or charges to the local planning authority in respect of the costs incurred in carrying out the functions connected with the retrospective planning application.
- (3) The person or body who has caused the breach of planning control is liable for the payment of a significant additional charge, connected to the retrospective nature of the planning application, in addition to the fees and charges the person or body is liable for under subsection (2).
- (4) In carrying out the functions connected with a retrospective planning application, the local planning authority must consult the people residing in the local area to which the retrospective planning application relates.”

Schedule 3

LORD BOURNE OF ABERYSTWYTH

- 50** Page 43, line 37, leave out paragraphs 2 to 5
- 51** Page 44, line 34, at end insert –
 “ In section 90(3)(effect of deemed planning permission) after “except” insert “section 100ZA and”.”
- 52** Page 44, line 35, leave out paragraphs 9 to 11
- 53** Page 45, line 17, leave out paragraph 13
- 54** Page 45, line 29, leave out “under or by virtue of” and insert “to develop land which is granted on an application made under”
- 55** Page 45, line 36, leave out “under or by virtue of” and insert “to develop land which is granted on an application made under”

After Clause 13

LORD BEECHAM
LORD KENNEDY OF SOUTHWARK

56 Insert the following new Clause—

“Review of sustainable drainage

Before exercising his or her powers under section 41(1), the Secretary of State must carry out a review of the impact on communities’ resilience to flooding of planning legislation, government planning policy and local planning policies concerning sustainable drainage in relation to the development of land in England.”

LORD KENNEDY OF SOUTHWARK
LORD BEECHAM

57 Insert the following new Clause—

“Funding for local authority functions

- (1) The Secretary of State must consult local planning authorities prior to the commencement of any new statutory duties in respect of planning to ensure that they have—
 - (a) adequate resources, and
 - (b) adequate funding,to enable them to undertake the additional work required to fulfil the new duties.
- (2) In any instance where local authorities are found not to have adequate resources or funding, an independent review of the additional cost of the new statutory duties, setting out the level of resource required to allow planning authorities to fulfil the statutory duties, must be conducted.”

BARONESS PARMINTER
LORD STUNELL

58 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 which require a local planning authority to refuse planning permission for the building of any new home which would not 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) 46% in the case of attached houses; and
 - (c) 44% in the case of flats.”

After Clause 13 - continued

BARONESS ANDREWS

59 Insert the following new Clause—

“Compulsory acquisition: payments from charitable trusts involved in conservation

In a case where—

- (a) a local planning authority has the power to compulsorily acquire a listed building or a building in a conservation area; and
- (b) a charitable trust whose objectives include the conservation of such property has given an obligation by deed to the local authority to pay to the local planning authority the costs of such acquisition;

the planning authority must exercise its powers to compulsorily acquire the relevant building.”

LORD KENNEDY OF SOUTHWARK
BARONESS DEECH
LORD BERKELEY

60 Insert the following new Clause—

“Change of use of drinking establishments

- (1) In regulation 3 of the Town and Country Planning (Use Classes) Order 1987, after paragraph (6)(o) insert—
“(p) as a drinking establishment”.
- (2) Before exercising his or her powers under section 41(1) of this Act, the Secretary of State must exercise the powers conferred by sections 59, 60, 61, 74 and 333(7) of the Town and Country Planning Act 1990 to remove permitted development rights relating to the change of use or demolition of “drinking establishments”.

LORD SHIPLEY

61 Insert the following new Clause—

“Permitted development: use clauses and demolition of drinking establishments

- (1) The Town and Country Planning (Use Classes) Order 1987 (S.I. 1987/764) is amended as follows.
- (2) At the end of regulation 3(6) insert—
“(p) as a drinking establishment.”
- (3) In the Schedule, leave out the paragraph “Class A.4 Drinking Establishments”.
- (4) The Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418) is amended as follows.
- (5) In Part 3 of Schedule 2 (permitted development)—
 - (a) in Class A: Permitted development, leave out “A.4 (drinking establishments)”;
 - (b) in Class AA: Permitted development, leave out “Class A.4 (drinking establishments)”;
 - (c) in Class C: Permitted development, leave out “Class A.4 (drinking establishments)”.

After Clause 13 - continued

- (6) In Part 31 of Schedule 2 (demolition of buildings) under A.1 at the end insert—
 “() the building subject to demolition is classed as a drinking establishment”.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
 LORD SHIPLEY

62★ Insert the following new Clause—

“Statutory consultees: response

- (1) Any person or body who is required under statute to respond to any local authority planning application must respond in a reasonable period of time.
- (2) In subsection (1) “reasonable period of time” means—
- (a) no later than 4 weeks after the start of the consultation, for small developments;
 - (b) no later than 16 weeks after the start of the consultation, for major development.”

63★ Insert the following new Clause—

“Incomplete developments: sanctions

- (1) Where a developer has commenced work on a site, sanctions may be imposed by the local planning authority if the development has not been completed within a reasonable period of time.
- (2) Sanctions under subsection (1) may include a financial penalty.
- (3) Regulations may by statutory instrument prescribe—
- (a) the meaning of “a reasonable period of time” under subsection (1) for different types of developments;
 - (b) the levels of financial penalties under subsection (2).”

BARONESS PARMINTER

64★ Insert the following new Clause—

“Planning decisions: involvement of neighbourhood planning bodies

For section 75ZB of the Town and Country Planning Act 1990 (information about neighbourhood development plans) substitute—

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

- (1) 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 must—
- (a) have special regard to the desirability of upholding the policies and proposals contained in the neighbourhood development plan;
 - (b) send a copy of the application to the relevant neighbourhood planning body;

After Clause 13 - continued

- (c) allow the relevant neighbourhood planning body a period of 21 days from receipt of the application to make recommendations about how the application should be determined; and
 - (d) take into account any recommendations made under paragraph (c).
- (2) Where a neighbourhood planning body recommends that planning permission should not be granted in respect of the application and the following conditions are met, the local planning authority may not approve the application without first consulting the Secretary of State.
- (3) The conditions mentioned in subsection (2) are that—
- (a) the development is not classed as a householder development; and
 - (b) the development is not on a site identified for the proposed development in the relevant neighbourhood development plan.
- (4) Consultations with the Secretary of State under subsection (2) must follow the procedures set out in provisions 10 to 12 of the Town and Country Planning (Consultation) (England) Direction 2009.
- (5) In this section—
- “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;
 - “householder development” means proposals to alter or enlarge a single house, including works within the curtilage of the house;
 - “neighbourhood planning body” means a town or parish council or neighbourhood forum, as defined in section 61F.”

Clause 14

LORD SHIPLEY

65★ Page 13, line 13, leave out subsection (1) and insert—

“(1) Subsection (2) applies where a person (an “acquiring authority”) could be authorised to acquire land compulsorily under another enactment or under subordinate legislation.”

LORD BOURNE OF ABERYSTWYTH

66 Page 13, line 14, leave out paragraphs (a) and (b) and insert “a person (an “acquiring authority”)—

- (a) has a power conferred by an Act to acquire land compulsorily (with or without authorisation from another person), or

Clause 14 - *continued*

(b) is or has been, at any time, otherwise authorised to acquire land compulsorily.”

- 67 Page 13, line 18, leave out from “may” to end of line 20 and insert “, for purposes connected with the purposes for which it could acquire land compulsorily, take temporary possession of land –
 (a) by agreement, or
 (b) compulsorily, if authorised to do so in accordance with section 15 .”

LORD SHIPLEY

- 68★ Page 13, line 19, leave out “for purposes connected with the purposes of the scheme”

LORD BEECHAM
 LORD KENNEDY OF SOUTHWARK

- 69 Page 13, line 20, at end insert –
 “() The power of temporary possession of leasehold interests may not be used if the interest would terminate within one year of the date on which the authority intends to hand back possession to the occupier.”

LORD BOURNE OF ABERYSTWYTH

- 70 Page 13, line 21, leave out “enactment” and insert “Act”

- 71 Page 13, line 24, leave out subsection (4)

LORD SHIPLEY

- 72★ Page 13, line 24, leave out subsection (4) and insert –
 “(4) An acquiring authority that could take temporary possession of land compulsorily pursuant to subsection (2) may also take temporary possession of the land by agreement.”

- 73★ Page 13, line 28, at end insert –
 “() The effect of an acquiring authority taking temporary possession of land under the powers in subsection (2) is as follows –
 (a) the acquiring authority occupies and uses the land under the power in section 14(2) and is not subject to the terms of any existing lease or other interest or right to occupy the land;
 (b) the covenants, obligations, terms and conditions of any existing interests in the land or imposed on any right to occupy the land shall be unenforceable against any party in respect of any period of temporary possession;
 (c) where, on the date the acquiring authority take possession of the land pursuant to subsection (2), a tenant –
 (i) is in occupation within the meaning of section 23 of the Landlord and Tenant Act 1954 (tenancies to which security of tenure for business, professional and other tenants applies); and

Clause 14 - continued

(ii) maintains an intention to resume occupation when the acquiring authority cease temporary possession,
the tenant shall be deemed to be in occupation of the land throughout the period of temporary possession for the purposes of establishing any right to a new tenancy under Part II of the Landlord and Tenant Act 1954, and any breach of the provisions of the lease or non-payment of rent during the period of temporary possession shall not be taken into account in renewal proceedings.”

LORD BOURNE OF ABERYSTWYTH

74 Page 13, line 31, leave out subsection (6)

LORD BEECHAM

75 Page 13, line 31, at end insert –

“() This section may not come into force until the Secretary of State has consulted on and published guidance in relation to section 15(3)(a).”

Clause 15

LORD BOURNE OF ABERYSTWYTH

76 Page 13, line 35, leave out “same”

77 Page 13, line 36, leave out “as is or would be”

78 Page 13, line 37, leave out “for the purposes of the scheme”

79 Page 13, line 37, leave out “that section” and insert “section 14(1)”

80 Page 14, line 1, after “possession” insert “of land”

81 Page 14, line 2, after “acquisition” insert –

“() if it authorises the compulsory acquisition of land, may authorise temporary possession of the same or other land,”

82 Page 14, line 3, leave out “does so” and insert “makes provision relating to temporary possession”

83 Page 14, line 6, leave out subsection (4)

84 Page 14, line 11, leave out paragraph (c)

85 Page 14, line 13, leave out paragraph (d)

LORD SHIPLEY

86★ Page 14, line 16, leave out subsection (6)

Clause 15 - continued

LORD BOURNE OF ABERYSTWYTH
LORD SHIPLEY

87 Page 14, line 18, leave out subsection (7)

Clause 16

LORD KENNEDY OF SOUTHWARK

88★ Page 14, line 36, after “authority” insert “may serve one or more notices under this section and”

Clause 17

LORD SHIPLEY

89★ Page 14, line 41, leave out from “owner”)” to end of line 43

LORD BEECHAM
LORD KENNEDY OF SOUTHWARK

90 Page 15, line 5, leave out “6” and insert “3”

LORD SHIPLEY

91★ Page 15, line 6, leave out subsection (3) and insert –

“(3) The owner may give the acquiring authority a counter-notice which provides that the authority may not take temporary possession of the owner’s interest.”

92★ Page 15, line 9, leave out “(2) or”

93★ Page 15, line 12, leave out subsection (5)

94★ Page 15, line 38, leave out subsection (10)

Clause 19

LORD SHIPLEY

95★ Page 16, line 8, leave out “injury the claimant sustains as a result” and insert “damage the claimant sustains as a result of the temporary possession of the land”

96★ Page 16, line 10, leave out subsections (3) to (6)

Clause 19 - continued

97★ Page 16, line 29, leave out subsection (7) and insert –

“(7) For the purposes of section 9 of the Limitation Act 1980 (time limit for actions for sums recoverable by statute) only, a claim for compensation under subsection (2) in relation to a period of compulsory temporary possession for which notice is given under section 16 is deemed to accrue on the last day of the period referred to in section 16(4), and for all other purposes a claim will accrue as the loss or damage is suffered and a claimant is not precluded from making a claim pursuant to subsection (2) prior to the last day of that period.”

LORD BOURNE OF ABERYSTWYTH

98 Page 16, line 29, leave out “claim” and insert “cause of action”

99 Page 16, line 30, leave out “in relation to” and insert “which, apart from this subsection, would accrue before or during”

100 Page 16, line 31, leave out “accrues” and insert “is to be treated as accruing”

101 Page 16, line 33, leave out from “section” to end of line 35 and insert “in relation to a particular head of loss or injury carries interest from the day after the last day on which that loss or injury occurs.”

LORD SHIPLEY

102★ Page 16, line 33, leave out from first “the” to end of line 35 and insert “first day of the period referred to in section 16(4).”

After Clause 23

LORD BOURNE OF ABERYSTWYTH

103 Insert the following new Clause –

“Impact of temporary possession on tenancies etc

(1) Subsection (2) applies where an acquiring authority takes temporary possession under section 14(2) of land subject to a tenancy.

(2) A person is not to be treated as being in breach of –

(a) any term of the tenancy, or

(b) any other obligation associated with the tenancy or the land subject to temporary possession,

to the extent that the person cannot reasonably comply with the term or other obligation as a result of the temporary possession.

(3) Subsection (2) does not affect terms or obligations about –

(a) the length of the tenancy, or

(b) the payment of rent.

(4) Subsection (5) applies where –

After Clause 23 - continued

- (a) an acquiring authority takes temporary possession of land subject to a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (security of tenure for business tenants) applies immediately before the period of temporary possession,
 - (b) the tenancy expires during the period of temporary possession, and
 - (c) prior to the period of temporary possession the tenant notifies in writing both the acquiring authority and the landlord that the tenant intends to resume occupation of the land after the period of temporary possession.
- (5) For the purposes of Part 2 of the Landlord and Tenant Act 1954 the tenant is to be deemed to continue to occupy the land in accordance with the tenancy mentioned in subsection (4)(b), and any tenancy which succeeds that tenancy, despite the period of temporary possession.
- (6) But if the tenant notifies in writing both the acquiring authority and the landlord that the tenant no longer intends to resume occupation of the land after the period of temporary possession subsection (5) ceases to apply.
- (7) In this section, “tenancy” includes a sub-tenancy.”

Clause 24

BARONESS ANDREWS
BARONESS PARMINTER

104 Page 20, line 29, at end insert –

- “(2A) No regulations may be made under subsection (1) which have the effect of modifying any procedures that apply specifically to the acquisition of land belonging to the National Trust and held by the Trust inalienably.
- (2B) In subsection (2A), “held inalienably”, in relation to land belonging to the National Trust, means that the land is inalienable under section 21 of the National Trust Act 1907 or section 8 of the National Trust Act 1939.”

Clause 25

LORD BOURNE OF ABERYSTWYTH

105 Page 20, leave out line 43

106 Page 20, leave out lines 44 and 45

Clause 27

LORD SHIPLEY

107★ Page 21, line 24, after “scheme” insert “(or the prospect of the scheme)”

LORD BOURNE OF ABERYSTWYTH

108 Page 21, line 25, after “land” insert “, or by the prospect of that scheme,”

Clause 27 - continued

LORD SHIPLEY

109★ Page 21, line 28, leave out “in particular”

LORD KENNEDY OF SOUTHWARK

110★ Page 21, line 28, leave out “in particular”

LORD SHIPLEY

111★ Page 21, leave out lines 39 to 41

LORD BOURNE OF ABERYSTWYTH

112 Page 21, line 40, leave out “if the scheme had not been commenced or” and insert “in the exercise of a statutory function or by the exercise of compulsory purchase powers”

113 Page 23, line 34, at end insert “facilitated or”

114 Page 23, line 38, leave out “which was”

115 Page 23, line 40, after “powers” insert “(regardless of whether it is carried out before, after or at the same time as the regeneration or redevelopment)”

LORD KENNEDY OF SOUTHWARK

116★ Page 24, line 14, leave out “highway (the scheme highway)” and insert “transport project”

117★ Page 24, line 16, leave out “highway” and insert “transport project”

118★ Page 24, line 17, leave out “scheme highway” and insert “transport project”

119★ Page 24, line 43, leave out “announced” and insert “first proposed in consultation with the public or any strategic or local or project specific plan”

Clause 31

LORD BOURNE OF ABERYSTWYTH

120 Page 27, line 27, leave out “section 333ZA and paragraph 19(1) of Schedule 11” and insert—

“(a) section 333ZA of this Act, and

(b) paragraph 19(1) of Schedule 11 to this Act or Part 12 of the Highways Act 1980,”

121 Page 27, line 33, after “Schedule 11” insert “to this Act or Part 12 of the Highways Act 1980”

Clause 31 - continued

LORD KENNEDY OF SOUTHWARK

122★ Page 27, line 37, leave out “on behalf of the other”

LORD BOURNE OF ABERYSTWYTH

123 Page 27, line 42, after “Schedule 11” insert “to this Act or Part 12 of the Highways Act 1980”

124 Page 28, line 13, at end insert –

“403B Acquisition of land by MDC and TfL for shared purposes

- (1) This section applies where a Mayoral development corporation and Transport for London agree that the purposes for which they may acquire land compulsorily under –
 - (a) section 207 of the Localism Act 2011, and
 - (b) paragraph 19(1) of Schedule 11 to this Act or Part 12 of the Highways Act 1980,
 would be advanced by one or both of them acquiring land for a joint project.
- (2) The purposes for which the Mayoral development corporation may acquire land compulsorily under section 207 of the Localism Act 2011 are to be read as if they included the purposes for which Transport for London may acquire land compulsorily.
- (3) The purposes for which Transport for London may acquire land compulsorily under paragraph 19(1) of Schedule 11 to this Act or Part 12 of the Highways Act 1980 are to be read as if they included the purposes for which the Mayoral development corporation may acquire land compulsorily.
- (4) The Mayoral development corporation and Transport for London may agree that one of them is to acquire land on behalf of the other.
- (5) Where subsection (4) applies, a compulsory acquisition is to proceed under –
 - (a) section 207 of the Localism Act 2011 if it is agreed that the Mayoral development corporation will acquire the land, or
 - (b) paragraph 19(1) of Schedule 11 to this Act or Part 12 of the Highways Act 1980 if it is agreed that Transport for London will acquire the land.
- (6) Subsection (7) applies where –
 - (a) the Mayoral development corporation and Transport for London both propose to acquire land compulsorily for a joint project, and
 - (b) the proposed compulsory acquisitions require authorisation by different confirming authorities.
- (7) The proposed compulsory acquisitions are to be treated as requiring the joint authorisation of the confirming authorities.
- (8) The Mayoral development corporation or Transport for London may acquire land by agreement for the same purposes as those for which that body may acquire land compulsorily by virtue of subsection (2) or (3).

Clause 31 - continued

- (9) The joint project mentioned in subsection (1) is to be treated as the scheme for the purposes of the no-scheme principle in section 6A of the Land Compensation Act 1961 (impact of scheme to be disregarded when assessing value of land for compulsory purchase).”

LORD KENNEDY OF SOUTHWARK

As an amendment to Amendment 124

- 125★ In subsection (4), leave out “on behalf of the other”

Clause 32

LORD KENNEDY OF SOUTHWARK

- 126★ Page 29, line 30, at end insert –

- “() The Authority or Transport for London or a Mayoral development corporation (established under section 198(2) of the Localism Act 2011) shall be deemed to be able to acquire land compulsorily for the purposes of building and maintenance work under section 203(2)(c) of the Housing and Planning Act 2016 if the Authority or Transport for London or a Mayoral development corporation could acquire land compulsorily under section 403A or section 403B of the Greater London Authority Act 1999.”

After Clause 36

LORD CAMERON OF DILLINGTON

LORD BEECHAM

- 127 Insert the following new Clause –

“Review of compulsory purchase process

The Secretary of State must, by the end of 2018, have completed a review of the entire compulsory purchase process and brought forward proposals to ensure compulsory purchase legislation is both fit for purpose and included within a single Act of Parliament.”

LORD KENNEDY OF SOUTHWARK

- 128★ Insert the following new Clause –

“Amendment to TfL powers

In Schedule 11 of the Greater London Authority Act 1999 (miscellaneous powers of Transport for London) after paragraph 12 insert –

- “12A(1) Transport for London or any subsidiary of Transport for London may sell, exchange or lease its land for the purpose of providing housing of any description at such price, or for such consideration, or for such rent, as (having regard to all the circumstances of the case) is the best that can reasonably be obtained, notwithstanding that a higher price, consideration or rent might have been obtained if the land were sold, exchanged or leased for the purpose of providing housing of another description or, under paragraph 29, for a purpose other than the provision of housing.

After Clause 36 - continued

- (2) Transport for London or any subsidiary of Transport for London shall not be required to act as if it were a company engaged in a commercial enterprise if undertaking any activities at paragraphs 15(2) or (3) below with a view to selling, exchanging or leasing its land under this paragraph.””

129★ Insert the following new Clause—

“Amendments to GLA powers

In section 333ZC of the Greater London Authority Act 1999 (disposal etc of land held for housing or regeneration purposes)—

- (a) in subsection (1) before “The Authority may not dispose” insert “Subject to subsection (6)”, and
- (b) after subsection (5) insert—
- “(6) The Authority or any subsidiary of the Authority may sell, exchange or lease land held by it for the purposes of housing or regeneration for the purpose of providing housing of any description at such price, or for such consideration, or for such rent, as (having regard to all the circumstances of the case) is the best that can reasonably be obtained, notwithstanding that a higher price, consideration or rent might have been obtained if the land were sold, exchanged or leased for the purpose of providing housing of another description or for a purpose other than the provision of housing.
- (7) The Authority or any subsidiary of the Authority shall not be required to obtain the consent of the Secretary of State for the purposes of subsection (1) for a disposal made in accordance with subsection (6).””

Clause 41

LORD BOURNE OF ABERYSTWYTH

130 Page 32, line 19, leave out “and 10” and insert “, 10 and 11 ”

131 Page 32, line 20, at end insert—

- “() section (*Notification of applications to neighbourhood planning bodies*), for the purposes only of enabling the Secretary of State to make provision by development order under paragraph 8(6) of Schedule 1 to the Town and Country Planning Act 1990;”

Neighbourhood Planning Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

27 January 2017
