

Neighbourhood Planning Bill

FOURTH
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 to 42
Schedule 2	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

After Clause 13

LORD KENNEDY OF SOUTHWARK
BARONESS DEECH
LORD BERKELEY
LORD CAMERON OF DILLINGTON

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.

After Clause 13 - continued

- (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)”.
- (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).”

After Clause 13 - continued

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;
 - (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;

After Clause 13 - continued

“neighbourhood planning body” means a town or parish council or neighbourhood forum, as defined in section 61F.””

LORD KENNEDY OF SOUTHWARK
LORD BEECHAM

64A Insert the following new Clause—

“Connection between national infrastructure and neighbourhood planning

- (1) The National Infrastructure Commission, where appropriate, shall provide advice on national infrastructure projects to local planning authorities, including advice about—
 - (a) how national projects will link with local projects, and
 - (b) how national projects may affect specific neighbourhoods during their construction phase and operation.
- (2) Local planning authorities must provide any necessary advice on national and local infrastructure projects as requested by neighbourhood plan makers.”

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
- (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”

Clause 14 - continuedLORD 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
 - (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)

Clause 14 - continued

LORD BEECHAM
LORD CAMERON OF DILLINGTON

- 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)

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)

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”

Clause 19 - continued

- 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—
 - (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.”

LORD BEECHAM

104A Page 20, line 29, at end insert –

“(2A) The Secretary of State and Welsh Ministers must by regulations –

- (a) make provision for the reinstatement of land at the end of a period of temporary possession; and
- (b) make provision for the resolution of disputes by an independent arbiter.”

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,”

LORD SHIPLEY

LORD KENNEDY OF SOUTHWARK

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

110 [*Withdrawn*]

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”

Clause 27 - continued

- 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”

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,

Clause 31 - *continued*

- 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).
 - (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

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 36LORD 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 to 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 for a purpose other than the provision of housing.

(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 for the purposes of paragraph 29 below 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 (7)”, and

After Clause 36 - continued

(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 38

LORD BEECHAM

129A Page 31, line 13, at end insert—

“() Before making regulations under this section, the Secretary of State must consult the Welsh Ministers.”

BARONESS CUMBERLEGE

LORD JUDGE

LORD PANNICK

LORD KENNEDY OF SOUTHWARK

The above-named Lords give notice of their intention to oppose the Question that Clause 38 stand part of the Bill.

Clause 39

LORD BEECHAM

129B Page 31, line 25, at end insert—

“() regulations made under section 24(2A);”

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

FOURTH
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IN GRAND COMMITTEE

6 February 2017
