

Land Use (Gardens Protection etc) Bill

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TO

Make provision for the protection of gardens and urban green space; to confer on local authorities powers to set housing density targets; to make provision about the transfer of land formerly used for economic purposes to residential use; to transfer to local authorities certain powers relating to housing and planning; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Amendment of the Town and Country Planning Act 1990

- (1) The Town and Country Planning Act 1990 (c. 8) is amended as follows.
- (2) After section 71A insert—

“71B Duty as respects gardens and urban green space in exercise of planning functions

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In the exercise of any function under or by virtue of the planning Acts, the Greater London Authority Act 1999 (c. 29) or the Planning and Compulsory Purchase Act 2004 (c. 5), special regard shall be had to the desirability of preserving gardens and urban green spaces.

71C Duty as respects mixed use residential development

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In the exercise of any function under or by virtue of the planning Acts, the Greater London Authority Act 1999 or the Planning and Compulsory Purchase Act 2004, special regard shall be had to the desirability and practicality (in any particular case) of residential development being part of a development for commercial purposes.”

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2 Public bodies to report on residential development

- (1) A public body shall publish reports on the desirability and practicality of providing residential accommodation (whether for their employees or others) on developed land which they own.

- (2) A public body shall publish a report in accordance with subsection (1) by 31 December 2009 and subsequently at intervals of not more than seven years after the publication of the previous report.

3 Planning policy in England

- (1) Part 2 of the Planning and Compulsory Purchase Act 2004 is amended as follows. 5
- (2) In section 21(1) after “unsatisfactory” insert “(other than in respect of exempt housing matters)”.
- (3) After section 21(4) insert –
- “(4A) A direction may not be made in respect of any part of a development plan document which contains exempt housing matters.” 10
- (4) In section 23(2) insert at the beginning “Subject to subsection (3A)”.
- (5) In section 23(3) insert at the beginning “Subject to subsection (3A)”.
- (6) After section 23(3) insert –
- “(3A) The local planning authority may adopt a development plan document in so far as it relates to exempt housing matters as originally prepared or as modified to take account of – 15
- (a) any representations made in relation to those matters;
- (b) any recommendations made by the person appointed to carry out the independent examination of the document in relation to those matters; 20
- (c) any other matter they think is relevant.”
- (7) In section 23(4) for “subsection (2) or (3)” substitute “subsections (2), (3) or (3A)”.
- (8) In section 24(1) after “documents” insert “(except as they relate to exempt housing matters)”.
- (9) In section 27(1) at the beginning insert “Subject to subsection (1A)”.
- (10) After section 27(1) insert –
- “(1A) This section does not apply to any part of a development plan document which relates to exempt housing matters.” 30
- (11) After section 37(5) insert –
- “(5A) Exempt housing matters are the setting of net dwelling density targets and decisions relating to residential development on private gardens and urban green spaces.”
- (12) After section 38(5) at the beginning insert “Subject to subsection (5A)”.
- (13) After section 38(5) insert –
- “(5A) If to any extent a policy relating to exempt housing matters contained in a development plan for an area in England conflicts with another policy in the development plan the conflict must be resolved in favour of the last development plan document to be adopted.” 40

- (14) In section 38(8) after “(5) insert “and (5A)”.

4 Planning policy in Wales

- (1) Part 6 of the Planning and Compulsory Purchase Act 2004 is amended as follows.
- (2) In section 65(1) after “unsatisfactory” insert “(other than in respect of exempt housing matters)”.
- (3) After section 65(4) insert –
- “(4A) A direction may not be made in respect of any part of a local development plan which contains exempt housing matters”.
- (4) In section 67(1) insert at the beginning “Subject to subsection (2A)”.
- (5) In section 67(2) insert at the beginning “Subject to subsection (2A)”.
- (6) After section 67(2) insert –
- “(2A) The local planning authority may adopt a local development plan in so far as it relates to exempt housing matters as originally prepared or as modified to take account of –
- (a) any representation made in relation to those matters;
- (b) any recommendation made by the person appointed to carry out the independent examination of the document in relation to those matters;
- (c) any other matter they think is relevant.”
- (7) After section 67(4) insert –
- “(5) No direction may be made under subsection (4) because of or relating to exempt housing matters.”
- (8) In section 71(1) at the beginning insert “Subject to subsection (1A)”.
- (9) After section 71(1) insert –
- “(1A) This section does not apply to any part of a local development plan which relates to exempt housing matters.”
- (10) After section 78(4) insert –
- “(4A) Exempt housing matters are the setting of net dwelling density targets and decisions relating to residential development on private gardens and urban green spaces.”

5 Crown

This Act binds the Crown.

6 Interpretation

In this Act –

“developed land” means land covered by buildings or hard surfaces or which when last used was covered by buildings or hard surfaces, but does not include public highways;

“green space” means –

- (a) land laid out as a public garden;
 - (b) land used for the purposes of public recreation; or
 - (c) an area of open space which benefits wildlife and biodiversity;
- “net dwelling density” shall be calculated by including only those site areas which will be developed for housing and directly associated uses, including access roads within the site, private garden space, car parking areas, incidental open space and landscaping and children’s play areas, where these are provided; 5
- “planning Acts” has the same meaning as in section 117 of the Planning and Compulsory Purchase Act 2004 (interpretation); 10
- “public body” means –
- (a) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975 (c. 26)) or a Government department;
 - (b) the National Assembly for Wales;
 - (c) a local authority; 15
 - (d) a police or fire and emergency authority;
 - (e) such public body owning more than 10 hectares of land as may be prescribed by regulations;
- “prescribed” means prescribed in regulations made by the Secretary of State and subject to annulment in pursuance of a resolution of either House of Parliament. 20

7 Short title and extent

- (1) This Act may be cited as the Land Use (Gardens Protection etc) Act 2007.
- (2) This Act extends to England and Wales only.

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To make provision for the protection of gardens and urban green space; to confer on local authorities powers to set housing density targets; to make provision about the transfer of land formerly used for economic purposes to residential use; to transfer to local authorities certain powers relating to housing and planning; and for connected purposes.

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