

Local Government Association briefing

Housing and Planning Bill, House of Lords, Report Stage

20 and 25 April 2016



KEY MESSAGES

- An effective democratically-led planning system is critical to good place-making that drives growth and prosperity. Planning is not a barrier to development and local communities continue to approve development with almost nine in every 10 planning applications being granted permission.
- The number of homes being granted planning permission by local authorities during 2015 was 253,000, which is the highest level since 2007.¹ Research commissioned by the LGA shows that there are up to 475,000 homes in England which have been given planning permission but have yet to be built.
- Proposals on planning in the Bill risk reducing the influence of local communities over decisions that impact on their lives and may affect the capacity of the planning system to strategically and coherently drive growth across economies.

Local planning (clauses 129 to 134)

- We support the Government's efforts to streamline the local plan-making process. However, we are concerned about provisions that would give the Secretary of State new powers over local plans, including to intervene in the local plan-making process. It is vital that the local plan process is not undermined by national policy changes. An approach that seeks to understand what the blockages are and to resolve them will be more beneficial in the long-term than the imposition of a plan on an area.
- **The LGA opposes amendment 102A led by Baroness Williams of Trafford.**

Permission in principle and local registers of land (clauses 136 to 137)

- Efforts to introduce a permission in principle should ensure that communities continue to have a say on decisions that affect them through their local planning committees. The proposals should avoid creating undue complexity or confusion within the existing planning system and provide flexibility for local authorities to exempt certain types of development.
- **The LGA broadly supports amendments 104, 105, 106, 106A led by Baroness Williams of Trafford.**

Planning permission etc (clauses 138 to 141)

- Locally-set planning fees would enable councils to deliver responsive council planning services that are crucial to growth and building the homes we need. LGA research highlighted the unintended consequences of the current permitted development rights for office to residential conversion and warned

¹ Department for Communities and Local Government, March 2016, planning application statistics - <https://www.gov.uk/government/collections/planning-applications-statistics>

against making these rights permanent.²

- **The LGA supports amendment 108 led by Baroness Gardner of Parkes and Lord Foster of Bath; amendment 116B led by Lord True, Lord Kennedy of Southwark, Lord Kerlake, and Lord Tope; and amendment 116BA led by Lord Kennedy of Southwark and Baroness Andrews**

Planning obligations (clauses 142 and 143)

- LGA research highlighted a number of unintended consequences arising from a national policy change exempting developments of fewer than 10 units from having to contribute towards affordable housing.³ A more flexible system is needed that takes into account locally assessed need for housing and viability.
- **As such, the LGA supports amendment 119 led by Baroness Royal of Blaisdon, Lord Best, the Lord Bishop of St Albans, and Baroness Parminter.**

Powers of planning alternative provision of processing services (clauses 145 to 151)

- Applicants and developers need stability from the planning system in order to deliver the homes we need. It is important that the proposals to introduce competition in the processing of planning applications do not destabilise local success or add complexity, uncertainty and additional costs to the planning system. Planning decisions should continue to be made locally through a democratically accountable planning system.
- **The LGA supports amendment 120A and 121, 121C Baroness Williams of Trafford; amendment 122 led by Lord Kennedy of Southwark and Lord Beecham; amendment 122A led by Lord True; amendments 123, 124, 125 and 126 led by Lord Kennedy of Southwark and Lord Beecham; amendment 123B led by Lord Shipley; amendment 123E led by Lord True; and amendment 124A led by Lord True.**

Public authority land (clauses 183-187)

- Councils support the Government's ambitions to realise value through better and more strategic management of the over £300 billion worth of land and buildings the public sector holds. The LGA has called on Government to work with local authorities to exercise a 'power to direct' the sale of surplus public sector land in their local area.
- **The LGA supports the intention of amendment 128YE led by Lord True.**

BACKGROUND INFORMATION

Local planning (clauses 129 to 134)

Amendment 102A, Clause 129, Baroness Williams of Trafford

The LGA does not support amendment 102A. If passed, this amendment would force local planning authorities to adopt a local development scheme prepared by the Secretary of State or the Mayor of London.

² http://www.local.gov.uk/web/guest/media-releases/-/journal_content/56/10180/6591087/NEWS

³ http://www.local.gov.uk/research-housing/-/journal_content/56/10180/7390392/ARTICLE

- We support the Government's efforts to streamline the local plan-making process. However, we are concerned about provisions that would give the Secretary of State new powers over local plans, including to intervene in the local plan-making process. Councils have made significant progress with plan-making, and getting plans in place requires significant time and effort.
- It is vital that the local plan process is not undermined by national policy changes. An approach that seeks to understand what the blockages are and seeks to resolve them will be more beneficial in the long-term than the imposition of a plan on an area.

Permission in principle and local registers of land (clauses 136 to 137)

Amendment 104, 105, 106, 106A, Clause 136, Baroness Williams of Trafford

The LGA broadly supports amendments 104, 105, 106, 106A. These amendments would provide additional clarity on the specific documents that permission in principle would apply to. They would also introduce potential flexibility for local planning authorities on when permission in principle takes effect and/or ceases to have effect.

- Efforts to introduce a permission in principle should ensure that communities continue to have a say on decisions that affect them through their local planning committees. In addition, the permission in principle proposals should avoid creating undue complexity or confusion within the existing planning system.
- There should be flexibility for local authorities to exempt certain types of development and development on certain land or in certain areas from the permission in principle development order as well as from the register of land.

Planning permission etc (clauses 138 to 141)

Amendment 108, Clause 141, Baroness Gardner of Parkes, Lord Foster of Bath

The LGA supports amendment 108, which would enable local planning authorities to set fees and charges for any function that they perform. Local planning authorities would then be able to set, for example, fees and charges to enable as a minimum, the cost of processing planning applications to be recovered.

Amendment 116B, after Clause 141, Lord True, Lord Kennedy of Southwark, Lord Kerlake

The LGA supports amendment 116B, which would enable local planning authorities to consider conversion of offices to residential properties through a full planning application process, taking into account all relevant material planning considerations.

Amendment 116BA, after clause 141, Lord Kennedy of Southwark and Baroness Andrews

The LGA supports amendment 116BA, which would enable local planning authorities to set fees and charges to enable full cost recovery for development control services, including the cost of processing planning applications.

- The introduction of locally-set planning fees would enable councils to deliver responsive council planning services that are crucial to growth and building the homes we need. Councils and developers agree it is important that councils are able to set planning fees locally in order to recover costs. Councils have had to spend in excess of £450 million covering the costs of processing applications over the last three years.

- LGA research highlighted the unintended consequences of the current permitted development rights for office to residential conversion and warned against making these rights permanent.⁴

Planning obligations (clauses 142 and 143)

Amendment 119, after Clause 143, Baroness Royal of Blaisdon, Lord Best, the Lord Bishop of St Albans, Baroness Parminter

The LGA supports amendment 119. This would enable local planning authorities to seek affordable housing contributions on certain sites, including developments of 10 units or less.

- LGA research highlighted a number of unintended consequences arising from a national policy change exempting developments of fewer than 10 units from having to contribute towards affordable housing.⁵ We have called for a more flexible system that takes into account locally assessed need for housing and viability.

Powers of planning alternative provision of processing services (clauses 145 to 151)

Amendment 120A and 121, Clause 145, Baroness Williams of Trafford

The LGA supports the intention of amendments 102A and 121. This will ensure that the pilot approach is time-limited and will be evaluated, with the results and conclusions being made publicly available.

Amendment 121C, Clause 145, Baroness Williams of Trafford

The LGA supports the intention of amendment 121C, which would provide clarity that planning decisions will continue to be determined locally through a democratically accountable planning system, even in cases where a planning application is processed by a designated person.

Amendment 122, Clause 145, Lord Kennedy of Southwark, Lord Beecham

The LGA supports the intention of amendment 122. This would ensure that designated persons (a 'local authority or public body') for the purposes of processing planning applications, if not undertaken by the responsible planning authority, were on an accountable footing.

Amendment 122A, Clause 145, Lord True

The LGA supports the intention of amendment 122A, which would require designated persons to provide information on any past or present connection with the applicant they are acting on behalf of. This amendment would help to address issues of potential conflict of interest.

Amendment 123, 124, 125 and 126, Clause 145, 146, 147 and 148 Lord Kennedy of Southwark, Lord Beecham

The LGA supports the intention of amendments 123, 124, 125 and 126, which propose leaving out all clauses relating to powers of planning alternative provision of processing services. Applicants and developers need stability from the planning system in order to deliver the homes we need, not further changes which risk increasing complexity and cost.

Amendment 123B, Clause 146, Lord Shipley

The LGA supports the intention of amendment 123B, which would enable local

⁴ http://www.local.gov.uk/web/guest/media-releases/-/journal_content/56/10180/6591087/NEWS

⁵ http://www.local.gov.uk/research-housing/-/journal_content/56/10180/7390392/ARTICLE

planning authorities, in agreement with the Secretary of State, to enter into a fee flexibility pilot scheme under specified conditions. This could enable local planning authorities to set, for example, fees and charges to enable, as a minimum, the cost of processing planning applications to be recovered.

Amendment 123E, Clause 146, Lord True

The LGA supports amendment 123E, which would ensure that advice provided by a designated person is not binding on the responsible planning authority. This would ensure that planning decisions will continue to be determined locally through a democratically accountable planning system, even in cases where a planning application is processed by a designated person.

Amendment 124A, Clause 147, Lord True

The LGA supports amendment 124A. The amendment seeks to ensure that designated persons do not charge fees for processing planning applications that exceed those that can be charged by responsible planning authorities. This would ensure that local planning authorities can compete on a level playing field with designated persons in processing planning applications.

- The LGA is concerned that proposals to introduce competition in the processing of planning applications will destabilise local success and add complexity, uncertainty and additional costs to the planning system.
- A planning application is not simply a transaction between an application and a determining body, but a consultative process mediating various interests to ensure developments contribute towards strategically well-designed, prosperous local communities and economies. It is crucial to safeguard this, and the vital role that locally elected leaders play in ensuring communities buy into new developments.
- The introduction of designated persons as currently proposed, risks undermining public perception of the planning system, with a view from communities that designated persons are unlikely to recommend refusal for a planning application they have been appointed to process.
- Councils and developers both agree that it is important that councils are able to set planning fees locally in order to recover costs. However, the conditions created by competition pilots means that it would not be appropriate to use an evaluation of fee setting within the pilots to understand the potential of locally-set fees for all areas.

Public authority land (Clauses 183-187)

Amendment 128YE, after clause 184, Lord True

The LGA supports the intention of amendment 128YE, which would enable local authorities to bring forward the development of unused or underused public sector land.

- Councils support the Government's ambitions to realise value through better and more strategic management of public sector land. The public sector holds more than £300 billion worth of land and buildings and local government is set to achieve £13.3 billion land and property sales up to 2018.
- We have called on Government to work with local authorities to exercise a 'power to direct' the sale of surplus public sector land in their local area. The One Public Estate programme has demonstrated that council management of public land can achieve significant additional capital receipts, providing they have the necessary powers to do so.