



Department for Levelling Up,
Housing & Communities

Baroness Scott of Bybrook OBE
Parliamentary Under Secretary of State

**Department for Levelling Up, Housing and
Communities**
2 Marsham Street
London
SW1P 4DF

www.gov.uk/dluhc

To: All Peers

4 July 2023

My Lords,

LEVELLING-UP AND REGENERATION BILL - GOVERNMENT AMENDMENTS AT LORDS REPORT

The Levelling-up and Regeneration Bill is an opportunity to drive local growth, empower local leaders to regenerate their areas, and ensure that everyone can share in the United Kingdom's success.

I want to thank noble Lords for their valuable contributions and feedback during Committee stage. In response to these, I have tabled a number of Government amendments today which strengthen the Bill and respond directly to points raised.

I have today tabled amendments relating to the recommendations of the Delegated Powers and Regulatory Reform Committee (DPRRC). Annex A sets out the detail of where we are implementing the recommendations, or have developed concessions in lieu where necessary to narrow and clarify relevant powers. Our response to the DPRRC has also been provided today, which sets out further detail on our approach.

Following debates in the House, I heard the strength of feeling on a wide range of issues related to planning, the environment and local government. As a result, I have tabled amendments to reflect these points. These will strengthen our commitment to local government, delivering affordable housing for communities and providing infrastructure to support sustainable development. I have also tabled amendments that are designed to address concerns raised about the Infrastructure Levy, clarify its aims, and help ensure it meets these aims, addressing points raised by Baroness Warwick of Undercliffe, Lord Etherton, Lord Thurlow, Baroness Taylor of Stevenage, and a number of other noble Lords.

I would also like to pay tribute to the efforts of the Right Reverend Prelate the Bishop of Bristol, and the noble lords, Lord Cormack and Lord Best in bringing the issue of funding for the maintenance of church buildings to the House's attention, and I am pleased to say that the Government has tabled an amendment to clarify that the Local Government Act 1894

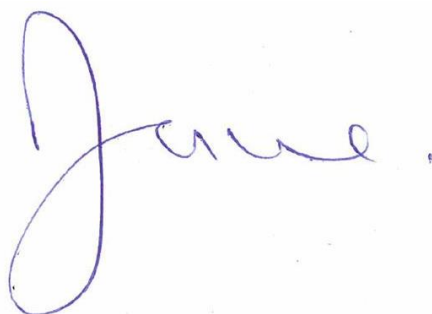
does not prohibit parish councils from funding the maintenance and upkeep of churches and other religious buildings.

I have also tabled two amendments to Part 1 (Levelling Up Missions) of the Bill which respond to the concerns of the devolved administrations to these clauses, while being clear that we are not seeking legislative consent specifically for this Part of the Bill. More detail on these can be found in Annex C of this letter.

In addition to these amendments, I have tabled a number of minor and consequential amendments to the Bill. Short summaries of these amendments are provided below in Annex D.

I hope noble Lords will be able to support these amendments, I look forward to continuing to work with you as the Bill progresses through the House. Please do not hesitate to get in touch if you have any questions in the meantime.

Yours ever,

A handwritten signature in blue ink, appearing to read 'Jane', with a large loop at the start and a trailing flourish.

BARONESS SCOTT OF BYBROOK OBE

Annex A: Amendments relating to the DPPRC report recommendations.

Street Vote Development Orders

The DPPRC recommended that the policy in relation to street votes was too broad to be left to regulations. Whilst a certain amount will need to be delivered through regulations, I have tabled a number of amendments to address the Committee's recommendations in this area.

Firstly, I am replacing the power to add to, remove from or amend the list of excluded areas with a power to specify or describe additional excluded areas in regulations. I am also replacing the power to add to, remove from or amend the list of excluded development with a power to specify or describe additional excluded development in regulations; and narrowing the power to modify or exclude the application of biodiversity net gain requirements so that it is a power to modify only.

In addition, I have tabled an amendment to replace the power to add to, amend, or remove requirements from the list of requirements that planning conditions requiring a section 106 obligation must meet with a power to prescribe additional requirements in regulations. This was not the subject of a specific recommendation by the Committee but responds to a wider point on the extent of powers.

Relief from planning enforcement

The DPPRC recommended that we bring forward changes to limit the power available to the Secretary of State through regulations to stop authorities taking enforcement action against non-compliance with certain conditions, so that it can only be exercised during civil emergencies or where compliance with the relevant planning condition/s would result in economic disruption. The DPPRC also wanted to ensure that the period of relief from complying with prescribed conditions could not be indefinite. I have tabled amendments in response to these recommendations.

Community Land Auctions

The DPPRC recommended changing the power of direction in clause 133(1)(a), which allows the Secretary of State to direct that a local planning authority preparing a local plan may put in place a Community Land Auction arrangement, so that instead local planning authorities wishing to pilot a Community Land Auction arrangement should instead be designated by regulations subject to the negative resolution procedure, in order to allow for an appropriate level of Parliamentary scrutiny. I have tabled amendments to implement this recommendation, removing any reference to a power to direct in Part 5, and making associated changes to clause 231 of the Bill to ensure that the negative resolution procedure will apply to the new regulation-making power in clause 133(1).

Building Safety Regulator

The DPPRC was of the view that the powers in this part of the Bill could be used to change the functions of the regulator. In order to address this, I have tabled a number of amendments in this area.

Firstly, I have tabled an amendment to replace the power in clause 223(3)(a) to make provision conferring new functions on, or modifying the existing functions of the new regulator with the power to make regulations conferring on the new regulator the functions of the Health and Safety Executive as the building safety regulator, as currently specified in the Building Safety Act 2022. This addresses the specific DPPRC view that these powers could be used to change the functions of the regulator.

The second amendment amends the power in clause 223 (4) to make consequential amendments to other Acts, so that this power is limited to specific legislation (The Health and Safety at Work etc. Act 1974; The Building Act 1984; Town and Country Planning Act 1990; [section 54] of Planning and Compulsory Purchase Act 2004; and The Building Safety Act 2022).

In addition, regulation making powers in clause 223 will sunset two years after the final report of the Grenfell Tower Inquiry is presented to Parliament. The final amendment removes the power to extend that sunset.

Procedural amendments

As outlined more fully in my response to the DPRRC's reports upon the bill (24th and 31st reports HL 142 and 181) I have tabled amendments which respond to the Committee's recommendations on the parliamentary procedure used for various delegated powers in the Bill.

Annex B: Wider amendments:

Part 2 Commencement provisions

Some provisions in Part 2 (devolution) are to be commenced on Royal Assent to support the delivery of our levelling up local leadership mission, and the implementation of the agreed and published devolution deal with the East Midlands. These amendments allow related statutory requirements to be undertaken before commencement in order to enable timely implementation of secondary legislation for the running of elections. It will also enable the consent to the conferral of police and crime commissioner functions onto combined authority mayors to be given under the new regime in time for the next mayoral elections (where desired by a local area).

Local skills improvement plans – authorities with devolution deals

This amendment will allow individual local authorities with devolution deals to be listed amongst the 'relevant authorities' who are required to be consulted on a local skills improvement plan for their area, alongside combined authorities and combined county authorities. It will also allow us to fully implement agreed devolution deals with individual local authorities where additional functions are being confirmed to them via section 16 of the Cities and Local Government Devolution Act 2016.

Infrastructure Levy

I have tabled four amendments related to the Infrastructure Levy. The first aims to make clear on the face of the Bill an existing policy commitment that local planning authorities will be able to require developers to pay a proportion of their Levy liabilities in-kind as onsite affordable housing. This will be known as the 'right to require'. The detail of how the 'right to require' will operate will be set out in regulations and guidance.

The second amendment will place a duty on the Secretary of State to publish a report on the impact of the Infrastructure Levy on the delivery of affordable housing and other infrastructure over a specified period of time. The report will be published no later than five years after the first Levy charging schedule comes into effect. This underscores the Government's commitment to assessing the impact of the Infrastructure Levy in an open and transparent way, allowing for sufficient scrutiny.

We are also introducing a third set of amendments to further support the Government's commitment that the Infrastructure Levy will be capable of delivering at least as much affordable housing as the existing system of developer contributions. These amendments will require local authorities, when setting their Levy rates, to seek to ensure that the level of affordable housing which is funded, and provided by developers, and the amount of such funding, is maintained or exceeded. This duty will not apply if local authorities determine that complying with it would make development of the area economically unviable. These amendments will not impose any new restrictions on local authorities' ability to prioritise how they spend their Levy proceeds.

The fourth amendment supports the Government's 'test and learn' approach to introducing the Infrastructure Levy. It aims to achieve this by allowing regulations to disapply the Infrastructure Levy in a particular local authority area, or for a particular charging authority, if the Levy is not delivering on its policy aims in that area. The local authority may then use Section 106 planning obligations to secure affordable housing and infrastructure required to mitigate the impacts of new development and support sustainable growth. The Secretary of State will retain the ability to implement the Levy nationally where it is meeting its aims.

We are also making two further commitments. The first is to commit to publish a report on the interaction between the Infrastructure Levy and Permitted Development Rights. The Government has recently concluded a technical consultation seeking views on the extent to which the Levy should be charged on a wider range of developments which are permitted under permitted development rights than the current system of developer contributions. We are keen to keep this interaction under close review. The second commitment is to consult further on fundamental design choices before publishing draft Infrastructure Levy regulations. This will provide a valuable opportunity for members of the public and those involved in the system of developer contributions to participate in shaping its design before providing detailed representations on the draft legislation.

Voting on Local Authority housing matters in the City of London

This amendment responds to issues raised during Lords Committee by Lord Naesby. It removes the restrictions which apply uniquely to Members of the City of London's Common Council in relation to their ability to vote on housing matters if they are a tenant of the council or have a beneficial interest in the land. They would, instead be covered by the 'Disclosure of Pecuniary Interest' regime set down in the Localism Act 2011. This would still require them to disclose their interest if they have a beneficial interest in the land, but they would only be able to discuss and vote on them, if they had applied for and been granted dispensation to do so.

Statutory Consultees – Town and Country Planning Act

This amendment responds to issues raised during Lords Committee by Baroness Parminter and Baroness Taylor of Stevenage. It removes the exclusions to charging of advice, information, or assistance to an excluded person relating to an application, proposed application or proposal for a permission, approval or consent under for the purposes of the planning Acts. This amendment would respond to issues raised during Lords Committee by Baroness Parminter and Baroness Taylor of Stevenage

Funding for faith buildings

This amendment responds to issues raised during Lords Committee by Baroness Andrews, Lord Best, Lord Scriven, Lord Cormack, Baroness Scott of Needham Market and The Lord Bishop of Bristol. It clarifies that the Local Government Act 1894 does not prohibit parish councils from funding the maintenance and upkeep of churches and other religious buildings.

Childcare

The issue of childcare has been raised throughout the Bill's passage and so I have tabled amendments to the Childcare Act 2006 to support the Government's plans to increase the number of childminders, which are generally more flexible and affordable than other types of childcare provision. The first amendment will increase, from 3 to 4, the number of people (including childminders and/or assistants) that can work together under a childminder's registration.

The second amendment will increase premises freedoms to allow childminders and childcare on domestic premises (a group of 4 or more childminders) greater flexibility to operate outside of their domestic premises, including the option for childminders to operate solely from non-domestic premises. This will support the delivery of the Government's expansion of its 30 hours early education entitlement, which was announced in March, by helping to create more places in the sector.

Annex C: Levelling Up Missions amendments for devolved administrations

In order to ensure that the Bill fully supports the devolution settlement, I have tabled a number of amendments which address points raised in discussions with the Devolved Administrations. The first amendment responds to concerns debated in Lords Committee stage and introduces a duty on the UK Government to consult the devolved administrations before laying the statement of levelling-up missions and annual reports on them in Parliament. This amendment aims to reassure the devolved administrations that their responses will be taken into consideration before the statement and reports are published.

The second amendment adds a commitment on the face of the Bill which would require the UK Government to have regard to any role of the devolved legislatures and devolved authorities in connection with the levelling up missions and lay before Parliament a document setting out how the UK Government has had regard, when producing the Statement of Missions.

Annex D: Minor and technical amendments

High Street Rental Auctions

This amendment responds to issues raised during Lords Committee by Lord Etherton and Lord Thurlow. Will clarify that occupation by true 'squatters' (i.e. persons who have broken into commercial high street premises and are using them as their residence) will not count for the purpose of assessing the vacancy condition, but occupation by other types of trespassers (e.g. commercial tenants who have remained in occupation following the expiry of their lease) may count for the purpose of assessing the vacancy condition.

Changing the wording of His Majesty's Government

This is a clarificatory and technical amendment to clause 6, which provides that references in Part 1 of the Bill to “His Majesty’s Government” are to “His Majesty’s Government in the United Kingdom”. That wording is consistent with the way that the UK Government is generally described across the statute book. The change makes it clearer that the statement of levelling-up missions and the annual reports under Part 1 will refer to the objectives and actions of the UK Government rather than the devolved administrations. It is not a substantive change.

Combined county authority consequential amendments

Will enable the Localism Act 2011 and Equality Act 2010 to apply to combined county authorities (the new local government institutional model being established via the Bill), in the same way these Acts apply to combined authorities and local authorities. Two further amendments will also amend cross references in existing amendments in Schedule 4 to ensure correct reference to current legislation.

Consequential amendment to section 218(11)(b) of the Planning Act 2008

Is needed because of changes made by section 13 of the Judicial Review and Courts Act 2022. Under section 13 of the Judicial Review and Courts Act 2022, the Secretary of State may increase the term of imprisonment on summary conviction from 6 months to 12 months (and back down again). Section 218(11)(b) of the Planning Act only allows a maximum term of imprisonment of 6 months on summary conviction. An amendment is required to section 218(11) to align with the overarching Ministry of Justice policy as regards sentencing. Section 218(11) and (12) of the Planning Act 2008 will be amended to reflect existing wording used in new section 204S(13) and (14) in Schedule 12 to the Bill which reflects current sentencing policy.

Heritage

The Historic Environment (Wales) Act 2023 which has just been enacted amends many of the same heritage provisions as this Bill. This amendment would give me the power, through regulations, to make purely technical amendments to the Levelling-up and Regeneration Act to address any consequential issues arising from the enactment of the Historic Environment (Wales) Act 2023, and to ensure that the provisions in our Act work as intended.

Neighbourhood Planning

The Bill, as currently drafted, amends the list of basic conditions set out in Schedule 4B to the Town and Country Planning Act 1990 that draft neighbourhood development plans and orders must meet before they can be brought into force. This amendment would make corresponding changes to the basic conditions set out in paragraph 11(2) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 so that the same conditions apply when a neighbourhood development plan is being modified.

Statutory Consultees – Nationally Significant Infrastructure Projects

Will remove sub-paragraph (4) which prohibited statutory consultees charging fees for their services related to Nationally Significant Infrastructure Projects where the service was being provided to an excluded person, the definition of which included the Secretary of State. The amendment would also make a consequential amendment to sub-paragraph (6) which sets out relevant definitions. This amendment is required to ensure that the clause delivers the

policy intention of enabling named statutory consultees to obtain full cost-recovery for the provision of their services in relation to Nationally Significant Infrastructure Projects as prescribed by regulations, regardless of the person to whom those services are provided.

Compulsory Purchase consequential amendments: Historic Environment (Wales) Bill

An earlier consequential amendment made a minor amendment to the Historic Environment (Wales) Bill in consequence of clause 173. As that Bill had not completed its passage through the Senedd Cymru at the point our amendment was tabled, the amendment included the power for the Secretary of State to amend its wording by regulations if the relevant sub-section of the Historic Environment (Wales) Bill was amended before Royal Assent. That Bill however has now completed its passage without amendment to the relevant sub-section. The regulation-making power is therefore not needed and this amendment removes it from the Levelling-up and Regeneration Bill.

Compulsory Purchase minor amendment: Data standards

This technical amendment would add the following primary legislation to the definition of “Relevant compulsory purchase legislation” under clause 177(6):

- Part 7 of the Housing and Planning Act 2016; and
- section 9 of the Tribunals and Inquiries Act 1992.

The amendment is required as both Acts (or regulations relating to compulsory purchase made under them, in the latter case, such as the Compulsory Purchase (Inquiries Procedures) Rules 2007) make provision requiring the preparation by acquiring authorities of compulsory purchase documentation which we want approved data standards published under clause 177(3) to be applicable to.