

**Neighbourhood Planning Bill**  
**Briefing for Day 1 of Committee - 31 January 2017**

Wildlife and Countryside Link (Link) brings together 46 voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management, and encourage respect for and enjoyment of natural landscapes and features, the historic and marine environment and biodiversity. Taken together our members have the support of over 8 million people in the UK and manage over 750,000 hectares of land. This briefing has been produced by members of Link's Land Use Planning Group.

**Clause 12 Restrictions on power to impose planning conditions**

*(5) Planning permission for the development of the land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition.*

There has been much rhetoric but little evidence that pre-commencement conditions are slowing down the delivery of development. The Bill proposes that applicants will need to give written consent before pre-commencement conditions can be used, which concerns us for the following reasons:

- It would cause further strain to already overstretched Local Planning Authorities (LPAs);
- There is a lack of detail on how this provision will be applied at different stages of the decision making process;
- The risk for unintended consequences is substantial;
- Delays to planning decisions are likely to increase;
- It would constrain the ability of LPAs to introduce conditions to protect our natural and historic environment; and
- It could undermine the Government's commitment to protect our natural and historic environment.

Whilst we welcome Lord Bourne of Aberystwyth's assurances that he is 'keen to engage on pre-commencement planning conditions to ensure that there is appropriate protection for the cathedrals of the natural world', we are yet to be convinced that this will result in any practicable safeguards for our natural environment.

In the Government's response to the consultation on improving the use of planning conditions<sup>i</sup> (December 2016), paragraph 11 attempts to provide a reassurance though some warm words regarding safeguarding 'sustainable development'. However, the current definition of sustainable development in the National Planning Policy Framework (NPPF) spans 200 paragraphs and 40 pages. As such it can give very little clarity, instead only causing confusion and in turn, delay.

For clarity's sake we would like to see Clause 12 (sections 5, 6 and 7) deleted. We are concerned that an alternative approach allowing LPAs local discretion would breed local differentiation and therefore create confusion for developers (including house builders) who work across a number of LPAs. **We would therefore encourage Peers to press the Minister to delete these sections of the bill, to ensure that the ability to introduce conditions to protect important environmental assets is not lost.**

We are not alone in voicing concerns over Clause 12 and note that the Royal Town Planning Institute<sup>ii</sup>, the British Property Federation and the Planning Officers Society<sup>iii</sup> have all expressed concerns about the proposal.



**There are a number of detailed issues which we do not believe have been addressed by the Government and which we therefore suggest should be posed to the Minister during Committee:**

- Will the provision apply to complex Environmental Impact Assessments, minerals and waste developments, all of which have the potential to cause significant harm?
- How will Councillors be able to refuse a development on the basis of not being able to attach a condition? A legislative proposal would need to spell out this exception / provision. It's difficult to find the evidence during a committee meeting if the officer has proposed approval but councillors want an extra condition proposed, and any refusal would likely fail at appeal.
- Could a list of acceptable and unacceptable pre-commencement conditions and examples be supplied by the Minister?
- How will the proposed pre-commencement condition sign-off, fit with the provisions set out in the Infrastructure Act 2015 (S29), which already makes such discharges automatic "deemed discharges" in relation to all but a defined list<sup>iv</sup>?
- The Home Builders Federation paper on pre-commencement conditions<sup>v</sup> (as cited by Lord Bourne of Aberystwyth during the second reading of the Bill) sets out that many pre-commencement conditions could instead be 'pre-occupation conditions'. This approach seems to just delay the decision-making process and make planning enforcement more difficult. The Minister's thoughts on this proposal would be most welcome.

**This briefing is supported by the following 11 Link members:**

- Bat Conservation Trust
- Campaign to Protect Rural England
- Council for British Archaeology
- Friends of the Earth – England
- National Trust
- Open Spaces Society
- RSPB
- The Wildlife Trusts
- Wildfowl and Wetlands Trust
- Wildlife Gardening Forum
- Woodland Trust

For more information please contact Victoria Bankes Price, Chair of Link's Land Use Planning Working Group: 0343 770 5767 / 07766133182

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<sup>i</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/577341/20161213\\_-\\_Condition\\_ConDoc\\_Gov\\_t\\_Response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/577341/20161213_-_Condition_ConDoc_Gov_t_Response.pdf)

<sup>ii</sup> [http://rtpi.org.uk/media/2173230/House%20of%20Lords%20Neighbourhood%20Planning%20Bill%20Briefing\\_13%20Jan%202017.pdf](http://rtpi.org.uk/media/2173230/House%20of%20Lords%20Neighbourhood%20Planning%20Bill%20Briefing_13%20Jan%202017.pdf)

<sup>iii</sup> <http://www.bpf.org.uk/sites/default/files/resources/BPF-POS-rresponse-on-Conditions.pdf>

<sup>iv</sup> Development subject to EIA; Flooding; Contaminated land; Archaeology; Highways; Reserved matters; Planning obligations

<sup>v</sup> [http://www.hbf.co.uk/fileadmin/documents/Policy/Publications/Pre-Commencement\\_Conditions.pdf](http://www.hbf.co.uk/fileadmin/documents/Policy/Publications/Pre-Commencement_Conditions.pdf)

