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Growth and Infrastructure Bill: Committee Stage Report

RESEARCH PAPER 12/78 13 December 2012

This is a report on the House of Commons Committee Stage of the *Growth and Infrastructure Bill*. It complements Research Paper 12/61 prepared for Commons Second Reading. The date for Report Stage and Third Reading is 17 December 2012.

Significant areas of debate at Committee Stage included: proposals to allow applications for planning permission to go direct to the Planning Inspectorate; the renegotiation of affordable housing planning obligations; postponement of a planned revaluation of business rates; and on the proposed new employment status of employee-owner.

Some substantive Government amendments were made to the Bill on clause 5, the modification or discharge of affordable housing requirements. Two new clauses were added by the Government to the Bill: new clause 3 to remove the requirement for *Planning Act 2008* consent and certification that currently needs to be acquired alongside development consent; and new clause 14 on prior approvals related to permitted development right change of use. The Government also made a number of technical amendments.

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Research Paper 12/78

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Summary

The Government stated that the *Growth and Infrastructure Bill* would "help the country compete on the global stage by setting out a comprehensive series of practical reforms to reduce confusing and overlapping red tape that delays and discourages business investment, new infrastructure and job creation." It is largely an amending piece of legislation which covers several disparate areas.

At Second Reading the Secretary of State for Communities and Local Government, Eric Pickles, said measures in the Bill would help support local firms, local jobs, local housing and local regeneration. The Shadow Secretary of State, Hilary Benn, responded that the Bill could not be described as a "growth" Bill and it would not help to get the economy back on track. He did not think planning policy was to blame for the double-dip recession, but the Government's failed economic policies. He called it a "flawed and incoherent Bill" and said some clauses were an "assault on local democracy".

Significant areas of debate at Committee Stage included: proposals to allow applications for planning permission to go direct to the Planning Inspectorate where the local planning authority (LPAs) had been designated for having a record of very poor performance (clause 1); the renegotiation of affordable housing planning obligations (clause 5); postponement of a planned revaluation of business rates (clause 22); and on the proposed new employment status of employee-owner (clause 23).

In Committee Opposition Members voted against clause 1. Many of their amendments here sought to restrict the application of the clause and to probe the Minister for further information. In response the Minister provided more detail about how designated LPAs would be supported and monitored. He suggested that there could be a process of negotiation with Government if an LPA had reasons for its poor performance.

On clause 5, on modification or discharge of affordable housing obligations, the Minister promised to review how the clause would apply to rural exception sites. He also promised guidance on how viability of affordable housing obligations would be judged. A number of Government amendments were agreed including: introducing a default period by which a LPA must conduct its affordable housing renegotiations; introducing a default position to revert back to the original agreement if development had not been completed within three years of renegotiation; and to allow Government to amend the definition of "affordable housing requirement". Opposition Members voted against the clause.

In the debate on clause 22, on the postponement of the planned revaluation of business review, the Opposition moved amendments to require further analysis on the numbers of business rate payers affected before the clause came into force. These were not accepted.

Clause 23 on the new employment status of employee owner was voted against by Opposition Members. Amendments moved by the Opposition principally sought to ensure employees accepted employee owner status voluntarily, reflecting concern that employees may be forced to accept the status.

Two new Government clauses were added to the Bill: new clause 3 to remove the requirement for *Planning Act 2008* consent and certification that currently needs to be acquired alongside development consent; and new clause 14 on prior approvals related to permitted development right change of use.

Technical Government amendments were made to clauses 5, 13 and 23.

1 Introduction

The *Growth and Infrastructure Bill* was introduced to the House of Commons on 18 October 2012 and its Second Reading took place on 5 November 2012 (having been originally scheduled to take place on 30 October 2012).[1] The Bill and its Explanatory Notes are available on the Parliament website, and the Department for Communities and Local Government (DCLG) has published a background note on the Bill.[2]

The Bill was not announced in the Queen's Speech, but stemmed from concern by the Government that various aspects of the planning system were burdened by "unnecessary bureaucracy that can hinder sustainable growth."[3] The Bill also implements a number of recommendations from the *Penfold Review of non-planning consents*, undertaken by planning expert Adrian Penfold in 2010, into consents which have to be obtained alongside or after, and separate from, planning permission, to complete and operate a development. Finally, the Bill also contains two clauses under the heading "economic measures" which relate to business rates and the creation of a new employment status of "employee-owner". It is largely an amending piece of legislation.

Since the publication of the Bill and the Second Reading Debate the Government has published:

- The *Growth and Infrastructure Bill Impact Assessment*, 12 November 2012;
- The *Planning performance and the planning guarantee Consultation*, 22 November 2012, which relates to clause 1 of the Bill on when planning applications could be made direct to the Planning Inspectorate rather than the local planning authority; and
- *Nationally significant infrastructure planning: extending the regime to business and commercial projects – consultation*, 26 November 2012, which relates to clause 21 of the Bill on bringing new business and commercial projects within the nationally significant infrastructure planning regime.

The clauses of the Bill not mentioned in this paper were those that were generally accepted and supported by all Parties and which did not generate a large amount of discussion or debate. The clause numbers refer to those from the Bill as first introduced in the House of Commons, Bill 75 of 2012-13.

2 Second Reading

The *Growth and Infrastructure Bill* had its Second Reading on 5 November 2012. The Secretary of State for Communities and Local Government, Eric Pickles, outlined the measures in the Bill and stated that they would help support local firms, local jobs, local housing and local regeneration. They would remove the "unnecessary red tape that holds our country back."[4]

Hilary Benn, Labour Shadow Secretary of State for Communities and Local Government, said that the Bill could not be described as a "growth" Bill and said it would not help to get the economy back on track. He did not think planning policy was to blame for the double-dip recession, but the Government's failed economic policies. He called it a "flawed and

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1 HC Deb 5 November 2012 cc596-697
2 DCLG, *Growth and Infrastructure Bill Background Paper*, 18 October 2012
3 HC Deb 6 September 2012 c31WS
4 HC Deb 5 November 2012 c606

incoherent Bill".[5] In particular, he called clauses 1, 5 and 21 an "assault on local democracy".[6]

Clause 1 of the Bill would allow for applications for planning permission to go direct to the Planning Inspectorate where the local planning authority had a record of very poor performance in the speed or quality of its decisions. Hilary Benn called this clause "objectionable", said it would "nationalise" planning decisions and that it was the opposite of "localism."[7] Minister of State, Department for Business, Innovation and Skills, Michael Fallon, replied that only a small minority of councils needed to improve their performance and emphasised that planning applicants would still be able to apply to their local planning authority if they wished.[8]

On **clause 5**, Hilary Benn questioned why it was only affordable housing obligations that could be renegotiated under the Bill. That it was not affordable housing obligations which were to blame for stalled housing development, but rather access to mortgage finance.[9] Michael Fallon said the clause would help to unlock development of 75,000 stalled homes.[10]

Responding to concerns from Members, Michael Fallon explained that **clause 7**, on electronic communications installations, was deliberately written to be technology neutral. He clarified that the intention of it was to allow cheaper and quicker deployment of broadband street cabinets and overhead infrastructure, and not mobile phone masts. He also set out that providers of such infrastructure will have to notify local authorities of their plans and sign a code of practice to ensure that the infrastructure is sited "sensitively".[11]

Clause 21 would allow certain commercial and business projects to be decided by the Planning Inspectorate, rather than by local authorities. Hilary Benn said it would create wide powers to take planning applications away from local areas. He asked for more information about the types of project to be included and questioned whether the Planning Inspectorate would be able to cope with the additional workload.[12] Michael Fallon replied that the Government consultation on this area would set out more detail about what was envisaged.[13]

Hilary Benn also said that Labour Members would oppose **clause 23** on creating a new employment status of employee owner. He explained that this clause would become a "lawyers paradise" in relation to unfair dismissal claims and said that it would take away "fundamental rights in the workplace".[14]

Hilary Benn said that some clauses were "sensible" and that they would be supported. These include those on the energy industry (**clauses 15-18**), **clause 6** on the disposal of land held for planning purposes, **clause 8** on reducing the requirement for periodic review of minerals planning permission and **clauses 9 and 10** making it quicker to stop up or divert rights of way when development is taking place.[15] The House divided on whether the Bill should be given a Second Reading: Ayes 305, Noes 213.[16]

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5 HC Deb 5 November 2012 c606-7
6 HC Deb 5 November 2012 c615
7 HC Deb 5 November 2012 c609-11
8 HC Deb 5 November 2012 c691
9 HC Deb 5 November 2012 c614
10 HC Deb 5 November 2012 c691
11 HC Deb 5 November 2012 c691
12 HC Deb 5 November 2012 c615
13 HC Deb 5 November 2012 c692
14 HC Deb 5 November 2012 c618-9
15 HC Deb 5 November 2012 c618
16 HC Deb 5 November 2012 c693

3 Committee Stage

The two Ministers on the Committee were: Nick Boles (Parliamentary Under-Secretary of State for Communities and Local Government) and Michael Fallon (Minister of State, Department for Business, Innovation and Skills). The Labour opposition spokesperson was Roberta Blackman-Woods.

3.1 Option to make planning application directly to Secretary of State: clause 1

Clause 1 of the Bill would allow for applications for planning permission to go direct to the Secretary of State (in practice this will be the Planning Inspectorate) where the local planning authority (LPA) had been "designated" for having a record of very poor performance in the speed or quality of its decisions.

The debate on **clause 1** spanned two full sittings of the Committee and covered a wide range of issues. A large number of opposition amendments were tabled and although some were pushed to division, none were accepted. The main points of debate are set out below.

Designation criteria

Labour spokesperson Roberta Blackman-Woods sought to narrow the circumstances in which **clause 1** could be used. Her intention was to remove most of the clause from the Bill. The Secretary of State already had powers to call in planning applications in if he so wished and she called the clause "not necessary".[17] She had further concerns that the designation criteria, (currently being consulted on),[18] did not take into consideration any mitigating circumstances that may have led to slower decision making.[19]

The Parliamentary Under-Secretary of State for Communities and Local Government, Nick Boles, made clear that the two criteria proposed in the consultation for LPA designation, on the speed and quality of decision making, would operate separately. He explained "a decision that is much delayed, even if it is a good decision, is still justice denied for both applicant and the community that it will affect." The aim of the criteria was "not to catch many authorities". It was thought that the timeliness criterion would catch a maximum of six LPAs and the quality criteria would catch none, at present.[20] The Minister was unwilling to put the designation criteria on the face of the Bill, so that the criteria could be amended at a later date if necessary. He suggested that there would be a further consultation if this was the case.[21] He also made clear that the powers in the clause to bypass the LPA would only apply in relation to decisions about major planning applications.[22]

Help for a designated LPA

In response to requests for information about how poorly performing LPAs would be supported to improve, Nick Boles summarised Government existing support for LPAs:

> First, we have given them dramatically more power under the *Localism Act 2011* to plan for their local areas than the previous Labour Government ever did. Secondly, we have given them, (...) the prospect of direct additional grant for every new house for which they grant planning permission, and for businesses that set up and, therefore, pay higher business rates in their area. Thirdly, we are supporting them, as the previous Labour Government did, through grant to run a good planning system. That

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17 PBC Deb 22 November c170-1

18 Department for Communities and Local Government, *Planning performance and the planning guarantee Consultation*, 22 November 2012

19 PBC Deb 22 November c174

20 PBC Deb 22 November c184

21 PBC Deb 22 November c190

22 PBC Deb 22 November c187

> money comes from central taxpayers, and it is entirely reasonable that central taxpayers expect to receive a service in return.[23]

Replying to further questions about how an LPA could lose its status of being "designated" he explained that the LPA would still take some decisions, which would be checked "closely":

> First, any authority that has been so designated will still deal with the vast bulk of the applications they receive. Relatively few applications received by almost all authorities are major, and it is only major applications that will be affected by the designation. They will still be operating every day, every week as planning authorities, and we will be able to follow them closely to check whether they are putting in the resources, skills and processes to do that efficiently.
>
> Secondly, under the terms of the Bill, there is no compulsion or requirement for applicants to go to the Planning Inspectorate or the Secretary of State; they just have that option. I think if you spoke to any developer, they would say that they would much rather deal with the local authority where the application is being made. It is, frankly, a bit of a pain to have to go to the Planning Inspectorate. They will only take advantage of the opportunity we are giving them if the performance of that local authority is so bad that it overwhelms the benefit of doing it locally, consulting with people locally and having conversations and discussions where the development is proposed.[24]

Nick Boles confirmed that the Government-funded Planning Advisory Service would work with designated authorities to better understand the reasons for poor performance and make a plan for how to proceed. He also clarified that in making a decision, the Planning Inspectorate, (on behalf of the Secretary of State), would be able to have short hearings, locally, where people would be able to state their views and raise concerns. [25]

Costs and consultation requirements

Roberta Blackman-Woods tabled a series of amendments to ensure that the Secretary of State had to fulfil all the same duties as the LPA in taking a planning application decision. The Opposition spokesperson particularly wanted more information about the level of consultation with local communities under the clause, "given that the voice of many local people will be bypassed under this new system." She asked for specific answers about who would be responsible for carrying out this consultation and who would bear the cost.[26] Other members of the Committee also asked for clarification about how the LPA would fund any consultation role it may still be expected to provide if it had lost the planning application fee to the Planning Inspectorate.

On the issue of costs, Nick Boles said that, at present, planning application fees did often not fully cover all the costs of processing the application. He explained therefore, if the LPA did not make the decision, it would not be involved in a loss-making process. He said the real issue was how the Planning Inspectorate would cope if the fees did not cover its costs and said that Government would consider this in making plans for its funding.[27] Mr Nick Raynsford said he wanted his concerns put on the record that LPAs could still be required, under this clause, to carry out functions which would cost them money, for which they may not receive a fee. Nick Boles replied that that all local authorities receive substantial grants to conduct those processes. [28]

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23 PBC Deb 22 November c185
24 PBC Deb 22 November c187
25 PBC Deb 22 November c188
26 PBC Deb 22 November c198-9
27 PBC Deb 22 November c208
28 PBC Deb 22 November c209

Addressing the points raised about consultation requirements, the Minister said that holding hearings was "an option" for the Planning Inspectorate and that the hearings "should be held locally".[29] He went on to say that he would "ensure that when the Planning Inspectorate considers an application under **clause 1** that has not been heard before by another authority, it will look more generously at the criteria it applies in judging whether a hearing should be held."[30] He also confirmed that the Secretary of State or Planning Inspectorate would be required to comply with all the statutory requirements of the Planning Acts in dealing with planning applications submitted directly to him, including the requirement to consult the public.[31]

Roberta Blackman-Woods said she still had concerns about the levels of local consultation about a planning application and so pressed her amendment to a vote. The Opposition amendment was defeated: Ayes 5, Noes 9.[32]

Duties of a designated LPA

Clause 1(6) would give the Secretary of State power to require LPAs to "to do things in relation to an application made to the Secretary of State under this section". Through moving an amendment Roberta Blackman-Woods objected to the "wide licence" this clause would give the Secretary of State. She was particularly concerned that the clause could require LPAs to do things for which they did not have adequate resources.

Nick Boles replied that the clause was intended to be written in "plain English" and that the fine detail of how the provision would operate would be a matter for consultation. Following the consultation there would then be "regulations, guidance or some other kind of published procedure". He also assured the Committee that "no new processes are being invented, so no extraordinary, unfamiliar or unanticipated costs will be attached."[33] Roberta Blackman-Woods said that she still had concerns about LPAs being asked to carry out a task without any part of a fee being passed on for it, she therefore pressed her amendment to a division. The amendment was defeated: Ayes 5, Noes 9.[34]

Duration of designation

Roberta Blackman-Woods sought to introduce a power for LPAs to appeal against being designated as a poor performer and to put a time limit on designation. She explained that "to have designation thrust upon a local authority without it having the opportunity to challenge the designation formally is extremely unfair to that local authority."[35]

In response, the Minister quoted from the consultation document, that designation "would last for at least a year, but would be subject to review well before that year ends, so that the authority has every opportunity for the designation to be lifted at the end of the one year period."[36] He went on to confirm that the designation period could last longer if the LPA failed to satisfy Government that it was improving. He also said that there was no need for an appeal procedure against designation because LPAs would be able to explain to the Government why any decisions were taken late. Roberta Blackman-Woods asked for further information about this possible negotiation process.[37]

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29 PBC Deb 22 November c211
30 PBC Deb 22 November c212
31 PBC Deb 22 November c212
32 PBC Deb 22 November c213
33 PBC Deb 22 November c218
34 PBC Deb 22 November c220
35 PBC Deb 22 November c222-3
36 PBC Deb 22 November c224
37 PBC Deb 22 November c224-5

That the clause stand part of the Bill was put to a vote. It was agreed-to: Ayes 8, Noes 5.[38] Schedule 1 was also agreed-to.[39]

3.2 Planning Proceedings: costs: clause 2

Clause 2 of the Bill would provide the Secretary of State with increased powers to award costs between parties at planning appeals and certain other proceedings, and to recover the Secretary of State's own costs from the parties. In practice, these powers are normally exercised by the Planning Inspectorate.

Opposition spokesperson Roberta Blackman-Woods sought to restrict when the Secretary of State could award costs and ensure that the award criteria were put into regulations. She was concerned that the clause could work against localism by penalising LPAs and by making them reluctant to refuse planning applications for fear of subsequently having to bear the full cost of an appeal.[40] She wanted to see the circumstances in which costs could be awarded plainly set out and for "restraint" to be put on the Secretary of State's power.[41]

In response, Nick Boles assured the Committee that cost awards under clause 2 would be made only when one party to an appeal behaved "unreasonably".[42] It was more likely that planning applicants, such as developers, would be caught by an award of costs than LPAs because applicants' cases were more normally overturned by the Planning Inspectorate on appeal, whereas local authorities' decisions were upheld in the majority of cases. He stressed that if LPAs had a Local Plan in place or could refer to the National Planning Policy Framework to justify any decision made then they were more unlikely to have any costs awarded against them. The Minister clarified that the Planning Inspectorate would still be able to take into account any mitigating circumstances in relation to the behaviour of parties at appeal and in any subsequent award of costs.[43]

Nick Boles also committed to updating the guidance that already exists as to when the Planning Inspectorate can award costs. He went on to explain that the intention was that it would not be the Secretary of State who awarded costs, but a new category of official from within the Planning Inspectorate, and its existing budget, called "specialist cost officers", who would do this task. The aim was to make this a specialist function so that it did not take up the time of people making planning decisions.[44]

3.3 Limits on power to require information with planning applications: clause 4

Clause 4 would introduce a new provision into section 62 of the *Town and Country Planning Act 1990*, which would limit the LPA's power to require information with planning applications. These limits would require that the information:

- must be reasonable having regard, in particular, to the nature and scale of the proposed development; and
- may require particulars of, or evidence about, a matter only if it is reasonable to think that the matter will be a material consideration in the determination of the application.

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38 PBC Deb 22 November c231
39 PBC Deb 22 November c234
40 PBC Deb 27 November c237
41 PBC Deb 27 November c240
42 PBC Deb 27 November c243
43 PBC Deb 27 November c244
44 PBC Deb 27 November c245-6

Roberta Blackman-Woods tabled a probing amendment to clarify why this clause was necessary, explaining that LPAs were already restricted to requesting "reasonable" information.[45]

Nick Boles replied that the Killian Pretty review, commissioned by the previous Government in 2008, had found that there was a "variation in the consistency and reasonableness on the part of local authorities in information requests."[46] He also said that legal judgements had found that the existing law "gave extraordinarily broad powers to local authorities, basically to ask for any information that they wanted."[47] He clarified that the intention in the Bill, and through associated secondary legislation, would be to allow applicants to appeal where they had been given an "unreasonable" information request. The aim was to bring the law in line with the Government's intentions about information requirements, as set out in the National Planning Policy Framework.[48]

3.4 Modification or discharge of affordable housing requirement: clause 5

Clause 5 of the Bill would allow for the modification or discharge of affordable housing elements of section 106 agreements in order to make a development viable. The Government's aim is to unblock stalled housing developments.

Section 106 agreements, sometimes known as "planning obligations" or "planning gain" stem from agreements made under section 106 of the *Town and Country Planning Act 1990* (TCPA), as amended. They are agreements made between the developer and the LPA to meet concerns that an LPA may have about meeting the cost of providing new infrastructure or about the impact on the local area. These agreements can require that, for example, the developer must provide a certain number of affordable homes in order to be given planning permission to build a development of market value homes.

A wide variety of issues were raised and debated on this clause, which are set out below.

Reduction in number of affordable homes

Labour Member Mr Nick Raynsford raised concern that this clause would lead to a reduction in the number of affordable homes.[49] In response, Nick Boles said that the aim was to get more homes built, even if it did result in a reduction of affordable homes:

> Our view—which I accept is not his view or that of his hon. Friends—is simply that we are not in the business of fetishising agreements, targets or percentages. We want homes built. We want them built now, and if that means fewer of them can be affordable, because more of them have to be market, because market values have decreased and the potential for cross-subsidy has therefore declined, so be it. Let us get them built. We can always go back to those higher percentages and higher targets when values return in a few years' time.[50]

Impact on rural exception sites

Mr Raynsford was also concerned that the clause would have a negative impact on "rural exception sites". These are where the *National Planning Policy Framework* allows housing development in rural areas only if affordable homes are provided. The concern was that it would create a system whereby developers could circumvent restrictions on housing

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45 PBC Deb 27 November c249
46 PBC Deb 27 November c253
47 PBC Deb 27 November c253
48 PBC Deb 27 November c253
49 PBC Deb 27 November 2012 c261
50 PBC Deb 27 November 2012 c267-8

development in rural areas and get a windfall at the expense of the landowner if the market value of the land then increased.[51]

Nick Boles replied that many rural exception sites were for 100 per cent of affordable homes and that as there was no "market" element, a change in market conditions would have no effect on the development's viability; that therefore the clause would not apply to these developments. Mr Raynsford responded that some rural exception sites did have market value homes in them so remained concerned that the Clause would undermine the rural exception sites policy.[52] Nick Boles replied that he would be willing to have further discussions about how the clause may affect rural exception sites and asked for Mr Raynsford's related amendment to be withdrawn. On that basis Mr Raynsford withdrew the amendment.[53]

Significance of affordable housing obligations

Roberta Blackman-Woods moved an amendment to require local authorities to establish that it was the section 106 agreement for affordable housing that made a development unviable. She explained that the "Government have provided no evidence whatsoever to confirm that developments are being held up by the application of section 106 agreements for affordable housing." [54] In response the Minister said that the intention of the clause was to provide a process whereby the developer would have to show that it was the affordable housing agreement that stalled the development. If it could not, then there would be a route of appeal to the Planning Inspectorate. He said affordable housing obligations were different to other section 106 agreements and could be singled-out because they were "purely financial" and, unlike other sorts of 106 obligations, they did not address a community need that had increased specifically because of a new development. [55]

Viability test

The Opposition spokesperson also moved an amendment designed to link renegotiation of section 106 agreements with Local Plans. She did not want economic conditions to be the only test of viability and wanted consideration to be given to the wishes of the local community, as expressed through the Local Plan.[56] Nick Boles called it a "troubling amendment" which would make the problem of stalled development worse, not better. He argued it would result in "some ghastly box-ticking exercise whereby [local authorities] demonstrated that in conducting the negotiation they had given due consideration to every single one of their policies."[57] The Minister told the Committee that guidance about the viability test was being drafted and that "a range" of professional bodies were being consulted.[58] Roberta Blackman-Woods requested that the guidance be brought forward sooner rather than later so it could inform deliberations. On that basis she withdrew her amendment.[59]

Protection of land for affordable homes

Opposition spokesperson Ian Murray moved an amendment and a new Clause (no.2) which would allow land to be protected for affordable housing (for use by a registered social landlord or local authority), if an affordable housing obligation was renegotiated.[60] The

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51 PBC Deb 27 November 2012 c261-2
52 PBC Deb 27 November 2012 c268
53 PBC Deb 27 November 2012 c271-2
54 PBC Deb 27 November 2012 c271-2
55 PBC Deb 27 November 2012 c291-2
56 PBC Deb 27 November 2012 c283
57 PBC Deb 27 November 2012 c294
58 PBC Deb 27 November 2012 c296
59 PBC Deb 27 November 2012 c296
60 PBC Deb 27 November 2012 c305-6

Minister replied that although he had some sympathy with the concern that underpinned the amendment, it could mean that some agreements would not be able to be renegotiated. He said that in his guidance to local authorities and the Planning Inspectorate about renegotiations he would make it clear that they could look at other ways for a developer to contribute towards affordable housing.[61] The amendment was withdrawn.[62]

Government amendments

The Minister introduced a number of amendments to **clause 5**. They were all agreed-to.

The first group would insert a default period of 28 days by which the local authority would have to make a decision about the section 106 renegotiation. He explained that as the authority would have considered the issue fully in taking the decision in the first place, a "fast-track decision-making process is justified and necessary." He also explained that the amendment would allow for this time period to be increased, by agreement with both parties, in order to give flexibility. The amendment was agreed-to.[63]

Further Government amendments would:

- insert a default provision that an appeal must be made within six months of the relevant determination on the renegotiation.

- disapply the 28-day period for Planning Inspectorate decisions, to allow the Planning Inspectorate to undertake any "necessary procedures."

- ensure that appeals could be determined by the Planning Inspectorate on behalf of the Secretary of State from the day the clause comes into force.

A further amendment would make it the default position that after three years, if the development had not been completed on the new terms, it would revert back to the original 106 agreement if no further agreement between developer and local authority had been made.[64] The Minister explained the amendment would also allow certain types of "necessary" modifications to the original agreement to be made by the Planning Inspectorate at appeal:

> first, those necessary to ensure that the requirement does not relate to development already commenced, as this could make it impossible to fulfil the obligation—for instance, where 95% of the development was already complete and the agreement required 40% affordable housing on site; and secondly, those necessary or expedient to ensure the effectiveness of the default provision at the end of the three-year period. This allows the Planning Inspectorate to apply common sense in providing for changing circumstances, while maintaining the intent of the default provision, which is to return to the affordable housing provision of the original agreement.[65]

A group of "technical amendments" were moved which would confirm that the default position after three years would not apply where the Planning Inspectorate had upheld the local planning authority's determination on the renegotiation.[66]

Two further Government amendments related to the definition of "affordable housing requirement". The first would allow the definition to be amended by Order. Nick Boles

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61 PBC Deb 27 November 2012 c306
62 PBC Deb 27 November 2012 c310
63 PBC Deb 27 November 2012 c301
64 PBC Deb 27 November 2012 c303
65 PBC Deb 27 November 2012 c303-4
66 PBC Deb 27 November 2012 c304

explained that this would "ensure that the definition can keep up with new forms of affordable housing and new ways of providing that housing, set out in section 106 agreements. It serves to future-proof the legislation without it having to return to Parliament for minor adjustments to be made." The second amendment would ensure that any changes to the definition would have to be made by Order, subject to the affirmative procedure. The Minister sought to assure Members that that it would only apply to the definition of affordable housing for the purposes of this clause. [67]

Mr Raynsford raised concerns that the amendment would mean that a change of definition could apply retrospectively to planning obligations. The Minister said he would like to return to this subject at a later point to be able to give Members a full explanation. He asked for the Committee to agree the amendment, on the basis of his intent to make future changes, rather than on the amendment as worded. This and all the other Government amendments were made. [68]

The Committee divided on whether the clause, as amended should stand part of the Bill: Ayes 10, Noes 6. It was agreed-to and ordered to stand part.[69]

3.5 Electronic communications code: the need to promote growth: clause 7

Clause 7 is intended to 'make it easier to provide fixed broadband in rural areas'.[70] It would do this by amending the *Communications Act 2003* which gives the Secretary of State power to make regulations on the application of the 'electronic communications code' to electronic communications operators. The code provides operators with rights to install equipment on other people's land. The clause would require the Secretary of State to consider the 'need to promote economic growth' in developing regulations on the code. It would also provide that requirements to consider conserving and enhancing the natural environment of National Parks and other protected areas are not applied when developing regulations on the code.

Amendments on three themes were debated, but the clause was not amended.

During debate the Minister, Michael Fallon, announced that a consultation on subsequent regulations would be launched before Christmas.[71]

Scope of the clause

A number of amendments intended to provide greater clarity on the scope of **clause 7** were debated. Roberta Blackman-Woods tabled amendment 78 which replaced the need to "promote economic growth" with a need to "deliver sustainable development". The aim of which she described was to limit 'the potential damage of the clause when rolling out broadband and other electronic communications to rural areas' by 'preventing the short-term need to get infrastructure in place from "overriding the long-term sustainability of protected areas".[72]

Ian Murray tabled amendment 53 to focus the regulation making powers so that they would only be used in relation to 'the need to promote economic growth in the UK through the Government's broadband programme'. As the amendment was debated Mr Murray and others argued that the clause as it stood lacked clarity over what type of equipment might be installed and under what circumstances. They saw unintended consequences of the clause being negative economic impacts:

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67 PBC Deb 27 November 2012 c307
68 PBC Deb 27 November 2012 c309
69 PBC Deb 27 November 2012 c321
70 HC Deb, 8 November 2012, c729W
71 PBC 29 November 2012 c360
72 PBC 29 November 2012 c326

> A Bill that does not provide clarity will merely open up more uncertainty and run the risk of damaging economic growth, whether through tourism or otherwise. Many organisations involved in the process have stated quite clearly that that could be one of the significant unintended consequences.[73]

The Minister, Michael Fallon, said that both amendments were restrictive and might prevent the rollout of broadband. He argued that the delivery of sustainable development was not the purpose of the Bill and that it encompassed too broad an aspiration in balancing economic and social considerations alongside environmental considerations. Instead he said the Bill's purpose was 'to help to deliver growth and the expansion of broadband is conducive to growth'.[74]

On Ian Murray's point that the Bill lacked clarity on the sort of equipment that might be installed, the Minister re-affirmed a commitment from Second Reading that the Bill would not be used to provide mobile telephone infrastructure. He said that there was 'absolutely no intention to relax any of the existing controls for mobile infrastructure.'[75] He added that any technology restrictions could not be placed on the face of the Bill because European Union legislation requires that the regulatory framework for communications, must be technology neutral and 'does not allow us to distinguish in primary legislation different types of electronic equipment'.[76]

Sunset clause

Clause 7 provides that the powers under it, to make regulations making it easier to provide fixed broadband in rural areas, would cease to have effect on 6 April 2018. Amendment 58 was tabled by Ian Murray to bring this sunset clause forward to 31 December 2015. He argued that a tighter deadline would deliver quicker action:

> You've got to get on with this programme and get it rolled out as quickly as possible to provide the growth the Minister says we all want to see." We could keep the date at 2018, but that might delay investment decisions by some of the organisations and stakeholders involved in providing that type of infrastructure. It gives them a tighter focus if we say, "Let's get on with it now." If we approach the end of 2015 and there are some difficulties I am sure the Government—a Labour Government by then—could come back and extend the time line. Narrowing the window of opportunity, however, might allow the impetus to move slightly quicker.

The Minster, Mr Fallon, argued that 'curtailing the scope of the provision to 2015 'is overly restrictive' and 'would not help with the more challenging longer term targets'.

Requirement for operators to consult

Amendments 87 to 90 were tabled by Ian Murray to require that operators consult planning authorities, National Park Authorities and/or other relevant bodies before undertaking work to install equipment. He explained that the amendment was not to set up a protracted planning process but to encourage discussion to 'resolve many of the problems that people are fearful will be thrown up by the Bill'.[77]

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73 PBC 29 November 2012 c329
74 PBC 29 November 2012 c335
75 PBC 29 November 2012 c336
76 PBC 29 November 2012 c336
77 PBC 29 November 2012 c341

The Minister did not believe that there was a need for consultation in the Bill. He pointed out that secondary legislation already provided for consultation and would continue to do so.[78]

3.6 Town and village greens: clauses 12, 13, 14 and 15

Town and village greens originate in customary law, where long-standing recreational use of land by the local inhabitants have come to be recognised and protected by the courts. Today, under section 15 of the *Commons Act 2006*, land can be now registered as a green if it has been used by local people for recreation "as of right" (i.e. without permission, force or secrecy) for at least 20 years.

Clause 12 would amend the *Commons Act 2006* to allow a land owner to deposit a map and statement, with the Commons Registration Authority, which would protect their land from registration as a town or village green by someone else.

Opposition spokesperson Roberta Blackman-Woods moved amendments (which were supported by the CPRE and the Open Spaces Society), to require the land owner to publicise any statement made under this clause. Following the publicity, the local community would have a two-year grace period in which to register the land as a town or village green. She said that it would "give communities a chance to protect land that otherwise they may lose."[79]

In reply, the Minister, Michael Fallon said that the Government intended, through regulation-making powers provided by the clause, to require deposited statements to be publicised. He confirmed that notice requirements were likely to include "publication on the website of the Association of Commons Registration Authorities, as well as notification by e-mail of interested parties". He also confirmed that the purpose of notification would be to alert people to the time period in which they have left to register land as a town or village green. The amendment was withdrawn and the clause was ordered to stand part of the Bill.[80]

Clause 13 would insert a new section 15C into the *Commons Act 2006*, which would exclude the right to apply for town or village green registration if any of the "trigger events" specified in new schedule 1A (schedule 4 of this Bill) occurred.

Roberta Blackman-Woods said that the basic premise of **clause 13** and schedule 4 was right, but that the Minister may have been "a little over-zealous" by effectively ruling out all land from ever being protected.[81] She tabled a group of amendments designed to remove some of the trigger events, specifically: the publication of a draft development plan, a draft neighbourhood development and an application for development consent. She explained that all the amendments related to events that do not have to be public and to documents that might not have been consulted on. Roberta Blackman-Woods accepted that there was a need to rationalise the process, but said schedule 4 went "much too far in denigrating the rights of local communities." She asked the Minister, instead, for triggers where the Secretary of State or the local authority could step in if they thought that an application was vexatious. [82]

The Minister replied that the draft plan trigger stage was chosen as it would give local people the chance to make formal representations about whether areas of land should be developed or not. He explained that if land could be registered as a town or village green when a draft plan was published that it would then limit the right of people to have a full say on areas for development as part of the subsequent plan making process. Roberta Blackman-Woods

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78 PBC 29 November 2012, c346
79 PBC Deb 29 November 2012 c364
80 PBC Deb 29 November 2012 c369
81 PBC Deb 4 December 2012 c384
82 PBC Deb 4 December 2012 c377-9

asked the Minister to go away and think about the issue again. She withdrew her amendments. The Committee divided on whether Schedule 4 should be the fourth Schedule to the Bill: Ayes 10, Noes 6.[83]

The Minister moved a technical amendment (no.52) to the clause. The clause, as amended, was ordered to stand part of the Bill.[84]

Clause 14 would allow the Secretary of State to make regulations about fees payable in relation to an application.

Roberta Blackman-Woods was concerned that the new fee might act as a deterrent for town and village green registration if it included the legal costs of the local authority, Commons Registration Authority or Planning Inspectorate. She asked for an idea of what level of fee the Minister would consider to be "reasonable". [85]

The Minister replied that the purpose of the clause was to allow Government to prescribe in regulations for more than one fee to be charged during the application process, for example at different stages of the application. The new powers would allow for the Commons Registration Authority and the Planning Inspectorate each to charge for its own component of the work. The Minister said that any fee would be "fair" and said that Government had not yet taken a decision as to whether the costs involved should be capped and whether there should be a limit to the fee. He said he would respond later to the Opposition spokesperson on whether the fee would include the cost of legal fees. The clause was ordered to stand part of the Bill.[86]

3.7 Compulsory purchase and Special Parliamentary Procedure: clauses 19 and 20

The *Planning Act 2008* (2008 Act) provides a development consent process for major infrastructure projects. Where development consent is granted under this Act it gives the applicant consent for a range of matters, including planning permission. A development consent order (DCO) can also authorise the compulsory acquisition of land. Currently, a special Parliamentary Procedure (SPP) is required where a DCO authorises the acquisition of land, against the wishes of the land owner, falling into one number of special categories of land ("special land"): local authority or statutory undertaker land,[87] National Trust land, common land, public open space, or land which is a fuel or field garden allotment.

Clauses 19 and 20 of the Bill would make technical changes to the SPP. They would remove the requirement for a SPP where a DCO granting development consent authorises the compulsory purchase of local authority and statutory undertaker land.

The Minister, Nick Boles, proposed a series of Government amendments and a **new clause 3**, designed to remove a number of separate certification and consent processes currently set out in primary legislation that need to happen in addition to the DCO process. He explained that the current development consent process offered "ample opportunity for these issues currently considered and certified separately to be dealt with effectively." He noted that the Secretary of State taking the decision on the DCO would still have to consider all the material issues, that the removal of the additional requirements would simply remove a piece of paper from the process to make it more streamlined. He emphasised that statutory

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83 PBC Deb 4 December 2012 c392
84 PBC Deb 4 December 2012 c387 and 392
85 PBC Deb 4 December 2012 c393
86 PBC Deb 4 December 2012 c395
87 Statutory undertakers are certain companies and agencies, such as utilities and telecoms companies that have been given legal rights to carry out certain developments on land

undertakers and other bodies potentially affected would still be able to make representations as part of the existing DCO examination process.[88]

Opposition spokesperson, Roberta Blackman-Woods said that with the assurances that statutory undertakers would be able to make representations during the process, that she would accept the amendments. The amendments were made and the **new clause 3** was agreed-to.[89]

Nick Boles also moved a group of amendments in relation to **clause 20**, which were described as "minor" and designed to ensure that the principles in the clause extended to all other relevant Acts, where it was clear that the "original intention was to limit the scope of Special Parliamentary Procedure in that way." The amendments were agreed-to.[90]

3.8 Bringing new projects within Planning Act 2008 regime: clause 21

Nationally Significant Infrastructure Projects (NSIPs) are usually large scale developments (relating to energy, transport, water, waste water or waste) which require a type of consent known as "development consent" under procedures governed by the *Planning Act 2008* (the 2008 Act) and amended by the *Localism Act 2011*. The 2008 Act sets out thresholds above which certain types of infrastructure development are considered to be nationally significant and require development consent.[91] **Clause 21** of the Bill would enable the Secretary of State to direct that certain commercial and business developments could require consent under the 2008 Act.

Opposition spokesperson, Roberta Blackman-Woods said that parts of **clause 21** diverged "significantly" from the aims established in the 2008 Act. In particular, the inclusion of business and commercial projects, without any national policy statements underpinning them, as there were for other types of projects. She was also concerned that these projects had been put in the Bill before the consultation on them[92] had been completed.[93]

Roberta Blackman-Woods sought to exclude certain types of development from the clause, specifically, quarrying and surface mineral extraction; such as open cast mining. On the basis of current applications, the 100-hectare threshold set out in the consultation would capture one third of open-cast mining applications. She explained this was a "huge proportion to be taken out of the control of the local authority and local people."[94] The Minister replied that if mineral projects were to be included, the local authority would be required to produce a local impact report, which could take into account concerns of local residents.[95]

Another Opposition amendment sought to put on the face of the Bill a list of commercial and business projects to which the clause would apply. Roberta Blackman-Woods described this as a probing amendment designed to require a "clear and stringent" definition from the Government of what it meant by "nationally significant". She was particularly concerned that size thresholds set out in the Bill's Impact Assessment were "hugely different" from those in

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88 PBC Deb 4 December 2012 c398
89 PBC Deb 4 December 2012 c399 and PBC 6 December 2012 c519
90 PBC Deb 4 December 2012 c405
91 National Infrastructure Planning website, *Planning Inspectorate role* [on 13 December 2012]
92 Department for Communities and Local Government, *Nationally significant infrastructure planning: extending the regime to business and commercial projects – consultation*, 26 November 2012
93 PBC Deb 4 December 2012 c409
94 PBC Deb 4 December 2012 c410
95 PBC Deb 4 December 2012 c420

the consultation. She wanted more information about whether "nationally significant" would relate to size or economic contribution.[96]

The Minister replied that it would be wrong to include a definition of the schemes on the face of the Bill as the consultation process had not yet been completed and the list might change. He wanted the Government to retain flexibility. In relation to the concerns about thresholds, the Minister said that the Government would publish a set of criteria to be used by the Secretary of State. He explained further that even if an application met the criteria, the Secretary of State would retain discretion to refuse an application and would be able to take a "qualitative judgement" on it.[97] The amendment was withdrawn.[98]

Mr Raynsford moved an amendment which would require the Secretary of State to publish a national policy statement on the new business and commercial categories. He explained that without a national policy statement, the new developments would be able to proceed "without national democratic consent".[99] The Minister replied that the Government had "not absolutely ruled out a national policy statement", but said that its current position was that it would not be mandatory.[100] The amendment was withdrawn.[101]

The clause was ordered to stand part of the Bill.

3.9 Postponement of business rates revaluation: clause 22

An amendment to **clause 22** was moved for the Opposition by Nick Raynsford. The amendment require that the section was not brought into force until the Secretary of State had published "calculated estimates" of the numbers of business rate-payers expected to pay more and pay less, and until consultation with representatives of "those likely to be affected by the bringing into force of this section".[102]

Mr Raynsford quoted a number of pieces of written evidence criticising both the clause and the high-level report from the Valuation Office Agency (VOA),[103] which has been used by the Government as background to the decision. A number of the pieces of written evidence to the Committee critiqued the conclusions and methodology of the VOA report, though it should be noted that the VOA made limited claims for this work:

> They [the figures] are not forecasts; at this stage of the revaluation cycle and process it was only possible to provide high level estimates as at January 2012 … The estimates are based on limited rental evidence and informed by professional judgement of the movement in property values since the last revaluation in 2010.[104]

The Minister, Michael Fallon, responded to the criticisms of the measure:

> We have heard claims that particular towns and other locations would have seen reductions in rate bills at a 2015 revaluation. Many of those claims have been made by commercial firms and rating agents who advise ratepayers on making appeals. Often their claims are based only on selected prime locations or selected commercial

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96 PBC Deb 4 December 2012 c416
97 PBC Deb 4 December 2012 c421
98 PBC Deb 4 December 2012 c422
99 PBC Deb 4 December 2012 c427
100 PBC Deb 4 December 2012 c433
101 PBC Deb 4 December 2012 c434
102 PBC Deb 4 December 2012 c441
103 See *Valuation Office Agency's high level estimates of non-domestic rental and rating assessment movements for England*, November 2012. See also the *Growth and Infrastructure Bill impact assessment*, November 2012, which discusses clause 22 on pages 72-73 with reference to the VOA report.
104 Ibid., p.2

> sectors, and they ignore small and local businesses, as well as other sectors such as industry. The VOA's analysis covers all sectors and all locations, and has been published in full….
>
> It is more interesting that we have seen a more measured response from organisations, such as the Federation of Small Businesses, that cover the whole country and different types of business.[105]

Simon Danczuk (Labour, Rochdale) suggested that the 'real reason' for the proposed delay to revaluation was to permit the Valuation Office time to clear a large backlog of appeals:

> Another rumour is that the VOA, with a backlog in excess of 247,000 appeals – that is a quarter of a million businesses appealing their business rates – is unable to cope with the number of appeals. On the current performance of the VOA, it would take about five years to clear the backlog, and new appeals are coming in every day. It is suggested that the Government are postponing the revaluation to create some time and space for the VOA to get on top of the backlog.[106]

However, this point was rejected by the Minister, Michael Fallon.[107]

The Committee divided on the amendment, and it was defeated by 11 votes to 7.

The Opposition moved **new clause 9** which would require a report on the VOA's performance to be compiled in advance of the compilation of the next rating list (i.e. the next revaluation).[108] The VOA figures for rises and falls in rateable value were discussed further:

> **Ian Murray** (Edinburgh South): ….[the Minister] said that office space in London would be the biggest winner, were a revaluation done now, but the analysis clearly shows, for example, that office space in the west midlands would see a projected 6% drop; office space right across England would receive an 8% drop; retail in the north-east would be 3% down and so would retail in the north-west.[109]
>
> (...)
>
> **Andrew Stunell** (Hazel Grove) (LD): Can the Minister confirm that, if the revaluation went ahead, the one thing we know from the VOA figures is that £440 million would be transferred into the centre of London from businesses around the rest of the country?
>
> **Michael Fallon:** Exactly, and the point I made to the Committee was that I am not sure shovelling more money into that sector…. should be the first target of any Government spending decision.[110]

The new clause was not added to the Bill

Clause 22 was approved to stand part of the Bill without a division.

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105 PBC Deb 4 December 2012 c448-9.
106 PBC Deb 4 December 2012 c 446.
107 PBC Deb 4 December 2012 c464-5.
108 PBC Deb 4 December 2012 c456
109 PBC Deb 4 December 2012 c458
110 PBC Deb 4 December 2012 c462

Views on the revaluation postponement

Few witnesses in oral and written evidence supported the Government's proposal to postpone the revaluation, although some organisations, including the LGA and the CBI, were equivocal about its impact. The CBI stated:

> The announcement of the two-year delay to the revaluation of commercial property for business rates received a mixed response from business. …. The Government's claim that the delay to revaluation will increase certainty for business is therefore overstated as companies may lose confidence that they can plan their investments according to this predictable timeframe in the future.[111]

The British Property Federation stated:

> Broadly, the losers will be those outside of London and particularly businesses in the North East and North West, who would have expected to see their rental values fall. Therefore this postponement will further exaggerate existing market imbalances and further harm England's regional economies.[112]

Analyses of the VOA figures

The figures in the Valuation Office Agency report were also addressed in the written evidence. Colliers International produced an alternative table of their expectations of rateable values by region following a 2015 revaluation.[113] They also suggested that continued high rates in locations that were suffering economically would lead to lower rents and capital values, with the opposite effect in locations which have not seen a fall in rateable values.[114] Gerald Eve, a specialist valuing organisation, looked at the claim that there would be "800,000 winners" if the 2015 revaluation were postponed:[115]

> The Government has claimed, based on extrapolation from the VOA's estimates, that there would have been 800,000 losers from a 2015 revaluation and only 300,000 winners. We seriously question this claim, not because we have been able to undertake calculations that show otherwise, but simply because we do not consider that at the high level of the VOA's estimates it will be possible to validate and justify such analysis. To do so would require huge numbers of individual property valuations to have been undertaken and there is no indication that this detailed exercise was carried out.[116]

Their supplementary memorandum also suggested that the evidence within the VOA's paper did not support the figure of 800,000 ratepayers seeing an increase in their bills. The same point was made in oral evidence:

> **Edward Cooke, British Council of Shopping Centres:** ….to assume that 800,000 hereditaments would be winners [if the revaluation were postponed], when you are looking at 530,000 within the other category in the VOA's assessment, is not a sufficiently detailed analysis on which to make that assumption. Page 8 of the VOA's estimates tells us that in those 530,000, it is including assets such as stables, police stations and cinemas. Those are all categorised together and the same assessment as for the bulk classes is applied. They are very different things. They are very different asset classes and have performed very differently over the past three or four years.

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111 *Growth and Infrastructure Bill Committee*, evidence 34, CBI

112 *Growth and Infrastructure Bill Committee*, evidence 28, British Property Federation, paragraph 22.

113 See the table in their memorandum at *Growth and Infrastructure Bill Committee*, evidence 23

114 Ibid. See also the memorandum from Tom Emlyn Jones at *Growth and Infrastructure Bill Committee*, evidence 24

115 See their two memorandums, Evidence 12 and Evidence 50.

116 Ibid., paragraph 5.5.

> The level of detail in the data that have been produced is not sufficient in our mind to say that 800,000 business or hereditaments would benefit.[117]

The claim of "800,000 winners" is not an exact reflection of what is said in the VOA report, the relevant extract of which states:

> This indicative assessment suggests that around 800,000 hereditaments would fall in to categories that would see an overall rise in tax payable, despite most of those seeing a fall in their rateable value, and around 300,000 would fall in to categories which would see an overall fall in tax payable.[118]

This sentence discusses the *categories* of hereditaments (properties), not the *number* of hereditaments, and it does not explicitly say that 800,000 individual hereditaments would see a rise in their business rates.

3.10 Employee owners: clause 23

Clause 23 provides for the creation of a new employment status, that of 'employee owner'.[119] Fifteen amendments to the clause were tabled during Committee Stage; the Government tabled nine, the Opposition four and Andrew Stunnell two. The clause was agreed to on division, 10 votes to 6.[120]

At the outset of the debate Paul Blomfield questioned whether, in light of the number of amendments that had been tabled, it would be better to withdraw the clause.[121] Ian Murray reiterated this:

> My hon. Friend the Member for Sheffield Central, in his early intervention, hit the nail on the head. There is so little appetite in the business community—in any community, for that matter—for these changes, that we could have finished the entire Bill by lunch if the Minister had withdrawn the clause. We are unclear why the clause relates to the Bill, in any case. The Minister gave a robust response, saying that the Government consult and listen, but they have not really listened to the consultation results produced late last night, with only five out of 209 responses even remotely welcoming the proposal.[122]

Notwithstanding opposition to the clause itself, all nine Government amendments were accepted without division. The Government amendments sought to tidy and clarify the clause, as stated by the Minister:

> This is the first of a package of amendments, which we tabled as a result of the consultation on the clause. A number of technical issues have been raised about how it might operate...The amendments clear up some technical points that have been made as a result of the consultation[123]

No Opposition amendments were agreed to. Those proposed by Andrew Stunnell, which sought to protect employees from detriment for refusing to accept employee owner status,

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117 *Growth and Infrastructure Bill Public Bill Committee,* 2nd sitting, 13 November 2012, c. 56

118 *Valuation Office Agency's high level estimates of non-domestic rental and rating assessment movements for England*, November 2012, p.6

119 The background to this issue is discussed in the Library's first briefing paper on the Bill, (Library Research Paper RP12/61, pp 33-38)

120 PBC 06 December 2012, c517

121 PBC 06 December 2012, c466

122 Ibid

123 Ibid

were withdrawn.[124] The Opposition's amendments sought principally to ensure employees accepted employee owner status voluntarily and were entitled to seek advice before doing so, the costs of which would be borne by the company, reflecting the Opposition's concern that employees might be forced to accept the status.[125] An Opposition amendment which would have required the Secretary of State to publish an analysis of the clause's impact on employees' income tax and national insurance contributions was defeated on division.

The Government amendments extend the availability of the new status to overseas and European companies and require the shares issued to an employee owner to be fully paid up, safeguarding against the possibility of employee owners being liable for any balance relating to the value of the shares.[126] They also provide that a company may procure the issue or allotment of "shares in its parent undertaking".[127] The Minister explained that this would enable:

> ...the employer company to grant shares in a parent company to employee owners. In some cases, the employer company may have little value and the Government do not want to prevent employer companies from granting shares in their parent companies...[128]

Additionally, the amendments remove the £50,000 cap on the value of the shares and permit the Secretary of State to increase by order the £2,000 minimum value of the shares.

3.11 New clauses

Permitted development rights for change of use: prior approvals

The Minister, Nick Boles, introduced **new clause 14**. He explained that the aim of the Clause was to address an anomaly in section 60 of the *Town and Country Planning Act 1990*.

Permitted development rights are basically a right to make specified changes to a building without the need to apply for planning permission. These derive from a general planning permission granted from Parliament in The *Town and Country Planning (General Permitted Development) Order 1995* (SI 1995/418) (the 1995 Order), rather than from permission granted by the local planning authority.

This new clause would mean that where a permitted development order granted a change of use (i.e. from commercial to residential), either the local authority or the Secretary of State could require approval about certain related matters. The Minister gave some examples of matters that could require approval:

> ... ensuring that adequate measures are in place to manage the impact of any additional traffic generation or noise created by the change of use. It could also put protections in place, which could ensure that proper account is taken to manage risks, such as where the change of use is in an area where there are flood risks, whether contamination remedial works have previously been undertaken, or whether the development is near a safety hazard zone.[129]

The new clause was added to the Bill.[130]

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124 PBC 06 December 2012, c487
125 PBC 06 December 2012, c474
126 Clause 25(1)(b)
127 Ibid
128 PBC 06 December 2012, c466
129 PBC Deb 6 December 2012 c518
130 PBC Deb 6 December 2012 c520

Opposition new clauses

The Opposition moved some new clauses which sought to:

- include in the *Planning and Compulsory Purchase Act 2004* a definition of the purpose of planning and to define further what is meant by sustainable development (**new clause 1**);[131]
- create a legislative duty for development plan documents to include policies to mitigate and adapt to climate change (**new clause 4**);[132]
- put a duty on the Secretary of State to promote sustainable development under the Planning Act 2008 (**new clause 5**);[133]
- remove a cap on local authority borrowing for housing (**new clause 10**); and[134]
- give local authorities power to decide whether to extend permitted development rights (**new clause 11**).[135]

None of these new clauses were added to the Bill.

[131] PBC Deb 6 December 2012 c520
[132] PBC Deb 6 December 2012 c520-2
[133] PBC Deb 6 December 2012 c520-2
[134] PBC Deb 6 December 2012 c524
[135] PBC Deb 6 December 2012 c527

Appendix 1 Membership of the Committee

Chairs: Philip Davis, Mr George Howarth

Gordon Birtwistle (Burnley) (LD)
Roberta Blackman-Woods (City of Durham) (Lab)
Bob Blackman (Harrow East) (Con)
Paul Blomfield (Sheffield Central) (Lab)
Nick Boles (Parliamentary Under-Secretary of State for Communities and Local Government)
Karen Bradley (Staffordshire Moorlands) (Con)
Dr Thérèse Coffey (Suffolk Coastal) (Con)
Nic Dakin (Scunthorpe) (Lab)
Simon Danczuk (Rochdale) (Lab)
Michael Fallon (Minister of State, Department for Business, Innovation and Skills)
John Glen (Salisbury) (Con)
Mrs Mary Glindon (North Tyneside) (Lab)
John Howell (Henley) (Con)
James Morris (Halesowen and Rowley Regis) (Con)
Ian Murray (Edinburgh South) (Lab)
Mr Nick Raynsford (Greenwich and Woolwich) (Lab)
David Simpson (Upper Bann) (DUP)
Henry Smith (Crawley) (Con)
Andrew Stunell (Hazel Grove) (LD)

Committee Clerks: Steven Mark, John-Paul Flaherty

Appendix 2 Sittings and Evidence

The Public Bill Committee had 14 sittings between 13 November and 6 December:

- 1st sitting (morning), 13 November 2012
- 2nd sitting (afternoon), 13 November 2012
- 3rd sitting (morning), 20 November 2012
- 4th sitting (afternoon), 20 November 2012
- 5th sitting (morning), 22 November 2012
- 6th sitting (afternoon), 22 November 2012
- 7th sitting (morning), 27 November 2012
- 8th sitting (afternoon), 27 November 2012
- 9th sitting (morning), 29 November 2012
- 10th sitting (afternoon), 29 November 2012
- 11th sitting (morning), 4 December 2012
- 12th sitting (afternoon), 4 December 2012
- 13th sitting (morning), 6 December 2012
- 14th sitting (afternoon), 6 December 2012

Oral evidence was taken at the first four sittings; the witnesses are listed below.

First sitting

- Rt Hon Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills
- Nick Boles MP, Parliamentary Under-Secretary of State for Planning, Department for Communities and Local Government
- Rt Hon Greg Barker MP, Minister of State, Department of Energy and Climate Change
- Councillor Mike Jones, Chair of Local Government Association Environment and Housing Board, and Leader
- of Cheshire West and Chester Council
- Paul Raynes, Head of Programmes, Environment and Housing, Local Government Association
- James Lowman, Chief Executive, Association of Convenience Stores
- Katja Hall, Chief Policy Director, CBI
- Mike Spicer, Senior Policy Adviser, British Chambers of Commerce

Second sitting

- Harry Cotterell, President, Country Land and Business Association
- Liz Peace, Chief Executive, British Property Federation
- Edward Cooke, Director of Policy, British Council of Shopping Centres
- Gavin Smart, Director of Policy and Practice, Chartered Institute for Housing
- Andrew Whitaker, Planning Director, Home Builders Federation
- David Orr, Chief Executive, National Housing Federation
- Ruth Reed, Head of Planning Group and Past President, Royal Institute of British Architects
- Toby Lloyd, Head of Policy, Shelter

Third sitting

- Adrian Penfold, Author of the Penfold Review

- Trudi Elliott CBE, Chief Executive, Royal Town Planning Institute
- Dr Hugh Ellis, Chief Planner, Town and Country Planning Association
- Malcolm Sharp, President, Planning Officers Society
- Vincent Haines, Convenor, Urban Design Forum, Planning Officers Society
- Robbie Owen, Secretary, National Infrastructure Planning Association
- Angela Knight, Chief Executive, Energy UK
- Pamela Learmonth, Chief Executive, Broadband Stakeholder Group

Fourth sitting

- Paul Callaghan, Partner, Taylor Wessing LLP
- Sarah Jackson OBE, Chief Executive, Working Families
- Sarah Veale, Head of Equality and Employment Rights, Trades Union Congress
- Mike Emmott, Employee Relations Adviser, Chartered Institute of Personnel and Development
- Dr Nigel Stone, English National Park Authorities Association
- Shaun Spiers, Chief Executive, Campaign to Protect Rural England
- Gordon Edge, Director of Policy, RenewableUK
- Simon Marsh, Head of Planning, Royal Society for the Protection of Birds
- Ingrid Samuel, Historic Environment Director, National Trust
- Naomi Luhde-Thompson, Planning and Policy Adviser, Friends of the Earth
- Ruth Bradshaw, Policy and Research Manager, Campaign for National Parks

The following written evidence was also submitted to the Committee:

- Maidstone Borough Council Liberal Democrat Group (GIB 01)
- Councillor David Trenbath (GIB 02)
- Peter Phillips (GIB 03)
- National Organisation of Residents Association's (NORA) (GIB 04)
- Town and Country Planning Association (GIB 05)
- Ofgem (GIB 06)
- CPRE (GIB 07)
- RICS (GIB 08)
- Lorraine Barter (GIB 09)
- Energy Networks Association (GIB 10)
- Hastoe Housing Association (GIB 11)
- Gerald Eve LLP (GIB 12)
- National Housing Federation (GIB 13)
- Kate Southworth (GIB 14)
- Pauline Bradley (GIB 15)
- Local Government Association (GIB 16)
- Deloitte on behalf of the BST Group (GIB 17)
- Woodland Trust (GIB 18)
- The Federation of Bath Residents' Associations (GIB 19)
- Campaign for National Parks (GIB 20)
- Mrs Linda Tayler (GIB 21)
- Keith Dowson (GIB 22)
- Colliers International (GIB 23)
- Associated Memorandum submitted by Tom Emlyn Jones (GIB 24)
- Friends of the Earth (GIB 25)
- Law Society of England and Wales (GIB 26)
- Bristol Parks Forum (GIB 27)

- British Property Federation (GIB 28)
- National Grid (GIB 29)
- RenewableUK (GIB 30)
- Woodland Trust (GIB 31)
- The Loose Anti Opencast Network (GIB 32)
- Sylvia Mason (GIB 33)
- CBI (GIB 34)
- Highbury group on housing delivery (GIB 35)
- Barratt Developments PLC (GIB 36)
- Professor Henry G Overman (GIB 37)
- Robert D Seares (GIB 38)
- Cambridgeshire County Council (GIB 39)
- Living Streets (GIB 40)
- Unite (GIB 41)
- Open Spaces Society (GIB 42)
- RSPB (GIB 43)
- Compulsory Purchase Association (GIB 44)
- Christopher Witmey (GIB 45)
- Neil Blackshaw (GIB 46)
- Ruth Bradshaw (GIB 47)
- ESB International (GIB 48)
- UKMPG (GIB 49)
- Geraldeve LLP (GIB 50)
- Dr. P. Gardner (GIB 51)
- Employee Ownership Association (GIB 52)
- ifs ProShare and Employee Ownership Association (GIB 53)
- Mayor of London (GIB 54)
- City of London Corporation (GIB 55)
- Cornwall Councillor John V Keeling (GIB 56)
- The Loose Anti Opencast Network - supplementary evidence (GIB 57)
- Dalton Warner Davis (GIB 58)
- The Wildlife Trusts (GIB 59)
- Stephens Scown LLP (GIB 60)
- Environmental Services Association (ESA) (GIB 61)
- Magnus Campbell (GIB 62)
- St Modwen (GIB 63)
- Jacqui Mitchell (GIB 64)
- Andrew Gunn (GIB 65)
- National Association of Local Councils (GIB 66)
- The Crown Estate (GIB 67)
- Manchester Airport Group (GIB 68)
- Home Builders Federation (GIB 69)
- UNISON (GIB 70)
- Capital Shopping Centres (GIB 71)
- British Chambers of Commerce (GIB 72)
- Civic Voice (GIB 73)
- Christine Butterwick (GIB 74)
- Scott Bader Ltd (GIB 75)
- Essar Oil (UK) Ltd (GIB 76)
- GDF SUEZ (GIB 77)
- Dalton Warner Davis LLP (GIB 78)
- Poundland (GIB 79)

- CVS (GIB 80)
- University of Kent (GIB 81)
- Halite Energy Group (GIB 82)
- Knightsbridge Association (GIB 83)
- The Marches LEP (GIB 84)
- Institute of Revenue, Rating and Valuation (IRRV) (GIB 85)
- Business in Sport and Leisure (GIB 86)
- BT (GIB 87)
- Broadband Stakeholder Group (GIB 88)
- Shelter (GIB 89)