



CLLS Planning & Environmental Law Committee

Further submissions to the Public Bill Committee on the Department for Communities and Local Government's Technical Consultation on Planning

The City of London Law Society ("CLLS") represents approximately 15,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 19 specialist committees. The views of its Planning & Environmental Law Committee (the "Committee") in respect of select provisions in the Housing and Planning Bill (the "Bill") were provided to the Public Bills Committee on 25 November 2015. The Committee met again on 3 December 2015 to discuss the response and agreed to provide further comments set out below.

Part 1, Chapter 1 - Starter Homes

The Committee previously noted that there is a risk that a blanket requirement to introduce starter homes on certain types of sites could render developments unviable. Linked to this, the Committee queries how the Government subsidy for starter homes will in practice be administered and how the Government will ensure this reaches developers who will be providing starter homes. Detail on this is needed in order to understand the impact of the legislative provisions. For example, is it envisaged that Starter Homes built with Government subsidy will remain Starter Homes in perpetuity or if sold later on the open market at full value will the Government subsidy be required to be recycled for affordable housing?

Part 6, Clause 103- Local planning authority to keep register of particular kinds of land

The preparation, maintenance and publication of registers of particular kinds of land which may be granted permission in principle is likely to give rise to a duty to carry out strategic environmental assessment. Clarity from the Government on how it proposes to deal with this issue would be welcomed. Strategic environmental assessment is a drawn-out process which will increase the administrative burdens on LPAs; the Government should consider providing additional funding to LPAs to support the preparation of registers of land or ensure that where the development of land on registers is likely to have significant effects on the environment it does not need to be included.

Part 7, Clause 137 – Power to override easements

Clause 137 replaces section 237 of the Town and Country Planning Act 1990 to provide a new power to override easements and other rights when undertaking development. The Committee welcomes the extension to the existing powers in section 237, particularly the removal of the need for the LPA to have first acquired or appropriated the land for planning purposes.

However, it is not currently clear that the new power will entitle developers who become successors in title to the specified authority to take free of the easements and other rights. Express provisions should be included in clause 137 to ensure any easements and other rights remain unenforceable against the original developer and any successors in title or persons who derive title from the developer. Additionally, the Committee considers that the new power in clause 137 should not be limited to land vested in or acquired by a specified authority on or after clause 137 comes into force (as currently provided for by clauses 137(2)(b) and (4)(b)). Instead, land already vested in/acquired by a specified authority should be capable of benefitting from the new provisions where developed.