Department for Communities and Local Government

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Members of the House of Lords

8th April 2016

Dear Colleagues,

Housing and Planning Bill Committee sitting seven: Part 5, Neighbourhood Planning, and Local Plans

I am writing following the seventh sitting of the Lords Committee on the Housing and Planning Bill on 17 March.

Clause 115 – Assessment of Accommodation Needs

Noble Lords asked whether there would be any consultation on the draft guidance. I would like to inform noble Lords that we have circulated draft guidance on the 'periodical review of housing needs for caravans and houseboats' to all relevant Gypsy and Traveller groups. We will be discussing this with them at the next Gypsy and Traveller liaison group which will be held with officials at the Department in June.

I was also asked whether the Department had responded to a letter from the London Assembly about how the measure in the Bill would impact on the assessment of the number of Gypsies and Travellers in London. I told the House that a response had been provided, and I have attached that response at Annex A.

Clause 117 – Financial Penalties

Lord Beecham was concerned that a rogue landlord could escape with a civil penalty without receiving a criminal conviction. When a local authority decides what action to take against a rogue landlord it will take into account the seriousness of the offence. It is very unlikely it would adopt the civil penalty route where the offence committed is particularly serious, as prosecution would allow the fines to be unlimited. Where two or more civil penalties are issued the landlord or property agent could be placed on the database of rogue landlords. The Secretary of State will issue guidance which local housing authorities must have regard to when considering whether to impose civil penalties.

Clause 118 – Overcrowding

Lord Campbell-Savours asked for numbers of people charged and prosecuted for housing offences as well as number of prosecutions for overcrowding offences. We do not hold this data centrally. The measures introduced through the Bill are designed to encourage local authorities to take firm action against people committing such offences.

Lord Kennedy sought confirmation on what expenses a local authority could recover from the landlord in preparing and serving a prohibition order. Local authorities can recover administrative and other expenses incurred by them in making a prohibition order. This is set out in section 49 of the Housing Act 2004.

Baroness Gardner of Parkes raised concerns about the lack of regulation caused through overcrowding by letting through Airbnb. Airbnb is a company, not a landlord letting properties directly. It helps those who want to let their homes on a short term basis to advertise availability to those looking for accommodation. It is one of many companies offering such services and reflects the growing interest in the sharing economy and the demands of today's digital age. It is the property owner's responsibility to ensure they let their property responsibly, and recognise the need to be good neighbours. I understand Airbnb is looking to introduce a facility for neighbours to feedback any comments about users of the service.

The existing protection for residents against statutory nuisances and anti-social behaviour apply whether the property is let through a company or whether the residents live permanently in the property.

New Clause – Client Money Protection

Baroness Hayter raised the issue of Client Money Protection and I committed to meet with her and interested Peers it discuss further. My officials will be in touch to set this up before Report.

Clauses 125 to 128 – Neighbourhood Planning

On Clause 125 (designation of neighbourhood areas), Lord Greaves asked for further clarity regarding the proposed circumstances in which a neighbourhood area must be designated, and the proposed exemptions to this requirement.

Clause 125 enables the Secretary of State to prescribe circumstances in which a local planning authority must designate the whole of a neighbourhood area applied for and to prescribe exceptions to this requirement. The circumstances we propose are when:

- a parish council applies for the whole of the area of the parish to be designated as a neighbourhood area, or applies to enlarge an existing designation of part of the parish to include the whole of the parish area; or

- in other cases, a local planning authority has not determined an application for designation of a neighbourhood area within the current time periods (13 weeks, or 20 weeks where more than one local planning authority is involved).

The exceptions to the requirement to designate the area applied for in these two cases would be if any of the area applied for had already been designated (other than where a parish wants to enlarge an existing designation of part of the parish to include the whole of the parish), or if there already was an outstanding application for designation of any of the area applied for. This is to avoid boundary changes that could impact on neighbourhood plans or Orders in preparation or already brought into legal force (made).

The changes would mean that a local planning authority's current requirement to consider whole parish applications and make a decision within eight weeks (with at least four weeks of publicity) will no longer apply. Instead, the designation should be made as soon as possible, once the authority is satisfied that the application is valid and complete.

If an application is received for only part of a parish area; for an area that includes more than one parish; or the whole of a parish and some of the surrounding area, the existing requirement to decide the application within is 13 weeks (or 20 weeks if more than one local planning authority is involved) would apply. It is only if this time period was breached that the authority would be required to designate all of the area applied for (unless one of the exceptions previously explained applied – e.g. any of the area applied for had already been designated or there already was an outstanding application for designation of any of the area applied for).

Clauses 129 to 134 – Local Planning

In our response to my Noble Friend, Lord True's amendments 89B to 89E we said we would write to explain what is meant by 'revising' a Local Plan.

To be effective, plans need to be kept up-to-date. Policies will age at different rates depending on local circumstances. The local planning authority should review the relevance of their Local Plan at regular intervals to assess whether some or all of it may need updating. Most Local Plans are likely to require updating in whole or in part at least every five years. When we talk about revising a development plan document therefore, we are talking about the preparation of an updated document to replace all or part of the existing one.

We want to be clear that Clause 133 (Default powers exercisable by Mayor of London or combined authority) does not allow the Mayor of London to direct a London borough to make revisions to a development plan document (the documents that make up a Local Plan). Nor can the Mayor unilaterally decide to prepare or revise a development plan document for a London borough. The Mayor can only be invited by the Secretary of State to do so where the borough are failing or omitting to do anything it is necessary of them to in connection with the preparation, revision or adoption of the document.

I hope this gives reassurance that the decision on whether to intervene is one taken by the Secretary of State. We are currently consulting on the criteria that we propose to consider when taking such decisions and welcome any comments my Noble friend may have.

A copy of this letter will be placed in the House library.

BARONESS WILLIAMS OF TRAFFORD

Annex A – Letter from Baroness Williams to London Assembly Housing.

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Our Ref:1747167
Your Ref: 2015/76

Tom Copley AM
Chair of the London Assembly Housing Committee
City Hall
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05 JAN 2016

Dear Tom,

Thank you for your letter of 15 December to Brandon Lewis MP regarding a clause in the Housing and Planning Bill. I am replying as this falls within my Ministerial responsibilities.

The Government wants a fair planning system, in which everyone is treated equally and even-handedly, and where decisions on development and enforcement action are taken at the local level wherever possible. The Government's overarching aim is to ensure fair and equal treatment for Travellers - whatever their race or origin - in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community.

The provisions in the Housing and Planning Bill do not seek to remove the obligation to assess the accommodation needs of Gypsies and Travellers. Instead, they include the assessment of the needs of those who reside in or resort to the area - with respect to the provision of caravan sites and moorings for houseboats - irrespective of their cultural traditions or whether they have ever had a nomadic habit of life. The clause seeks to remove the perception that because Gypsies and Travellers have specific mention in legislation they somehow receive more favourable treatment. We want local authorities to assess the needs of their communities as a whole and our clause emphasises that Gypsies and Travellers are not separate members of our communities. Local housing authorities will be able to consider how best to assess that need, whether as a whole or by providing individual assessments for specific groups of people.

The Government wishes to see an increase in the supply of Traveller sites. In much the same way as we expect councils to plan to meet the needs of their settled community, our Planning Policy for Traveller Sites sets out that local authorities should objectively assess their Traveller needs and identify a suitable five-year supply of sites to meet these, taking account of national planning policy in doing so. Up to 31 March 2015, a total of 463 new, and 332 refurbished, pitches were delivered under the 2011 -15 Traveller Pitch Funding programme. Funding for new traveller pitches is now provided through the 2015 - 18 Affordable Homes Programme.

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