



Department  
for Transport

**Lord Hendy of Richmond Hill**  
Minister of State for Rail

Great Minster House  
33 Horseferry Road  
London  
SW1P 4DR

Tel: 0300 330 3000  
E-Mail: [lord.hendy@dft.gov.uk](mailto:lord.hendy@dft.gov.uk)

Web site: [www.gov.uk/dft](http://www.gov.uk/dft)

The Lord Moylan  
House of Lords  
London  
SW1A 0PW

18 September 2025

Dear Lord Moylan,

## **PLANNING AND INFRASTRUCTURE BILL: COMMITTEE STAGE CLARIFICATIONS**

It was an honour to represent the Government during Committee stage of the Planning and Infrastructure Bill in the House of Lords. I am grateful for the constructive and insightful scrutiny provided by all Noble Lords, as well as the thoughtful contributions and proposed amendments put forward.

A number of questions were raised by Noble Lords, and where I indicated that I would do so, I welcome the opportunity to offer further clarification on several technical points raised during debate. For the purposes of transparency, I shall also be depositing a copy of this letter in the House of Lords Library.

### **Highways Act 1980: Fees for certain services**

The Noble Lord, Lord Moylan, raised a query regarding which bodies are envisaged as being able to levy charges under the regulations enabled by this clause.

The Secretary of State in England, and Welsh Ministers in Wales, will set out in regulations the bodies that will be authorised to levy charges. The final list will be confirmed during the development of those regulations. The list may include some bodies on whom the legislation currently requires notice to be served when an order or scheme under Highways Act 1980 is proposed. Such bodies could include local authorities (other than the highway authority) in whose area the highway or proposed highway is situated, or the

Environment Agency or Natural Resources Wales, where for example the proposals include construction of a bridge over or a tunnel under a navigable waterway. The list may also include the statutory nature conservation bodies for England such as Natural England.

The Noble Lord, Lord Moylan also asked whether, in cases where the local authority and the highway authority are the same body, any charges to the highway authority would be drawn from a parking revenue account or from the general fund.

As I stated during the Committee session, it is important that organisations are able to plan and fund resources appropriately to support the delivery of these reforms. Local authorities face significant funding pressures, and flexibility in setting and managing fees is a strong component to addressing these challenges. If the Government were to have an overly prescriptive approach, it would remove that flexibility. Instead, the approach taken forward in this Bill enables Local Planning Authorities (LPAs) to make locally appropriate decisions. These decisions will take into account the existing rules around the use of parking places revenue fund surpluses (which are principally set out in Section 55 of the Road Traffic Regulation Act 1984) and will be supported by guidance and safeguards to ensure transparency and cost recovery.

### **Highways Act 1980: Compulsory acquisition powers to include taking of temporary possession**

The Noble Lord, Lord Moylan asked how the clause proposed will deal with the condition in which temporarily possessed land is returned.

The temporary possession clause seeks to put beyond doubt that the existing power to create and take rights in land under the Highways Act 1980 also includes the right to temporarily possess or occupy land. This will facilitate the activities necessary for the delivery of highway projects, avoiding the current scenario where land may be unnecessarily compulsorily purchased.

The clause applies the procedures and safeguards already applicable to land acquisition powers under the Highways Act 1980 to temporary possession. Specifically, the provisions under the Compulsory Purchase Act 1965 ensure that compensation provisions and procedural safeguards are in place.

Existing legislation<sup>1</sup> in the Highways Act 1980 already allows temporary possession to be undertaken by way of licence, the terms of which are negotiated between the parties, as an alternative to imposing temporary possession compulsorily. Where such agreement cannot be reached in advance of an order being sent for confirmation the acquiring authority may still request the powers to compulsorily possess or occupy the land temporarily by having the order confirmed but they may not, if an agreement can be reached, bring that aspect of the order into force. The reality in many cases will be that the compulsory power, although granted, is rarely used because its existence means it is in every party's best interest to negotiate a commercial arrangement. The existing provisions provide scope for the agreement to include terms related to the reinstatement and repair of the land.

However, if land is to be acquired by compulsion, Section 5 of the Compulsory Purchase Act 1965 sets out the procedure to be used. The section requires that the landowner is served with a notice that sets out the intention to create and take a right in land. This notice must contain the details of the proposed compensation for the damage that occurs due to the works<sup>2</sup>.

Part II of Schedule 19 of the Highways Act 1980 applies to this clause and substitutes Section 7 of the Compulsory Purchase Act 1965, so that any question as to the level of compensation is referred to the Upper Tribunal for a decision. The Upper Tribunal considers:

- The extent to which the value of the land has dropped as a result of its temporary acquisition, and
- Any damage caused to the rest of the landowner's property, either by splitting it up or by negatively affecting nearby land.

Together these provisions are designed to ensure landowners are fairly compensated for lost value or damage to their land, and that before temporary possession can take place compensation must be agreed through negotiation or referred to the Upper Tribunal. The provisions can be utilised to ensure that the land is returned in an adequate state by, for example, imposing a term in the notice (if land is compulsorily possessed) or licence (if the land is possessed via agreement), such that additional compensation is

---

<sup>1</sup> Section 238 of the Highways Act 1980 confirms that the temporary possession/occupation can be by agreement as an alternative to a compulsory order. Alongside that provision the provisions in relation to acquisition by agreement in Section 3 of the Compulsory Purchase Act 1965 apply.

<sup>2</sup> Please refer to Section 5 (2c) of the Compulsory Purchase Act 1965.

provided if the land is not returned in the stated condition. In most cases, it's expected that these issues will be settled through negotiation, with court involvement only if absolutely necessary.

### **Transport and Works Act 1992: Duty to hold inquiry or hearing**

The Noble Lords, Lord Moylan and Lord Lucas, raised a query regarding under what powers the Government would flesh out the term “serious enough” in relation to determining the criteria for holding a public inquiry.

Clause 36 will allow the Secretary of State or Welsh Ministers to determine the best course of action when considering objections to transport projects. The effect will be to raise the threshold for when costly and time-consuming Public Inquiries are to be held, ensuring that the consenting process is more proportionate and effective.

I acknowledge the points raised by the Noble Lords and will continue to give them due regard.

### **Transport and Works Act 1992: Power to make consequential amendments**

The Noble Lord, Lord Moylan, raised a query requesting examples of legislation that may need to be altered using Clause 45 of the Planning and Infrastructure Bill. Clause 45 would provide the power to make consequential amendments in respect of Clauses 34 to 44 of the Bill.

The Transport and Works Act 1992 interacts with the high volume of existing railway legislation and other planning related legislation. Examples of where consequential amendments may be required would be to the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Ancient Monuments and Archaeological Areas Act 1979 if the Bill's amendments to how heritage consents are considered are enacted.

I trust that these responses provide clarity and reassurance to Noble Lords. As ever, I remain committed to working collaboratively with all Members of the House, and I am happy to provide further clarification should it be required.

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

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Peter Hendy", is centered on a light-colored rectangular background.

**Peter, Lord Hendy of Richmond Hill**

**MINISTER OF STATE FOR RAIL**