


## At a Glance

**The bill.** The government has published a wide ranging enabling bill with two main aims, boosting home ownership and increasing government powers to intervene in local planning. *Full text of the Housing and Planning Bill and explanatory notes* . (Numbers) below refer to clauses in the bill.

**Local plans.** The bill gives the secretary of state and the London mayor greater powers to dictate the content of local plans as well as the areas that they cover. Ministers can take over local plans that they think are in trouble or disagree with.

**Planning permissions.** The government is to bring housing into the national infrastructure planning regime, providing it is associated with a major project such as a rail line. No details are given of the amount of housing that will be allowed or how close to the infrastructure project the housing needs to be. The government will also be able to give permission in principle for development of designated sites. Ministers intend to apply this to brownfield sites but the bill allows them to broaden the scope of this power through new regulations.

**Brownfield.** The bill allows the secretary of state to require local authorities to keep registers of brownfield land suitable for development, and of other types of land if that suits ministers.

**Neighbourhood plans.** The government wants councils to give greater priority to neighbourhood planning. Rules on designation of areas for neighbourhood plans and making (adoption) of neighbourhood plans have been tightened. Ministers are given extensive powers to intervene if a council is laggard in processing plans or unduly tries to influence their content.

**Starter homes.** The government's intention is to ensure that starter homes become a common feature of new residential developments across England. The details of the scheme are to be set out in regulations but may allow some degree of local flexibility.

**Self-build and Right to Buy.** A new duty is placed in local authorities to grant sufficient planning permissions to meet local need for self-build homes. The Right to Buy is extended to social landlords on a voluntary basis.

## Ministers Grab Planning Powers


*This is an enabling bill that gives ministers powers to make policy through regulations. In fact, almost everything that this bill intends to achieve will be delivered through these as yet unpublished regulations. That has inevitably led to much speculation about what the government might be intending. It also means that there will be less parliamentary scrutiny of the new administration's housing and planning policies.*

*The bill, for example, obliges local authorities to promote, plan for and permit starter homes – housing to be sold at a 20% discount. But the critical details of how starter home policy affects current policies for delivering affordable housing through S106 agreements are left out of the bill. That will be down to Greg Clark and Brandon Lewis to dictate through regulation. Commentators **fear that they will decree** that starter homes can be built instead of affordable housing, squeezing the already scarce supply of housing for people on low incomes.*

*Housing projects associated with infrastructure projects, for example schemes around stations on HS2 and Crossrail 2, can now be decided under the nationally significant infrastructure process introduced by the 2008 Planning Act. But just how large these schemes are allowed to be and whether they need to be close to the infrastructure project will be decided by ministers.*

*The bill is interventionist, giving ministers powers to intervene when local plans meet problems or even when ministers are merely unhappy with the direction a local plan is going.*

*The bill introduces permission in principle. This gives automatic planning consent for suitable buildings on designated sites and allows ministers to impose the equivalent of local development orders on councils. The government says it currently intends to apply this power to brownfield sites. Maybe, but the bill allows ministers to give permission in principle to garden cities and other categories of land. The temptation to use these powers will grow if, as looks likely, the government fails to boost housing supply significantly over the course of this parliament.*


*Some parts of the bill are frankly bizarre. Rather than instructing local councils to sell high value council homes when they become vacant, the government is to take advanced payments from councils equivalent to the valuation of properties they might sell in the coming year. The government will then pay this back when the houses are sold. Councils say they can't afford to lend the government money in this way and fear that not all will be repaid .*

*Although the government has not yet published an impact assessment for the bill or the all-important regulations, there is no doubt that this bill will change the way that housing is built throughout England – and that of course is exactly what the government intends.*


## Local Plans

**Plan content.** The secretary of state and mayor of London already have powers to direct that the area covered by a council's local plan be amended "for the purpose of ensuring effective coverage of the authority's area." This power is now clarified to enable the intervention to ensure "full and effective coverage (both geographically and with regard to subject matter)" (96).

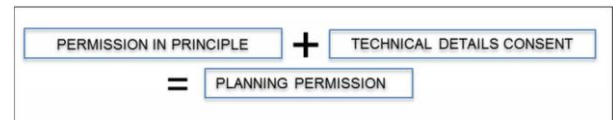
**Examinations.** The secretary of state is given powers to suspend a local plan examination. He can also direct the inspector to consider specific issues or to hear evidence from particular people (97). Where the secretary of state has issued a direction to modify a local plan before it goes to examination, the examination becomes the responsibility of the government, not the local council. The council cannot adopt the plan if the secretary of state has issued a direction or has said he has plans to do so (98).

**Takeover.** If the secretary of state thinks a local authority is not doing enough to get a plan in place he can direct the authority how to act or take over the plan process himself. He must then either hold an examination or order the authority to submit the draft local plan for examination. Once that has concluded, he can approve the local plan himself, direct the council to adopt it or, if he is still unhappy, reject it. The council must pay the government's costs if these powers are used (99-100). The government has reiterated the statement it [issued in July](#) that councils must get local plans in place by 2017 "or the government will work with their communities to write one for them" .

## Planning Permission


**Housing as infrastructure.** Applications made to the national infrastructure planning unit can now include a significant element of housing. Provision could include any temporary housing needed during the construction of projects. Ministers can also approve housing that has a "close geographical link" with the infrastructure project (107). The level of housing that can be applied for by this mechanism will be set out by the secretary of state. Infrastructure planning expert Angus Walker suggests that this will be no more than 500 homes. This land could also be compulsory purchased under Planning Act powers .

**Permission in principle.** The bill allows that proposals to build on land allocated for development can be given "permission in principle". The land will be subject to a development order which what type and scope of development will be granted permission in principle. If the proposal fits the criteria in the development order, it will only require technical details consent from the local authority to proceed. An application for permission in principle can be refused by a council, but it cannot be granted subject to conditions. Councils will only be able to attach conditions to the technical details consent. The government is to consult on how the technical details regime will work in practice (102).





**Intentions.** The communities department has said it will consult on its intentions and:

*The government initially intends only land allocated in the brownfield register, development plan documents and neighbourhood plans will be capable of obtaining permission in principle... The government's current intention is that this will initially be limited to sites suitable for housing use, location and amount of development... The government's current intention is to limit the type of development to minor housing development (the creation of fewer than 10 units).*

The phrases 'initially intends' and "current intention" are important here. They suggest that larger development schemes – for example, sustainable urban extensions and even new settlements – could be at some point subject to permission in principle. However, the need for an environmental impact assessment for larger developments may prove to be a barrier to permission in principle .

**Special measures.** The secretary of state will be given powers to put a council into special measures if it fails to process smaller planning applications on time. If a council is designated as underperforming on processing planning applications, special measures designation allows developers to take their applications directly to the planning inspectorate. Currently, a council can only be designated if it fails to process major applications in a timely fashion (105).

**London.** The mayor will be given broader powers to call in applications that do not fit with the spatial planning strategy (the London Plan) or a local plan for a borough. As promised in [Fixing the Foundations](#), he will take responsibility from the secretary of state for planning powers over wharves and sightlines (101).

**Permitted development rights.** Planning authorities will be given powers to place restrictions on building operations under the rights. They could for example insist on a transport strategy or measures to reduce noise impacts (104). Separately, Brandon Lewis has announced that office to residential conversion rights, due to expire next spring, are to be made permanent. The rights will also allow the demolition of offices and rebuilding without planning permission . Many London councils are furious with the decision [24](#). The Town and Country Planning Association said: "The decision to extend permitted development... seriously undermines the ability to create decent homes in vibrant communities.... The announcement means that local communities will have even less say over how their neighbourhoods are developed" .

**Financial information.** Planning applications that go to a planning committee for determination must be accompanied by a statement of the financial benefits the development will bring to the council and perhaps also to communities (106).

## Brownfield

**Register.** The secretary of state will be able to issue regulations requiring local planning authorities to keep register of particular kinds of land (103). The government says this will apply to brownfield land and:

*The criteria prescribed by the secretary of state could for example include that the land must be available already or in the near future for housing development, that it must not be affected by physical or environmental constraints that cannot be mitigated and that it must be capable of supporting five dwellings or more.*

Ministers could vary these criteria, for example, lowering the threshold to four dwellings or fewer.

**Permission in principle.** The register is also likely to identify land that is suitable for permission in principle. There may be some discretion on whether controversial brownfield sites are suitable for this:

*The secretary of state might provide for example that the local planning authority could exercise their discretion in exceptional circumstances such as where development of the land would be particularly controversial and the authority considers that development decisions should be made through the usual planning application route.*

**Starter homes.** The government has created a £10 million fund to help councils prepare brownfield sites for starter homes .

## Neighbourhood Planning

**Neighbourhood areas.** At present, councils have the option of approving only part of a neighbourhood plan area. Under the bill, if an application for a neighbourhood area meets the relevant criteria the council must normally approve the application. The government will be able to set time limits for a council consulting on and determining applications (92, 93).

**Neighbourhood plans.** Councils must act quickly to bring into force a neighbourhood plan or development order is approved in a referendum. The government is given powers to set time limits for this (93).

**Intervention.** The communities secretary is given powers to intervene in the neighbourhood plan process if requested by the parish council or neighbourhood forum. Intervention may be made when a local authority:


- ◆ has failed to hold a timely referendum
- ◆ has ignored a recommendation from the plan's examiner
- ◆ makes modifications to the plan that are not recommended by the examiner.

The secretary of state can order a new consultation or referendum if new evidence is presented or he disagrees with how existing evidence has been interpreted. He can also order a referendum on a neighbourhood development order or throw out the order. He can extend the area in which the referendum is to take place. If required, he can appoint a planning inspector to act on his behalf (94).

**Planning applications.** If requested, the council must notify the neighbourhood forum of any planning applications made in the plan area (95). This will provide neighbourhood forums with the same notifications that parish councils receive.

## Starter Homes

**Definition.** A starter home is a new dwelling that is only available for purchase by qualifying first time buyers, who must be under the age of 40, at a price that is at least 20% less than the market value. Starter homes cannot cost more than £250,000 (£450,000 in London). The secretary of state can also specify additional characteristics that a first-time buyer must have, for example minimum age or nationality. He can place restrictions on their sale and letting to, for example, block investors who want to buy to let (2).

**Promotion.** Local authorities must promote starter homes in local plans and when determining planning applications (3). The government has created a £26 million fund to boost the quality of design and increase the range of starter homes available. The demonstration homes will be built on brownfield sites .


**Obligation.** The secretary of state can regulate that certain developments, for example larger housing schemes, must provide starter homes on site, or make a payment to the local authority to provide starter homes elsewhere. This could be applied flexibly, with different requirements for different types of residential developments or varying requirements for starter homes in different areas. Local authorities might also be given a degree of discretion over the number and location of starter homes (4).

**Delivery.** Local authorities must publish a report, perhaps as part of its existing Annual Monitoring Report, on how many starter homes have been delivered (5). If a council tries to resist starter homes through policies in its local plan, or has not been able to update it to be inclusive of starter homes, the secretary of state can direct that the policies must be ignored in planning decisions (6).

## Self-build and Other Homes

**Self-build.** The definition of self-build is tightened to exclude plots where the building is entirely contracted out to a builder (8).

**Duties.** Local authorities will have a new duty to grant sufficient planning permissions for self-build homes to meet local need. Councils will be held to account on this duty yearly. The secretary of state can set timescales for councils to fulfil the duty. He can also make exemptions from the duty, though no details are specified (9-10).

**The Right to Buy** is extended to social landlords on a voluntary basis. The Bill gives the secretary of state and London mayor powers to compensate housing associations for the discounts given to purchasers. The secretary of state can order the regulation of social housing to monitor housing sales using criteria he specifies (56-58). Just 55% of housing associations have signed up to the Right to Buy .



**Local authority sales.** The government wants councils to sell “high vale” council homes and the bill places a duty on local housing authorities to consider selling any high value vacant housing that they own. To encourage this, the 165 councils that own council housing must make an advance payment to the government equivalent to the value of high vale properties likely to become vacant. The government will then reduce that payment if the properties are sold, on condition the money is spent on housing or on things that will facilitate the provision of housing (62-72).

**Gypsies and travellers.** The bill removes the requirement on local authorities to assess the needs of gypsies and travellers when carrying out reviews of housing needs (84).

## Reaction

**CPRE.** Matt Thomson, head of planning said :


*We really welcome the bill's proposal to increase support for neighbourhood planning and to introduce a brownfield register. But unfortunately the bill risks slowing down house building by introducing a barrage of complex new rules and regulations. If anything, decision-making will face a turbulent future as developers fight with local authorities in the courts.*

*The government should stop fixating on the planning system. Figures show that planning permissions are not the issue; the issue is that developers are not building the homes for which they have permission. So, while a brownfield register is a very welcome move, further initiatives to deregulate planning are not going to ensure we build the affordable homes we need to tackle the housing crisis.*

*This bill is just not going to help people who need genuinely affordable housing in rural areas... The government has failed to back up its claim that it will support a rural exemption from the Right to Buy.*


**Government.** David Cameron said :

*A Greater Britain must mean more families having the security and stability of owning a home of their own. My government will do everything it can to help people buy a place of their own... We need a national crusade to get homes built and everyone must play their part. Councils have a key role to play in this by drawing up their own local plans for new homes by 2017. But if they fail to act, we'll work with local people to produce a plan for them.*

He also launched the Own Your Own Home portal .

**Politics.** Tom Copley, Labour housing spokesman on the London Assembly, said :


*These proposals will devastate the capital's housing market and do nothing but fuel already rocketing house prices by forcing councils to sell off between 3,000 and 4,500 council homes a year. The bill will be another nail in the coffin of genuinely affordable housing.*


John Healey, Labour shadow cabinet minister for housing and planning, said :

*Britain's broken housing market is stacked in favour of a lucky few and against young people and families on ordinary incomes... People are increasingly fed up with announcements and big numbers from the government which aren't backed up by action. The reality under the Tories is fewer affordable homes, developers being given a completely free hand, rogue landlords profiteering and those on average incomes unable to buy a home of their own.*

**Industry.** The British Property Federation said more emphasis was needed on homes for rent :


*The government is being fairly punchy in the reforms it wants to make to the planning system to deliver new homes. The fact that it is prepared to take on the responsibility of local plans is particularly welcome... Homes for owner occupation are not the only option. The build to rent sector has the potential to deliver a huge number of additional homes... and must not be disregarded in favour of homes for sale.*

The Chartered Institute of Housing said that an estimated 7000 council houses a year could be lost under the policies for sales and the Right to Buy .

**Housing commentator** Colin Wiles said the bill was full of omissions: “There is so much silence on so many key issues that the bill is hardly worth the paper it is printed upon.” The starter homes policy would, he said, “Be the virtual end of affordable rented homes on section 106 sites and their replacement by a product that is unaffordable across most of the south east” .

## The CPRE eBulletins

**CPRE South East eBulletin** is independently written and edited by Andy Boddington: [cprenews@andyboddington.co.uk](mailto:cprenews@andyboddington.co.uk). Views expressed in the eBulletin and its editorial approach are those of its editor and not any part of CPRE.

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