

Business and Planning Bill

Committee Stage

House of Lords

Monday 13 July 2020



Key messages:

- Local government's delivery of important public services during the COVID-19 pandemic highlights the value of place-based leadership. It has demonstrated how national policies are best achieved with local flexibilities and councils as democratically elected leaders should be free to shape priorities locally as they work best in their communities.
- Councils want to work with the Government to develop post COVID-19 recovery options. The economic, social and environmental recovery our communities need will look different in different areas of the country and only a locally coordinated response will be effective. As the economy is being re-opened, businesses that were forced to close have looked to local government for guidance and support about how they can reopen safely.
- The Business and Planning Bill is a positive step in the journey towards economic recovery, supporting the reopening of hospitality businesses as well as setting out measures to boost construction.

Licensing

- Councils have already been working hard on measures that can be put in place to help hospitality businesses to reopen, including relaxing requirements and considering how town centres can be used differently to enable businesses to operate outside. The Bill will help ensure a consistent approach can be taken across the country.
- Councils need to have the power to both refuse applications where these cannot be managed safely and to act if any issues arise following the re-opening of premises. The full responsibility, and cost, for making this policy work successfully does not sit with local authorities alone. With the initial burden falling on them it is crucial that councils are supported financially to meet the costs of processing an expected large number of applications in a short period of time.
- We would welcome the alignment of the new pavement licensing framework with other licensing regimes in being designated as a non-executive function. This would mean decisions could be made more efficiently by existing Regulatory Committees, reducing the burden on local government.
- It is also important that local government and businesses are supported by clear and comprehensive guidance from national government as councils will need to process a potentially large number of applications in a short period of time.
- It is correct that the proposed licensing measures in the Bill are only temporary. In the long term there needs to be a comprehensive review of our outdated licensing legislation to ensure it is fit for the future. We have long called for this review and want to work with the Government on this vital programme once the proposed relaxations in this legislation have ended.
- Government should use the passage of this legislation to clarify whether councils can

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licence parking bays that have been suspended where it is safe to do so, subject to local conditions. This would enable businesses to take advantage of pavement licences that otherwise may not be able to because of limited pavement width for example. It should also clarify whether new pavement licences are exempt from Public Space Protection Orders (PSPOs) in the same way as licences under the Highways Act 1980 are.

Planning

- Councils have already been working with the development industry to get developments moving again as safely as is possible. The temporary measures set out in the Bill to help encourage the construction and building industry to resume its work are therefore timely. This industry will have an important role to play in the economic recovery, providing jobs, infrastructure and new investment to our communities.
- We are pleased that the Government has listened to calls to extend planning permission deadlines, so that permissions due to expire by 31 December 2020 and those that have expired since 23 March will be automatically extended to 1 April 2021. This is something the LGA has called for and will prevent councils and developers from having to begin the planning process all over again.
- Flexibility on construction site working hours needs to be negotiated on a site by site basis with councils so that they can consider the impact on local residents. This is particularly important at a time when many residents will be at home all day, and are required to work from home, due to the current lockdown measures.
- It will also be important that councils can recover the costs of processing applications through the new application route for modification of conditions relating to construction working hours and applications for additional environmental approval and therefore should be able to charge an appropriate fee.
- As we look to the future, a genuine renaissance in council house-building which delivers 100,000 social homes a year should be a central part of the national recovery. It is important that councils are given the powers and tools to build more of the affordable homes the country needs, with the right infrastructure, that reduces homelessness, supports people's wellbeing and is climate-friendly.

Amendment statements

- **Amendment 18, tabled by Baroness Northover and supported by Lord Faulkner of Worcester, Baroness Finlay of Llandaff, and Lord Young of Cookham, intends to require that all pavement licences are subject to the condition that they are designated as smoke-free public places.**

The LGA supports this amendment as it sets a level playing field for hospitality venues across the country and has a public health benefit of protecting people from unwanted second-hand smoke.

Section 5 of the Bill already sets out that conditions can be put on pavement licences by local authorities or by the Secretary of State. This amendment requires that all pavement licences are subject to the condition that they are designated as smoke-free places, setting a level playing field.

Previously, those wishing to avoid exposure to second-hand smoke could stay inside, but indoor access to hospitality venues is more restricted as we emerge from the COVID-19 lockdown.

If smoking is not prohibited, pavement areas will not become family-friendly spaces. It may exclude non-smokers from enjoying the benefit of eating and drinking outside. Neighbouring premises, particularly in cramped inner-city areas, will also be exposed to second-hand smoke.

- **Amendment 54, tabled by Baroness Pinnock and supported by Lord Shipley, intends to allow local planning authorities to charge a fee for applications for extended construction hours, up to a maximum of £195.**

The LGA has called for planning authorities to be able to recover the costs of processing applications received through the new application route for modification of conditions relating to construction working hours. Amendment 54 seeks to allow councils to charge a fee for such applications, which we welcome. However, councils should be able to set the fee at a level which enables full cost recovery, which in some cases may be higher than £195.

Councils will also need the ability to recover costs for applications to extension of certain planning permissions where additional environmental approval is needed because the development affects a habitat site or is subject to an Environmental Impact Assessment (EIA).

Full cost recovery from applications will be necessary to offset the additional resourcing pressures for new applications, particularly when planning departments are already working hard to recover from the impact of COVID-19.

- **Amendment 57, tabled by Baroness Pinnock and supported by Lord Campbell of Pittenweem, aims to give local planning authorities discretion to extend the 14-day period under which they must make a determination on a planning application, with the agreement of the applicant.**

The LGA supports amendment 57, as it will enable local planning authorities to agree with the applicant an extended period of time to decide on an application to extend construction working hours.

Under the legislation as it stands, councils will be required to decide on applications for extended construction hours within 14 days. If an application is approved, this will amend the construction working hours until 1 April 2021, unless another earlier date has been agreed. Where a council does not respond to an application within 14 days, the revised working hours are deemed to have been consented to until 1 April 2021.

We are concerned that, whilst councils will do all they can to process applications promptly, there may be challenges around this, particularly if a large number of applications are received.

The proposed amendment will provide additional flexibility in cases where more time is needed to make a decision. For example, where there are multiple impacts on local residents, businesses and/or national and international statutory environmental designations that need to be taken into account.

Councils want to do all that they can to help boost the economy and restart the construction for much needed housing and development, and are already granting temporary changes to construction working hours. All proposals for extended working hours on construction sites need to be negotiated with the relevant council so that they can take into account any impact on local residents and businesses.