Wildlife and Countryside Link briefing on the Growth and Infrastructure Bill House of Commons report stage, December 2012

The Growth and Infrastructure Bill proposes a number of significant amendments to the planning regime, some of which may have unintended, yet significant, adverse impacts on the natural environment and the public benefits it brings. The speed with which this Bill has been introduced has reduced the ability of interest groups' to engage with the democratic process, which may negatively affect the practicability of the Bill, and there has also been a serious failing in the lack of prior public consultation.

Wildlife and Countryside Link (Link) has been closely engaged – through the Greenest Planning Ever coalition – in the reform of the planning regime under this Government. We believe that any further reform of the regime must support the National Planning Policy Framework's (NPPF) core principle of sustainable development, and recognise that the sustainable growth we need can only come from integrating economic, environmental and social concerns.

We would note that the lack of resources and skills in many planning departments is a significant contributor to delay in the planning system, and thus to the successful implementation of planning policy.

In order to avoid the adverse potential consequences of the Growth and Infrastructure Bill, Link recommends that the Government should:

1. Remove **clause 1** from the Bill;
2. Amend **clause 5** to clarify what constitutes a 'reasonable' request for information by local authorities in assessing a planning application;
3. Remove **clause 8** from the Bill;
4. Amend **clause 13** so that when a landowner makes a statement that ends the use of land as of right, that statement must be publicised;
5. Remove **clause 14** from the Bill.
6. Amend **clause 23** to provide clarity on the prescribed description of such business and commercial projects, and how they will interact with local planning.

1. Clause 1 (Option to make planning application directly to the Secretary of State)

Link believes that clause 1 should be removed from the Bill because it runs counter to the principle of local decision-making and risks degrading the quality of local decision-making in local planning authorities (LPAs).

Clause 1 proposes to put 'failing' LPAs into special measures, and the Department for Communities and Local Government (DCLG) has now published a consultation to define what these measures will be.[1] Quality cannot, however, be measured simply by the speed at which applications are processing or the amount of development that is permitted. Decision-making must be informed by local knowledge, expertise and third party representation, and an understanding of the value of the local natural environment.

Planners must be allowed to reject poor and inappropriate applications, but under this proposal LPAs are likely to be pressured into approving poor-quality applications merely to avoid designation as a poorly-performing authority. The ultimate objective must be to improve the quality of decision-making by LPAs so that they are taken out of special measures. They will need support to achieve this.

Furthermore, by diverting decisions to the Secretary of State the Bill is inconsistent with the broad aims and spirit of the Localism Act and the Coalition Agreement, and may lead to local people

[1] DCLG (2012) *Planning performance and the Planning Guarantee*.

disengaging with the planning system or becoming increasingly frustrated and critical, leading to potential delays in the process.

2. Clause 5 (Limits on power to require information with planning applications)

Link believes that clause 5 should be amended to clarify what constitutes a 'reasonable' request for information.

Link members comment on many planning applications. In our experience, the lack of information, or poor quality information, causes delays in determining planning applications or results in poor quality decisions. As it stands, clause 5 undermines the power of local authorities to require information to be submitted with planning applications, which will also reduce the quality of planning control. It could lead to developers seeking permissions on limited or poor quality information, and it will make it easier for them to avoid meaningful local consultation. It will be more difficult for local authorities to set the right conditions on development, and the vague, generalised wording of the clause could invite developers to contest local authorities' requests for information in negotiation and through more appeals.

The NPPF has clear guidance on information requirements, which should be given time to bed in. If, in due course, local planning authorities are making overly onerous information requirements, the proportionate way to address this would be through issuing additional guidance to them. Mandatory pre-application scoping (provided for in the Localism Act but yet to be introduced) could go a long way to solving the problem, as could ensuring that staff are suitably trained to know what to ask for and how to assess the information they receive.

3. Clause 8 (Electronic communications code)

Link believes that clause 8 should be removed from the Bill, because it would create a dangerous precedent and risks significant damage to protected landscapes.

Clause 8 introduces an exemption from the duty for the Secretary of State to have regard to the purposes of National Parks and Areas of Outstanding Natural Beauty (AONBs) when making regulations, conditions or restrictions on the application of the Electronic Communications Code. The purpose of the clause is to facilitate superfast broadband in rural areas, for which Link recognises the need. However, we do not believe that the clause will meaningfully support that aim. In Link's view it actually runs contrary to the NPPF's policy of giving 'great weight' to 'conserving landscape and scenic beauty in National Parks, the Broads and AONBs.'[2]

There is no evidence that the additional protection afforded to designated landscapes has acted as a barrier to rural growth or delayed the rollout of broadband or any other form of telecommunications technology. In fact, National Park Authorities are taking a proactive approach to facilitating broadband delivery in a way which minimises the visual impacts.[3] And we believe that far from supporting economic growth, this clause could undermine it, by damaging the significant tourism revenue that National Parks and AONBs generate through their unique beauty and wild nature.

Instead of the proposals in clause 8, we need a planned and coordinated approach to delivering future telecommunications networks in designated landscapes. This will ensure that the amount of infrastructure can be minimised, and will be most appropriately designed and located. The duty to have regard to the special status of these precious landscapes does not prevent this from happening.

[2] DCLG (2012) *National Planning Policy Framework*, paragraph 115, p.26.

[3] For examples of the work that National Park Authorities are doing, please see pp.3 – 4 of the briefing from the Campaign for National Parks, at: http://campaignfornationalparks.files.wordpress.com/2012/11/121029-final-cnp-briefing-on-growth-and-infrastructure-bill-for-second-reading-2.pdf.

The Government has exempted Sites of Special Scientific Interest (SSSIs) from clause 8. But SSSIs, National Parks and AONBs were all created in recognition that some areas of land are so important that they should be conserved and enhanced for today and for future generations. National Parks, AONBs and SSSIs should therefore all continue to be given a high level of protection.

4. **Clauses 13 (Registration of town or village green) and 14 (Restrictions on right to register land as town or village green)**

Link believes that clause 13 should be amended so that when a landowner makes a statement that ends the use of land as of right, that statement must be publicised; clause 14 should be removed from the Bill.

The Government's intention in these clauses is to stop 'vexatious' applications to register land as a green in order to prevent development. In fact, the total number of such applications is small (for example, only 185 were made in 2009) and few of these are vexatious.

Clause 14 sets out 'trigger events' that can suspend the right to register land as a green. However, almost all of the proposed trigger events are such that the public will not know about them until they have occurred, when it is too late to submit an application to register a green. Link believes that this is a far too heavy-handed approach, and one that will kill off genuine applications that are of benefit to the local community.

5. **Clause 23 (Bringing business and commercial projects within the Planning Act 2008 regime)**

Clause 23 amends the Planning Act 2008 to include 'business and commercial projects' under the regime for dealing with projects of national significance. Link believes that clause 23 should be amended to provide clarity on how business and commercial projects will interact with local planning. We note that the types of development expected to fall within the procedure have been set out in a current government consultation, and we are particularly concerned that they include mineral and gas extraction projects.

Clause 23 runs counter to the principle of local decision-making, and risks undermining the Local Plan because these projects will bypass local scrutiny. These projects may therefore fail to reflect the local context or locally agreed priorities. The 'prescribed description' of these projects must provide clarity by including only those schemes of genuinely national significance.

This briefing is supported by the following 13 organisations:

- Amphibian and Reptile Conservation
- Badger Trust
- Buglife – The Invertebrate Conservation Trust
- Butterfly Conservation
- Campaign for National Parks
- Campaign to Protect Rural England
- Friends of the Earth
- Open Spaces Society
- Ramblers
- Royal Society for the Protection of Birds
- The Wildlife Trusts
- Wildfowl & Wetlands Trust
- Woodland Trust

For more information, please contact Kate Hand, kate@wcl.org.uk, 020 7820 8600.

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Wildlife and Countryside Link
89 Albert Embankment, London, SE1 7TP
W: www.wcl.org.uk