

Planning (Subterranean Development) Bill [HL]

CONTENTS

- 1 Presumption against subterranean development
 - 2 Flood plains
 - 3 Terrace housing
 - 4 Significant local opposition
 - 5 Unreasonable disruption to neighbours
 - 6 Extent, commencement and short title
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Make provision for the presumption against the granting of planning permission in respect of subterranean development where certain conditions apply; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Presumption against subterranean development

- (1) If the conditions in sections 2 to 5 apply, a local planning authority may not grant planning permission on an application to the authority under section 58 of the Town and Country Planning Act 1990 (granting of planning permission: general) in respect of subterranean development unless it is reasonably necessary for the proper enjoyment of the property to which the application applies (“the Property”). 5
- (2) For the purposes of this Act, “subterranean development” means development which comprises excavation or building below ground level other than for the purposes of repairing, strengthening or supporting an existing building or structure. 10

2 Flood plains

- (1) This section applies where on an application to HM Land Registry, a flood risk indicator indicates that the Property falls within a river or sea floodplain.
- (2) The result of the flood risk indicator must have been produced within 12 months before an application for planning permission. 15
- (3) This section will be deemed to apply where an application for a flood risk indicator has not been made to HM Land Registry in respect of the Property within 12 months before an application for planning permission.

3 Terrace housing

- (1) This section applies where the Property comprises a building which is within a terrace.
- (2) For the purposes of this section, a “terrace” means a row of adjoining buildings where each building has a wall built at the line of juncture between itself and the adjoining property which provides structural support to itself and a building on the adjoining property. 5

4 Significant local opposition

- (1) This section applies where the local planning authority has reasonable grounds to believe that there is significant local opposition to subterranean development in the area in which the Property lies. 10
- (2) For the purposes of this section, a local planning authority shall be deemed to have reasonable grounds to believe that there is significant local opposition to subterranean development if it has received a petition from a significant number of residents of the area for which it is responsible. 15
- (3) The Secretary of State may by regulations made by statutory instrument make further provision about the circumstances in which a local planning authority shall be deemed to have reasonable grounds to believe that there is significant local opposition to subterranean development for the purposes of this section.
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 20

5 Unreasonable disruption to neighbours

This section applies where the local planning authority has reasonable grounds to believe that the subterranean development is likely to cause unreasonable interference to the use or enjoyment of the land of others. 25

6 Extent, commencement and short title

- (1) This Act extends to England only.
- (2) Sections 1 to 5 come into force on such day as the Secretary of State may by regulations appoint.
- (3) This section comes into force on the day on which this Act is passed. 30
- (4) This Act may be cited as the Planning (Subterranean Development) Act 2015.

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Lord Dubs

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