

## Richard Harwood KC on late amendments to P&I Bill

Richard Harwood KC is a barrister specialising in planning, environmental, public and heritage law and he wrote on LinkedIn:-

[I'm] trying to sort the wheat from the chaff in the latest government briefing about amendments to the Planning and Infrastructure Bill.

*"One would allow ministers to stop councils refusing planning permission if they are considering "calling in" the application to be decided at a national level."*

Ministers may stop the grant of planning permission by local planning authorities by an Article 31 direction. A power to stop refusal would need a change to s 74(1) Town and Country Planning Act 1990, which only refers to granting permission.

The reason for the difference is that if an authority refuses permission the applicant can appeal to the Minister anyway. The applicant may also appeal for non-determination if a refusal is expected.

It is also easier to propose an amendment whilst the application is before the local authority rather than in an appeal or call-in, so a premature call-in might sabotage the resolution of an issue.

The Secretary of State may call in any application, even before the local planning authority has decided what to do. It's hard to see this will make any real difference.

*"Another would be specifically aimed at allowing developers to build wind turbines near the Eskdalemuir seismic array, which monitors nuclear test activity around the world. The MoD had raised concerns its equipment could be undermined by nearby turbines."*

I don't see how Parliament has the competence to judge the sensitivity of nuclear test detection equipment to wind turbines without hearing evidence. And if there isn't a conflict, why the legislation?

*"A third would aim to limit when Natural England, the environmental regulator, should be involved in planning decisions."*

In general, this could be done by changes to the Development Management Procedure Order, which do not need an Act of Parliament. If the intention is to target the Habitats Regulations, then issues of the EU withdrawal treaty apply.

These changes are said to be intended to influence the Office for Budget Responsibility's growth forecasts.

It seems to be clutching at straws.