

PARLIAMENTARY DEBATES

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GENERAL COMMITTEES

Public Bill Committee

KEW GARDENS (LEASES) BILL

Wednesday 22 February 2017

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CLAUSES 1 and 2 agreed to.
Bill to be reported, without amendment.

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Sunday 26 February 2017

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The Committee consisted of the following Members:

Chair: MR ANDREW TURNER

† Brock, Deidre (*Edinburgh North and Leith*) (SNP)
Burns, Sir Simon (*Chelmsford*) (Con)
† Clifton-Brown, Geoffrey (*The Cotswolds*) (Con)
Davies, Geraint (*Swansea West*) (Lab/Co-op)
Donaldson, Sir Jeffrey M. (*Lagan Valley*) (DUP)
† Eustice, George (*Minister of State, Department for
Environment, Food and Rural Affairs*)
Fysh, Marcus (*Yeovil*) (Con)
† Glindon, Mary (*North Tyneside*) (Lab)
Hamilton, Fabian (*Leeds North East*) (Lab)
† Hoare, Simon (*North Dorset*) (Con)

† Hopkins, Kelvin (*Luton North*) (Lab)
† Liddell-Grainger, Mr Ian (*Bridgwater and West
Somerset*) (Con)
† Marris, Rob (*Wolverhampton South West*) (Lab)
Parish, Neil (*Tiverton and Honiton*) (Con)
Simpson, Mr Keith (*Broadland*) (Con)
Vickers, Martin (*Cleethorpes*) (Con)

Glenn McKee, *Committee Clerk*

† **attended the Committee**

Public Bill Committee

Wednesday 22 February 2017

[MR ANDREW TURNER *in the Chair*]

Kew Gardens (Leases) Bill

4.30 pm

The Chair: Welcome to the Public Bill Committee on the Kew Gardens (Leases) Bill. I have a few preliminary announcements. Please switch electronic devices to silent. Tea and coffee are not allowed during sittings. We will begin with clause 1 of this short, two-clause Bill. No amendments have been tabled. I suggest that Committee members make any remarks about clause 2 during the debate on clause 1. In other words, we will have a general debate on the Bill's contents on clause 1 stand part. If the Committee is content with that, I will put the Question that clause 2 stand part of the Bill formally, once we have completed consideration of clause 1, on the basis that clause 2 will already have been debated.

Clause 1

POWER TO GRANT A LEASE IN RESPECT OF LAND AT
KEW GARDENS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clause 2 stand part.

Mr Ian Liddell-Grainger (Bridgwater and West Somerset) (Con): I am delighted to serve under your chairmanship, Mr Turner. I thank hon. Members of all parties who have joined us here today. The Bill may be small, but it has ramifications for all. I also thank Lord Gardiner, who has taken a keen interest in the proceedings, for steering the Bill so far.

Rob Marris (Wolverhampton South West) (Lab): Very apt.

Mr Liddell-Grainger: I knew someone would say something from a sedentary position.

The Bill removes the restrictions on leases on the Kew Gardens estate. Currently, 18th-century legislation limits leases at Kew to 31 years. It is therefore none of our faults—not even Peter Tapsell's. The measure modernises the provisions by allowing a lease of up to 150 years.

That change would allow Kew to generate revenue to improve the quality of the estate and support its world-class science. Income generation would help Kew achieve its core objectives and retain its UNESCO world heritage site status. The change would also enable the release of value from non-core land and property at Kew. Long leases would help Kew develop what it does and what it wants to do in future. Anybody who saw David Attenborough in the wonderful series at Kew will not disagree that it is a remarkable place. The aim is to help Kew in its ambition to increase its self-generated income and become more financially viable.

Kew Gardens, as Crown land, is governed by the Crown Lands Act 1702. The Bill modernises the constraints on Kew and the Department for Environment, Food and Rural Affairs by allowing a longer lease to be granted on the land. The Bill removes the restrictions on the lease; it does nothing else.

What is the benefit of the legislation? Kew's historic estate requires conservation and improvement. The Bill will enable income generation from the land at Kew that can be reinvested in the maintenance and development of the site. That will allow Kew's infrastructure to be brought up to a standard that fully supports Kew's ambitions and, more importantly, its mission. Basically, that has to happen because it is a UNESCO world heritage site. The financial benefits mean that it will have a time and place to raise the money it requires for the long-term commitment that it has shown in the past 150 years since it was set up.

The change does not allow the sale of the freehold land. The Government cannot sell the land because it remains with the Crown. Primary legislation would be needed if we wanted to do anything else to the land. Any proposals for new build or changes to buildings or their use, including the wider estate, will continue to be subject to rigorous review. There are tight restrictions on planning anyway, because Kew is a UNESCO world heritage site. We also know how rigorous planning is in that part of London.

Kew is in the process of updating its world heritage management plan, with UNESCO's approval, with the firm intention of maintaining its status. Generating income from its estate will enable it to achieve its core objectives and retain its UNESCO world heritage site status. It is a UNESCO site because of the historic and contemporary scientific and horticultural activities that occur within its landscape. The need to maintain such activities means that this is an important little Bill. Income generation will continue for generations to come.

Geoffrey Clifton-Brown (The Cotswolds) (Con): I congratulate my hon. Friend on this excellent Bill. I have two questions before he winds up. First, can he say why the figure of 150 years was chosen? As a fellow chartered surveyor, he will know that most leases are for either 99 years or 999 years, so 150 is unusual. Secondly, most explanatory notes to a Bill contain some form of financial appraisal. Can he say whether any figures have been produced to the benefit of Kew?

Mr Liddell-Grainger: My hon. Friend makes an interesting point. I have asked the Minister for some guidance. The previous Crown lease was for 150 years. I certainly did not know that the Crown works on 150-year leases, and I have Crown estates in my constituency. So 150 is not unusual and no precedent is being set within the Crown Estate.

The changes being made use the precedent of how section 5 of the Crown Lands Act 1702 was applied in relation to the Crown Estate. The Act indicates that a limit of 150 years, which we are using here, is considered an appropriate length to achieve the policy objectives.

We talked about funding. A member from Kew is here taking a keen interest in our proceedings. There has been no financial appraisal yet. It is a chicken and egg situation, as my hon. Friend knows. We need to get the lease in order to be able to do what we want to do.

The Chair: Order. Would you mind facing the Chair?

Mr Liddell-Grainger: Mr Turner, I am sorry. I stand castigated. You are absolutely right.

We are trying to get the lease so that Kew can start the planning within the world heritage status. We are not going down any avenues or roads that come to a dead end at any time. I have worked with Kew for some time and I know that Lord Gardiner will keep us well informed of Kew's future aspirations and hopes, because obviously it is a jewel in the British crown.

Mary Glendon (North Tyneside) (Lab): It is an honour to serve under your chairmanship, Mr Turner. I congratulate the hon. Member for Bridgwater and West Somerset and Lord Gardiner on introducing this important Bill.

As a member of the Energy and Climate Change Committee in the previous Parliament, I was privileged to visit Kew with Committee colleagues and see at first hand the marvellous work being done there at all levels. The world-class research carried out at the Royal Botanic Gardens is something we should all be very proud of. Kew rightly deserved being awarded UNESCO world heritage site status in 2003, which gave due recognition to the important mix of science, education, public amenity and architectural heritage represented at the site.

However, such a facility has significant maintenance costs as well as the cost of funding important research. The world-class scientific research carried out at Kew should be protected by the Government and should receive proper funding and recognition. In his evidence to the Science and Technology Committee, John Wood, a senior research associate at the Department of Plant Sciences at the University of Oxford, said:

“Kew cannot and should not compete for short-term grant money with a view to producing high impact academic publications. Instead it should provide taxonomic services of the highest international quality to catalogue the world's plant diversity and support other areas of biodiversity and ecological research.”

The Government's £130 million funding package for Kew Gardens, announced in 2016, was therefore very welcome. I am pleased that the Secretary of State recognised the need for more money to enable Kew to maintain its estate and to support its world-class science base. However, this does not address one of the complications surrounding the way in which the Royal Botanic Gardens are funded. The gardens are Crown land and are covered by the Crown Lands Act 1702. As has already been said, that 18th century legislation limits leases on buildings on Crown land to 31 years.

The hon. Member for Bridgwater and West Somerset said that this is a little Bill. We support this little Bill, because it would modernise those restraints and instead allow leases of up to 150 years. We believe that would make properties on the Kew Gardens estate more commercially attractive, generating income that can help support its world-class scientific research and help maintain its historic buildings. My researcher gave me an estimate that in the first 10 years of the new arrangements Kew could bring in £40 million in capital receipts. I am not sure that has been verified after what was said earlier, but I would agree with Jill McLaughlin, director of corporate services at the Royal Botanic Gardens, that the Bill would bring Kew into line with modern-day lease arrangements and enable it to generate much-needed income and be more financially self-sufficient.

The Minister of State, Department for Environment, Food and Rural Affairs (George Eustice): I am delighted to rise in support of the Bill. I thank my hon. Friend the Member for Bridgwater and West Somerset. As he says, this is an important issue. The Royal Botanic Gardens Kew is globally renowned for its scientific expertise, as well as being a world-famous botanic garden and world heritage site. RBG Kew is a DEFRA non-departmental public body. We have allocated significant funding to Kew over this spending period to conserve its built infrastructure, as the shadow Minister pointed out.

A large proportion of Kew's estate is historic in nature and requires careful management. To create world-class infrastructure, Kew would like to be able to enhance its estate. It would like to get additional investment into its infrastructure through leveraging Government investment to achieve philanthropic and private commercial investment. The Government fully support Kew in that aim, as part of its ambitions to further increase its self-generated income and become more financially self-sufficient.

My hon. Friend has explained what the two-clause bill will do. It will remove unnecessary restrictions on leases at Kew Gardens. Currently, the Crown Lands Act 1702 limits leases at Kew Gardens to 31 years. The Bill modernises those provisions, allowing leases of up to 150 years, which brings it into line with the approach taken in the Crown Estate Act 1961. The change will enable the release of value from non-core land and property at Kew Gardens. It will enable income to be generated from Kew Gardens that can be reinvested into the maintenance and development of the site. That will enable Kew's infrastructure to be brought up to a standard that fully supports its ambitions and mission. Income generation will help enable Kew to achieve its core objectives and enhance its status as a UNESCO world heritage site.

Kew's trustees are committed to ensuring that Kew has an estate that meets the needs of the botanic gardens, its visitors and Kew's world-beating science. The trustees support the Bill, as the Government intend that the proceeds that result from it will provide additional income to Kew.

Examples of situations in which long leases might be granted include for the replacement of outdated catering and visitor facilities within the gardens and the renovation of properties just outside the gardens for residential use. All proposals for granting long leases will be in line with Kew's world heritage site management plan. Proposals will be subject to scrutiny by Kew trustees and DEFRA, as well as through the planning process with local residents and businesses.

I am grateful to my hon. Friend for introducing the Bill, which will free up Kew to generate significant revenue to improve the quality of its estate and support its world-class science. The Government fully support Kew in that aim as part of its ambitions to further increase its self-generated income. I confirm that the Government are happy to work with my hon. Friend to ensure the good passage of the Bill through Parliament.

Rob Marris: It is a pleasure to serve under your chairmanship, Mr Turner. It has become more common in recent years for Bill Committees to take evidence in their first session and I did have fancies that we might be taking evidence on site, but that has not come to pass.

[Rob Marris]

It is many a year—several decades, I have to say—since I did any conveyancing, but I have done some. May I say to the hon. Member for The Cotswolds, who is more experienced in these things, that I have come across 125-year leases? I think they have become a bit more common in recent years. To reassure him, the 1702 Act does not confine the length of a lease to just 31 years; it confines it to 31 years or three lives. Those lives will be well past, given that that was 315 years ago, but three lives could amount to nearly 125 years or 150 years, depending on whose lives are chosen. That is well past now.

4.45 pm

Geoffrey Clifton-Brown: As the hon. Gentleman is a conveyancer, he raises a very interesting point, which is not covered by the Bill. Does it allow for one 90-year lease, or more than one 90-year lease—in other words, successive 90-year leases? Perhaps that ought to be clarified.

Rob Marris: The hon. Member for Bridgwater and West Somerset can clarify this, but the way I read it, clause 1(1) allows a Secretary of State—not an individual human Secretary of State, but Secretaries of State—to grant successive 150-year leases. That is what it enables; the power is vested in that office. One would expect there to be such leases, but of course we do not know what will happen down the road. None of us will be there then.

Can the hon. Gentleman give us an idea of when the current lease expires, so we know where we are in the process? If there are, for example, another 15 years on the current lease, will it be rolled over into a new 150-year lease from, say, next year? That is just so we are aware of the cycle.

In terms of what is envisaged in a longer lease, can the hon. Gentleman reassure me about two things? First, will the longer lease be on a peppercorn rent—in other words, a nominal rent, rather than a real terms value rent of thousands of pounds a year, which it would be at market value?

Secondly, he mentioned planning permission, which would restrict, for example, over-building on the site, but of course in a lease one can have restrictive covenants that trump planning permission. Those who are not planners or property lawyers may not know this, but even if planning permission is granted for a piece of land to construct buildings, for example, if the land is subject to a lease that has a restrictive covenant forbidding the construction of those buildings, buildings could be constructed legally pursuant to the planning permission, but cannot not be constructed in practice because of the restrictive covenant in the lease. That is a stronger brake on such developments, so I hope that can be done.

Those three things go together. Will the hon. Gentleman reassure me on the restrictions in the lease, on the restrictive covenants and on whether there is going to be a peppercorn rent?

Kelvin Hopkins (Luton North) (Lab): It is a pleasure to see you in the Chair, Mr Turner. I have some questions. My hon. Friend the Member for Wolverhampton South West suggested that we might have had an evidence session, and there are certainly some questions that

I would like to have asked. For example, one assumes that the board of trustees is happy with the Bill. I do not know whether the hon. Member for Bridgwater and West Somerset knows that.

Secondly, are we talking about generating additional income or replacing what was in the past Government revenue support? Presumably Kew has land and other property that is surplus to its own requirements, and which it is quite happy to lease out to others for their use and to generate rent. How much land and property are we talking about for potential leasing? Those things are all of interest. I am sure the Bill will go through without any difficulty, but I think those questions ought to be asked.

George Eustice: Perhaps I can add some clarity. We are aware that there are approximately six properties around Kew Green that are part of the Kew Gardens estate, some of which are rented. Some are, I understand, in a state of disrepair, so they need to be renovated. Those are the types of property that could be brought back in under a different lease and generate a better income stream than is currently possible.

To answer a point that was raised earlier, Kew Gardens itself does not have a lease; it operates under ministerial direction and occupies Crown land, so that is a different matter. The Bill is about giving Kew trustees the ability to grant leases, subject to approval by Ministers, to other parties for a period of up to 150 years.

Kelvin Hopkins: Is it the case that the additional income will be substituting former Government revenue support? Are the Government shifting the burden of costs on to Kew, rather than the Treasury?

George Eustice: If the hon. Gentleman will allow me to intervene again, I can perhaps deal with that point. As the shadow Minister, the hon. Member for North Tyneside, pointed out, we have given quite a generous spending review settlement to Kew, with increases in resource and capital spend. This proposal will release additional funds to help it invest in its estate. It comes on top of what is already quite a generous settlement for the spending review period.

Kelvin Hopkins: Thank you. I have nothing else to say.

Mr Liddell-Grainger: This debate has been very useful indeed. I thank the hon. Member for North Tyneside for her kind words. I think that John Wood of Oxford hit it on the head in saying that the importance of this incredible place needs to be protected not just now, but for the future. My hon. Friend the Member for The Cotswolds, who is a surveyor, and the hon. Member for Wolverhampton South West, who is a solicitor, understand that better than I do.

There is no doubt about the Government's determination to ensure that Kew remains the property of the people of the United Kingdom and that it is not frittered away. The Minister made it very clear, in response to the hon. Member for Wolverhampton South West, that the properties around the green need to be protected and need to provide an income source, which cannot happen at the moment. It is important that Kew gets funding from us, and rightly so. The hon. Gentleman is right. Nowadays, 125-year leases are unusual, but people want

long-term security. We need to give Kew—this incredible world heritage site—the ability to say, “We know we can look forward 150 years, under the Crown and under Parliament’s direction, and sort out the things we need to sort out.”

I suggest that we all need to go to Kew to have a look, because I did not realise that there were seven properties around the green. The hon. Member for Wolverhampton South West said that normally we take evidence and, as he said, evidence has been taken on the hoof. Perhaps we need to hoof it, while the tube is running, to go and have a look at this wonderful place. I know that the Minister has been to Kew many times, as has Lord Gardiner. It was certainly a favourite place of my children when they were younger.

I thank the hon. Member for Luton North, with whom I have worked for far too many years. He is quite right to bring up the ideas he raised, because we are setting this out for the future. We cannot say that we will be able to change it, because we will not. Kew has to move on. There is no doubt that what it has achieved for the past 150 years is breathtaking. One only has to look at the television programmes to see that. Because of its seeds database, if anything went wrong, we would have the ability to take out these wonderful seeds and start again. It looks after plants that may not be here in the future—that may die out. Its role is not just scientific; it is a guardian of our future. The hon. Gentleman is right that we must take that very seriously.

I thank all Members who have been here today, especially the Minister.

Geoffrey Clifton-Brown: I am sorry to be such a bore, but will my hon. Friend answer this point about the length of the lease? The Bill, at clause 1(1), is very clear and states that the powers

“include the power to grant a lease in respect of land for a period of up to 150 years.”

I assume that the Bill gives the power for a one-off 150 years, not a succession of 150 years. I say this so that when our successors in 150 years’ time look back at the *Hansard* of this debate they will have a clear answer as to what was in our minds at the time.

Mr Liddell-Grainger: I thank my hon. Friend for that. He is a surveyor and is holding my feet to the fire—rightly so. Having talked to my hon. Friend the Minister, the power is for 150 years with the opportunity to renew in 150 years’ time. The explanatory notes also mention “allowing leases up to 150 years.”

Geoffrey Clifton-Brown: If that is the intention, may I suggest that the Bill needs to be amended in the other place to make that point absolutely clear? That is not what is stated on the face of the Bill. In my view, the explanatory notes differ from what is in the Bill.

Mr Liddell-Grainger: I will therefore take the liberty of writing, on behalf of my hon. Friend, to express his concerns to my noble Friend Lord Gardiner. Lord Gardiner imparted to me who will take the Bill through the Lords but, embarrassingly, I have forgotten who it was already—I apologise to my hon. Friend and to you, Mr Turner, because my mind has gone completely.

Rob Marris: Perhaps the hon. Gentleman will clarify this for me. I understood from what the Minister said—I may have misunderstood—that under the Bill we are not talking about a situation in which the Secretary of State will grant to Kew itself a lease of 150 years; rather, the Secretary of State will have the power to agree up to six leases by Kew to the six plots of land, and that each of those leases can be for up to 150 years. If I have misunderstood that, I hope that the hon. Gentleman can clarify those two points: we are talking not about leases to Kew, but leases granted by Kew, signed off by the Minister; and each of those leases to what I think the Minister said were six plots of land could be for 150 years.

Mr Liddell-Grainger: I thank the hon. Gentleman. I have had a quick chat with the Minister, and the lease is for 150 years on everything. On the properties, it will be a 150-year lease. Would my hon. Friend the Minister like to say something?

George Eustice: The intention, as I understand it, is to extend the maximum term of the lease from 31 years to 150 years, and several leases may be granted, as the hon. Member for Wolverhampton South West pointed out—there could be several leases on different properties. The crucial thing, however, is that in my reading of the Bill, to answer the point made by my hon. Friend the Member for The Cotswolds, the grant would be for a lease of a maximum term of 150 years in the normal way of other leases. My hon. Friend also asked whether, in 150 years’ time, that could be considered again and a future Minister 150 years from now could decide to grant a new 150-year lease. I do not see anything in the Bill to prohibit that. The crucial thing, however, is the maximum, which is 31 years but will move to 150 years, subject to the approval of the Secretary of State at the time.

Mr Liddell-Grainger: If my hon. Friends and all hon. Members are happy—

Deidre Brock (Edinburgh North and Leith) (SNP)
rose—

Mr Liddell-Grainger: I will give way to the hon. Lady.

Deidre Brock: I thank the hon. Gentleman for giving way. I just wanted an assurance that any income from commercial properties as a result of the lease is absolutely ring-fenced for reinvestment in the Kew estate and its activities.

Mr Liddell-Grainger: The hon. Lady is absolutely right—any income will go back into Kew. The lease is to Kew, which is a UNESCO world heritage site, and it will spend the money on enhancing Kew. If she has a quick word with the Kew team in the Public Gallery, I am sure that they would enlighten her about what they are doing. As I said, we need to go to Kew. Leith is very beautiful, but Kew is equally beautiful. I look forward to that. I hope that helps her.

Mr Turner, thank you for your clear leadership. I am grateful to all my colleagues for their support for the Bill and, as I said, to my noble Friend Lord Gardiner, who will steady it through the other place.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Question proposed, That the Chair do report the Bill to the House.

Kelvin Hopkins: On a point of order, Mr Turner, will the Bill go to the House on Report and for Third Reading in the same way that other Bills do?

Mr Liddell-Grainger: Friday.

The Chair: The hon. Gentleman has his answer.

Question put and agreed to.

Bill accordingly to be reported, without amendment.

5.1 pm

Committee rose.