PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

GROWTH AND INFRASTRUCTURE BILL

Sixth Sitting

Thursday 22 November 2012

(Afternoon)

CONTENTS

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

£5·00

PBC (Bill 075) 2012 - 2013

Members who wish to have copies of the Official Report of Proceedings in General Committees sent to them are requested to give notice to that effect at the Vote Office.

No proofs can be supplied. Corrigenda slips may be published with Bound Volume editions. Corrigenda that Members suggest should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 26 November 2012

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: † Philip Davies, Mr George Howarth

† Birtwistle, Gordon *(Burnley)* (LD)
† Blackman, Bob *(Harrow East)* (Con)
† Blackman-Woods, Roberta *(City of Durham)* (Lab)
† Blomfield, Paul *(Sheffield Central)* (Lab)
† Boles, Nick *(Parliamentary Under-Secretary of State for Communities and Local Government)*
† Bradley, Karen *(Staffordshire Moorlands)* (Con)
† Coffey, Dr Thérèse *(Suffolk Coastal)* (Con)
† Dakin, Nic *(Scunthorpe)* (Lab)
Danczuk, Simon *(Rochdale)* (Lab)
† Fallon, Michael *(Minister of State, Department for Business, Innovation and Skills)*
† Glen, John *(Salisbury)* (Con)
† Glindon, Mrs Mary *(North Tyneside)* (Lab)
† Howell, John *(Henley)* (Con)
† Morris, James *(Halesowen and Rowley Regis)* (Con)
Murray, Ian *(Edinburgh South)* (Lab)
† Raynsford, Mr Nick *(Greenwich and Woolwich)* (Lab)
Simpson, David *(Upper Bann)* (DUP)
† Smith, Henry *(Crawley)* (Con)
Stunell, Andrew *(Hazel Grove)* (LD)

Steven Mark, John-Paul Flaherty, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 22 November 2012

(Afternoon)

[Philip Davies *in the Chair*]

Growth and Infrastructure Bill

Clause 1

Option to make planning application directly to Secretary of State

2 pm

Roberta Blackman-Woods (City of Durham) (Lab): I beg to move amendment 12, in clause 1, page 2, line 9, leave out from '1990' to end of line 11.

The Chair: With this it will be convenient to discuss amendment 15, in clause 1, page 2, line 19, at end insert—

'(3B) Applications under subsection (3) shall be subject to criteria published following a period of consultation.'.

Roberta Blackman-Woods: Amendment 12 again seeks to curb the power-grabbing tendencies of the Secretary of State. Clause 1(1) will insert proposed new section 62A in the Town and Country Planning Act 1990. We think that subsection (3)(a)(ii) will give too much power to the Secretary of State to decide which applications he wishes to determine. As far as I can see, it would allow him to prescribe, and so take upon himself or the Planning Inspectorate, any application at all. That is very disturbing. We certainly want to see greater clarification of what is meant under subsection (3)(a)(ii); it is surely not right for Parliament to agree to such wide-ranging powers resting with the Secretary of State. Put simply, we want subsection (3)(a)(ii) removed all together.

Other amendments tabled require the nature of applications that are to be determined to be set out in regulations and voted on, and, indeed, thoroughly consulted upon, so we have not repeated those requirements in amendment 12; however, it may be helpful to remind the Committee that that is what we would wish to see. We take up that point in amendment 15, which would make applications under subsection (3) subject to

"criteria published following a period of consultation."

We are approaching this issue in a two-stage process. Ideally, we would like new subsection (3)(a)(ii) removed. However, if it is not the Committee's wish that it be removed, we think that, at the very least, we must have a clearer understanding of what is meant—what sort of applications we are talking about and what the limits are on those applications.

Amendments 12 and 15 are a request for greater accountability and transparency, which we think is at present sadly missing from a number of the provisions in the Bill. We want to see the criteria and to ensure that they are consulted on, that they are set out in regulations and that both Houses of Parliament get an opportunity to vote on them.

The Parliamentary Under-Secretary of State for Communities and Local Government (Nick Boles): Amendments 12 and 15 would remove the Secretary of State's ability to add to the list of connected applications that may be submitted to him where a planning authority has been designated and would require any connected applications made directly to the Secretary of State to be subject to criteria published after a period of consultation.

I am afraid this is another case of the Labour party rewriting history, as it deals with the trauma of losing office. When in government, the Labour party asked Adrian Penfold to look at the overlapping consent regimes, which cause a huge amount of unnecessary delay and expense on separate but parallel bureaucratic processes. With the Bill, as previously with the Enterprise and Regulatory Reform Bill, we will implement many of the recommendations of his review, which, I repeat, he was asked to conduct by the previous Government. Elsewhere in the Bill, we have our proposals for a one-stop shop on such consents.

All that we are proposing here is to apply the same sensible rationalisation that the Labour party sought when in government to those very few planning applications that will be directed to the Secretary of State directly, where an authority has been designated.

Nic Dakin (Scunthorpe) (Lab): The Minister is explaining his position effectively. Will his proposal take local decision making away from local people? Is that the practical effect for local people?

Nick Boles: Of course the problem we are trying to address is the lack of decision making for the benefit of local people when they are not being adequately served by their planning authority. It is important to stress that any connected applications would have to be related to planning applications being submitted to the inspectorate and it is limited to the types of application that fall under the Planning Act 2008. It is exactly the kind of connected applications that the previous Labour Government asked Adrian Penfold to look at the possibility of streamlining and rationalising.

It is important that we are able to prescribe more than just listed buildings consent. We are consulting on our proposed approach to a one-stop shop for consents. Although we do not intend at present to prescribe any additional categories of related consent, the response to the consultation may raise further consents that should be dealt with as a connected application. The Opposition are always keen for us to consult and respond to the results. In the clause, we simply propose giving ourselves the ability to do that. The amendments are unnecessary. I beg the hon. Lady to withdraw her amendment.

Mr Nick Raynsford (Greenwich and Woolwich) (Lab): I have to say the Minister shows sheer bare-faced cheek in trying to pretend that the Government are rationalising and tidying up. He is actually creating an extraordinarily complex and messy new arrangement in which there will be two separate routes for applications. One will go through the local authority in the normal democratic

process and the other will bypass that and go to the Planning Inspectorate. It will not end there, however, because the Planning Inspectorate or the Government—the Minister—will be able to require local authorities to perform various functions.

If the Minister refers to paragraph 59 on page 16 of the document that we received this morning, he will see that local authorities could be asked to do

"Site notices and neighbour notification…providing the planning history for the site"

and

"notification of any cumulative impact considerations, such as where environmental impact assessment or assessment under the Habitats Regulations is involved, or there may be cumulative impacts upon the highways network site notices, neighbour notification".

Different procedures and different organisations are involved.

As the hon. Member for Harrow East said, if the public have concerns about the application, how will those concerns be heard? I do not think I heard a reply from the Minister as to how public inquiries will be held. Paragraph 62 of the consultation states that the

"presumption should be that applications are examined principally by means of written representations".

That was clearly a cause of concern to the hon. Member for Harrow East. The consultation then states that there is

"the option of a short hearing to allow the key parties to briefly put their points in person."

There is no clarity as to where that hearing will be held. Will it be in the area where the development is taking place? Will it be in Bristol at the Planning Inspectorate's office? There is a complete lack of clarity about that. Where will—

The Chair: Order. Will the right hon. Gentleman explain exactly how his comments relate to the two amendments that we are looking at? We are considering amendments 12 and 15, so it would be helpful if he made clear how his comments relate to them.

Mr Raynsford: Thank you, Mr Davies. Amendment 15 specifically refers to applications under subsection (3), which will be subject to criteria published following a period of consultation. I had assumed that the consultation was the document we received this morning and that the criteria were those laid out in that document. I was referring the Minister to them in relation to his claim that the Government were simplifying the system. There is a lack of clarity about the criteria and the procedures to be followed under the provisions we are debating in this group of amendments. I do not accept the Minister's claim and his reason for rejecting our proposals. I would certainly be pleased to hear his answer to the question of the hon. Member for Harrow East about where the public will be able to express their views if the procedure applies.

Nick Boles: It is an object of fascination to all of us on the Government side to watch the manoeuvres and contortions that the right hon. Gentleman puts himself through to portray as consistent his entire repudiation of the Adrian Penfold review that his Government set up and which, with admirable initiative, we were happy to endorse and back when we came into government.

The right hon. Gentleman knows well that all we are proposing to do is to enable the same connected applications that Adrian Penfold ends up recommending to us and which, following consultation, we conclude are connected genuinely to the original planning application to be dealt with together, because otherwise different authorities will be dealing with connected applications in different places on different time scales. We will be duplicating bureaucracy, time and expense.

Of course, duplication of bureaucracy, time and expense was practically the defining mission of the previous Labour Government, so it is no surprise to hear the right hon. Gentleman arguing for it now. However, his argument does not persuade me, and I am pretty sure that it will not persuade anyone else on the Committee. He asked how the local community will be able to make known its views on an application. That is a reasonable question, and it is one that we addressed in the consultation and we shall be listening to the responses closely. It is, of course, already precisely the same with applications that are called in, and applications that are appealed and subject to inspectorate decision. There is nothing new.

When the right hon. Gentleman and his colleagues had responsibility for the Planning Inspectorate, I do not recall their criticising it for failing to discharge its duties in that regard. It will not fail in those duties now, and we are happy to take particular suggestions from my hon. Friend the Member for Harrow East or anyone else on exactly how things should happen, but there is absolutely no reason to believe that the process will not happen, because it happens already.

Roberta Blackman-Woods: I believe the Minister is inviting me to give a blow-by-blow account of the damage that Conservative Administrations did to my constituency between 1979 and 1997, but I am sure that the Committee will be relieved to know that I will, for the time being at least, resist that temptation and focus my remarks on the amendments.

I did not seek to remove the provision that deals with connected applications, but sought simply to table an amendment that would make it clear what is meant by connected applications and for that to be transparent and readily accountable. That seems a reasonable thing to do, so I am bitterly disappointed that the Minister will not at least agree to consider that proposal. As my right hon. Friend the Member for Greenwich and Woolwich said, subsection (3)(a)(ii) gives extraordinary powers to the Secretary of State to prescribe the decisions he will take upon himself.

I still have concerns about the clause. I want the Minister to go away and think carefully about what has been said, but I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

2.15 pm

Roberta Blackman-Woods: I beg to move amendment 14, in clause 1, page 2, line 19, at end insert—

'(3A) It shall be the responsibility of the Secretary of State to ensure that all statutory requirements that would otherwise be met by the local planning authority or hazardous substances authority, in relation to a relevant application under subsection 3, are met by him.'.

The Chair: With this it will be convenient to discuss the following:

Amendment 13, in clause 1, page 2, line 30, at end insert—

'(4A) Before reaching a decision on an application made to him under this section, the Secretary of State must ensure that adequate consultation of the local community takes place.'.

Amendment 1, in clause 1, page 2, line 32, at end insert—

'(5A) Any performance standards that apply to local planning authorities in the consideration of planning applications shall also apply to the Secretary of State in the performance of his functions under this section.'.

Amendment 5, in clause 1, page 3, line 7, at end insert—

'(11) The Secretary of State shall, as soon as possible after the end of each financial year, publish a statement of the costs incurred by the Secretary of State during that year in pursuance of this section.'.

Roberta Blackman-Woods: I will move on speedily to this third group of amendments in my name and that of my hon. Friend the Member for Edinburgh South. These amendments are designed to ensure that when the Secretary of State or his appointed person takes on the responsibility for a planning application, the same duties are fulfilled by him as would be expected of the relevant local authority, and that the local planning authority, if required to fulfil some of these functions on his behalf, is adequately compensated for the work that is undertaken. We do not agree that the Secretary of State should be given these powers, but if he is to be given them, we must ensure that that is done properly and in a truly accountable way.

Amendment 14 highlights the point that I made about fulfilling the duties and cites the specific example of hazardous waste. As I am sure hon. Members will know, at times in determining an application the local authority has to act as a hazardous waste authority. It is simply not clear whether the Secretary of State will require the Planning Inspectorate, if he has asked it to judge an application, to act in a similar manner or whether he will leave it to the local authority to do that work and, if he does ask it to do it, whether he will give them the costs associated with the work.

I have given just one example. A great number of organisations—indeed, a growing number of people in the private sector—are anxious about how work will be undertaken in the new system, how it will be resourced and whether it will actually speed anything up. The issue of resourcing planning properly with regard to consultation requirements is taken up by amendment 13, but before I move away from amendment 14, it is important to say this: the Minister has employed the private sector and developers in support of the need for this proposed legislation, but in earlier sittings of the Committee, we heard developers express real concerns about the uncertainty that will be engendered in the planning system by the new legislation. It is very important that at the outset we are very clear about who will do what when it comes to determining an application.

One of the things that we have heard from developers is that they do know the local authority and how it operates very well, usually. What they do not know is how the Planning Inspectorate will deal with applications under the new system, particularly if the Secretary of State can ask local authorities in some circumstances to do some things, but in other circumstances he will not ask the local authority to do that; he might ask someone else to do it. That is introducing huge uncertainty and different arrangements for different applications in different places. That is a concern. I seek clarification from the Minister of how those fears among developers can be allayed.

Amendment 13 takes us back to the point about consultation. It would ensure that the Secretary of State carried out extensive and appropriate consultation on a planning application that he, under clause 1, was responsible for determining. There has been considerable confusion about what consultation will be required in relation to referred applications. I appreciate that in the document that we received, rather belatedly, this morning, some reference is made to that. Nevertheless, I hope that the Minister will provide greater clarity now. At the evidence session, he said that local authorities

"will still need to advertise applications and handle local consultation."—[*Official Report, Growth and Infrastructure Public Bill Committee,* 13 November 2012; c. 10, Q7.]

He did not say, however, what should be the nature of that consultation. In the evidence sessions, a number of witnesses, notably those from the National Trust and Friends of the Earth, expressed concern about the lack of clarity on this matter in the Bill. Both the Campaign to Protect Rural England and the Local Government Association, in evidence, stated that clause 1 could lead some communities to become increasingly reluctant to accept new development because their voices will not be heard. Friends of the Earth stated that what concerns it

"is that public participation is not explicitly mentioned. Although clause 1(6)(a) says that the local authority needs to do what it normally does, it does not specifically say that there needs to be consultation. That is something that should be up there as being important to happen."—[*Official Report, Growth and Infrastructure Public Bill Committee*, 20 November 2012; c. 164-5, Q382.]

The National Trust agreed with that. However, as the Minister knows, it goes really far beyond the expectation of a few letters going up and a notice on a lamp post. That would be the base line of what we would expect local authorities to do, but really good local authorities carry out more extensive consultation. Indeed, that is one of the reasons why applications, if there is determination, can be slowed down, because specific issues raised by local people are taken on board by the local authority and properly assessed. Given that the voice of many local people will be bypassed under this new system, we need to be very clear on the arrangements for consultation.

Mrs Mary Glindon (North Tyneside) (Lab): Does my hon. Friend agree that in cases such as the North Tyneside council planning department, which was privatised by the executive—led by the mayor with a minority on the council—the particular aim will be to make profits, so consultation may not be a priority? If the Secretary of State had responsibility on planning, there would be an excuse to bypass consultation if that saved money.

Roberta Blackman-Woods: I am grateful to my hon. Friend for raising that point. Until now, I had not considered the possibility of planning departments being privatised. I can see that a whole set of issues might

arise from those circumstances, particularly if the motive of profit is put at the centre of determining planning applications. Perhaps she will allow me some time to reflect on that, and then I could come back at some later point in Committee to give my views on the possible negative impact of those arrangements.

If I may return to my notices on lamp posts, which I think we all agree are inadequate as a form of consultation, in most major developments—the hon. Member for Harrow East made this point well earlier—we now see that most developers, particularly responsible developers, undertake extensive consultation with the local community in advance of putting in an application for planning approval.

At the moment there are a number of such applications in my constituency. They add greatly to my work load, I should say, and that of my staff, as we have to hold public meetings to assess local people's opinions and so on. However, despite the additional work load, we all accept that it is a sensible way for planning applications to proceed, provided that—this is a big proviso—the developers take on board what local people say and amend their plans accordingly. As far as I can see, that will not necessarily be the case under the new system—even if developers go through a period of consultation, they do not need to pay any attention to what the local community says, because local representatives will not be taking the decision. I really have concerns about that. We must be clear about not only the forms of consultation but the means by which community voices are going to be heard, and, particularly, how at an early stage they can influence what a development will look like.

I want to know what the process will be, and, before we get agreement on the clause, it would also be helpful to know in more detail what in particular will be expected of the local authority. It may sound like a trivial thing to raise, but will local authorities be able to charge developers for room hire if they have a public meeting? That can add considerably to a local authority's costs. Will they be able to charge the developers for letters that are sent out? Will they be able to charge for notices in a newspaper? And so on—the list could probably be endless, depending on the consultation arrangements. We need some clarity. Without funds or the right to determine, there is a real risk that for these important developments with the potential to have an impact on the community, consultation will be minimal. That simply is not acceptable.

Amendment 5 was tabled by my right hon. Friend the Member for Greenwich and Woolwich. It seeks to ensure that costs associated with the new system are transparent and in the public domain as soon as possible. It reflects the concerns of many that the new system may be more costly and move further resources away from local authorities already struggling with huge cuts to local government. We know that the scale of the cuts is truly huge. A detailed financial projection from the LGA, published in June, warned that councils' spending on planning and development would need to be cut by as much as 90% by 2020, so that they could make the cuts that are being imposed on them by central Government.

I see some querying faces opposite. We know that cuts are often falling disproportionately on the non-statutory elements of local government, including some aspects of planning, because local authorities have a number of statutory obligations that they are not able to cut. According to the LGA report, the funding gap will be £1.4 billion in the next financial year, rising to more than £16.5 billion by 2019-20. That is truly huge. The LGA says that the gap is in large part due to the enormous 28% cut in the amount of money the councils receive from central Government and the need for councils to protect front-line spending and statutory services. To demonstrate that, the Audit Commission produced a report last year that showed that although planning and development represents only 4% of single tier and county councils' spend, those services will contribute 22% of savings made by councils—so planning departments are suffering disproportionately from Government cuts.

We are only in the very first years of the spending cuts, but they are already having a major impact. For example, a major city authority has told us that recently it has had to reduce four posts in its planning department. It said:

"The government seems to be taking away with one hand"—

and yet adding to its responsibilities and—

"imposing further duties posing as localism".

Another council said that it has reduced its number of planners by three, meaning that it will have:

"Less resources available to give support to the community for the preparation of neighbourhood plans within the borough."

Another council told us that it was reducing its staff by two. I could go on. I hope the Minister gets the message that his Department is asking more of planning departments while reducing the resources available to them.

2.30 pm

I know the Minister will say that a number of authorities seem to be managing very well with reduced resources, and some are speeding up determination of their applications despite having fewer resources, but in advance of such a statement, I want to make two points. First, at the moment, in some areas of the country, planning departments are having to deal with fewer applications in total because of the state of the economy and because developers in the current economic climate are not bringing applications forward.

Secondly, the Minister should take the time frame on board. The full impact of the cuts has not yet hit planning departments, as I have said, so, at the moment, they may be able to deploy resources from elsewhere in the council, or to protect planning departments a little. The point is that that is not sustainable, and it will certainly not be sustainable if the economy picks up, as we all hope it does, and the number of applications increases.

Paul Blomfield (Sheffield Central) (Lab): Does my hon. Friend share my concern that not only are cuts affecting local authorities, but they are having a disproportionate impact on many of the big cities that some of us represent? The pressures on those planning departments will be even more acute.

Roberta Blackman-Woods: My hon. Friend makes a very good point indeed. Was he as concerned as me to read in the impact assessment that it was anticipated that the legislation would not place further demands on local authorities that they could not address? I thought

[Roberta Blackman-Woods]

it was naïve to suggest that the Bill and the cuts would not have a negative impact on authorities that must deal with particularly complex applications. We have had some evidence of that, because the time frame for determining major applications has been extended.

As I said this morning, a sensible approach would have been to look in detail at why local authorities are slowing down their determination of applications. When the Minister was asked that question at the evidence session, he was unable to say why applications are slowing down. We simply do not know. The Royal Town Planning Institute made the point strongly, and asked why we do not know why the determination of applications is slowing. That information would help us to understand whether the measures in the Bill are appropriate. Something has been plucked out of the air to threaten local government into approving applications more quickly, whether they are appropriate or not.

Malcolm Sharp of the Planning Officers Society said in his evidence that designated local authorities would be asked to undertake some of the work on an application, but would not receive a fee. Will the Minister clarify whether they will receive some of the fees? Mr Sharp continued:

"We all know the resource problem that local authorities are facing at the moment, which is why I went on to say that if you are not careful, you might end up in a spiral of decline."—[*Official Report, Growth and Infrastructure Public Bill Committee,* 20 November 2012; c. 94, Q226.]

We all recall Mr Sharp's comments. In a very determined manner, he set out the hugely negative impact of these proposals on planning departments that have major applications taken from them. As we are all probably aware, planning authorities receive most of their fees from major applications so if they are taken away from them, it is not entirely obvious how those authorities will have the resources to improve and to get de-designated. There are whole sets of issues around this matter, which is why it is important that the Minister takes on board the point that is made in amendment 5 and makes it clear that local authorities will be adequately resourced for the work that the Secretary of State will be asking them to do.

Bob Blackman (Harrow East) (Con): It is a pleasure to serve under your chairmanship, Mr Davies. I rise to speak in reply to the hon. Member for City of Durham who drew attention to some of my remarks in an intervention this morning. I have spent 24 years in a local authority, but have never served on a planning committee. None the less, I have spent an awful lot of my time objecting to planning applications that would not be approved by any planning committee. With one notable exception, every single application that was rejected by the planning committee was upheld on appeal, so the decisions of the planning committee were right, and I was right in my opposition to them.

The performance of planning authorities has dropped over the past two years, and we have to examine the reasons for that and look at what happens as a result. The hon. Lady made much of the consultation process, but good planning authorities go way beyond the consultation that is required by statute. They will advise many local people by letter, advertisement—be it on lamp posts, in local newspapers or on websites—and a variety of different ways, including contacting residents associations and other interested parties. They will take into account the views and objections of people both in writing and verbally. Clearly, we need to safeguard the process of that consultation.

When planning decisions are made, objectors often have a small amount of time in which to put their point of view, because planning committees often have to rush through a wide range of decisions. However, when the appeals process is under way, inspectors will often allow almost unlimited time for objectors to put their point of view. Perversely, if decisions are made at a national rather than at local level, local people may get more say and more opportunity to voice their objections than they do at local planning committees.

Roberta Blackman-Woods: Will the hon. Gentleman clarify whether he is talking about a public inquiry rather than a decision being taken by a planning inspectorate because planning inspectorate decisions are often written evidence only?

Bob Blackman: I recognise that those decisions are often taken by written evidence only, but planning inspectors can decide to hold open inquiries if he or she determines that that is the right thing to do. Often, that will be on the basis of the level and the type of objections that have been put in locally.

Will the Minister clarify some of the processes that will be considered by the Government when a planning inspector is going to determine planning applications, when a planning authority has failed to do so?

When a local authority fails to determine a planning application within the statutory time frame, and the applicant goes to appeal for non-determination, the local authority loses the opportunity to impose conditions on planning applications. Most good, sensible planning authorities will then rapidly bring that planning application to the planning committee and set out conditions that they would have applied had they been able to determine that planning application.

I suggest to my hon. Friend the Minister that that process should be embodied if the planning decisions are taken away from the planning authority, so that they have the opportunity to have input on conditions that they would be minded to impose, were the planning application to be considered. I hope that can be taken into account, given that we have heard the details of the process and of the consultation document only this morning.

The other consideration in the process is that we want people to feel part of it. We want local people to have an involvement. It would help to hear from the Minister greater clarity on how the process of consultation with local people will be undertaken, and how local people will have their say if decisions are taken away from the local planning committee. We should ensure that the process is seen to be clear and fair and does not mean that local people are unfortunately discriminated against because of the poor performance of their local planning authority.

Mr Raynsford: I rise to speak briefly about amendments 1 and 5. I shall be very brief on amendment 5 because my hon. Friend the Member for City of Durham has spoken on that.

Amendment 1 would simply require the same performance standards that apply to local authorities at the very least to apply to cases handled by the Secretary of State under the procedure in the clause. That seems eminently sensible and reasonable and I assume the Government will accept that proposal, as they could not possibly want anyone to believe that the Secretary of State or anyone acting on his behalf, such as the Planning Inspectorate, would meet lower performance standards than they would expect from local authorities. I am optimistic that the amendment will be accepted.

I remind the Minister that the hon. Member for Harrow East—with whom I agree considerably on these issues—and my hon. Friend the Member for City of Durham have both pressed him on why there has been a fall in performance in the past two years. It would be helpful to hear more about that. Current performance is a lot less than it was in the mid to late noughties when there was a substantially higher volume of planning applications to deal with. There is an issue there.

In principle, the concept that the Secretary of State and the Planning Inspectorate should meet at least the same standard of performance as local authorities must be unobjectionable and I hope that will be accepted.

The merits of amendment 5 have been set out by my hon. Friend. I will not say much more about them, other than to say there is an issue raised by the consultation document that we received this morning. One of the issues raised in the introduction is the Government's intention to require

"a refund of the planning application fee, should an application remain undetermined after 26 weeks".

That is set out in paragraph 9 of the document where it says,

"This would apply to all planning applications."

The two questions I have for the Minister are, first, will that apply to applications that are handled by the Secretary of State and the Planning Inspectorate? I would hope that the same principles should apply as to those handled by local authorities. However, it is not clear, so I would welcome clarification.

2.45 pm

Secondly, will it really apply to all planning applications, even where a planning performance agreement has been reached with the developer that envisages a longer time frame than 26 weeks? It would be an utterly perverse outcome for the local authority and the applicant—the developer—to agree a period of say, 30 weeks, because it is a complex scheme that requires a lot of careful attention, and then discover that the fee was automatically refundable because the Government's proposal says that in all planning applications a refund of the fee will take place

"should an application remain undetermined after 26 weeks."

That would be absurd.

I hope the Minister can confirm that is not the intention, and that the phrasing in his document issued today is not quite as crystal clear as he implied when announcing it earlier, and that there is an exception to that particular application in respect of reimbursement of fees. I hope that he will provide clarification on that point and the others that have been made, and that the Government will accept amendment 1.

Nic Dakin: It is a pleasure to serve under your chairmanship this afternoon, Mr Davies, as it was this morning.

Like the hon. Member for Harrow East, in all my time in local authorities, I managed to avoid the planning committee. He speaks, however, with great authority on the matter and when he said that extensive consultation improves decision making, he put his figure on the pulse and highlighted an important point about ensuring that local people get better outcomes from developments in their local areas. As Mr Sharp said in his evidence:

"We all know the resource problem that local authorities are facing at the moment, which is why…you might end up in a spiral of decline."—[*Official Report, Growth and Infrastructure Public Bill Committee,* 20 November 2012; c. 95, Q226.]

Resources are tight and with powers being taken to the Planning Inspectorate, there is a real danger that the combination of tight resources and lack of clarity about what is expected will end up condensing or minimising the extent of consultation. We may then get outcomes where local people are very unhappy about what has taken place, without them having been involved, or feeling that they have been involved, in the process. In my constituency, I recently had a case in which local people felt that they had not been engaged with properly, which created a lot of difficulty for the developer. Had that been done better in the first place, it would have been a much easier process.

Roberta Blackman-Woods: My hon. Friend is making a powerful point. Does he agree that Government Members may not have thought enough about what their local communities will feel about decisions being taken away from local authorities? As far as we know, such decisions will be major, but there may be others that will have a significant impact on communities, yet people will have little opportunity to influence the outcome of those decisions and they will blame the Government.

Nic Dakin: My hon. Friend makes that point clearly, and it echoes a lot of what was said by the hon. Member for Harrow East and my right hon. Friend the Member for Greenwich and Woolwich about concerns over unintended consequences. I am sure that the Minister does not intend the consequence of disfranchising and disempowering local people, and for decisions to cause more tension and more concern locally, as opposed to ensuring that there is better decision making, which is the process that is being driven forward. The national policy planning framework is settling down, and we heard a lot of evidence about the potential to improve things further. What those experts were arguing—I am not an expert, although there may be some on the Committee—was to allow the framework to settle down and go with the grain of good planning, rather than bring in changes now that will unsettle the process and create uncertainty.

I want to focus mainly on what the level of consultation is likely to be if decisions are taken to the Planning Inspectorate but consultation responsibilities still lie with the local authority. Usually such split responsibility provides the maximum potential for confusion, for things to go wrong and when they go wrong, for people to point fingers at each other. I would be grateful if the Minister could clarify in certain areas how he believes things will move forward and move forward with confidence.

[Nic Dakin]

When we talk about consultation, we talk about adequate consultation. What do we mean by that? What is the difference between statutory minimum consultation and what we see as adequate consultation? How will we ensure that adequate consultation is delivered, rather than simply the statutory minimum, which is where the risks lie? We all recognise that good consultation improves good decision making; it is better for the developer, for the local community and for democracy. Adequate consultation in relation to the statutory minimum is an area of concern.

Roberta Blackman-Woods: I am grateful to my hon. Friend for giving way again; he is being most generous. Does he agree that that is particularly important in applications that affect rural areas, because of the need to ensure that all those who are likely to be affected by a proposal know about it? Putting a notice on a lamp post in a rural area is certainly not sufficient to let people know what is happening.

Nic Dakin: I absolutely agree with my hon. Friend. I have had two cases recently of significant developments in the Scunthorpe area. One was to do with changing the use of a house. Consultation notices were placed on lamp posts but the community did not feel that they had seen those notices, creating great concern afterwards and great difficulty for the developer. In fairness, the developer was trying to do things the right way, but because things were addressed minimally at that stage, the developer then had to spend a lot more time on the consultation to take the neighbourhood and locality with them—or attempt to—whereas if things had been done more thoroughly at the start it would have saved the developer time and money and saved local people angst, sleepless nights and so on.

By contrast, with a somewhat larger developer—in a rural area as it happens—everyone in the extended locality was written to, with meetings to describe exactly what was going forward. That process led to far better and more thoughtful development plans and better engagement. The change in the plans could be seen, because the community had engaged with the developer as a result. That is what we all want. It is all about balance, is it not? Only on lamp posts is not enough, but consulting for ever is too much. Where do we apply the appropriate balance? It goes back to the concept of adequate consultation. I think that there is recognition that adequate consultation is greater than the minimum, and is what we would prefer, but at the moment there is lack of clarity about where the balance would lie.

If the Secretary of State has responsibility for the application through the Planning Inspectorate, there are fewer incentives for the local authority to carry out extensive consultation. We have already heard concern about the loss of the fee for the application. Paying it directly to the Secretary of State could compound the problems of the planning authority, with the unintended consequences of affecting its performance in relation to time limits.

I return to the point made so well by the hon. Member for Harrow East. We need to be careful with the changes, so that people do not lose out because of the planning performance of their local council. They should not be disfranchised of their purchase and leverage on decisions taken in their own communities. I do not feel that there is sufficient confidence that the provision, as drafted, will go with the grain of localism, rather than completely against it.

Paul Blomfield: I welcome the opportunity to speak briefly about community engagement. I cannot claim to have the experience of the hon. Member for Harrow East or my hon. Friend the Member for Scunthorpe, as I have served on neither a planning committee nor a local authority. Nevertheless, over the couple of years since the election, I have been engaged in representations made by constituents on several planning applications.

The point that is crucial to the process is that people wanting to express concerns are confident that they will have an opportunity to voice them effectively and that they will at least be properly considered. The hon. Member for Harrow East raises real concerns about community engagement. He said that the Planning Inspectorate had the opportunity to conduct public inquiries. From my relatively low experience base, I understand that such inquiries are very rare and happen only in exceptional circumstances. If that is not the case—I see that he is not agreeing with me—I will welcome any further observations.

If that is not now the case, it certainly appears that it will be under the proposed procedure. During our discussion, I looked again at the consultation paper, particularly at paragraph 62, which states:

"The Bill allows the Secretary of State to determine the procedure to be followed where an application is submitted directly to him. We propose that the Planning Inspectorate should choose the most appropriate procedure to employ on a case by case basis"—

which could, but the implication is that it will not very often—

"be an abbreviated form of hearing or inquiry"—

because the presumption is —

"that applications are examined principally by means of written representations".

That is a point of concern that unites both sides of the Committee, because if we are to have confidence in the system, people will want more than the opportunity to submit written representations. They will want an opportunity to provide oral evidence and to be cross-examined on their views, and to be sure that their views are heard.

I hope that the Minister, in responding to hon. Members' concerns, will be clear about the opportunities the Government envisage under the new arrangements. What opportunities will there be to give oral evidence, and how will the submission of oral evidence be facilitated? At the moment, hearings that provide that opportunity are held in the locality. When such hearings take place, apparently only in exceptional circumstances, what will the real opportunities be if they are held in London or somewhere remote from the communities concerned?

James Morris (Halesowen and Rowley Regis) (Con): In a recent Select Committee examination of some of the proposals, the Planning Inspectorate was clear that it does not consider itself a centralised service; it perceives itself as an inspectorate that, even today, operates in localities. As we can see from the report of the exchanges in the Committee, the inspectorate is minded to ensure

that where there are existing inspectors in localities, it will continue to deal with cases in that way, which relates to the issue raised by the hon. Gentleman.

Paul Blomfield: I thank the hon. Gentleman for that further information, and I hope that the Minister will take the opportunity to confirm in his remarks not only that there will be extensive opportunities for oral submissions, but that where such hearings are organised, they are, as the hon. Gentleman suggests, held in the communities relating to the application and are accessible to the people who have concerns to raise.

3 pm

Mrs Glindon: Unlike some other hon. Members who have spoken, I have experience of being a councillor—for 15 years in North Tyneside. For many years, I actually sat on the planning committee, so I probably know the procedures inside out and I know the wrath of the public if they feel that they are not being listened to or that a decision did not go their way—perhaps quite rightly at times.

My experience is that consultation and giving people information allows them to accept decisions. Bringing the issue down to local level is important. Several years ago, the planning committee that I sat on actually took the decision to allow members of the public with objections to attend the planning committee and make those representations themselves. If such decisions are removed to the Planning Inspectorate or to the Secretary of State, where would that kind of interaction take place? Could it be achieved? That was consultation at its best. After the site visits and sharing of information, there was a real opportunity for people to be at the heart of planning in the committee process.

Roberta Blackman-Woods: Does my hon. Friend agree that the point about the way planning committees operate is that having heard what local communities say, democratically elected councillors then have to make the decision? The decision is not made by planning inspectors, who are not responsible to anyone except the Secretary of State; they are simply not accountable locally in the way that councillors are.

Mrs Glindon: I agree that accountability is extremely important, because planning is one of the most interactive and closest functions to local people. That is why the whole issue of consultation in the amendment is crucial. Where else do people actually have so much to say? If we look at local newspapers, people often talk about planning and development. It is a function where decisions have to be made purely on a quasi-judicial basis in a considered way, but due account must be taken of all the information that is submitted from all the people who can apply to be consulted. While consultation is about local people, it is also about local organisations, which have a statutory right to be consulted. It could be haphazard to remove that decision to the Planning Inspectorate. As the hon. Member for Harrow East said, there may be an inspector in the area, but the Planning Inspectorate may not have someone in every area to engage with and consult local people.

I end with a cautionary tale about matters being referred to the Planning Inspectorate or the Secretary of State. Some years ago, a planning application was made in my constituency to build a small housing estate on the riverside. The people who lived along the river, whose estates had been built due to the industry that was previously located there, were quite happy to have the application rejected. That was because they hoped that there would be industry again on that part of the river, and their hopes were eventually realised.

Unfortunately, the developers decided to appeal and the decision made by the Secretary of State was that a small estate could be built, because there was only a possibility of industry coming back to the area. The current situation is that the planning committee recently gave permission to build a fantastic new shed, which will be part of the renewables industry. When I say "shed", it is probably not quite as big as this building but it will still be something that has never been seen on the banks of the Tyne. Unfortunately, the people who will live in the shadow of that building are on the small estate that was built against local wishes, because people wanted to see industry in that area again. The Secretary of State does not always know what is best and people removed from an area do not always know what is best for it. Public consultation and consideration are extremely important.

Nick Boles: It is fair to say that we have had a full discussion of this group of amendments. Of course, much of the discussion on both sides of the Committee has focused on the important issue of consultation, so I will try to address—more briefly—some of the other issues that were raised, before ending with a consideration of the various points that were expressed and the various questions that were asked about consultation.

To begin with, regarding the issue of costs and the planning fees that will be attached to those applications that might end up being referred directly to the Secretary of State, there are a couple of things that it is important for members of the Committee to understand. The first is that, as everybody knows, planning fees—even with the 15% increase that we have just introduced—do not cover the full costs of considering a planning application. What does that mean? It means that it costs a planning authority more to consider an application than it gains in revenue from the planning fee. I am not encouraging local authorities to take this opportunity, but logic dictates that if a local authority no longer has to consider a major application, the cost that it would no longer incur would be substantially greater than the fee that it would no longer receive.

Indeed, the real question is how the Planning Inspectorate will deal with the fact that the fee it will now receive will not be as great as the cost of considering an application. In our plans for the resourcing of the Planning Inspectorate, we are absolutely alive to the issue of ensuring that we resource it sufficiently so that it can handle these applications, because the fees do not cover the costs. It is simply absurd and nonsensical to suggest that planning authorities will suffer financially by losing these applications and the associated fees, because the fees are insufficient to cover the costs of dealing with the applications.

Paul Blomfield: The Minister is clearly indicating that there has been some significant scenario planning to anticipate the level of additional demands on the Planning Inspectorate. Can he say what additional level of resource he is planning to allocate to the inspectorate?

Nick Boles: It would be entirely premature to go into that matter now because only today we published a consultation document on what the criteria should be, and the Opposition seem very keen on consultation. Only after the criteria are absolutely determined will we know how many authorities will be caught by them. Then and only then, when applications start coming forward, will we have any idea about how many of those applications will come to the Planning Inspectorate. Fortunately the inspectorate is a large and very efficiently run body, with a wide range of responsibilities, so it has sufficient flex to anticipate additional responsibilities without absolutely having to hire people or create teams now for a level of responsibility that it is impossible to anticipate until the consultation document has been fully responded to and we know how many authorities will be caught by this process.

Paul Blomfield: Is the Minister not concerned that in the last year the Planning Inspectorate was significantly slower than councils in considering non-householder appeals? I assume that is partly a resource issue.

Nick Boles: I am not concerned, because it was considerably faster than any of the authorities that have a chance of being caught by the process. Everybody in the Committee, and no doubt everybody in Parliament, is saying that we would prefer for every single planning application that currently goes to a local authority to carry on going to a local authority, and for local authorities to consult widely and make timely decisions that accord with their own and national policy. That is, for all of us, the ideal outcome. What we are creating in the Bill is pressure on the very few authorities that fail to do that. We are creating an alternative route to ensure that the pressure is real.

Mr Raynsford: On a more technical point, the Minister said that authorities should not worry about costs, because the cost of processing an application is greater than the fees, and they could therefore be net gainers if the application goes to the Secretary of State. He will realise that it is not quite like that. The Secretary of State has power to require authorities to do certain things as part of the processing of the application. I highlighted some of them earlier, and there are others as well. Ultimately, the question whether local authorities gain or lose will depend on the costs of the various things that they are still required to do while getting no fees at all. We will come back to the issue in a later group of amendments, so I will not push your patience further by pursuing it, Mr Davies, but it is an important point to put on record.

Nick Boles: If I may respond, Mr Davies—I too will be brief on this point—it is, of course, also the case that all local authorities receive substantial grant to conduct those processes. The processes left with them, therefore, should absolutely be resourced from that grant. Finally, on the question of costs, I point out that just yesterday, the Audit Commission report "Tough Times 2012" showed markedly lower reductions in councils' planning budgets in 2012-13 than in 2011-12. Furthermore, as I said this morning, we are actively encouraging planning authorities to be innovative about co-operation and, if they are small, even to consider merging their planning department with a neighbouring authority's. That is how to achieve more for the less the last Government left us.

Moving on to the subject raised by my hon. Friend the Member for Harrow West—

Bob Blackman: East.

Nick Boles: My hon. Friend the Member for Harrow East. I apologise to the people of Harrow West and East, and to my hon. Friend.

On the question of conditions, it is absolutely right that conditions should be designed and suggested locally, which is why local authorities will be able to recommend appropriate conditions to the Planning Inspectorate as part of their representation on an application.

The right hon. Member for Greenwich and Woolwich asked whether performance standards would apply to the Secretary of State. He was not quite right, although I accept that he did not have a great deal of time, even with lunch, to read every word of the consultation document. Paragraph 72 makes it clear that the planning guarantee of 26 weeks will apply:

> "A similar 26-week limit would in future apply to the Planning Inspectorate where it is determining planning applications submitted to it directly as a result of the proposals in the Bill."

If he looks a little further down, paragraph 74 says that planning performance agreements will, of course, be taken into account and excluded from the scope of the planning guarantee. By that we mean not only planning performance agreements agreed before the submission of the application but planning appeals subject to bespoke timetables. I hope that reassures the right hon. Gentleman a little.

On the right hon. Gentleman's amendment about applying the standards, there will be full transparency, as is currently the case with the Planning Inspectorate, and, I can assure him, enormous embarrassment if the Secretary of State proves slower than the authorities whose work we are picking up. I assure him, for fear of his wrath and poking fun at me in the House, that there will be lots of pressure if that happens.

3.15 pm

The right hon. Gentleman and several other Members asked why the timeliness of applications has declined in recent times. There is no mystery. We face a completely different financial environment in all aspects, all branches, all tiers of government than was previously the case. It may be appealing, at some level, to some local authorities to make decisions on the resourcing of their planning departments—despite the fact that they receive grant revenue and fees for planning applications—which undercut the ability of those departments to perform as they should. One can understand why they might do so, because, of course, most authorities are very concerned about services for vulnerable people in their areas and absolutely want to protect them, and we applaud that desire. It nevertheless remains their statutory duty to conduct planning—that is why they are given the grant—and to do so within the time lines.

It is interesting that many authorities subject to the same constraints—I understand that the hon. Member for City of Durham has been expecting me to say this—have managed not just to maintain their performance

but to improve it while facing similar cuts. They simply have to be more innovative in working out how to run a planning department; innovative as North Tyneside authority sounds as though it is being by bringing in the efficiency of the private sector to serve the public interest and politically accountable decision making, which I know is what is happening in North Tyneside.

Mr Raynsford: Is it G4S?

Nick Boles: I think we had better not discuss all the contracts that the right hon. Gentleman's Government made with that company.

On the subject of consultation—

The Chair: Order. I hate to cut the Minister off in full flow, but there is an extremely persistent, irritating and distracting tinging noise coming from some kind of device on this side of the Committee. I do not mind Members using some kind of device, but its sound should be switched off, otherwise it should be switched off altogether. *[Interruption.]* It just went off again to illustrate the point. Whoever it is should switch it to silent or switch it off altogether.

Nick Boles: Thank you, Mr Davies. I have to say that I find a bit of musical accompaniment a pleasure, but I understand why it is disturbing to you. I think that it may be coming from the back row. Perhaps the back row would like to investigate. Everything always comes from the back row in class, does it not?

On consultation, first, I am very grateful to my hon. Friend for the bit of Harrow that I did not say the first time for bringing this up, because he is absolutely right that consultation is critical to ensuring that decisions are made so that people feel that they have had their say. There is a slight irony in the position of Opposition Members, because they are urging us not to introduce the clause on the basis that there is already the power to appeal for non-determination and have a planning application considered by the Planning Inspectorate. However, they have made no complaint to me about the level of consultation that would then be conducted by the Planning Inspectorate. So I see a certain mystery in the position of Opposition Members but none at all in my hon. Friend's.

I have heard the will of the whole Committee, and indeed the House, that we should take very seriously the very rare occasions when the Planning Inspectorate deals with an application for the very first time. When no subsidiary or lower-tier authority has been through an application process and made a determination, it is all the more important that consultation happens properly. I can reassure my hon. Friend and the whole Committee that hearings are a genuine option and, of course, that any such hearings should be held locally.

I thank my hon. Friend the Member for Halesowen and Rowley Regis for raising an extremely important point, which I did not realise until I visited the Planning Inspectorate headquarters in Bristol, which is that the vast bulk of its employees and almost all its inspectors do not work in Bristol. They probably have no more attachment to Bristol than any member of the Committee. They are scattered across the country and are allocated to jobs not usually in their exact area, because they should not be conflicted, but nevertheless within reachable distance. It will therefore be straightforward and normal for inspectors to hold hearings in the locality where an application is made. I will ensure that when the Planning Inspectorate considers an application under clause 1 that has not been heard before by another authority, it will look more generously at the criteria it applies in judging whether a hearing should be held.

Roberta Blackman-Woods: The Minister has given an important reassurance. Has he checked with the Planning Inspectorate whether it had personnel right across the country. I understand that they work from home, which could be anywhere. It generally does not attach people from the area in question to particular applications, so we are not necessarily reassured on those grounds.

Nick Boles: I warn the hon. Lady that we are going into an amazing thicket. The Planning Inspectorate has the most baffling multi-coloured spreadsheet I have ever seen, showing every inspector and what they are working on. She is right that it is careful to avoid conflict by avoiding putting inspectors who live in a particular community on an application that has been made there. Equally, it tries to have some logic in seeing which inspectors are available and ensuring that people do not have to drive all over the country to hold hearings. It is not beyond the capability of the Planning Inspectorate to cater to my request of providing more local hearings when it considers major applications that have never been heard before by an authority than it might do when considering appeals.

Paul Blomfield: I welcome the statement the Minister has just made. As I understand it, where consideration has not previously been given to a case, in most instances, he would encourage the Planning Inspectorate to hold a hearing so that local communities could have a voice. That is very welcome. Would he therefore agree to revise the consultation paper where the Government say clearly that the presumption is that applications will be examined "principally through written representation"?

Nick Boles: I find it rather amazing to first be attacked for the paucity of our consultation proposals and then, having listened to the first fresh-off-the-presses responses and indicated that I am minded to take them into account, be told that I should change the consultation document. No, I will not change the consultation document, but I will go on listening to the hon. Gentleman's and everybody else's responses to it as we determine exactly how the clause will be applied and implemented. I cannot help but note that the hon. Gentleman was one of the few people who contributed to the debate who said that he had never served on a planning committee or, indeed, on a local authority. All I can say is that it is therefore not surprising that he is so youthful and carefree.

I hope that I have been able to satisfy some of the concerns that Opposition Members and my hon. Friends have raised, and I turn briefly to the amendments. On amendment 1, as I said to the right hon. Member for Greenwich and Woolwich, we will use the power of embarrassment, which is often a greater power than any regulation that Parliament makes, to ensure that the

[Nick Boles]

Planning Inspectorate and the Secretary of State subject themselves to the same strictures that we apply to others.

On amendment 5, I do not want to add an administrative burden of specifically reporting on costs. The Planning Inspectorate already publishes a full annual report and accounts, which is presented to the House. I believe that that will be an adequate measure of its financial performance in dealing with these responsibilities.

Mr Raynsford: The Minister's response implied that this was simply a matter of the Planning Inspectorate's costs. He will appreciate that there are other costs. There may be some costs falling to the Secretary of State. There certainly will be costs falling to local authorities that are required to perform functions under the Bill. The purpose of the amendment was to obtain a statement of the total cost, not just the Planning Inspectorate element of that. Would the Minister like to deal with that issue?

Nick Boles: I am inclined to resist the right hon. Gentleman's amendment, but I will certainly take away the point underlying it and come back to him and the rest of the Committee with a view about what level of transparency on the specific costs is possible.

Amendments 13 and 14 would require the Bill to specify that the Secretary of State must meet the relevant statutory requirements, including consultation of the local community. That is of course unnecessary, because the Secretary of State, as is currently the case when he makes planning decisions, will be required to comply with all the requirements of the planning Acts in dealing with planning applications submitted directly to him, including the requirement to consult the public. In view of the indication that I have given that I will encourage the Planning Inspectorate to deal with those applications and the consultation requirements, I hope that the hon. Member for City of Durham will be happy not to press her amendments.

Roberta Blackman-Woods: These amendments deal with some of our major concerns about the Bill. I have heard what the Minister has said this afternoon about consultation and the fact that more opportunities will be made available to local people to have their voice heard. Nevertheless, I still have concerns about the way in which the local community will be bypassed in the overall decision making, so I am minded to press amendment 13 to a vote.

Also, I am having some trouble following the logic of what is happening on costs. The Minister seems to be suggesting that at the moment, local authorities do not get enough money from fees to cover their decision-making processes fully. Now, the sum of money that they currently get will be taken away and given to someone else, but they still might have to undertake all the work on the application, even though they will not get any fee for it. That is somehow supposed to improve the overall decision-making process. I simply cannot follow that logic, either. To assist us in knowing what will happen with regard to costs, we also need to press amendment 1 to a vote.

The Chair: If I understand the hon. Lady's intentions correctly, may I first ask her to withdraw amendment 14?

Roberta Blackman-Woods: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 13, in clause 1, page 2, line 30, at end insert—

'(4A) Before reaching a decision on an application made to him under this section, the Secretary of State must ensure that adequate consultation of the local community takes place.'.—*(Roberta Blackman-Woods.)*

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 9.

Division No. 1]

AYES

Blackman-Woods, Roberta	Glindon, Mrs Mary
Blomfield, Paul	
Dakin, Nic	Raynsford, rh Mr Nick

NOES

Blackman, Bob	Glen, John
Boles, Nick	Howell, John
Bradley, Karen	Morris, James
Coffey, Dr Thérèse	Smith, Henry
Fallon, rh Michael	

Question accordingly negatived.

3.30 pm

Roberta Blackman-Woods: I beg to move amendment 16, in clause 1, page 2, leave out lines 33 to 40 and insert—

'(6) The Secretary of State must set out in regulations, following a period of consultation, the exact responsibilities of local authorities designated under section 1(1) in relation to planning applications made directly to the Secretary of State.'.

The Chair: With this it will be convenient to discuss the following:

Amendment 17, in clause 1, page 2, line 39, after 'particular', insert 'designated'.

Amendment 18, in clause 1, page 2, line 39, after 'to', insert 'designated'.

Amendment 2, in clause 1, page 2, line 40, at end insert—

'(6A) Any costs incurred by a local planning authority in carrying out directions given under subsection (6) shall be reimbursed by the Secretary of State.'.

Roberta Blackman-Woods: With the amendment we seek to amend proposed new subsection (6).

I am not sure that I have ever come across a piece of legislation that simply gives the Secretary of State the power "to do things". At this stage in the Committee's proceedings we might all need to be woken up, so I thought that we might have two competitions this afternoon—I am being absolutely serious. First, proposed new subsection (6) states:

"The Secretary of State may give directions requiring a local planning authority to do things in relation to an application",

but without telling us what those "things" might be. Hon. Members might be finding our proceedings a little boring, so I wondered whether the degree of licence

that that provision could give the Secretary of State might trigger the imagination. We can have a competition to see who comes up with the most bizarre thing that the Secretary of State might ask a local authority to do under such a general provision. I have not quite decided on the prize, but it is worth us at least thinking about the matter. Secondly, we can think about what the local authority could do in response to those "things" that it has been asked to do by the Secretary of State.

We ask—as proposed in the amendment—that we move out of the realms of the imagination and whims of the Secretary of State and look at sensible, different wording. To be sensible policy makers, we must set out clearly in regulations that have been subject to consultation and the scrutiny of both Houses of Parliament what is meant by "do things". I am tempted to ask the Minister at this point exactly what he had in mind. Why do we have language in the Bill that seems to so inappropriate to legislation?

That is my competition for the members of the Committee. If I may, however, I also have a competition for the officials, or indeed for anyone else in the room: to come up with a previous piece of legislation that gave licence to a Secretary of State "to do things", without in any way indicating what those "things" might be. I accept that this might not be the first time that Parliament has considered the phrase, although it would be interesting to know how many times it has been used in the past.

The language in proposed new subsection (6), and the licence it gives to the Secretary of State, is one thing that is wrong with it. The second, which is equally serious, demonstrates why consultation with local authorities is a necessary prerequisite for any action taken under clause 1—they may be asked to do unspecified things that are not possible, outwith their resources or would not necessarily be helpful. I am sure that the Secretary of State would not think of being so unreasonable. However, one can never be sure, and I would prefer that the Bill tied down the number, nature and extent of "things" that the Secretary of State can ask local authorities to do.

In a time of reducing budgets for planning departments, they must be able to assess whether a Secretary of State is asking them to do things that are reasonable—and, most of all, affordable—especially because, as we have already discussed to a degree, the fee for assessing major applications is to be removed from them and given to the Planning Inspectorate. In a sense, that is what makes the phrase

"requiring a local planning authority to do things"

so hard for local authorities to stomach. They have genuine, legitimate concerns about what they could be asked to do under that general provision in proposed new subsection (6) without having the resources to enable them to do it.

The next stage—which we have not considered so far but which I will come back to later in the Committee's deliberations—is what happens if the local authority, having being asked to do thing A, unspecified, does not wish to do thing A, unspecified, because it has no money or resources to be able to do it. There is nothing so far in the Bill or in the consultation, as far as I can see, that would help it appeal against that decision. We must therefore know exactly what the Secretary of State can ask of an authority and how it will be paid for. Such requests, or should I say diktats, from the Secretary of State are also likely to make it more difficult for local authorities to plan their work programme, especially if a number of requests come in out of the blue.

Again, I hope that the Committee will realise that a very serious point is being raised here. What could happen is that unknown to a local authority—it having been designated under the spurious criteria in the Bill—a number of applications from a number of developers land with the Planning Inspectorate. The Secretary of State would then go to his list of "things", which could be quite extensive, although unspecified. An authority might be asked to do a lot of things at very short notice, because the Planning Inspectorate would not want to fall foul of the time clauses and would simply not be able to deliver on those requests. The authority could therefore find itself designated for a much longer period than would have been the case if a more sensible system had been in place.

Proposed new subsection (6) essentially makes the whole system of designation and of determining applications centrally completely unworkable. There must be a clear set of criteria that sets out clear circumstances and a proper time scale, and local authorities have to be properly resourced to do the list of things, whatever they are, in a timely manner.

I will address amendments 17 and 18 together. The Secretary of State's power-hungry tendencies go further than simply prescribing things that he wants people to do, especially when one considers proposed new subsection (6)(a) and (b). The applications that would be introduced under those paragraphs are not clear. I have real concerns about that, because paragraph (a) refers to

"a particular application or to applications more generally".

I think that means applications to a designated authority, and only to a designated authority, but that is not 100% clear. Clarity on that would be helpful.

I have a similar point to raise about proposed new subsection (6)(b), which states that directions

"may be given to a particular authority or to authorities more generally."

The amendments would make it clear that those are designated authorities, so instead of referring to a "particular authority," which could be any authority, the paragraph would refer to directions to

"a designated authority or to designated authorities more generally."

I tabled the amendments because we are not sure which authorities would be caught by requests to do things under proposed new subsections (6)(a) and (b). We are therefore concerned that a well run local authority that meets all its timing obligations, and that everyone says shows very good performance, might suddenly, out of the blue, be caught by a series of requests from the Secretary of State to do things in connection with a set of applications that have nothing to do with it as an authority but might have something to do with another authority that has been designated.

I know I am labouring the point, but the legislation is not clear. The Minister has to give greater clarity, first, on "things" and, secondly, on proposed new paragraphs (a) and (b). What applications does he have in mind? Which authorities will come under those provisions?

[Roberta Blackman-Woods]

Finally, I want briefly to address amendment 2, which was tabled by my right hon. Friend the Member for Greenwich and Woolwich, and is so reasonable that I cannot understand why the Minister would not simply accept it. If the Secretary of State asks local authorities to carry out "things" under proposed new subsection (6), they need to be reimbursed by the Secretary of State for doing them. Designated authorities will be bankrupted and prevented them from carrying out their other duties effectively if they are not recompensed for the work they have to carry out. Indeed, under proposed new subsection (6)(b), other authorities may be drawn into this loop of having to pay for things they had not planned for, because we are not clear what they are going to be asked to do. Will the Minister tell us, first, what proposed new subsection (6) actually means and, secondly, why he does not think it reasonable to reimburse local authorities for the work they are being asked to undertake on behalf of the Secretary of State?

3.45 pm

Nick Boles: I did not anticipate that we would end up having a discussion about plain English. I hope you will forgive me, Mr Davies, if I say that I sometimes find the subject of plain English rather more interesting than the subject of planning regulations, so I will briefly divert on to it.

The hon. Lady seems seized by the fact that the Bill suggests that the Secretary of State will be able to direct local planning authorities to do "things". Of course, if the Bill were a perfect bit of new Labour legislation, no doubt we would have said that we require a local authority to undertake processes, to publish materials, to operate procedures and to adumbrate consecutive interventions, but, actually, all that would have meant was "do things", so it seems right and proper that, in an attempt to make legislation comprehensible to members of the public—and indeed to Members of Parliament—we try to keep it simple.

Mr Raynsford: May I ask the Minister to reflect on the possibility that if it came from the right of the political spectrum, there might be a temptation to give the Secretary of State the power to "do stuff"?

Nick Boles: The interesting thing is that the right hon. Gentleman anticipates a point I was about to make. If I had been given the freedom, indeed I would have written "do stuff". However, I deferred, as always, to parliamentary draftsmen and my officials.

The clause makes it clear that the Secretary of State can ask a local planning authority to do things only in relation to an application made under proposed new section 62A. Therefore, those things—those processes and those procedures—have to relate to the normal handling of planning applications under the terms of planning legislation. They cannot be outwith that set of actions, so there is no risk of members of local authorities being asked, as my hon. Friend the Member for Suffolk Coastal said from a sedentary position, to run naked down the street, or indeed to do anything else that might cause additional expense to the local authority or outrage to the local population. I reassure the hon. Member for City of Durham that there is no reason to worry.

Let me be a little more serious for a moment. It is important that legislation is not over-specific, and that is why we have regulations. The hon. Lady and her hon. Friends made great play of the need for the Government to consult widely on exactly how the provision will work, be applied and play out in practice, and that is indeed what we are doing. In paragraph 59 of the consultation document—again, I am happy to admit that the hon. Lady may not have had the chance to see this specific paragraph—we have said:

"Where a planning application is submitted directly to the Secretary of State there will be a small number of administrative functions which, for practical reasons, will need to be carried out locally. We propose that these should continue to be undertaken by the designated local planning authority"—

however—

"we would welcome views on whether alternative approaches should be considered, such as the use of a local agent."

The point of all that is that the fine detail of how the provision will work and operate is a matter for consultation. That is why we have a Bill Committee and a consultation process. We will reflect the responses in the precise arrangements. Indeed, once those arrangements have been put into regulations, we will be able to adapt and amend them if we discover, from the process of actually doing it, that an alternative arrangement would be better.

Roberta Blackman-Woods: I want to check that the Minister is confirming that there will be a set of regulations attached to proposed new subsection (6) that will enable us to understand what is meant.

Nick Boles: Being new to the game, Mr Davies, I might have used the word "regulations" loosely. Whether it will be regulations, guidance or some other kind of published procedure, I do not know, but one of those will be available. I am making the point that this is all subject to consultation and that we are open to suggestions.

I shall now address the amendment relating to costs, because it appears that Opposition Members did not understand the point that I was trying to make about how planning activities are funded. They effectively have two main sources of revenue: fees for planning applications and central Government grant for fulfilling statutory duties. The fees for those applications that are now made directly to the Secretary of State for those designated authorities will pass to the Secretary of State. The local authority, however, will continue to receive its central Government grant to fulfil its statutory duties as a planning authority. It will still receive revenue through that grant which, as we make clear in the consultation document, will make it able to fulfil a narrow range of administrative functions currently connected with the process of considering a planning application. No new processes are being invented, so no extraordinary, unfamiliar or unanticipated costs will be attached.

The other thing to remember is that the whole point of the provision is to create a deterrent to the behaviour that would lead to an authority being designated and temporarily losing its power to determine these applications.

We want it to be a deterrent, so we do not want to get into the absurd position where some wholly irresponsible authorities—I fear that there might be one or two in the country—actively seek to be caught by the measure so that they can slough off the responsibility for deciding controversial major applications to the Planning Inspectorate.

The hon. Member for City of Durham shakes her head, but there is an authority, as I have said before, that has not had a local plan for decades. I suspect that is partly because it has not been willing to deal with the difficult choices and trade-offs required of a planning authority. Many members of the Committee have done that job and have all referred to the intense local feeling that comes with being a planning authority and with fulfilling democratic responsibilities. I am certain that any hon. Member who has served on a planning committee did their role properly, well and speedily, and that they dealt with the controversy. However, there are a few authorities that are not willing to do so, and we want the provision to act as a deterrent to that kind of irresponsibility.

I argue that the amendments are unnecessary and beg the right hon. Member for Greenwich and Woolwich and the hon. Member for City of Durham not to press them to a Division.

Roberta Blackman-Woods: I heard what the Minister had to say about things—

Nic Dakin: And stuff.

Roberta Blackman-Woods: Yes, and stuff, although it is things that we are dealing with. Perhaps when I get the opportunity to look at the consultation paper in more detail, I will be a little happier that, before the Bill passes, we might have a firmer idea of what is meant by "things". We might even have regulations or guidance to help us so, on that basis, I shall not press amendments 16, 17 and 18.

I am extremely concerned, however, by the Minister's comments about costs and not passing on a section of the fee to local authorities for the work that they have carried out. That seems to place authorities that are already struggling with the designation in the even more difficult situation of being asked to undertake work without additional resources. I therefore plan to press amendment 2 to a Division, but I beg to ask leave to withdraw amendment 16.

Amendment, by leave, withdrawn.

Amendment proposed: 2, in clause 1, page 2, line 40, at end insert—

'(6A) Any costs incurred by a local planning authority in carrying out directions given under subsection (6) shall be reimbursed by the Secretary of State.'.—*(Roberta Blackman-Woods.)*

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 9.

Division No. 2]

AYES

Blackman-Woods, Roberta	Glindon, Mrs Mary
Blomfield, Paul	
Dakin, Nic	Raynsford, rh Mr Nick

NOES

Blackman, Bob	Glen, John
Boles, Nick	Howell, John
Bradley, Karen	Morris, James
Coffey, Dr Thérèse	Smith, Henry
Fallon, rh Michael	

Question accordingly negatived.

Roberta Blackman-Woods: I beg to move amendment 20, in clause 1, page 2, line 47, leave out from 'publish' to end of line 48 and insert

'following a period of consultation with local authorities'.

The Chair: With this it will be convenient to discuss amendment 3, in clause 1, page 3, line 7, at end insert—

'(9) The Secretary of State must consult representatives of local planning authorities before publishing the criteria described in subsections (8)(a) and (b).'.

Roberta Blackman-Woods: It is our contention that proposed new subsection (8) gives the Secretary of State far too much licence as it will allow him to publish in a manner in which he "thinks fit". In addition to worrying about the word "things", I am now worried about what the Secretary of State thinks is "fit"—I am not terribly happy with this form of language. Indeed, thinking about what the Secretary of State thinks is fit is not really a place I would wish to go this afternoon, or at any time at all.

Amendments 20 and 3 would ensure that adequate consultation with local authorities would take place before the criteria on which designation is to be made is published and then applied. Today, we have stage 1 of that process and I welcome the consultation document, even though it is rather belated. I am pleased that it is in the public domain, and I hope that local authorities and others will take the opportunity to respond to it. However, as we all know, consultation is effective only if the people who are being consulted are actually listened to and if their points are taken on board and applied.

A number of witnesses who gave evidence to the Committee, including those from development organisations, said that while timeliness might be a factor, what really concerned them was something other than what is contained in the consultation document. Now that I have briefly seen the consultation document, I am not sure that it allows local authorities or anybody else to put forward other criteria. I will read it in more detail over the weekend, but it certainly does not appear to make it easy for respondents to suggest other criteria.

4 pm

The witnesses gave us the consistent message, which, unfortunately, the Minister and his colleagues do not seem to have listened to, that the important thing was not timeliness but certainty. They said again and again that they wanted certainty. The second point that they raised was the quality of decision making. When asked what the top two criteria should be, Mr Whitaker from the Home Builders Association took a different line from the Government:

"you have to have timeliness in there, but it is outcomes that we want to measure. We want local authorities to deliver what they say they are going to deliver, when they are going to deliver it."—[*Official Report, Growth and Infrastructure Public Bill Committee,* 13 November 2012; c. 69, Q68.]

The two points that the witnesses brought out were certainty and quality. When they talked about quality, they did not mean the number of applications that were overturned on appeal; they meant the outcomes on the ground for them or, I suppose, for the local community, although Mr Whitaker did not specifically mention that.

Even developers are questioning the criteria, but timeliness is also not as straightforward as the simple criterion would suggest. In his evidence to the Committee, Mr Sharp made the helpful point that the determination of applications is often held up by highways issues outwith the control of the local authority. Many such issues complicate the picture about how applications are determined and the time frame within which they are determined. I want to elaborate on some of those issues, but they fall into the next group of amendments. Amendments 3 and 20 are simply designed to challenge the criteria that the Government have proposed.

Nick Boles: I refer the hon. Lady to page 21 of the consultation document, which lists the consultation questions:

"Question 1: Do you agree that local planning authority performance should be assessed on the basis of the speed and quality of decisions on planning applications?"

There is a question mark at the end of the question, as is customary. That, to me, is certainly an invitation to say whether those criteria are the right ones, or whether others should be suggested. I look forward to the hon. Lady's response to the consultation and to her suggestions—and, indeed, anybody else's—of what the criteria should be.

Roberta Blackman-Woods: Will the Minister confirm that none of the questions prompts the consultees to suggest additional criteria, beyond the question about whether the Government are using the right ones? Is there a specific question about other criteria?

Nick Boles: I do members of the public the honour of thinking that they understand that, when they are asked whether they agree that certain criteria are the right ones, they can come up with alternatives. If they do not think a criterion is right, they presumably think that there is a better one. I think that the hon. Lady is splitting hairs. It is also clear that consultation is done for all such proposals. We have consulted on the proposals, and the previous Labour Government often carried out consultations, not that they always listened to the responses. Consultations take place when Governments make proposals. She knows full well that it is always possible and, indeed, quite often happened when her Government were in power that they are challenged in the courts under judicial review if they have not consulted. There is absolutely no necessity to put into a Bill the requirement to consult or to consult specifically with local authorities. For that reason, I hope that the hon. Lady agrees that her amendments are entirely unnecessary, and I ask her to withdraw amendment 20 and the right hon. Member for Greenwich and Woolwich not to press them.

Roberta Blackman-Woods: I have heard what the Minister said, but it would still be my preference for the sake of clarity and to help consultees for them to be asked specifically to propose other criteria if they thought that that was more appropriate. However, I accept his point that, at least, some people might use the suggested proposal for that purpose, even though others might not. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Roberta Blackman-Woods: I beg to move amendment 21, in clause 1, page 3, line 7, at end insert—

'(e) and the length of time for which a local authority is to be designated'.

The Chair: With this it will be convenient to discuss the following:

Amendment 4, in clause 1, page 3, line 7, at end insert—

'(10) The Secretary of State shall by regulations make provision for an independent body to consider appeals by local planning authorities which have been designated for the purposes of this section against such designation.'.

Amendment 23, in clause 1, page 3, line 7, at end insert—

'(9) Before designating an authority under this section, the Secretary of State must serve a notice of intention to designate ("the notice").

(10) The notice shall—

(a) give reasons for the service of the notice, all of which must have regard to the criteria published in accordance with subsection (8);

(b) give the authority or authorities named in the notice a period of six months to take all reasonable corrective actions specified in the notice;

(c) allow a period of four weeks for the local authority on which notice is served to appeal against this notice (the grounds for which appeal may include mitigating criteria, set out in regulations, such criteria to include planning performance agreements, extenuating local circumstances, actions of statutory consultees and/or relevant agencies or government departments, views of the local community, natural events, architectural and heritage concerns, environmental and conservation concerns).'.

Roberta Blackman-Woods: The last group of amendments to clause 1 would allow local authorities time in which to appeal the designation as a failing planning authority. Amendment 21 would make it clear that the designation itself should be time-limited. I should be grateful to hear from the Minister exactly how long he considers that a designation should remain in place.

Several members of the Committee have said today how worried they are that clear criteria are not in place for de-designation. We want clear time limits to be put in place for the designation. If the Minister wishes to attach criteria to the de-designation, that is something that he should do, and we would be happy to know those criteria and comment on them.

Amendments 4 and 23 would allow an appeal mechanism to be in place. An appeal could be made first on the designation itself. To have designation thrust upon a local authority without it having the opportunity to challenge the designation formally is extremely unfair to that local authority. We therefore want the authority to have the opportunity to appeal to an independent panel, so that the designation can be examined to see whether it was fair and the criteria were applied correctly.

Such a process might be covered under the consultation document, but that is not clear. Under amendment 23, we would make it clear that there should be a period of notice that would allow local authorities six months to improve. In terms of the carrot and stick, that is a much more balanced and much fairer way forward.

If the amendments were accepted, local authorities would have a choice about how to proceed. If they did not accept the designation, they could appeal to an independent panel that would assess all the evidence being used by the Secretary of State and would, in a short period, decide whether the designation should go ahead. That would allow local authorities to feel that they were being adequately consulted, that their views were being taken into account and that any evidence contrary to the Secretary of State's evidence would be considered. There would be a formal negotiation, rather than simply allowing for a bit of to-ing and fro-ing, which the Minister suggested that he might accept once the local authority had been designated.

To-ing and fro-ing and upping and downing, and whatever else, is not strong enough. We want to ensure that local authorities have a formal mechanism to challenge the designation. That is reasonable. No Committee member, for example, would like to be categorised in any circumstances as failing without having some appeal mechanism in place. We all have that as part of employment legislation, providing that we have been working for an employer for long enough and that is generally, legally, considered quite reasonable. I should like the Minister to say why he thinks that the amendment cannot be accepted when it is so reasonable.

Under amendment 23, if the local authority accepted that it should be designated and decided not to appeal against the designation, it would be given a period of time in which to improve before the designation applied. With that amendment, I am pressing the Minister to provide more detail about what period local authorities would have to improve, what would be a reasonable corrective set of actions and what else would have to be taken into consideration. I gather from the consultation document that the Minister might be thinking about that.

It is critical that I spend a moment or two considering the criteria set out in paragraph (c) of amendment 23, because there is concern that if crude measures are taken—I hope that the Minister will forgive me for saying that the measures that he is consulting on are rather crude—at some stage in the process there has to be a space for consideration of mitigating factors. Previously, I was an academic who spent many hours chairing mitigation panels, where students stated why they had not submitted an essay on time or why they could not turn up to an exam, and so on. I can probably write mitigation circumstances ad nauseam. If students can do it for a piece of work and there is a process that allows mitigation to be considered, before we take the drastic step of designating a local planning authority as failing, we should have somewhere where mitigation circumstances can be taken into account.

The Minister mentioned planning performance agreements, but there could be other extenuating circumstances, such as authorities waiting for information from statutory consultees or other relevant agencies, including Departments. An issue or set of issues could affect the local community's views. As I mentioned earlier, natural events, architectural and heritage concerns or environmental and conservation issues could all quite legitimately slow down the process. That would not necessarily happen all the time. A set of circumstances could pertain to a certain period. Nowhere can I see that being taken into consideration in the Bill.

4.15 pm

I hope that the Minister will reassure us that there will be a fair process that will allow local authorities the opportunity to come back at the designation with a series of reasons as to why it should not be applied, and that those reasons will be fairly considered by the Secretary of State. Indeed, if local authorities are not happy with the designation and do not think that it should apply, I hope that an appeal mechanism will be open to them. The amendments are fair and reasonable, so I hope that the Minister will be able to take them on board.

Nick Boles: I am tickled to learn that the hon. Lady is an academic who has chaired a mitigation panel on several occasions—*[Interruption.]* I would like to have her attention for a moment, because I want to ask her whether she would, in that capacity, have been willing to accept the mitigating circumstances that I once had to present to a tutor of mine. I had to explain that my essay for my tutorial had been run over by a double-decker bus and had caught in the wheels. I am sure that the hon. Lady was more forgiving than my tutor, because although that was true—I even had one of the pages with tyre marks on to prove it—he decided that I had entirely confected the circumstance and gave me no points at all for the essay. I am sure that the hon. Lady was of a more generous disposition.

I hope that it will reassure the hon. Lady and other members of the Committee a little to learn that in paragraph 68 on page 17 of the consultation document, we make it clear that we are proposing that any designation of an authority as a poorly performing authority

"would last for at least a year, but would be subject to review well before that year ends, so that the authority has every opportunity for the designation to be lifted at the end of the one year period."

The period could, of course, last longer if the local authority failed to satisfy us that it was going to improve its processes, but I will be honest with her: that would be a failure not only for the local authority, but for us. If, through the intensive work that the Department and others will be doing with such authorities, we have not managed after a year to help them to improve their processes and arrive at a position where they can discharge their responsibilities successfully, we will have failed as much as the local authority.

The hon. Lady suggested that there should be an independent panel to which an authority that is at risk of being designated could appeal. This reminds me of the Prime Minister's recent statement in which he described her party as a party of one notion—spending and borrowing—because perhaps I could perhaps say, "One and a half notions," with the other being that the answer to every question is a new bureaucracy. The truth is that neither the Secretary of State nor I, as the Minister with responsibility for planning, nor anyone who works at the Department for Communities and Local Government, nor anyone in the Planning

[Nick Boles]

Inspectorate—nor any member of the Committee—wants to be taking decisions about such applications or to be depriving any local authority of powers. We will do so only as a last resort in the extreme circumstance when they are persistently failing to discharge their responsibilities. There is no need for an independent panel, because if authorities can present us with evidence as to why the data are misleading or incomplete, or have been overhauled by recent developments, we will have every interest either to resist designating them in the first place, or to ensure that they are de-designated as soon as possible, once we have assured ourselves that they will not slip straight back into the position that got them there in the first place. There is therefore no need for the independent body that the hon. Lady suggests.

Similarly, there is no need to give formal notice to an authority and for a period of six months to take corrective action. I assure the hon. Lady that almost every planning authority has already worked out whether it was at risk of being designated, based on my indication in evidence of what criteria we are likely to focus on. Certainly since this morning, when the consultation document specifying the criteria that we propose to apply was published, every authority that might be caught by any criterion will know that it might be caught and is looking to see what it can do to avoid that. The notice has been well and truly given. If an authority's performance improves dramatically over the next short period, there is every chance that it either will not be designated, or will be able to leave the designation quickly.

I hope that that reassures the Committee that we have no desire to do this process and that we want to stop doing it as soon as we responsibly can. Ultimately, however, we are not willing to live with the persistent failure of a few authorities to discharge their responsibilities. That is what the clause is all about. I urge the hon. Lady to withdraw the amendment.

Mr Raynsford: I have to say that I felt that the Minister's case was utterly unconvincing. Earlier in our debates, he and his right hon. Friend the Member for Hazel Grove cited the illustration of murder, saying that clearly no one wants murder to occur, but it is nevertheless necessarily for it to be illegal to ensure that there is a disincentive for people to carry out murder. We may or may not agree with that analysis, but one thing we would never say is, "And in order to ensure that this works effectively, there will be no right of appeal against a conviction for murder." That is, however, in effect, the argument that the Minister is asking us to accept. He is suggesting that as the measure will be used only infrequently, and as the Secretary of State will be acting in the best possible interest to try to improve performance, there is absolutely no need for a right of appeal. Nonsense. That is an argument in favour of arbitrary power to be exercised by the Secretary of State, with no redress.

I find that argument totally unconvincing from a party that claims to be localist. There can be nothing worse than taking away powers for local authorities to decide issues with no appeal against the Secretary of State's decision. It is evidence of arbitrary, high-handed and unacceptable government, and I am astonished that the Minister is advancing a case in favour of it.

Nick Boles: Given the strength of the right hon. Gentleman's opinion and the passion with which he spoke, it is puzzling to read section 15 of the Local Government Act 1999, which was passed—even my moderate grasp of history suggests this—by the Labour Government of whom he was a distinguished member. That section gives the Secretary of State—then the noble Lord Prescott, no doubt—the power to direct authorities to take actions, and ultimately to direct another body to take over specific functions of a council. I do not remember that section setting up its own specific, tailored and independent panel to hear appeals against decisions made under it, but no doubt the right hon. Gentleman voted for and supported the provision when he was in government.

Of course, the right hon. Gentleman is aware that any action by a Government that is somehow egregious may be tested in court under judicial review. There is nothing to stop a local authority that believes that its designation is unfair and should be terminated at once from taking us to court to demonstrate that we are going further than the law allows. There is absolutely no reason for the further bureaucracy that he suggests, and I urge him to see the error of his arguments.

Roberta Blackman-Woods: With respect to the Minister, I ask him to do the same thing.

The amendments do not call for a huge bureaucracy. They simply propose an independent process, which could mean cobbling together a few councillors from outside the areas affected to carry out the job without any huge bureaucracy. What is creating a huge bureaucracy is adding substantially to the numbers of inspectors in the Planning Inspectorate. They fit the criterion of bureaucrats, in that they are accountable to no one except the Secretary of State.

I take the Minister's point that local authorities now know the criteria and can change their behaviour. Nevertheless, under his proposals, they cannot challenge the criteria—hence our point about the appeal system—and nor can they put forward mitigating circumstances before a designation is made, although I understand that we might get more information about that in due course. Given that we may receive further information about a possible negotiation process, and in the hope that the Minister will take a more considered approach to our amendments and perhaps come back with fairer proposals, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 5, in clause 1, page 3, line 7, at end insert—

'(11) The Secretary of State shall, as soon as possible after the end of each financial year, publish a statement of the costs incurred by the Secretary of State during that year in pursuance of this section.'.—*(Roberta Blackman-Woods.)*

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 9.

Division No. 3]

AYES

Blackman, Bob	Glindon, Mrs Mary
Blomfield, Paul	
Dakin, Nic	Raynsford, rh Mr Nick

NOES

Blackman, Bob	Glen, John
Boles, Nick	Howell, John
Bradley, Karen	Morris, James
Coffey, Dr Thérèse	Smith, Henry
Fallon, rh Michael	

Question accordingly negatived.

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

Nick Boles: Mr Davies, I imagine that you are tired of hearing me make arguments in support of the clause—I am certainly tired of hearing myself making such arguments—so I propose to be brief.

The Government believe that, when possible, power should be exercised as closely as possible to the people it affects. That was why we passed the Localism Act 2011, which was one of the most radically devolving reforms for a generation. However, we also believe that with power comes responsibility—the responsibility to serve the local community and to take decisions on its behalf. That is why, with some reluctance, we are introducing the clause, which will ensure that along with the many freedoms, and many carrots, as some have described them, in the Localism Act, there will also be a stick to act as a deterrent for those very few authorities—I am happy about how few authorities will be caught by these proposed criteria—that need to know that they are being irresponsible and failing in their duties to the public who put them in office. We will not allow that to continue. Our proposals are narrowly targeted, temporary and eminently fair, so I urge the Committee to support the clause.

4.30 pm

Roberta Blackman-Woods: The Minister does himself a great disservice: the Opposition would like to hear a lot more from him justifying the Bill because I do not think that we have heard, at all, from either the Secretary of State, or the Minister on Second Reading, or during our deliberations today, why the Bill, and this clause in particular, are necessary.

I want to look at how this clause is an attack on localism and at why the Opposition have real concerns about its negative impact on local democracy. Last week marked the first anniversary of the Localism Act 2011. That Act was introduced with the apparent intent of handing more power to communities and local councils. It was built on promises, such as the pledge in the coalition agreement, to

"return decision-making powers on housing and planning to local councils".

It is odd that those words were used, because I have been involved in planning for a long time, and the system has always been such that, in the first instance, local communities and their councillors could judge a planning application. However, the Secretary of State introduced the Localism Bill by saying that he was

"getting out of the way and letting councils and communities run their own affairs"—

so that they could—

"restore civic pride, democratic accountability and economic growth—and build a stronger, fairer Britain."

It strikes me as rather odd, given how the Secretary of State introduced the Localism Bill, that in this Growth and Infrastructure Bill he is doing the very opposite of that. He is not getting out of the way of local councils; he is getting right in there, taking away their planning powers and either giving them to himself or to someone who acts on his behalf. He is not letting councils and communities run their own affairs because he is taking away their decision-making ability on planning applications and giving it to someone else. As for restoring civic pride, I wonder how local authorities designated as "failing planning authorities" will be able to convince their local communities that this is the Secretary of State helping them to enhance local civic pride.

Bob Blackman: I listened to the hon. Lady's remarks with astonishment. The whole point of localism is that decisions are taken at a local level, for the benefit of local people. The Bill, and this clause in particular, are for where there has been a failure to take those decisions for local people, so the Government and the Secretary of State have stepped in to stop a local authority failing local people.

Roberta Blackman-Woods: We have been arguing this afternoon that the failure that the hon. Gentleman describes is on very narrow criteria. In fact, it is based on one criterion, which is timeliness—*[Interruption.]* Does he want to correct me?

Bob Blackman: I realise that the hon. Lady has not had a chance to read the consultation document, but we have had the opportunity to do so during the day, and it makes it clear that there are a series of processes by which the Secretary of State may choose to intervene. It is not just one, it is a series, and it is clear that it will be on that basis that the Secretary of State may choose to intervene when the failure has taken place.

Roberta Blackman-Woods: I am grateful to the hon. Gentleman for that clarification. Having looked at the impact assessment and the consultation, I was aware that the Government are considering only two criteria. One is timeliness—the number of major applications that are determined within 13 weeks. The second is the percentage of major applications that are overturned on appeal. There are just two, but we know from the impact assessment that no authorities fall into the second criterion. If the Secretary of State is going to designate local planning authorities as failing, he is doing so on the basis of one criterion only, and that is timeliness. We are suggesting that there may be a set of mitigating circumstances that would mean that it is simply not fair, appropriate or accurate to designate a local planning authority as failing in that way.

I am anxious to make progress, so I will continue my comments about civic pride. I cannot see how the provision will add to civic pride or democratic accountability. The Bill—this is critical—is the Growth and Infrastructure Bill, so we would expect clause 1 to say something about growth, but it does not. It continues in the same vein as the Government in the last few months. They have said endlessly that lack of growth in this country is because of planning, and not the lack of a growth strategy.

[Roberta Blackman-Woods]

Now we have a Bill that gives the Secretary of State unprecedented powers, which are clearly outlined in clause 1, to strip local planning authorities of their ability to decide planning applications. Somehow, suddenly, the removal of planning powers from six or fewer authorities is supposed to generate the huge amount of growth that we need to see across the country. Well, I am not sure.

The Local Government Association has branded the move as being without justification. That is unsurprising because, last year, councils approved 87% of all planning applications. That is a 10-year high in the approval rate, and clearly signals that the planning system is not the root cause of the housing crisis or the lack of growth. The clause fails to address the problem, and will not provide growth. Developers are not building because people are not buying houses and banks are not lending. Figures released last week showed that mortgage lending has fallen again. It is down 6% on September's figure, and around half the level of a normal year.

A joint report from the Chartered Institute of Housing, Shelter and the National Housing Federation reveals that there has been a 24% fall in the number of units granted planning permission since the coalition Government came to power. There is an issue. We need more houses to be built, and we need more businesses to expand, but the problem cannot be laid at the door of the planning system. Clause 1 is misguided and will not deliver the growth that we all wish to see.

Paul Blomfield: I think the Minister does himself a disservice. We are not tired of hearing him make the case.

Nick Boles: You soon will be.

Paul Blomfield: No, it makes such a welcome contrast from Second Reading, when it seemed that the Secretary of State was most reluctant to talk about clause 1. There was some embarrassment about the provisions being made, and understandably so.

I am sure that it will not have failed to strike Government Members that opposition does not just come from the Opposition. Sir Merrick Cockell, the Conservative leader of the LGA, has spoken against the provision. During our evidence sessions, we heard Councillor Mike Jones—the Conservative chair of the LGA environment and housing board and the Conservative leader of Cheshire West and Chester council—make a powerful case against the provisions of clause 1.

I draw the attention of Government Members to the observations made by the Financial Secretary to the Treasury when he was the planning Minister. He said:

"we should move away from a system of planning by development control, where recourse is made to the Planning Inspectorate rather than local decision makers". —[*Official Report*, 17 May 2011; Vol. 528, c. 273.]

That was May 2011. What a difference a year makes.

Nic Dakin: The schizophrenia of the Government is well described by the Minister in his attempt to explain why we are taking this centrist action when the thrust of policy should be localism. I draw attention to the strength of opposition to clause 1, on which the case has not been proven. The Royal Institute of British Architects said that the clause fundamentally undermines the democratic principles of the planning system and the need for decisions on planning applications to be taken at local level. The CPRE said:

"There is a risk that local authorities will feel pressured into making swift decisions",

which will not be quality decisions. The LGA has cross-party support for the deletion of clause 1. The LGA is a body that understands planning inside-out. There is a real danger that the clause will move us away from the localism agenda. It will be counter-productive, because it measures the wrong things.

Roberta Blackman-Woods: Does my hon. Friend agree that it is particularly extraordinary that the Minister is not listening to the LGA, given that the party in political control of that organisation is his party? He should pay attention to what it is saying. Does my hon. Friend also agree that the reason why the previous planning Minister was moved was because he so rejected the approach that clause 1 takes, which is profoundly anti-localist?

Nic Dakin: I thank my hon. Friend for her intervention. It is puzzling. Many of us have not been in this place for very long, but what often puzzles me is the desire of politicians to do something where there is a perceived problem. In this case, it is a problem, but the criteria published for consultation today appear not to catch many failing authorities. We perceive a problem, therefore we legislate to deal with a problem that we are not even sure is really there. I am anxious that, as politicians, we try to listen to the voices of people who know what they are talking about, such as those from the LGA, and the variety of other people who have come before us. The Minister himself earlier pointed to the need for planning authorities to have local plans and things of that sort. Our attention should be focused on those qualitative issues, rather than on performance indicators that may drive outcomes that are exactly the opposite of those we all aspire to achieve.

4.45 pm

Mr Raynsford: In his short defence of this clause, the Minister claimed that the Government were acting only reluctantly. I have to say that it is rather strange to be going about things if one is reluctant. We heard the evidence of the experts—the planning officers who came before our Committee when we were taking evidence—and every single one told the same story: they had had no prior discussion whatever; the measure was simply announced by the Government. Those experts made it very clear that they were all uncomfortable with that. In the words of the chief executive of the Royal Town Planning Institute, they considered that alternatives that might have been "quicker and more elegant" would have been preferable.

I am afraid the case is unconvincing, and my hon. Friends have put their finger on the reality: the previous planning Minister was totally opposed to this measure, because it is clearly a breach of the localist principles that he espoused. Those principles have been dropped and we are now seeing an extension of centralising powers in a Bill that is absolutely stuffed full of extra

powers for the Secretary of State. It is a very sad day for planning and for localism, and, I have to say, it is an illustration of what happens when Governments are driven by short-term political expediency rather than by principle.

Nick Boles: This has been a fascinating four and a half hours, chiefly as a journey into the psychodrama of the Labour party in opposition. We have seen Labour Members wrestle with the gargantuan task of trying to airbrush from the history books their record as part of the most centralising, least listening and least accountable Government ever. At the same time, Labour Members have tried to put themselves on the side of all local authorities, no matter how poor their performance or how egregious their failure to take on their responsibilities and take decisions on behalf of local people.

It has been a fascinating few hours for that reason, but it has not been persuasive. I therefore urge the Committee to vote that the clause stand part of the Bill.

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

The Committee divided: Ayes 8, Noes 5.

Division No. 4]

AYES

Blackman, Bob	Glen, John
Boles, Nick	Howell, John
Bradley, Karen	Morris, James
Coffey, Dr Thérèse	Smith, Henry

NOES

Blackman-Woods, Roberta	Glindon, Mrs Mary
Blomfield, Paul	
Dakin, Nic	Raynsford, rh Mr Nick

Question accordingly agreed to.

Clause 1 ordered to stand part of the Bill.

Schedule 1

Planning applications made to Secretary of State: further amendments

Roberta Blackman-Woods: I beg to move amendment 24, in schedule 1, page 33, line 16, after 'may' insert

'with the agreement of the designated local planning authority and the applicant'.

Schedule 1, particularly proposed new section 76D(2) to the Town and Country Planning Act 1990, hands the Secretary of State the extraordinary power to dismiss a person appointed to decide an application under clause 1, and appoint another person, at any time before the decision is made. The schedule does not outline the circumstances in which that would happen, and there are concerns that it could be both detrimental to the process and prejudicial to the decision. Amendment 24 would ensure that any decision taken under the schedule is done with the agreement of the parties affected by the decision, which is clearly in the interests of everyone involved.

As currently drafted, the schedule suggests that not only is the Secretary of State uncomfortable with local people taking local decisions, but that he does not believe that qualified planners would necessarily be any more capable of taking decisions properly either. That raises the question of whether stripping local authorities of their powers will actually do anything to speed up the planning process. If an appointee is dismissed, presumably because he or she is doing the job badly—at least in the eyes of the Secretary of State, although that is not actually clear, given that we have no circumstances to look at that explain why somebody would be dismissed—will the new appointee be subject to the same time limits using the same potentially flawed evidence, or will they begin from scratch? We may find that they get to 13 weeks, and, on some ground that we do not know, the Secretary of State decides to get rid of somebody and appoint another person. Do they then start all over again in another 13-week period? Even if they do not, how is somebody who is appointed halfway or at week 12 and a half supposed to take on board all the different bits of evidence that relate to an application and make the decision by week 13? Is this really a system that is better than one of local determination?

Is that complication the reason why the impact assessment states that the Planning Inspectorate will decide 80% of planning applications referred to it in under 13 weeks, and will the remaining 20% take longer because the Secretary of State will keep sacking and appointing until it seems he is going to get the answer he wants? I can see some smiles on the faces of Government Members, but at this point in time we have absolutely no idea why it is possible for the Secretary of State to revoke the person's appointment and appoint somebody else to determine the application instead. It is an extraordinary thing to do with to begin with; we might find it reasonable if we understood the circumstances the Secretary of State had in mind, but he has not bothered to tell us. Amendment 24 would mean that, if he is going to do something so extraordinary, he should at least have to consult other people and get their agreement. In that way, even though Opposition Members do not like it, in a sense the process will be seen as legitimate and stand a degree of public scrutiny. As currently drafted, the schedule certainly does not.

Nick Boles: The one thing I have learned today is that it cannot be dull being the hon. Lady, such is the fertility of her imagination and the wild dreams that grip her every waking moment. I really do apologise for this, but I am afraid that the reality is just a lot duller. The way it works is that, when taking a planning decision, the Secretary of State has to appoint an individual. That is the way the law works. If, in a local authority, a planning officer is assigned to a particular case, and that planning officer is ill or suddenly it is discovered that they are conflicted because of some other interest—family or personal—and cannot determine the case, a local authority can move the case to another planning officer, because it is the authority that has the responsibility to determine the application. In the law, however, when the Secretary of State takes over an application, he has to appoint an individual, an inspector, who is then responsible. Although the inspector is one of many inspectors employed by the Planning Inspectorate, when that inspector—unfortunately and in rare circumstances—falls ill or is discovered to have some conflicting interest to do with the application, we need the Secretary of State to have the ability to appoint another planning

[Nick Boles]

inspector to take over the task because of the unfortunate circumstance. I am sorry to bring the hon. Lady back down to earth with a bump, but that is the reality. I hope, therefore, that she will withdraw the amendment.

Roberta Blackman-Woods: I assure the Minister that I am well grounded and definitely have my feet firmly on the carpet beneath me, because I am reading what is in front of me—what this particular bit of schedule 1 says, as opposed to what the Minister has just told us he believes it says, which are two very different things.

One of the things that I have learned today is that the Minister has a lot more trust in the Secretary of State than I do—or in any future Secretaries of State. I would like the Minister to go away and think about the issue and to bring something back that gives clarity to what is meant.

The Minister described a set of circumstances in which, for example, the planning inspector attached to determine the application was ill or something had happened that meant that he or she could not continue to determine the application. That is not, however, what the schedule says. The proposed new subsection states that the Secretary of State, presumably on a whim because no criteria are applied, can "revoke the person's appointment" or "appoint another person". It does not even limit the number of times that he can do that. Based on what is in the Bill, he could carry on appointing a person until he gets the right answer. I will happily withdraw the amendment if I can get some indication from the Minister that we will at some stage get a reassurance about the circumstances in which the provision is likely to be used and come into operation.

Nick Boles: I thank the hon. Lady for offering that invitation. I am sure that there will be all sorts of elaboration of the processes that the Planning Inspectorate will be expected to go through. I do not know what form those elaborations will take—I shall not make the mistake that I made previously, of saying that there will be regulations, but I am sure that there will be such elaborations and I trust that they will provide her with the reassurance that she seeks.

Roberta Blackman-Woods: On the basis of that at least partial reassurance, I will give the Minister the opportunity to go away and think about it, and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the schedule be the First schedule to the Bill.

Nick Boles: I hope very much that the Committee will agree, at one minute to 5 pm, that schedule 1 should be the First schedule to the Bill.

Question put and agreed to.

Schedule 1 accordingly agreed to.

Ordered, That further consideration be now adjourned.—*(Karen Bradley.)*

4.59 pm

Adjourned till Tuesday 27 November at five minutes to Nine o' clock.