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Public Bill Committee

INFRASTRUCTURE BILL [*LORDS*]

Fifth Sitting

Tuesday 6 January 2015

(Afternoon)

CONTENTS

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The Committee consisted of the following Members:

Chairs: Mr Jim Hood, †Sir Roger Gale

† Blackman-Woods, Roberta *(City of Durham)* (Lab)
† Browne, Mr Jeremy *(Taunton Deane)* (LD)
† Burden, Richard *(Birmingham, Northfield)* (Lab)
† Burt, Alistair *(North East Bedfordshire)* (Con)
† Coffey, Dr Thérèse *(Suffolk Coastal)* (Con)
† Greatrex, Tom *(Rutherglen and Hamilton West)* (Lab/Co-op)
† Hayes, Mr John *(Minister of State, Department for Transport)*
† Heaton-Harris, Chris *(Daventry)* (Con)
† Jenrick, Robert *(Newark)* (Con)
† Jones, Graham *(Hyndburn)* (Lab)
† Kwarteng, Kwasi *(Spelthorne)* (Con)
† Miller, Andrew *(Ellesmere Port and Neston)* (Lab)
† Newmark, Mr Brooks *(Braintree)* (Con)
† Parish, Neil *(Tiverton and Honiton)* (Con)
† Raynsford, Mr Nick *(Greenwich and Woolwich)* (Lab)
† Ruane, Chris *(Vale of Clwyd)* (Lab)
† Rudd, Amber *(Parliamentary Under-Secretary of State for Energy and Climate Change)*
† Shannon, Jim *(Strangford)* (DUP)
† Whitehead, Dr Alan *(Southampton, Test)* (Lab)
† Williams, Stephen *(Parliamentary Under-Secretary of State for Communities and Local Government)*
Zahawi, Nadhim *(Stratford-on-Avon)* (Con)

David Slater, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 6 January 2015

(Afternoon)

[Sir Roger Gale *in the Chair*]

Infrastructure Bill [*Lords*]

Clause 25

Changes to, and revocation of, development consent orders

Amendment proposed (this day): 49, in clause 25, page 24, line 31, at end add "after consultation with the National Infrastructure Commission"—*(Roberta Blackman-Woods.)*

2 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are to discuss proposed new clause 11.

Chris Heaton-Harris (Daventry) (Con): Thank you, Sir Roger, for allowing me to have a small lunch break between the two halves of my speech. Actually I have gone through about a quarter of my speech with at least three quarters to come, perhaps more.

We were talking about the national infrastructure commission, what it would do and how it could be a beneficial replacement for existing structures, which are certainly imperfect. I for one am not a fan of how the Planning Inspectorate goes about its business in my constituency. As the shadow Minister said, this body would not replace Parliament and parliamentary scrutiny. It would not bind Ministers in their final decisions. We are inventing a new quango to do a job that I am sure we have invented plenty of quangos in the past to do. We have always been uncomfortable with whatever goes on this particular area of planning, because it is a bit too close to the knuckle for parliamentarians. One has to be fairly brave to say we need more airport capacity in the south-east; or that we do or do not need HS2 and stay on one side of the argument.

I am concerned that this is something that will again go around Parliament and will sit out there quasi-independent for a period of time, being lobbied. Would the lobbying industry that is regulated here be regulated in its dealings with any national infrastructure commission?

I asked the hon. Member for City of Durham about HS2 and what the timetable would be for that project using the national infrastructure commission. Would it speed it up or slow it down? There seemed to be no benefit in the timetable. I think people like having decisions made at the end of the day, whether they are for or against them.

Mr Jeremy Browne (Taunton Deane) (LD): Is not the onus on elected politicians to make the case to the public why Britain, in order to be economically competitive internationally, needs sufficient airport and high-speed train capacity? Rather than dodging that debate because we do not feel able collectively to make a compelling case to the electorate, and giving that responsibility to people who are not elected, should the onus not be on elected politicians to take both the lead and responsibility?

Chris Heaton-Harris: The simple answer is yes. It is what our constituents expect of us. Greater politicians than I am have gone through this place and made big decisions about the future of the country that have been unpalatable to the people at the time. This proposal is playing to that theme, where we give power away to an independent body that will take some of the heat away from us. As I said before, I am not keen on the imperfect situation we have now, but I do not see how the national infrastructure commission in the guise proposed by the Opposition here and in the other place can do any of that.

Mr Nick Raynsford (Greenwich and Woolwich) (Lab): I am pleased to speak in strong support of the case put forward by my hon. Friend the Member for City of Durham for the independent commission as recommended by the Armitt review. Before I go any further, I should draw attention to my interests as declared in the register.

Why do we need an independent infrastructure committee? As my hon. Friend said, our country does not have a great record on ensuring that infrastructure needs are met in a timely, efficient and well co-ordinated way. We have too many examples of stop-start and changing direction of decisions that have not been taken at the right time and on the right evidence base to give us the infrastructure we need.

We should all recognise that Sir John Armitt is one of the country's leading civil engineers. When I first met him, he was responsible for a lot of work on the channel tunnel. He subsequently went on to hold a number of very senior positions and to deliver the Olympic site as chair of the Olympic Delivery Authority, the body responsible for the site's infrastructure development. We should pay heed to his words. In his report, he says that the current

"annual National Infrastructure Plan produced by Infrastructure UK is not strategic. It is essentially a list of projects which is not built up from an evidence-based assessment of the UK's long term needs".

He continues:

"Infrastructure UK does not enjoy the profile of independent bodies such as the Office of Budget Responsibility and the Committee on Climate Change. This means that its annual progress reports lack the authority that comes with statutory independence".

He talks about the need for a new commission that will be strategic and evidence-based:

"Our proposals retain democratic accountability whilst reducing the present scope for policy drift that is so damaging to investor confidence. In particular: the Commission's evidence based approach will promote a better public understanding of the key issues concerning the UK's infrastructure. It will develop evidence about the state of the nation's assets and the likely impact of key economic, environmental and demographic trends. It will also build an understanding of the implications of either delaying investment or doing nothing. In short, the Commission would provide the level of strategic thinking that has largely been absent in the UK over the past 30 years".

We should take that very seriously indeed. The hon. Member for Daventry asked why the commission was necessary, and suggested that it would involve setting up a quango. The answer is that we already have the

quango, and it is called Infrastructure UK. The problem is that it does not have the independence or authority to be able to act independently, to say what is needed and to reflect the understanding of the wider world. There can be no better illustration of that than what is written on aviation policy in its first report, "National Infrastructure Plan 2010". That report was the first iteration of an NIP produced by the present Government, and in it all that was written on aviation capacity was that we should be

"making best use of existing airport capacity to help improve the passenger experience".

I am sorry, but no serious independent infrastructure body would agree with that assessment. We now know only too well that the Government take a different view. The 2014 iteration of the NIP goes into some detail about the importance of extra capacity. It says that that has been handed over to the independent Davies commission. So we have not one quango but two, and we have delay, because they have not been taking decisions; they are reasons for not taking decisions.

The hon. Member for Taunton Deane highlighted the problem of politicians not having the courage of their conviction and essentially passing responsibility across to other bodies. That is what we have at the moment. That is what the Davies commission is and that, I am afraid, is the problem which Sir John Armitt is trying to resolve. The solution—and it is an elegant one—is to have a body of independent experts who can assemble the evidence, who can show why the needs are there and what the priorities are from a national interest, taking account of economic, environmental and wider strategic issues.

Chris Heaton-Harris: The right hon. Gentleman is making a powerful case, so why bother with Parliament and ministerial scrutiny after that?

Mr Raynsford: If the hon. Gentleman had waited just a moment, I would have told him. The proposal was that this expert body would produce its report, then present it to Parliament. The responsibility of the Government would be to decide whether or not to accept it, because it would remain the ultimate responsibility of politicians. However, if they were not going to accept the recommendations, they would have to make a case and justify it. No one could justify ducking the issue of airport capacity, as the "National Infrastructure Plan 2010" did. There would have to be a credible answer. That is the argument: it is a balance between expert, informed opinion, and then political decisions.

In a sense, this will make politicians more responsible: they will not be able to duck issues conveniently and leave them, because an independent and separate body would be able to hold their feet to the fire and point out that, on aviation capacity, there has been a five-year hiatus during which nothing has happened while our competitors have gone ahead and expanded their airport capacity, taking business away from the UK.

There is a strong case for a new infrastructure body, and I hope that in replying to the debate the Minister will not fall back on the rather feeble line of defence put up by his counterpart in the House of Lords when the issue was debated there and say, "We are doing terribly well at the moment and really do not need this." We are not doing terribly well; we need to do better and Sir John Armitt has pointed a way forward. The issue is not partisan, and I hope that we achieve consensus on the need for a better framework for infrastructure planning.

Mr Browne: Happy new year, Sir Roger. I want briefly to echo some of the themes mentioned by the hon. Member for Daventry a few moments ago. I have a high regard for Sir John Armitt and agree with his analysis, although I did not vote for him and I am not sure whether anyone else here did. All Members present for today's deliberations were voted for—that is what gives us an authority that others do not have. It is perfectly possible for people who have been elected to have strategic views; I do not accept the argument that politicians should be pushed to the peripheries of our national debate and have strategic input handed to us by people who are capable of thinking strategically.

Yesterday, nearly all the leading figures in British politics were prominent in the media. There is no law that says that they must produce dossiers, or rebuttal dossiers, or try to outscore one another on this spending pledge or that hidden tax rise, or whatever they were talking about yesterday—I was not paying as much attention as perhaps I should have been. I am not making a party political point. There was absolutely nothing to prevent any of the party leaders from making a compelling strategic speech yesterday about the United Kingdom's national infrastructure requirements for the next generation and beyond. One could argue that the fact that they chose not to do that shows their failure as politicians, but there is no inherent reason why elected politicians should not be able to argue strategically.

What we saw yesterday is in part what makes politics quite dispiriting, because there is an absence of visionary thinking about what we can do to ensure that we are a globalised economy. It is a perfectly achievable aspiration for ours to be the largest economy in Europe within a generation, but we will require physical infrastructure as well as the so-called knowledge economy to make a success of that aspiration. I am afraid that that was absent from quite a lot of our debate. The hon. Member for Daventry made the point: ultimately, why have a general election if we are not going to debate these great issues?

Let me be frank: my party has faced a lot of criticism about student tuition fees, but last time around, in 2010, there was a conspiracy—that is a rather loaded word, so perhaps I should say that it was a benign conspiracy—against the electorate. The Labour and Conservative parties agreed that tuition fees were too difficult to discuss so would be "given" to an independent person to decide, with an understanding that whoever got into government afterwards would put into effect the independent recommendations. If the Lib Dems were guilty of anything, it was naivety at not entering into the conspiracy of silence before the election—

Andrew Miller (Ellesmere Port and Neston) (Lab): It was naivety full stop.

Mr Browne: Yes, indeed, on this issue we did not play the game of shuffling responsibility as astutely as two parties with greater experience of government. We are entering into a conspiracy now. There is this airport

[Mr Jeremy Browne]

commission, and the only thing that it has really been told is not to come up with any views until after the general election. The time scale is entirely arbitrary. After the general election, when all the people who live near Heathrow, Gatwick, Stansted, or Manchester airport—or wherever it might be—have safely put their votes in the ballot box, there will be a puff of smoke and someone for whom no one has ever voted will come along and tell one group of people that their lives are going to be turned upside down.

Those people will go to the Member of Parliament they have just elected who will say, "It's nothing to do with me; this is an independent commission. We don't have the ability to meddle in this sort of business. We are not capable of thinking strategically, but if you would like help with some day-to-day stuff in your neighbourhood I am keen to try to help as your local MP." I find that dispiriting. I think we should have bigger ambitions in politics than managing the ideas of unelected people.

2.15 pm

It worries me that this is part of a wider phenomenon—the belief that elections and politics are not about big choices, which are what "experts" make, and that in any given situation there is a right answer and a wrong answer. If only people could get away from politicians who just squabble about things, and cut to the chase and find an expert—preferably somebody with some sort of academic credentials who looks suitably impartial—that person could give them "the right answer".

I sometimes have that experience when talking to people who study politics at school, who say, "Well, you know, there is all this bickering. We just want to know the answer to the question. We don't want all these politicians lying to us and telling us—you know. Which one is right and which one is wrong?" Sometimes I say, "Well, they might both be right or they might have different interpretations of what is right". That is regarded as a completely unreasonable thing for a politician to suggest, but there are alternative visions. It is perfectly possible to argue that we should not have more airport capacity, in the name of environmentalism, or because a person is anti-globalisation, or hostile to trade. That is a perfectly respectable view. I disagree with that view, but if somebody agrees with it, they can put it forward at the general election.

There is an alternative view, which I hold, that in order to be a successful country in the 21st century we have to be able to interact effectively with people from around the world and our current airport capacity, particularly in the south-east, will increasingly limit our ability to do that. That is another point of view, but why do people not express it in Parliament? We do not need an expert to tell us. That is the whole point of the general election.

The reason I speak on this point is because we are acquiescing in the emasculation of our profession, if I can put it in such elevated terms. We assume that it will make the electorate like us more. What is dispiriting is that the more we go around telling everybody how inadequate we are and how little we can be trusted to make any big decisions, and how all we do is try to second-guess the decisions of experts who are not elected, and the more that we pass ourselves off as entirely local caseworkers, admirable and important though that aspect of our job is, the more contempt the electorate seems to hold us in. It may be that we collectively should have the self confidence to believe in big ideas.

Mr Raynsford: There might be an alternative analysis. Because of the length of time of most major infrastructure projects that last beyond the lifetime of any single Parliament, there is the inevitable vulnerability, which we have seen in reality, of incoming Governments cancelling previous commitments. That is what has happened repeatedly over aviation policy over the past 30 years. We have actually started work on schemes like Maplin and they were then cancelled. We have seen what happened to the Heathrow expansion plan in 2010. That is an illustration of the danger of that long-term perspective falling foul of the short-termism of politicians subject to five-yearly political cycles.

Mr Browne: The right hon. Gentleman makes a reasonable point. I remember what I regarded as a rather inglorious moment, but as a party loyalist I voted the way that it was suggested I should. In the last Parliament, when the Conservatives and Liberal Democrats both voted against any potential Heathrow expansion, as far as I could work out, that was because both parties wanted to be competitive in the Richmond Park constituency. In the end, the hon. Member for Richmond Park (Zac Goldsmith) and Baroness Kramer both ended up being Members of Parliament, just in different Houses. What that tells you about democracy is another story, Sir Roger, but it did seem a rather limited basis on which we should make a major strategic decision about the future of the country. However, nobody compelled the Conservatives and the Liberal Democrats in that case to have such a limited scope in their considerations.

That decision was taken by both parties, and although the right hon. Gentleman has a fair point, the same could be said of a lot of issues, such as health service reforms. My personal view—I will not go a long way down this path, Sir Roger—is that the current model of funding the national health service is not sustainable in the longer term, but if there are going to be changes, they may take a while to bed in. Having said that, the Pensions Minister has introduced some radical changes in this Parliament, so it is possible to take longer-term decisions in the life of a Parliament, but I take the right hon. Gentleman's point that it requires leadership to do so.

The Minister of State, Department for Transport (Mr John Hayes): I do not want to anticipate my hon. Friend the Minister's summing up, which will be considerably more eloquent than I could manage and will bring insight to these affairs, which I could not attempt to do. However, I want to say how much I agree with my hon. Friend the Member for Taunton Deane about the guilt-ridden, self-inflicted damage that politicians do to themselves when they cede power to other agencies on the basis that those agencies are more competent to take decisions than they are. It undermines the case for the political legitimacy of this House and of Government, and, as he said, it broadcasts the message that we do not have the confidence to face up to the challenges that, as the right hon. Member for Greenwich and Woolwich is

right in saying, too many politicians and Governments have ducked in the past. I wonder whether my hon. Friend the Member for Taunton Deane agrees that the solution is not to sidestep that challenge, but to meet it.

Mr Browne: I said about five minutes ago that I was about to conclude and then the debate took what I regard as an interesting turn—although not everyone may regard it as interesting. I intend to support the Government, because I am a supporter of the Government, and if the Government, in their wisdom, have decided that this is the best route to take, I defer to the wise judgments of others, but I am making a wider point. It is almost a parting shot—but not quite; I will probably something else before I leave in three months' time—about those who will be here in future Parliaments not assuming that the more powerless we make ourselves, the more people will respect us. I think it is still possible to make great decisions in the national interest as a leader and as a parliamentarian, and we should not acquiesce in the process of diminishing our status, because I think it will have unintended consequences.

Andrew Miller: I hate to introduce a note of discordance into this debate, but we have arrived at a point where there is clearly a very obvious difference of opinion. That difference of opinion would not have been so severe had at least a couple of Government Members bothered to read what Sir John Armitt had said, because he does not take power away from the House. Indeed, he puts power into the hands of the Secretary of State. Does the Conservative-Liberal Democrat alliance not want power restored to the hands of the Secretary of State, because that is the net effect of what Sir John actually said?

I have worked with Sir John on a number of projects. In particular, I had the pleasure to serve with him on Ragnar Löfstedt's panel looking at the Health and Safety at Work etc. Act 1974. He made an invaluable contribution to that work, which was a Government-initiated review undertaken entirely on a bipartisan basis. There was absolutely no way in which Sir John did anything other than put his professional thinking into the process, although he clearly said all the way through, "But, Minister, the buck stops with you, and it ought to stop with you." That is his philosophy, and not only in governing infrastructure. My right hon. Friend the Member for Greenwich and Woolwich mentioned Sir John's incredible contribution to the development of the Olympic park, which he has been commended for many times and was an extraordinary achievement. Even on that project, Sir John was very clear that the authority belonged to the then Government, and I urge Government Members to read his report.

That brings us to my right hon. Friend's intervention. We do have these things called general elections. When they are is a matter for interesting debate. I found myself in conversation with the right hon. Member for Rutland and Melton (Sir Alan Duncan) this lunchtime and he and I found ourselves on the same side of ridiculing the concept of fixed-term Parliaments, but I shall not drift too far down that line. When general elections take place is a matter for us to establish by the peculiarities of our legislative process, but it is inevitable that some major infrastructure projects will spill over the boundaries of elections. Some take two or three Parliaments to plan. Look at some of the energy projects that are absolutely mission critical. I remember saying in the '92 Parliament that the only problem with the then Government's energy policy was that they did not have an energy policy. That accusation could have been thrown back at the previous Labour Governments and we will use it again. We still have not got our heads round this mission critical part of our infrastructure.

Even on a smaller scale, in the north-west there is a major piece of infrastructure: the Mersey Gateway project. It could have started two years earlier had there been some vehicle to create the continuity to put on the desk of the incoming Secretary of State the work of a body such as the infrastructure commission. There needs to be a fresh look at this concept from the Government. First, they need to reread it and understand that Sir John is not saying that the commission takes authority; indeed, he says the exact opposite. Secondly, surely the Government must agree with us that the loss of time in important infrastructure projects is to the detriment of UK plc.

Mr Browne: I am grateful to the hon. Gentleman because I have already spoken, but, essentially, the point I was making is that there is no reason for the Government to lose time unless they choose to do so. There is no reason for the Government to not have an energy policy unless they choose not to. I am not making a particularly party political point because it could be made of lots of parties, but the previous Labour Government was in office for 13 years. For something such as Hinkley Point nuclear power station there was not even a constituency objection. I can see it from my constituency and it is in the constituency of the hon. Member for Bridgwater and West Somerset (Mr Liddell-Grainger). I can say with frankness that I do not think Labour is likely to perform very well in either my seat or Bridgwater and West Somerset at the general election in May, but there was not even a parochial reason for Labour to dither on that project. The point I am making is that it requires leadership, belief and vision. It does not necessarily require someone to tell you to have belief, leadership and vision.

Andrew Miller: Again, the hon. Gentleman has clearly not read Sir John's report and I would remind him what his party's policy was on nuclear power during the previous Parliament—*[Interruption.]* It certainly was his party's policy to oppose it. No wonder there were some local hiccups there.

The point I am making is not that Governments should not lead; I totally agree that Governments should lead. I expect Secretaries of State to come here with clear, thought-out policy positions. However, to adopt on day one of an incoming Government a fresh start on major infrastructure projects has manifestly created delays. There must be a better way. The Government surely ought at least to have a fresh look, engage in debate with the relevant bodies that are supporting Sir John's report and look at the case for moving in this direction. It is an eminently sensible approach to how these longer-term strategic objectives are achieved, and I urge the Government to rethink their position.

2.30 pm

The Parliamentary Under-Secretary of State for Communities and Local Government (Stephen Williams): First, I commend the hon. Member for City of Durham for her ingenuity in tabling an amendment that calls for

[Stephen Williams]

consultation with a body that does not exist on, I should remind the Committee, something as narrow as a non-material change to a development consent order? I also thank her for provoking such an interesting debate. I said earlier that this would not be as interesting as non-invasive species, but killer shrimps now seem small fry compared with the issues we have been discussing for the past 31 minutes.

I thank hon. Members from both sides of the Committee for their thought-provoking speeches, which will hopefully make my response a little bit more interesting than it might have been. I would particularly like to thank my hon. Friend the hon. Member for Taunton Deane. I will now put on record what I have said to him privately twice and which he has just proved with his remarks: his decision to leave Parliament at the next general election is a loss to not only the people of Taunton but to Parliament as well.

Alistair Burt (North East Bedfordshire) (Con): The hon. Member for Taunton Deane could head up the commission.

Stephen Williams: In making the important point about politicians perhaps surrendering decision making to other people, my hon. Friend the Member for Taunton Deane reminded me of a painful episode in not only our party's history, in terms of how we deal with tuition fees, but in mine as well. This will be a very short departure, Sir Roger, to tell a story that I have not told before. In the garden of Downing street in 2009, Lord Mandelson, whom I shadowed at the time, put his hand on my shoulder, looked into my eyes—it was quite an experience—and asked me to join the consensus that he was building with the Conservative shadow team, which my right hon. Friend the Member for South Holland and The Deepings was a member of, to surrender decision making on higher education policy to Lord Browne's committee.

Boris Johnson, who was higher education spokesman for the Conservative party at the time, bought me a drink and tried to persuade me as well. I was actually open-minded to doing so. As my hon. Friend the Member for Taunton Deane will know, I had severe reservations about where my party was going. However, we are a democratic party and other people made the decision that we would not go down that route. Everything else that followed is history that is pretty well documented—accurately or inaccurately, in some cases—for people to read about if they wish to.

I return to the amendment and, more importantly, the new clause that the hon. Member for City of Durham was able to speak to because she tabled an amendment referring to a body that does not exist, provoking this debate. The Government recognise the importance of long-term strategy in the governance of UK infrastructure. That is why infrastructure investment is a key element of the coalition Government's economic plan to build a stronger economy that is more competitive. The Government have introduced the national infrastructure plan, which has been mentioned several times and is a consolidated delivery plan for transport, energy, flood defences, communications, and water and waste networks. It has generated a new momentum in infrastructure delivery, with 2,500 projects delivered during this Parliament—rather more than a list, which the right hon. Member for Greenwich and Woolwich referred to it as—and a pipeline of over £460 billion-worth of planned public and private investment for the future.

The national investment plan sets out an ambitious infrastructure vision for the next Parliament and beyond, reinforcing the Government's commitment to investing in infrastructure and improving its quality of performance. Our plan recognises the importance of getting the fundamentals right, delivering key projects and programmes on time and on budget, while addressing the longer-term challenges concerning integration, resilience, skills and sustainability. We have introduced a road investment strategy to treble spending on strategic roads. Part 1 of the Bill effectively enables the delivery of that plan. We have introduced an ambitious new strategy to incentivise additional electricity capacity for the UK and to support low-carbon electricity generation. When we consider part 5, we will see that there are proposals in the Bill to further support that vision and plan.

The shadow Minister referred to a CBI survey, and in particular drew attention to the opinion and sentiment—which is, after all, what all surveys are, as they are not facts in themselves, they are simply canvasses of opinions—saying that there was lack of confidence in the Government's energy sector in the future. The information that I have is that the United Kingdom has the fourth-most resilient energy policy in the world. I do not know which other countries are ahead of us. Maybe if there had been a survey of the Confederation of Norwegian Enterprise, Norway would have got better statistics from a particular survey. None the less, the UK is in a strong position—much stronger than the hon. Lady made it out to be—in terms of our future energy supply and security.

Lots of comments were made about the lack of capital expenditure, particularly on infrastructure. Yesterday, I travelled from Bristol Temple Meads to London Paddington. For the first time the train went up and over the new viaduct outside Reading station, which gave an elevated view of Reading, if one wanted such a thing. The carriage appeared to have quite a lot of what I might politely call rail enthusiasts in it, saying what a wonderful innovation that was. The point is that it was an expensive innovation, which was approved in the early years of this Parliament. Every week for the past few years as I have travelled back and forth, I have seen the huge improvements taking place to that great bottleneck on our railway infrastructure. Now that bottleneck has been unlocked. On the line itself, I was able to see the gantries being erected from Reading further west towards Didcot for the electrification of the Great Western main line.

Mr Raynsford: What the Minister is telling us is very interesting but will he now please tell us what will be the necessary decision making about meeting aviation needs and, indeed, linking rail and road transport to the site of our expanded aviation hub? None of us know what the Government's policy is.

Stephen Williams: I will come to the right hon. Gentleman's contributions shortly. If he is patient just for a minute I will certainly address his point. To finish my point about the Great Western main line, I refer to another peer who was in the Cabinet of the previous

Government: Lord Adonis. I remember him announcing to great fanfare just before the 2010 general election that the previous Labour Government suddenly had a great vision for electrifying the Great Western main line, but that is all it turned out to be—an announcement. When we came to office, we found that there were no particular plans. Of course, my right hon. Friend the Member for Yeovil (Mr Laws) opened the envelope from the outgoing Chief Secretary to the Treasury containing a note which said, "There is no money." There was certainly no money for that proposal. This Government took the decision, despite difficult budgetary decisions that had to be made in the emergency Budget and in the 2011 comprehensive spending review that the multi-billion pound investment in the Great Western main line was something that we should do and that would have far-reaching benefits for the country.

It is not true that politicians cannot make far-sighted strategic decisions about infrastructure. They can; it is a matter of will. I will just make one political point. Maybe it took the country's first coalition Government and the certainty of a fixed-term Parliament of five years of being able to make long-term decisions to make a decision such as that because, after all, the new carriages and services will not arrive in my constituency or anywhere else in the west country until about 2017.

The Government have established long-term capital settlements to align with the national infrastructure plan, as well as establishing the UK Guarantees scheme, which has now approved support of projects worth around £4 billion. Our plan provides sound justification for infrastructure priorities that offer greater certainty surrounding the Government's commitment. This approach has secured support and commitment from a wide range of stakeholders and has helped ensure stability and continuity of future investment. Changing the infrastructure governance at this stage, without giving consideration to how that change would come about, could hinder infrastructure delivery going forward.

For that reason, the Government disagree with the amendment and the new clause to introduce a national infrastructure commission, and have severe reservations about establishing an independent body without a clear understanding of the impacts of that change. Failure to examine that proposal carefully before considering going down that path would create uncertainty and would risk the successful delivery of UK infrastructure that is now well planned into the future.

New clause 11 does not tell us very much about the resourcing requirements for this new commission and the time needed to establish it, nor did the hon. Member for City of Durham tell us much in her speech. None of this appears to have been fully established or costed. A fundamental concern for the Government is that establishing a new independent authority for infrastructure would involve significant complexity and constitutional issues of precisely the sort that my hon. Friend the Member for Taunton Deane and others alluded to.

I think back to the first few sittings of the Bill Committee, when the hon. Member for Birmingham, Northfield was sparring with my right hon. Friend the Minister of State about part 1 of the Bill. In the end we were united about many of the issues there—that even though we were changing the status of the Highways Authority to that of a company, it would be important to know that the Roads Minister or an ex-Roads Minister or the Secretary of State for Transport would still be the person who set the strategic objectives of that company. It would still be Parliament, whether at Question Time or in the Select Committee on Transport or whatever, that would scrutinise the decision making of the Secretary of State for Transport when setting out the vision for the future of road networks of this country. Yet now we seem to be saying that we should, right across the piece—not just in roads or railways or anything else—give this responsibility to a body that is independent of elected politicians. That seems completely bizarre.

The hon. Member for Daventry made quite an important point about lobbying. Since I became a Member of Parliament in 2005, I have been lobbied several times—before I became a Minister in this Department—about whether a barrage should be constructed across the River Severn. It is an issue that has probably come and gone for many decades. I remember watching it as boy when I lived on the other side of the Severn. It was an issue in the '70s and '80s as well, and I am sure it will be an issue in the decades to come. There are lots of people who want to spend lots of money on consultancy, concrete and steel—I think it would take all the concrete in the world to construct a Severn barrage—and who are very keen that this barrage should be built, yet have not managed to persuade either the previous Government or this Government. I wonder whether they would be able to persuade an independent infrastructure commission that it should be achieved; if so, it would be quite hard for a Government to resist it.

The right hon. Member for Greenwich and Woolwich said that the existing infrastructure plan did not have the credibility of some other more independent bodies that the Government have set up. The 2014 national infrastructure plan includes a long-term delivery plan. It has long-term funding settlements. It is well respected internationally and the Government have commissioned an independent planning and management framework to oversee the cross-sector plans on infrastructure delivery. That professional support comes from University college London and—I am pleased to say—Bristol university.

Drawing a comparison with the Office for Budget Responsibility undermines the right hon. Gentleman's own point. Putting the Office for National Statistics on a statutory footing or giving independence to the Bank of England are other examples he could have given. All three deal with very narrow points where we were concerned about technical decision making or authenticating the veracity of Government statistics, in order to do away with the smoke and mirrors exercise that we were familiar with under the last Government. That is a very narrow point about whether housing statistics are accurate, or whether a forecast of inflation or of future tax receipts that form part of a Budget is reasonable. I understand that the Armitt commission proposes that a 10-year vision for the whole of the country's future infrastructure investment should be handed over to a body independent of everyone elected to this place. That is entirely different from the Office for Budget Responsibility.

2.45 pm

Mr Raynsford: Will the Minister tell us why his pejorative phrase "smoke and mirrors" does not apply to the Airports Commission, which the Government still support?

Stephen Williams: My very next point was going to be about aviation. My hon. Friend the Member for Taunton Deane alluded to the fact that that has been difficult, for different reasons and at different times, for all three parties that have been in government for the past decade. The right hon. Gentleman's party leader has changed his position on the matter since he was Secretary of State for Energy and Climate Change. It was widely reported at the time that he was highly sceptical about what the then Transport Secretary and Prime Minister wished to do, so I do not think there has been a consensus in the Labour party.

The Davies commission will report shortly after the general election, and it will be for the next Government, whatever their configuration, to grasp that opportunity to make a decision. I am sure we all have our views on what that decision should be, and those of us who hope still to be here after the next general election may have a role in making it.

It is vital that the Government continue to focus on delivery. The fundamental issue is to ensure that the UK has a long-term strategy that addresses the future challenges that will face our infrastructure network. Over the Parliament, we have worked to develop a strategy to meet current and future demand and to tackle climate change while facilitating growth through globally competitive modern infrastructure. It is unclear how the introduction into that decision-making process of a national infrastructure commission would assist in tackling those pressing issues. Although the Government welcome public discussion and ideas for infrastructure strategy, the concept of a national infrastructure commission remains an unproven idea with potentially significant complexities.

The Government will build on their proven track record for infrastructure delivery and will continue to take the delivery of infrastructure extremely seriously. As I have said, £460 billion of public and private investment is planned over the course of the next Parliament and beyond. Having made that clear, I hope that the shadow Minister is persuaded that amendment 49 and new clause 11 are not needed, and I invite her to withdraw them at the appropriate point.

Roberta Blackman-Woods (City of Durham) (Lab): I will begin with a point on which I, too, agree with the Minister. We may not have had killer shrimps in this debate, but in my quest for strategic and evidence-based policy making, I seem to have energised the Committee.

We have had a really useful debate, but it is unfortunate that the Minister's response echoes, to a degree, the response given in the other place, which was basically that everything is fine with regard to how we plan and deliver infrastructure, and that we do not need to do anything to improve the current system. One point that got lost in the debate was that Armitt proposes a 25 to 30-year look ahead at our potential infrastructure needs, and proposals put forward to meet those needs would be subject to parliamentary scrutiny and a vote. That would not be conceding power to another body; it would be using the evidence provided by the commission to help with policy making and to support Ministers and others to decide what is needed and the correct time scale for delivery.

Stephen Williams: I accept what the hon. Lady says, but does she not agree that it is surrendering the capacity to come up with a vision by politicians, whether from the Labour party, the Conservative party or the Liberal Democrats? Is she not saying, "We are not up to it, so we need to hand over the responsibility for coming forward with a long-term plan to somebody else"?

Roberta Blackman-Woods: I do not think it is doing that at all. In fact, it is doing the opposite: it is trying to give some real essence to a vision. To answer the Minister's point about resources, we do not envisage that this independent infrastructure commission would need any resources additional to those already given to Infrastructure UK. We do not envisage that at all, because it is amassing evidence that is already available and putting it in one place. Critically, it will not only say what needs to be done, but will give very useful information, which may not be available at the moment, about what will happen if action is not taken. It will also put into the public domain and into Parliament a whole set of questions about what will happen if decisions are not taken in a timely manner.

The Minister gave a number of examples of how, in the current system, really difficult issues are simply batted into the next Parliament, or into the following one or the one after that. This will put a mechanism in place to prevent that taking place, or taking place as often as it does at the moment, by assisting Members and Ministers to come to decisions in a very timely manner.

Mr Browne: The shadow Minister talks as if batting decisions into the next Parliament, as she puts it, is inevitable, but there is absolutely nothing to stop the Leader of the Opposition making a speech this afternoon saying that if Labour wins an overall majority in May, it will proceed with the Heathrow option, the Gatwick option or the Thames estuary option. It does not have to buy into batting issues into the next Parliament, as she puts it; it is possible to show leadership.

Roberta Blackman-Woods: I suggest to the hon. Gentleman that we have come forward with a particular mechanism that will assist with leadership around a whole set of very difficult issues. If he wants to come up with another mechanism that will assist leaders in coming to more timely decisions, that is up to him. At the moment we seek to put a better system in place.

Kwasi Kwarteng (Spelthorne) (Con): It is not my custom to intervene a lot during these sessions, but my hon. Friend the Under-Secretary was suggesting that we do not need a mechanism, so to say to him that he should suggest a mechanism is neither here nor there: he is saying that we do not need one.

Roberta Blackman-Woods: We clearly disagree on that.

Mr Hayes: Just to support my hon. Friend the Under-Secretary, is it not the case that we are the mechanism—that politicians should retain the right to originate, to devise and to imagine? When we cease to do so, we are at our least attractive, because we are dull and mechanistic.

Roberta Blackman-Woods: Actually, I was hoping that we would delegate some of that mechanistic thinking to another body that would be better placed to put in one place all the information that is necessary for long-term, strategic policy making. It seems to me to be a very sensible approach and, as I indicated in my speech earlier, it is an approach that has been welcomed not only by the business community, but by elements of manufacturing: it has widespread support from the industrial sector and because of that I am minded to press amendment 49 and new clause 11 to a vote.

The Chair: The hon. Lady will understand that we have not yet come to new clause 11: there will be an appropriate time to do that.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 11.

Division No. 5]

AYES

Blackman-Woods, Roberta	Miller, Andrew
Burden, Richard	Raynsford, rh Mr Nick
Greatrex, Tom	
Jones, Graham	Whitehead, Dr Alan

NOES

Browne, Mr Jeremy	Kwarteng, Kwasi
Burt, rh Alistair	Newmark, Mr Brooks
Coffey, Dr Thérèse	Parish, Neil
Hayes, rh Mr John	Rudd, Amber
Heaton-Harris, Chris	Williams, Stephen
Jenrick, Robert	

Question accordingly negatived.

Clause 25 accordingly ordered to stand part of the Bill.

Clause 26

Deemed discharge of planning conditions

Roberta Blackman-Woods: I beg to move amendment 50, in clause 26, page 25, line 6, at end insert

"and where a local plan is in place".

We now come to the extremely interesting topic of deemed discharge of planning conditions. Amendment 50 would ensure that the provisions of clause 26 allow for the speeding up of planning consents by deemed discharge only where a local plan is in place.

The Government have made much of the importance of local councils having a local plan in place, so it seems curious that they would allow local flexibility in determining adherence to planning permissions without a local plan being in place to shape the nature of those conditions and give some solace to the local population that their council has a firmly thought through and tested grip on local planning issues and policies.

We will come later to the issue of requiring councils to have a plan in place, but surely, given the centrality of local plan making to the NPPF, it is important for the Minister to explain why he would not encourage local authorities to have a plan in place before deemed discharge can take place. The Minister will know that the Local Government Association has not been entirely happy about the deemed discharge conditions. It might help bring local authorities on board with the provisions of the clause if it were restricted to authorities with a plan in place in the first instance.

The points raised by the Local Government Association are interesting. It suggests that joint working between councils and developers is the most effective way to deal with concerns about planning conditions. That is already happening now, and the Government should not bring forward provisions in the clause that would interfere with that process. The LGA states that it is already working with the Home Builders Federation, the Planning Officers Society and the British Property Federation to develop the best approach to deliver more starts on site and speed up delivery, without needing the procedure in this clause.

In the light of that, perhaps the Minister could explain why deemed discharge conditions would not be better left to the local authority, particularly where there is a local plan in place.

The Chair: Although the clause is quite lengthy, it seems to me that the guts of it are fairly concise. I think it is likely, therefore, that in the course of the debate on this amendment and the next group of amendments, we shall probably have dealt with most of the matters arising from this clause. I say that so that hon. Members may, if they wish, seek to make a broader range of comments now rather than have a stand part debate. Of course, that is in the hands of the Committee.

3 pm

Stephen Williams: Thank you, Sir Roger. Those remarks enable me to say why this clause is needed and what deemed discharge will address.

Too often, applicants and communities are left waiting and wondering when new housing, or other important developments that will boost their local economy, can proceed, because the local authority does not reach a decision on an application to discharge a planning condition in a reasonable time. Deemed discharge will bring an end to much of that uncertainty and the delay and financial costs that it can bring. It is about addressing the issue of timeliness, not undermining the important protections that the planning system affords.

In particular, the deemed discharge measure will not curtail the ability of a local planning authority to impose a planning condition on an application or to refuse the discharge of a planning condition within a reasonable time scale if it is not satisfied with the proposals made by the applicant. I understand that the Opposition have recognised the importance of improving timeliness and getting that into the process, and that they have confirmed their support for the measure by making the delivery of deemed discharge a key recommendation in another of their reviews. We heard a lot about the Armitt review in our discussion of clause 25, but in this case it is relevant to cite Sir Michael Lyons' recent review.

I turn to amendment 50 which the hon. Member for the City of Durham has just spoken to. Although I can see what she is trying to achieve, I am concerned that the amendment would result in unintended consequences. As I have noted, nothing in our proposals will curtail the ability of local planning authorities to impose conditions

[Stephen Williams]

where it is appropriate to do so. Furthermore, regardless of whether there is an adopted local plan in the area or not, if the local planning authority is not satisfied with the proposals made by the applicant to discharge condition, it may refuse consent. We firmly believe that having a plan in place is vital if local authorities are to play their part in delivering the development that we all want to see.

To update the hon. Lady and the Committee, all local planning authorities in England have some form of local plan in place against which planning applications will be judged. Some 60% of local planning authorities in England have a post-2004 adopted local plan, and 80% have a post-2004 plan that they have published. Of course, the Planning Inspectorate and others are working with authorities to ensure that we get to a position where every local planning authority has published, and will eventually adopt, an up-to-date local plan.

The amendment would not materially alter the ability of local planning authorities to resist inappropriate development, but it may perversely appear to encourage local authorities that have failed to get a local plan in place. I hope that the hon. Lady finds those remarks reassuring and will withdraw the amendment on that basis.

Roberta Blackman-Woods: I do find the Minister's comments helpful. We tabled the amendment to test whether the Government thought it could be helpful in encouraging local authorities to adopt a post-2004 national planning policy framework-compliant local plan. If the Minister thinks that measures being taken elsewhere are suitably encouraging local authorities to bring their plans forward, then I am happy to beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Roberta Blackman-Woods: I beg to move amendment 51, in clause 26, page 25, line 11, at end insert

"except that it does not apply to any condition designed to mitigate direct impacts on animal welfare, public amenity, health and wellbeing, local infrastructure".

The Chair: With this it will be convenient to discuss amendment 52, in clause 26, page 26, line 9, at end insert

"or where a planning performance agreement is in place".

Roberta Blackman-Woods: The Opposition are concerned about the provisions for deemed discharge outlined in the clause 26. If they are not handled properly, they could lead once again to the needs and views of local communities being bypassed on planning issues. With amendment 51, we are trying to extend the sets of circumstances in which they will not apply.

The Town and Country Planning Association has been doing a lot of work on the issue of conditions and emphasises that they often provide a vital role in securing public interest outcomes by ensuring that the impacts of approved development are properly regulated. What conditions should apply to a development is one of the few things that communities have a degree of say in. They are able to press local authorities to put particular conditions on planning approvals.

We are concerned that too much deregulation of the system might remove important safeguards. Clause 26 would allow for the dismissal of conditions solely on procedural grounds. We are concerned that that could have a negative impact on the quality of life of residents. Not only could it affect those living in the area at the time, but it could have a negative impact on any future sustainable place making.

I am fully aware that the Department for Communities and Local Government's technical consultation on planning issued last July contained a number of assertions about the conditions that are sometimes applied to planning permissions being burdensome and making the build-out of sites subject to considerable delay. It might help the Committee's deliberations if the Minister could remind us of the evidence base on which those assertions were made. The Government also seek to earmark pre-commencement conditions for particular ridicule. Again, the evidence base that is being relied on, as far as I can tell, is at least seven or eight years out of date.

That seems particularly inappropriate in the context of clause 26 and deemed discharge of conditions. The NPPF itself set six tests for planning conditions. They have to be necessary, relevant to planning, relevant to the development, enforceable, precise, and reasonable in all other respects. Are the Government really saying that the NPPF is not working and that planning authorities are largely ignoring its provisions in setting conditions? Let us assume that the NPPF is being followed and that conditions are reasonable and relevant. Why, then, would the Minister think that it is good procedure simply to allow deemed discharge?

The Government have produced new guidance on the use of planning conditions, which contains a number of fairly clear messages about what the intention of conditions should be and their possible impact on development. It is therefore a bit strange for the Government to be meddling further at this point in time, especially as the guidance has recently been produced and provides great detail on how the six tests in the NPPF should be interpreted in practice.

Despite the recent publication of new guidance, the technical consultation document outlined four areas for further Government action on deemed discharge. They are where deemed discharge conditions should apply and what the appropriate time limit should be; reducing the time for the return of fee applications for confirmation of compliance; requiring draft conditions to be shared with developers before planning permission is granted; and further justification by local authorities of why conditions are necessary. Surely the clause will add to the bureaucracy rather than reduce it.

The Government response to the technical consultation document is interesting and is extremely relevant to the clause. It states:

"A wide range of views were received in response to the Government's request for general comments on its intention to introduce the deemed discharge measure."

In fact, most people wanted examples of when it would be necessary to have the measure in place, and only some people representing the development industry appeared to support the Government's approach. In

particular, local authorities said that delays in discharging planning conditions were often due to the actions or inaction of third parties, rather than being the direct responsibility of the local authority.

The consultation produced quite a long list of proposed exclusions. Suggestions were made about exempting matters related to land contamination, highway safety, archaeological investigation, other historical assets, sites of special scientific interest and so on. I could add to that list, but most of the major areas are covered in my amendment, to which I will return in just a minute.

In their response to the consultation, the Government say that their intention is

"to introduce supporting secondary legislation on the procedural detail of a deemed discharge once the primary power is confirmed."

That means that at this point, we are not clear about the detail of which exceptions will be allowed, except in a very broad sense through the categories listed—flood risk, highways, remediation of contaminated land, and archaeology.

What the Government have chosen to ignore is perhaps more interesting than the list of exemptions that they have given. There is nothing about species protection, noise, heritage assets, public amenity or local infrastructure. Indeed, the list does not include many impacts of development that local people consider most important, such as the impact on local landscapes, especially ones containing important heritage assets, on local wildlife, public amenity, local health services or services generally, or on the overall quality and well-being of a neighbourhood. Perhaps the Minister will explain why those matters, which are so important to local communities, are being ignored.

However, I am pleased to note that a notice must be issued by the developers to notify of circumstances of deemed discharge applying. Could the Minister explain the details of how that will be applied in the secondary legislation, and indeed when the secondary legislation is likely to appear and by what procedure it will go through both Houses of Parliament?

Amendment 52 would prevent the procedures outlined in clause 26 from applying when a planning performance agreement is in place. I have not seen any comment by the Government, in any of the consultation documents, on whether the procedures in the clause will apply where a planning performance agreement is in place. Not saying anything about that is somewhat peculiar given how many planning permissions rely on PPAs. They are used increasingly, because they are often an effective management tool, setting time scales for action between the local planning authority and the applicant. The Department's website tells us that PPAs should cover the pre-application and application stages, but may also extend through to the post-application stages—presumably, after the application of conditions.

PPAs provide greater transparency and certainty in the process for determining large and complex applications, and they can help to ensure a more efficient process. Critically, they encourage joint working between the applicant and the local planning authority. They can also help to bring together other parties such as statutory consultees—exactly the groups of people who, according to the Government's own consultation, are often responsible for holding up the discharge of conditions.

3.15 pm

We know that planning performance agreements can be extensive. They can cover housing, heritage, community infrastructure and open space. They can include a review local transport policies. They can examine cycle routes and pedestrian routes, road networks, wider environmental issues, urban design, finance, sustainability, employment and so on. That is an extensive list of issues. They get agreement between the local authority and the developer about how all those issues will be addressed and the time scale for addressing them. My question to the Minister in moving the amendment is: should applications that are covered by PPAs not be exempt from deemed discharge? Otherwise, he surely risks putting a note of discord into the planning system where, at the moment, we have agreement.

Mr Raynsford: I will not detain the Committee long, but I want to reinforce the point that my hon. Friend ably made about the potential adverse consequences of the clause. I start from an understanding that we all want to speed up the process. We want to cut out unnecessary delays and ensure that the planning process works reasonably fast. However, there is a risk in the blunt instrument that the Government have adopted in the clause, which will allow deemed discharge to apply after a mechanistic period of time has passed, irrespective of the merits of the discussion or the complexity of the issue in question.

In our debate on amendment 50, the Minister talked about the risk of local authorities having a perverse incentive not to get a plan into place because of the wording of the amendment tabled by my hon. Friend. There is an equal risk of a perverse incentive in the clause as it stands. A developer who is not keen to come up with a possibly quite difficult and expensive solution to a particular problem could simply delay in order to get to the point where that mechanistic time frame has lapsed. They would therefore benefit from deemed discharge without having made proper efforts to resolve the problem.

As my hon. Friend rightly said, there are a lot of difficult, complex and serious issues affecting local amenity, environment, infrastructure and other things that matter enormously to local communities. I remind the Minister that when the Government came into office, they talked a lot about localism and the importance of giving local communities power to determine things. The clause will take power away from local communities. There may be a justification for limiting their power in the interests of speeding things up, but there is a serious risk that as a result, benefits that matter to a local community, and on which a local authority has been negotiating on behalf of that community, are lost because of a rather crude, mechanistic time frame.

I urge the Government to think further about the measure and reflect on what the purpose of planning should be. Should it be to produce satisfactory, successful schemes that can command the support of local communities, or is it just about getting things through as fast as possible to satisfy developers? I hope that it is not the latter, but there is a slight whiff of that thinking behind the clause. I am therefore very happy to support my hon. Friend's case.

Stephen Williams: I agree with the hon. Member for City of Durham that we need to get the appropriate safeguards right to ensure that deemed discharge will

[Stephen Williams]

serve its intended purpose. However, what she is proposing would severely undermine the effectiveness of this important measure. I will read out the amendment, as the hon. Lady did not speak clearly to what her own amendment actually said. I point out to the Committee that amendment 51 effectively proposes to block the deemed discharge proposed in clause 26,

"except that it does not apply to any condition designed to mitigate direct impacts on animal welfare, public amenity, health and wellbeing, local infrastructure".

Those are such broad terms—the phrase "public amenity" in particular—that this would effectively operate to frustrate this process altogether. I am sure that many of us on this Committee, either as candidates, Members of Parliament or perhaps in the past as councillors, when trying to think of grounds for objecting to some planning application have fallen back on the phrase "will detract from public amenity". We use this if we cannot actually identify something rather more tangible in the local plan for us to hook our community campaign on to. I am sure that we have all done that; I own up to it myself even if no one else is willing to do so. Amendment 51 opens the door for everyone to be able to say that a local authority will not deal on a timely basis with conditions it has approved if this detracts from public amenity. The amendment put down by the hon. Lady is so widely drawn that, even though we hear that the Opposition support the concept of deemed discharge, they would frustrate that happening.

We have accepted that there should be exemptions, and these were consulted on over the summer. We have given considerable thought to the suggested exemptions that came forward from that consultation, and in our response to the consultation we can now say what those are. In contrast to the hon. Lady's very broad blockages to deemed discharge, for the Committee's benefit I will list the exemptions we will propose when we introduce the secondary legislation to implement this clause, if it is passed:

"All conditions attached to development that is subject to an Environmental Impact Assessment;

All conditions attached to development that is likely to have a significant effect on a qualifying European site;

Conditions designed to manage flood risk;

Conditions that have the effect of requiring that an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended), Section 278 of the Highways Act 1980 to be entered into; and

Conditions requiring the approval of details for outline planning permissions required by reserved matters."

Also included are:

"Conditions relating to the investigation and remediation of contaminated land;

Conditions relating to highway safety;

Sites of Special Scientific Interest; and

Conditions relating to investigation of archaeological potential."

This list—which the Government came up with as a result of holding that consultation—is quite exhaustive, but it is also quite precise. That is essentially what we are deciding on when I either urge the Committee to reject this amendment, or urge the hon. Lady to withdraw it. Compare those precise conditions, where we acknowledge that there will need to be protection from this deemed discharge procedure, to her completely broad-brush approach as set out in her amendment 51. To make sure that sensitive local environments will be protected, and to avoid any unintended risk to the health and safety of the public, we have decided to expand the original number of proposed exemptions where the deemed discharge would not apply. Those are the exemptions I have just listed.

I turn now to amendment 52 and the matter of how the deemed discharge would work where a planning performance agreement is in place. The clause already provides that deemed discharge can only take effect once the planning authority's time to make a decision has expired. I understand that this time limit is eight weeks. The right hon. Member for Greenwich and Woolwich referred to an arbitrary sanction on local authorities. That is the existing provision; there is an expectation that, after local authorities set planning conditions, when the applicant comes forward with their proposals for meeting those planning conditions, then the local authority has eight weeks from that point to say whether the applicant has satisfied those requirements that the planning committee or the officer has put down in order for work to start.

This means that a decision period, even if extended by agreement between the parties, has to have passed before a deemed discharge can actually have effect. Clause 26 also allows for the applicant and the local authority to agree an extension of time between them to allow the authority more time to determine an application to discharge condition, so it already allows the parties to postpone that statutory date specified in the deemed discharge notice as the date on which the deemed discharge takes effect. A planning performance agreement is one suitable mechanism through which such an extension of time could be agreed. As the clause already takes account of such agreements, the amendment tabled by the hon. Member for City of Durham is therefore not necessary.

Before I invite the hon. Lady to withdraw her amendment, she asked for some evidence and alluded to the fact that the evidence base was either flimsy or old. There was some evidence and research undertaken by the previous Government in 2009—now nearly six years ago—which showed that 36% of decisions on conditions had not been taken within that eight-week time limit and nearly a quarter took longer than 10 weeks. If that was the only basis on which we were relying, she would have reasonable grounds to say that clause 26 was reliant on an old evidence base.

However, the Local Government Association undertook some new, fresh evidence in late 2013, so just over a year ago and rather more up to date. It indicates that in between 2007 when they last looked at it and 2013, the average time taken for a scheme to progress from obtaining planning permission to starting on site had increased from seven months to 12 months. The most up to date research that we have was published last month by the National House Building Council Foundation. It found that 74% of its respondents of small house builders—so, three quarters—said that the time to clear planning conditions was a serious impediment or something of a challenge to their business.

There is, therefore, compelling evidence. Some of it is, indeed, relatively old and from the time of the previous Government, but there is also fresh evidence on which we can rely. If clause 26 is passed unamended, it is our intention to come forward with secondary legislation,

which was one of the questions that the hon. Lady asked, and we will, of course, be laying that secondary legislation as soon possible after Royal Assent is given to the Infrastructure Bill. If it helps, I can commit to sharing a draft of that proposed statutory instrument with her in advance. With those remarks, I invite her to withdraw the amendment.

Roberta Blackman-Woods: I thank the Minister for his comments. However, I do not think he addressed my essential point in amendment 51, which was the areas that the Government have sought to ignore in terms of exemptions from deemed discharge. The reason that I read out the list of the Government exemptions, and the list of things that were not approved by the Government in the exemptions list, including all of those that are in my amendment, was to demonstrate clearly that the areas that the Government are ignoring are those issues that are often most important to local communities. An example is animal welfare. There may be a condition applied to a planning application where there has to be protection for badger setts or that particular bat boxes have to be provided. As I understand it, what can happen at the moment is that if that condition has not been approved when it hits a particular deadline, there will simply be a notice given by the developer to say "We have now hit the deemed discharge. Local planning authority, we have provided 50 bat boxes and secured the badger sett." How does anybody know that is the case?

3.30 pm

I seriously request that the Minister takes that away and looks again at the list of exemptions to see whether impact on animal welfare and local services, including local infrastructure, could be added to the list of exemptions, without negating the point of the clause, which is to allow in some circumstances for deemed discharge to take place.

The Minister's response to amendment 52 was more helpful, but he did not make it clear whether a planning performance agreement and the measures contained within it could override the provisions of deemed discharge. It might already have been agreed that different time scales be set in the planning performance agreement. My point is that we would not want deemed discharge to get in the way of an agreement that had already been made. It was not clear from the Minister's response whether a planning performance agreement would override provisions of the clause. I will let the Minister ponder that and perhaps he could clarify at a later stage, if not now.

Stephen Williams: I thought I was reasonably clear. A planning performance agreement, or indeed any agreement, between the developer and the local authority could effectively substitute for the clause. It is always open for them to agree some longer timing.

Going back to amendment 51 and the list of exemptions, as I said, that list will appear in the statutory instrument that I have offered to share with the hon. Lady before it is considered towards the end of this Parliament. Some of the other issues she mentioned, including animal welfare, will fall under the exemptions provided, including the qualifying European site. The hon. Lady also mentioned listed buildings. We will think again about that and discuss it with her when we share the draft text of the SI with her.

Roberta Blackman-Woods: That was a helpful intervention from the Minister. On the basis of that, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 26 ordered to stand part of the Bill.

Clause 27

Property etc transfers to the HCA and the GLA

Roberta Blackman-Woods: I beg to move amendment 53, in clause 27, page 26, line 32, at end insert—

'( ) The Secretary of State shall lay before Parliament regulations streamlining compulsory purchase order powers for HCAs and councils.

( ) The powers of HCAs will be strengthened to enhance the delivery of housing provision.

( ) The Secretary of State should bring forward proposals to give councils the power to incentivise the building on land provided for development, including by the HCA, and allocated within a local plan, where it is not brought forward within five years. This should be applied only where land is voluntarily put into a plan and can be demonstrated to be deliverable and should be accompanied by a mechanism for appeal."

This is quite a complex amendment with a number of different aspects, which I will deal with separately. There is a degree of consensus across the Committee on clause 27 that much better use of public land, particularly brownfield sites, could be made, in order to bring forward new housing and other development. That is essentially what clause 27 seeks to do, by making it easier for surplus land in public sector agencies to be transferred to the Homes and Communities Agency directly without going through the sponsoring Department.

So it is perhaps not surprising that the Campaign to Protect Rural England comments that making it easier for the Homes and Communities Agency to develop housing in brownfield sites is to be welcomed. We think so too. However, we believe that the Government could have gone much further in developing the role of the HCA.

3.35 pm

Sitting suspended for a Division in the House.

3.50 pm

On resuming—

Roberta Blackman-Woods: As I was saying before the vote, we believe that the Government could have gone much further in developing the role of the HCA to enable it to carry out a more effective role in land assembly and development overall. That is what the various dimensions of amendment 53 seek to achieve.

The first part of the amendment seeks to enable the Secretary of State to lay regulations streamlining compulsory purchase powers for the HCA and for councils. I am pretty sure that I have heard Ministers say that current compulsory purchase order powers

[Roberta Blackman-Woods]

need to be reviewed. As I am sure the Committee will be aware, the Mayor of London has come out very strongly in support of our position, saying that we need a review. It is a little odd that provision was not made in the Bill for compulsory purchase orders to be addressed.

The main purpose of CPO powers is to encourage development and to give local authorities the ability to ensure that when they allocate land for development, and its inclusion in a plan is supported by an inspector, it is actually built out. They are also intended to strengthen the hand of local authorities in negotiations, rather than just routinely relying on compulsory acquisition. Compulsory purchase orders are an important part of the toolkit available to councils to unlock land for new homes and to play a more proactive role in land assembly. In practice, these powers should rarely need to be used but they can operate as an effective incentive to landowners to engage early, negotiate and enter into development partnerships more readily.

There is a history of compulsory purchase in England, notably in powers granted to new town corporations and urban development corporations. A number of regeneration-focused local authorities already successfully use CPOs to unlock large development projects and land market blockages. However, CPO powers are not used as widely as they once were in this country or as they currently are in continental Europe. As evidence to the Lyons commission highlighted, there are a number of reasons for that. The process is controversial, long, potentially risky and very drawn out. The council may lack the skills or the budget to pursue a CPO and there may be cultural barriers to its use. The local authority or other public body needs to identify very clearly and in some detail what it wants to do with the site; thus a local authority cannot expect to secure a CPO if the site is allocated in a plan but not being brought forward, unless it has first developed detailed plans.

That supports the widely acknowledged view that legislation is no longer fit for purpose, confirmed by the compulsory purchase policy review advisory group in 2000. It concluded that the problem was partly that the legislation was derived from the Land Clauses Consolidation Act 1845, or earlier. Even where the provisions of the 1845 Act have been subject to later amendment or re-enactment, the Victorian concepts and antiquated phraseology have often been carried forward, leading to difficulties in interpretation or even comprehension. In 2003, the Law Commission stated:

> "There can be few areas of the law which are in more obvious need of radical treatment, under each of the heads mentioned in the statute, than the law of compulsory purchase."

CPO legislation should be updated to enable greater use of CPOs as a tool to drive effective regeneration strategies and work in partnership with developers to take forward development of sites through streamlining and clarifying existing legal guidance and legislation on CPOs as far as possible to reduce uncertainty and confusion, as well as amending the legislation with a clear aim of streamlining the process and reducing opportunities for landowners to stall progress. Land valuation should be considered by the tribunal up front in cases where a CPO is contested, not at the end of the process, creating greater certainty for both the local authority and the landowner and making it easier to find a development partner. As I said, this currently happens at the end of the process and often several years after the CPO starts, creating unnecessary uncertainty and risk for local authorities and their development partners. That uncertainty may also reduce incentives for some parties to reach agreement outside the CPO process.

Under the current system, compensation for compulsory purchase is based on the land's existing use value, including any planning permissions granted on the land, with some small adjustments for cost and disruption. It must also reflect hope value when land which is not yet the subject of planning approval might reasonably expect to obtain planning permission. Evidence suggests that a reform of the compensation rules for CPOs for large-scale land assembly is necessary, with a view to ensuring that the landowner is offered a generous benefit from the sale of the land and that, as far as possible, the costs of infrastructure required to support the development are captured by the uplift in value created by granting planning permission.

We know that CPOs would probably seldom be used in practice if they were reviewed and revised along the lines that I have outlined, since all parties would wish to avoid the process where possible. Landowners facing the possibility of a CPO would be incentivised to engage in a partnership with the developer. Will the Minister explain why there are no measures to help the HCA or councils to use the CPO system more effectively? I would have thought that there would be something about CPOs in a Bill that seeks to help us get the infrastructure we need.

The second part of amendment 53 seeks to question the Government on additional powers that can be given to the HCA to transform its role in housing delivery. The sector as a whole recognises the importance of the HCA's current contribution to national house building efforts. Examples include the HCA's work with the Defence Estates to appoint Grainger as the developer of 4,500 homes on surplus military land at the Aldershot urban extension site, as well as the Barking Riverside regeneration scheme, which has serviced plots for the development of 10,800 homes and began as a joint venture between the HCA and Bellway Homes.

4 pm

However, evidence points to the need for a sharper focus and a return to some of the more energetic engagement in development that marked the closing years of English Partnerships and the early days of the Homes and Communities Agency. It is the current received wisdom that the agency has lost some of the expertise and focus on delivery, caused by a combination of several factors—a move towards the administration of housing funding programmes rather than the direct pursuit of large-scale development opportunities; the addition of the regulation of social housing providers as a core function, which brought with it a very different focus and skill set; the loss of skills and capabilities that previously enabled the agency to engage strongly in the negotiation of developments and partnerships; a lack of independence from the Department for Communities and Local Government, which frequently second-guessed decisions; and recent changes in Government policy, which have limited the HCA's ability to recycle receipts,

returning them instead to the Exchequer. That has severely impaired the HCA's ability to lead and contribute to investment partnerships.

The National Housing Federation suggests that juggling multiple responsibilities in this way means that,

"these programmes are not co-ordinated effectively. They are governed by multiple rules, regulations and criteria, which do not correspond. This is limiting the impact of these programmes in terms of delivering new housing supply."

The Home Builders Federation, which represents house builders, says with regard to HCA public land that,

"disposals often are too prescriptive and very costly and complex for builders."

The HCA role should be that of supporting the deals negotiated between central Government and local places, bringing skills and expertise, private funding, land and guarantees to the negotiation table.

There appears to be a case, therefore, for moving the regulatory functions away from the HCA to increase the focus on delivery. However, we accept that we need to be careful that further organisational change and disruption does not risk delay and uncertainty to the system, and so additional powers for the HCA would need to be rolled out in a way that is not destructive.

In that context it is important that the delivery role for the HCA is established as a clear corporate priority. It should have a clear degree of day-to-day independence from DCLG, operating within an agreed framework. That would enable a re-tasked HCA to focus on the following key functions. First, it would be responsible for new, re-energised efforts to dispose of surplus central Government-owned land and buildings through effective development partnerships with local authorities, housing associations, developers and landowners. This approach does not rest on the requirement for large-scale transfers of land from one part of Government to another or to local bodies, since such transfers would take a long time and would distract from the task of releasing the land. However, in its role as single disposal agency for Government land, the HCA would be responsible for a rolling five-year delivery plan for housing on Government-owned land.

Secondly, the HCA will be a major implementation and investment partner for local authorities and new homes corporations if they eventually come into being. Thirdly, the HCA will continue to have a vital role in supporting local authorities dealing with large-scale applications throughout the country, through the continuation and possible expansion of the ATLAS service. The role should include co-ordination of efforts to expand the training and professional development of staff within local and central Government, in close co-operation with the Planning Advisory Service and professional associations across the sector. Fourthly, the HCA's investment arm should be expanded to function as a housing investment vehicle, aggregating investment.

With limited public finance available, it is crucial that what is available is invested in the most efficient way and that we are able to draw on greater levels of private finance, mobilising it to where it has the best effect and lowering its cost wherever possible. There is also evidence that if changes, as outlined here, are made then considerable private finance could be brought into the system for investment in housing. Housing associations could use their strong credit ratings to access long-term funding from the capital markets. There continues to be strong institutional appetite for housing association bonds from the current investor base, but many bond issues are described as being oversubscribed. It is important that more is done to increase the opportunities for alternative bond structures; perhaps extending the role of the HCA is a way that that could be achieved.

Learning from current experience, evidence suggests that one of the functions of a re-tasked HCA should be to act as a vehicle to aggregate opportunities for investment to provide the scale needed to attract private investment and spread risk for investors. The aim of the expanded role would be to channel long-term private investment, supported by Government guarantees, into house building, alongside traditional public investment. Its role would include focusing on securing better total returns and joining up development and infrastructure investment. The new division of the HCA could offer housing providers a mix of debt, loan and equity finance at a lower cost than they could access individually on the open market. That would increase the finance available to the sector, increase certainty and, by lowering financial costs, improve scheme viability.

To be effective and to minimise Government exposure, the new division would need to undertake project due diligence and monitor investment decisions. Crucially, the HCA would combine the role as an aggregator of private finance with a revitalised role as an energised national delivery agency and major implementation partner of development corporations, and in the development of a new generation of garden cities and garden suburbs. Perhaps the Minister will explain why the additional powers cannot be given to the HCA and put on the face of the Bill.

The third part of the amendment seeks to enable the Secretary of State to

"bring forward proposals to give councils the power to incentivise the building on land provided for development,"

including land that is provided by the HCA and that has been allocated in a local plan, but has not been built out after a five-year period.

The Opposition are aware that safeguards would need to be in place for such an approach and, indeed, appeal mechanisms if there was to be some sort of system that could possibly incentivise or penalise the non-building out of land. Nevertheless, it is an important area to look at. It is interesting that in all the discussions about improving infrastructure and bringing sites forward for developments, including new housing sites, the Government have given little attention to how we get more land into the system. The Bill presents a huge lost opportunity to tackle the shortage of development land or the issue of sites being built out too slowly.

Analysis of residential development data collected by Glenigan examined units in the pre-planning pipeline—those yet to obtain detailed planning permission—and units that have obtained planning permission and are progressing towards development. It indicated that 6,700 sites contain more than 10 homes with planning permissions that have not yet been completed. Those sites have the capacity for 588,000 homes. Around 50,000 of those homes are on sites that are classified as on hold—

4.9 pm

Sitting suspended for a Division in the House.

4.24 pm

On resuming—

Roberta Blackman-Woods: As I was saying, around 50,000 of these homes are on sites that are classified as on hold or cancelled, with 246,000 progressing towards construction and 271,000 on sites that have already started construction. A further 21,000 are on sites that are for sale, have been recently sold or have no information available. It is highlighted that although many of the sites with unimplemented planning permission are under construction and will be part of long-term developments, the speed at which these sites are built is usually dictated by market demand for finished houses. Because of the risks of land scarcity, house price volatility and the high up-front capital costs of development, house builders' business models are predicated on a high profit margin and double-digit returns on capital, frequently cited at 20% per annum.

Most volume house builders work to targets for both sales volumes and return on capital; private new build starts therefore follow the same pattern as overall rate of house sales. There is significant risk to delivery here, as has been evident in the number of stalled sites seen during and since the 2008 recession. Developers may have paid or agreed options to pay for land based on prior expectations of house prices. Although house prices in some markets are above their 2007 peak levels, many are not, so developers will be unable to meet their required gross development value to make the site viable. Assuming that there are no, or limited, ongoing costs to the land, the developer will wait for more favourable market conditions before developing. A more energetic role for the HCA in assembling land and acting as lead developer would provide a means by which local government, and through local government, communities, can bring forward new sites and have stronger influence on time scales for the delivery of existing schemes by establishing alternatives to pure market-based sites. That assumes, of course, a partnership operating between the HCA and local government.

It will become even more important in the future to ensure that swift progress is made on land allocated for homes, given the growing amount of housing need. We think more incentives are needed to speed up delivery and we would like to see that in the Bill, hence the amendment. Possible incentives include the lifetime of a planning permission being shortened to two years and higher fees for renewal. Secondly, greater substantive progress should be required to demonstrate that works have started on site than is currently the case. It is suggested that sometimes only minimal works are undertaken in order to preserve the life of a planning permission.

Thirdly, where a site is allocated in a plan or has planning permission but development has not begun within the expected time frame—the Lyons review proposed five years unless otherwise agreed—the local authority should have the option of charging the owner of the land council tax or some other form of taxation for the proposed number of dwellings on the site. That would be done only in very specific circumstances, but the aim is to have a major disincentive in the system so that land that has planning permission is built out. Clearly, it is important that landowners are not unfairly penalised. There are some developments—particularly large complex sites—which will take more than five years to be implemented, and that would need to be factored in to any system of incentives or disincentives that is produced. Charges should be applied only if they are reasonable in the context of the individual site, and only where the site has been volunteered by the landowner, for example.

The main purpose of the proposed powers is to encourage development and give local authorities the ability to ensure that when they allocate land for development—and its inclusion in a plan is supported by an inspector—it is actually built out. They are also intended to strengthen the hand of local authorities in negotiations rather than routinely to rely on compulsory acquisition. I am interested to hear what the Minister has to say about amendment 53.

The Chair: Before we proceed with the debate, let me say that a significant number of amendments have been tabled and selected for debate, plus at least one new clause, and I have a feeling that by the time we have got through this lot, once again we will probably have done the clause to death. That being so, Members may wish to take advantage of the fact that they will have the opportunity to speak now rather than in a stand part debate.

Stephen Williams: The hon. Lady has made a wide-ranging speech and expanded on her three-part amendment, which I notice has open parentheses against each part. I will refer to them as (a), (b) and (c), just to be helpful, as that is what my notes say. I just noticed that those letters are not actually there, and I hope that Members do not get lost when I refer to them.

The public sector land programme is about bringing disused land currently owned by central Government and their arm's length bodies back into better economic use. The Homes and Communities Agency has a key role to play in the next programme and from April will take on the role of the Government's land regeneration and disposal agent. Surplus land can and does already transfer to the Homes and Communities Agency but the process is more bureaucratic than is necessary. The clause is about increasing the rate of delivery by accelerating internal Government procedures. The amendment would not support that aim and would in many cases, we believe, frustrate the process.

The hon. Lady spoke about streamlining the compulsory purchase order powers that are available to the HCA. CPO powers are often an essential tool for enabling acquiring authorities, whether the HCA, local authorities or other public bodies, to compulsorily acquire land to carry out a function that Parliament has decided is in the public interest. However, a CPO is a substantive intervention so those powers must be applied fairly and they should be used only when absolutely necessary and when there is compelling reason in the public interest. The HCA in the whole of its life has used CPO powers on only one occasion, in Liverpool, compared with about 100 a year that the Department approves for local authorities, usually for highways or other land acquisition processes.

The hon. Lady calls on us look at CPOs and says we should have done that in the context of this Bill. In the autumn statement, the Chancellor and the Chief Secretary said that we would publish a consultation on proposals

for CPO reform in the Budget, which is the next—probably the last—set-piece parliamentary occasion of this Parliament. If the hon. Lady and her colleagues are patient until Budget day in March, that is when the Government will publish a full consultation on reforms to the CPO process. I have a lot of sympathy with her views, based on my own experience over many years as a councillor and Member of Parliament for Bristol city centre. Over the years, many owners have sat on derelict buildings or sites that are a blight on the entire community, and it is incredibly frustrating how long it sometimes takes to get a CPO off the ground, particularly when the landowner often changes to frustrate the CPO process—the process has to start all over again—or comes forward with an application, which has to be considered. I certainly recognise, and the Government recognise, that there is a need to look at these powers. I was not aware of the 1845 Act, but she quite rightly raises an important point. The Government are aware of the issue. We are looking at it and announced our intention to come forward with a consultation in the Budget, so on that basis, the first part of the amendment is not necessary.

The second part of the amendment, which the hon. Lady spoke about at great length and in depth, calls for a strengthening of the powers available to the HCA. The HCA is tasked with supporting private and public sector bodies to deliver housing and regeneration priorities throughout England by providing land but also funding and expertise. To that end, the agency already has significant powers, as set out in the Housing and Regeneration Act 2008, to deliver new housing, both affordable and at market prices, in support of local communities. As a Minister, I have visited many HCA projects around the country. The agency operates its powers in close co-operation with local authorities and communities. Experience shows that this approach often works well to deliver the homes that communities need.

Our approach under the current powers is actually seeing some success. Some 700,000 more homes have been built in England since 2009. Housing starts are now at their highest since the crash that began in 2007. The latest figures show almost double the number of starts that occurred in 2009, up 17% on last year. Council house building—something that often comes up in DCLG oral questions—is now at a 23-year high and more council houses have been built since 2010 than were in the preceding 13 years, when the hon. Lady's party was in office. Almost 217,000 affordable homes, including those social council homes, will have been delivered since April 2010.

The hon. Member for City of Durham referred, in dealing with this part of her amendment, to the Bill being a missed opportunity to use the HCA to drive more house building starts around the country. The statistics I have just given show that, in fact, a lot of progress has been made since 2010, but we have said that we want the HCA to do more. I did umpteen fringe meetings on housing at my party's conference in Glasgow last October, one jointly with the Chief Secretary to the Treasury, where he announced that he was asking the Treasury to come forward with more proposals whereby the Government would do essentially what the hon. Lady is saying, and act more as a commissioner to build houses directly, to kick-start certain sites. We are going to carry out a pilot of this approach north-west of Cambridge, to facilitate the delivery of 10,000 new homes in a new settlement at Northstowe. There, the HCA will trial a new delivery model, including the master planning of the site and directly commissioning the building of the new homes. We think that this will speed up development compared with what otherwise might have taken place; it will certainly create certainty that something is going to happen.

We also want small builders to re-enter the market in that area. The HCA will contract directly with builders to build the homes and will sell them, rather than doing what it normally does, which is assembling the land and selling it on to a traditional house builder to build on their own time scale and make their own surplus on the sale of those houses. This significant pilot for 10,000 new homes at Northstowe shows that the Government are determined to be as creative as we can be in following up every single avenue possible to get more houses built.

I could also refer, without going too wide, Sir Roger, to the garden settlements that the Deputy Prime Minister is also very keen on. The Department has set up a new development corporation to build a new garden settlement at Ebbsfleet and we published a prospectus for other communities to come forward with proposals for new garden settlements. I am sure that there will be a very important role for local authorities and the HCA there too. Hopefully, that gives some reassurance on the second part of the hon. Lady's amendment.

The final part of the amendment calls for giving councils the power to incentivise building on land where planning permissions have been granted. I have some sympathy with what the hon. Lady says: it is often asked why house builders sit on permissions rather than building them out—the so-called practice of land banking. It is an issue, but one which has been declining. Under this Government, the proportion of unstarted homes with planning permission that are either on hold or have been shelved has fallen significantly from 38% of those sites in December 2011 to 15% in December 2014.

We have a number of other reforms in place that we have already announced or that have been announced elsewhere, which are outside the scope of the Bill, but are relevant to the wider points that the hon. Lady made in order to speed up house building on the ground. They include removing the ability for developers to extend the time limit for starting development, new powers to allow deemed discharge—we have just discussed clause 26—and helping to unlock stalled sites by allowing developers to seek renegotiation of section 106 agreements that were originally in place, but have proven to be unviable and are preventing house building from starting. There are now numerous examples of those around the country. We have also outlined in planning and guidance that local planning authorities might wish to consider whether to shorten the duration of a planning permission where necessary in order to encourage the commencement of development.

Having heard me refer to all three different parts of the hon. Lady's amendment, I hope she feels significant progress has already been made in this Parliament. There is an initiative on CPOs coming forward in the Budget and there are various initiatives already under way in order to give the HCA an enhanced role. Hopefully, therefore, there is a meeting of minds and she will withdraw her amendment.

Roberta Blackman-Woods: I thank the Minister for his comments. Overall, they were constructive. With regard to part one of the amendment, we were obviously aware that the Government had said that they might look at CPOs and the need to review them. We will look forward to the Budget with new enthusiasm knowing that there is going to be some more information about how to reform CPOs.

I also note that on the second part of my amendment there is the pilot in Northstowe. In fact, we thought the Government must have read the Lyons commission report very carefully and adopted some of the policies that we were, or that Sir Michael was, proposing in that report and are, in a sense, trialling what we are seeking to do in the amendment, which is give the HCA more power so that it can operate as a development arm of Government. Given that the Government are pursuing a pilot, it would be a bit churlish of me to push the amendment further.

I want to say one thing to the Minister regarding part three of the amendment and incentivising land owners to build on land that has planning permission and prevent land banking. I can see that the Government are looking at particular ways of stopping that happening and it is probably not so great an issue outside a recession as it is in one. Nevertheless, I urge the Minister to think again about renegotiating away 106 agreements, particularly where they are to deliver affordable housing, as part of making sites come forward. The long-term consequences of that for the country and the amount of affordable housing that is available could be disastrous.

Stephen Williams: I agree with the hon. Lady. That is certainly not something that I would like to see on a wide basis. Of course, all of these negotiations are up to the local authority and the developer to agree. In many cases, certainly in my own constituency, it has been much better to see some houses being built and some apprentices employed, rather than a completely frozen site. She is absolutely right that it is more appropriate in the context of a downturn in construction where nothing is happening rather than where we are now with construction having significantly recovered from the 2007 to 2009 crash.

Roberta Blackman-Woods: With those comments from the Minister, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

4.43 pm

Sitting suspended for a Division in the House.

5 pm

On resuming—

Roberta Blackman-Woods: I beg to move amendment 54, in clause 27, page 26, line 34, after "HCA", insert "or councils"

The Chair: With this it will be convenient to discuss amendment 55, in clause 27, page 26, line 36, after "HCA", insert "or councils"

Roberta Blackman-Woods: In great contrast to amendment 53, amendments 54 and 55 are straightforward. They are aimed at extending the streamlined land transfer provisions in clause 27 to local authorities, where that is deemed appropriate. That is important because, as the LGA notes in its evidence to the Committee,

"Councils share central government's focus on using publicly owned land to support housing development."

That relationship could be strengthened through amendments 54 and 55, which would enable publicly owned assets to be transferred to a local authority where the authority agrees the transfer and where it is appropriate to do so.

Interestingly, it appears that the LGA has had discussions with central Government about transferring land and property assets held by Departments and agencies, and a number of councils have already made progress on pooling land assets. The amendments would speed up that process and make it more widespread, enabling a strong local approach to be taken to developments.

When the matter was debated in the other place, Lord McKenzie made it clear that councils have a land release programme between 2015 and 2018 for assets amounting to £13.3 billion. In addition, the LGA has stated that it has been asked by the Cabinet Office to help to transfer to local councils 3,000 separate land and property assets held by Departments and agencies. That is not insignificant, and accepting these small amendments would surely help to secure the development currently in the pipeline.

Replying in the Lords, Baroness Kramer was surprisingly helpful:

"I am keen that we explore the best options for delivery, taking into account local circumstances. So while our clause does not mention local authorities…there may…be benefits to exploring whether they should be included in the clause, which may smooth the process of transferring sites from central government's arm's-length bodies to local authorities, where this is the best option locally and supports the delivery of local and national priorities."

She made it clear, of course, that she was not accepting the Opposition's amendment. However, she said she would consider

"whether something of this nature might be needed and, if so, the mechanism and legislation that should be used to provide for it."

She added:

"I will take it away and consider further whether we should extend our clause to include local authorities or whether an alternative route would be more effective."—[*Official Report, House of Lords,* 15 July 2014; Vol. 755, c. GC218-19.]

I would be most grateful if the Minister could update us on where the Government are in their deliberations on including local authorities under clause 27. If that is not the most appropriate vehicle for including local authorities, will he say what is?

Stephen Williams: The Homes and Communities Agency will have an important role in leading this new programme from next year. However, transfer to the HCA may not always be the best, or only, delivery option; as the hon. Lady said, local authorities could also have a vital contribution to make. In some cases, that may mean transferring sites to them. I am keen that we explore the best options for delivery, taking into account local circumstances.

However, the amendments as drafted would not achieve that effect, because they presuppose the existence of a broader power to transfer land from central Government to local authorities. Currently, however, such a power does not exist, and the amendments would require considerably more work to achieve the effect the hon. Lady seeks.

Although I ask the hon. Lady once again to withdraw the amendment, I am prepared to say on the record that the Government support the principle of a power to transfer Government land, whether held directly by the Government or by agencies—the subject of the clause. We continue to look at how that might work, and my noble Friend Baroness Kramer was being helpful to her colleague in the other place when she said that this was something we were open-minded about pursuing. We are not quite ready yet with firm proposals, but that is being actively looked at.

Therefore, with the reassurance that the Government have sympathy with the idea that the hon. Lady has suggested and are looking at what is needed to amend existing legislation to bring that power into effect—to transfer Government land directly to local authorities, rather than selling it on the open market, which is, of course, possible at the moment—I invite her to withdraw her amendment.

Roberta Blackman-Woods: I have listened carefully to the Minister. I am pleased that we have been able to put on record our desire to have some mechanism to enable land, where appropriate, to be transferred directly to local authorities. If I heard the Minister correctly, I think the Government are also seeking an appropriate mechanism to enable that to happen in some circumstances. With that reassurance, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Roberta Blackman-Woods: I beg to move amendment 56, in clause 27, page 26, line 37, at end insert

"provided that any designated property, rights or liabilities to be transferred pursuant to a scheme—

(a) have been classified as surplus;

(b) do not compromise land forming part of a common, open space or fuel or field garden allotment;

(c) do not extinguish any public right of way;

(d) are subject to transparent reporting of all aspects of the transaction to the Land Registry; and

(e) shall be subject to a test of viability that is underpinned by guidance and an open book approach."

The Chair: With this it will be convenient to discuss amendment 57, in clause 27, page 27, line 9, at end insert—

""Common", "open space" and "fuel and field allotment" have the same meaning as in section 19 of the Acquisition of Land Act 1981".

Roberta Blackman-Woods: These two amendments seek to ensure that land to be transferred to the HCA meets certain conditions and is underpinned by safeguards that will ensure support for this activity. I want to probe the Minister again on some issues discussed in the other place.

In their "Accelerating the release of public sector land" report of 2011, the Government estimated that 40% of land suitable for development sits with central Government and local government land banks. Therefore, as a considerable amount of land is at stake, it is important that the Minister confirms that, other than the transfer of land to the HCA, there will be no change to the type of assets otherwise to be involved and no change to the decision-making or appraisal process.

The noble Lord McKenzie rightly asked for a reminder of what the process is; therefore, with paragraph (a) in the amendment we would need to know how surplus land is defined. The Minister in the other place said that no definition was available and it was up to each Department to decide when land was surplus, but that is not satisfactory. It is rather opaque. Will the Minister tell us what factors are taken into consideration when deciding whether a piece of land is surplus? For clarity, paragraph (a) asks that it is very clear on the face of the Bill how land is being classified as surplus.

Paragraph (b) in the amendment says that land transfer should

"not compromise land forming part of a common, open space or fuel or field garden allotment".

The problem with not having a definition of what is surplus is that we do not know whether surplus land could cover land that is part of a common, open space or fuel or field garden allotment, hence our putting that into the amendment. We also do not know whether it would extinguish, or have the power to extinguish, any public rights of way that are in existence. Without some idea of what would be excluded, it is really rather difficult to assess adequately the provisions of the clause and what it could mean for local communities, and we would need considerable reassurance from the Minister on that.

Paragraph (d) that the Government promote best practice with regard to improving the transparency of land transactions by reporting all aspects of the transaction of the land to the Land Registry. The lack of publicly available information about land transactions, ownership and options held on land makes it difficult to understand the extent to which land is controlled by those who intend to bring it forward for development or not.

The Land Registry records the ownership of land and property and has registered 82% of land in England and Wales with more than 23.5 million titles. However, as evidence highlights, there is limited public access to that information and no requirement to register land options. Greater transparency about ownership options and transactions would deliver a number of important benefits that would result in better operation of the land market. It would assist in effective plan making by enabling local authorities to properly assess land availability and the record of landowners, agents and developers in bringing forward sites. It would greatly assist local authorities and other developers in land assembly and provide information on achievable prices to landowners, and would improve understanding of the viability of schemes to assist in negotiations of planning obligations. That would increase the chance of planning gain being financed by a landowner, rather than by the developer.

The amendment seeks improvements to the operation of the land market, for example by requiring the Land Registry to open up land ownership information to the public, in a manner similar to that of the property price paid dataset, and make it a legal requirement to register land option agreements, prices and transactions. That would provide clarity about the extent to which land trading and speculation was taking place. The Government would then be able to undertake a comprehensive review to establish whether there was evidence of anti-competitive behaviour or destructive speculation and, if necessary, take action to address it.

[Roberta Blackman-Woods]

Increased transparency of land ownership options and transactions should apply to all landowners, not just private sector ones. It should include the HCA, which is why I tabled this amendment to clause 27. The public sector is not exempt from criticism of land banking, often holding out for the maximum value that it can get for its land. That is compounded by the lack of a single comprehensive or transparent register of surplus public land.

We discussed the importance of a development pipeline of public land; indeed, the Minister touched on that a bit earlier. The public have an interest in the land held by Government agencies, in which it has a particular stake. It is therefore important that the public know exactly what is happening to that land. Information about the land should fall under the transparency rules of Her Majesty's Treasury, which should ensure that it plays its part in releasing land for development. It would be incredibly useful if the Government spearheaded best practice in land transaction and transparency, and I look forward to hearing from the Minister on that issue.

Paragraph (e) in amendment 56 asks the Government to be at the forefront of best practice in providing information about the viability of sites. Amendments to clause 27 could be used to set powerful examples in practice of how the viability of sites could be listed. Plans could include developing a methodology for assessing viability that could be understood easily by the public.

As I am sure the Minister is aware, there are concerns about the way that the viability of local plans, community infrastructure levy charging schedules and options are tested. Evidence to the Lyons review suggested that that is compounded by the fact that there is no agreed methodology for viability assessment and the fact that that system is not in place allows different parties to pick the methodology most to their advantage. Guidance produced by the Local Housing Delivery Group, endorsed by the Home Builders Federation and the Local Government Association, encouraged plan-level viability testing to be based on evaluating the existing use value or alternative use of sites, plus a premium at a level that will make it worth the landowner's while to sell.

The Royal Institute of Chartered Surveyors' guidance, intended for application to individual sites' viability but sometimes applied to the plan level, is based on a different methodology, where the starting point is the expected market value of the new development. Viability testing is essential, and sufficient sites should be tested to inform the assessment of the viability of a plan. However, evidence to the Lyons commission also suggested that the current arrangements create a great deal of uncertainty and complexity, which works in favour of the partner with the most skilled consultants acting for it. That is compounded by the diversity of guidance.

A single methodology and guidance will reduce the scope for differing interpretations of how much is available to support the required infrastructure and social gain. We therefore recommend that there should be definitive and agreed guidance applied by all parties in the same way, based on the principles that the landowner should receive a reasonable return and have clarity about what they could expect to receive for their land; and that viability should clearly identify the uplift in value arising from the grant of planning permission, to enable that to be properly considered as part of the planning process, alongside the costs of necessary supporting infrastructure and affordable housing.

A number of recent reports suggest that calculating the appropriate benchmark land value for viability assessment based on the existing use value plus a premium is most conducive to achieving that aim and ensuring that development is sustainable in terms of the national planning policy framework and local plan requirements. Further work with representatives across the sector will be required to ensure that the methodology is evidence-based and takes into account the different market conditions, in terms of current costs and values that would be put into the viability appraisal. It would be essential for site-specific negotiations to be based on an open-book approach to inform the relevant appraisal inputs.

Will the Minister therefore commit to accepting the amendment and transforming how we measure and understand the viability of site development? I should point out that the purpose of amendment 57 is to clarify what is meant by

"open space or fuel or field garden allotment"

in amendment 56.

5.15 pm

Stephen Williams: The hon. Lady has tabled amendments to add further controls to the land transfer process. The amendment would constrain the HCA's activity and diminish its ability to act as the Government's surplus land regeneration and disposal agent, so we will resist it, and I shall work through each of the five paragraphs that it would add to new section 53A(1) as set out in clause 27.

The new paragraph (a) would restrict transfers to land that is "classified as surplus". The hon. Lady asked for a definition of "surplus", and I am advised that the previous Government came up with one in 2005, which is quite simple and defines it as land that the landowning Department no longer requires. Such property could comprise either a whole property or part of a property. The definition was published in 2005 and is still available on the gov.uk website. I do not have the exact URL, but if it helps the hon. Lady I will make sure it is forwarded to her so that she can see the 2005 definition.

The reason we do not accept the new paragraph (a) from her amendment, with its restriction of land transfers to land that is purely surplus, is that there may be parcels of land currently held by Government agencies, which are approaching the end of their operational use, but which have not tipped over the threshold to become surplus within the current definition. It is important to retain the option for land to be transferred to the HCA while it still has an operational use and is not yet absolutely surplus. That would enable the HCA to start remediation works and marketing in parallel with the winding down of operational activity. Then we will get to the point when the land is indeed surplus, as defined in 2005.

Paragraph (b) of the hon. Lady's amendment would restrict the transfer of land that is defined as "a common, open space" or different types of allotments. We understand and appreciate the importance of protecting commons, open space, fuel allotments and field garden allotments

from developments. Common land is central to our national heritage and we value it for grazing and agricultural use, recreation, nature conservation and its historical and archaeological significance. Numerous planning procedures, however, are already in place to protect such open spaces. The HCA is well aware of that need. To exclude any site with an element of open space or any of the other categories defined in paragraph (b) of the amendment would constrain the ability of the HCA to develop another part of the land.

Some of the definitions are quite old. I must admit that "fuel allotments" was a new phrase to me, even though I am the Minister whose desk every allotment proposal by a local authority has to cross. I have read quite a lot about allotments in the past 18 months, but I have not come across a fuel allotment before. For the benefit of the Committee, fuel allotments date back to a time when a proportion of land was set aside so that the poorer people of a village might cut turf or wood for their domestic fires. The rules that we use for those pieces of land are now affected by successive Enclosure Acts, which takes me all the way back to my O-level history—that is how old I am, I did O-levels.

The hon. Lady might reasonably agree that some of the definitions that she is seeking to include in the Bill would not necessarily be helpful in providing meaningful protection for land that is important to people. Where there is land that is still important to people, such as an allotment for growing food, flowers or anything else that someone wishes to use the land for, and where there is a public right of way, existing protections are in place that the HCA or anyone else who wishes to acquire such land would have to take into account.

As a consequence of resisting paragraph (b) of amendment 56, we also have to resist amendment 57, which, for the purposes of the earlier amendment, defines

"a common, open space or fuel or field garden allotment",

all of which amendment 56 would exclude from transfer to the HCA.

The clause is all about accelerating internal Government processes to transfer Government land, so that it can be disposed of more quickly and effectively for appropriate development. It does not override any existing planning policy or community rights—I am also the Minister responsible for the new community rights under the Localism Act 2011—so it is quite possible for any community to list an asset of community value, and I urge all hon. Members to encourage their constituents to consider doing so. Lots of safeguards are already in place to which the HCA and others have to pay due regard.

Paragraph (c) refers to public rights of way, but that is another area of land law where considerable protections are in place. I am sure that many of us have come across this at some point in our political careers—someone wishing to alter or block a public right of way—and so know that there is a process that has to be gone through in order for that to take place. Sufficient protections already exist so that that paragraph of the hon. Lady's amendment is unnecessary.

Paragraph (d) concerns the details of transfers and how they are reported to the Land Registry. We agree that transfers should be subject to transparent reporting to the Land Registry. However, transfers of assets are already subject to compulsory registration under the Land Registration Act 2002. As it is already a legal requirement, it is unnecessary for us to create further primary legislation.

Finally, paragraph (e) refers to an open-book approach. We feel that it would be unhelpful to restrict transfers to the Homes and Communities Agency to sites that meet standard viability criteria. The regeneration and development work that the HCA can deliver is an opportunity to bring vital long-term social and economic benefits to sites. It is essential that we maintain the flexibility to transfer any site to the HCA when doing so would support our wider growth and policy objectives. That may occasionally mean transferring sites when the level of investment required is greater than the market value—for example, when transferring the site enables the HCA to unlock a residential development that supports the local community. I hope that the hon. Lady heard me say that sufficient legal and community protections are already in place for particular parts of land that are important to our constituents, and I hope she will agree to withdraw her amendments.

Roberta Blackman-Woods: I am not totally convinced by the Minister's response. I heard what he said, in particular about land classified as surplus. I am sure that the definition that was produced in 2005 was an excellent definition for that time, but we are 10 years on, we have this Bill in front of us and the issue needs revisiting. Perhaps the Minister will think about revisiting the definition at some point, if only to ensure that it takes on board some of the later points in the amendment. For example, we need clarity about whether the definition includes open space, common space and so on.

Stephen Williams: If I may just deal with the point about surplus. The definition that I read out, about which hon. Lady is rightly sceptical, is not comprehensive. None the less, we can all agree that when something is surplus it is no longer required. It is beyond continuing use to whichever Government agency it is. The reason why I am resisting paragraph (a) is that we may want the HCA to start work on pieces of land that we know will become surplus but are not yet surplus under the existing definition—whether the dictionary definition or the guidance. If the hon. Lady's definition were on the face of the Bill, such work would not be able to start.

Roberta Blackman-Woods: I thank the Minister for that helpful clarification. This is a probing amendment to test the Government on the transparency of land. My additional point on land transactions was about options—we know that land that is sold must be registered—and about making that information available to the public. I am not sure that the Minister dealt with that point. We will mull over that issue, as we will mull over how the test of viability can be clarified. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Roberta Blackman-Woods: I beg to move amendment 58, in clause 27, page 26, line 41, at end insert—

'(2A) Regulations under subsection (2) must specify a New Town Development Corporation, subject to the objectives set out in section [Place making objectives for New Town Development Corporation]."

The Chair: With this it will be convenient to discuss new clause 13—*Place making objectives for new town development corporations*—

"Place making objectives for new town development corporations

In Part 1 of the 1981 New Towns Act delete section 4 (1) and insert—

'(1) The objects of a development corporation established for the purpose of a new town shall be to secure the physical laying out of infrastructure and the long-term sustainable development of the new town.

(1A) Under this Act sustainable development means managing the use, development and protection of land and natural resources in a way which enables people and communities to provide for their legitimate social, economic and cultural wellbeing, while sustaining the potential for future generations to meet their own needs.

(1B) In achieving sustainable development, development corporations should—

(a) positively identify suitable land for development in line with the economic, social and environmental objectives so as to improve the quality of life, wellbeing and health of people and the community;

(b) contribute to the sustainable economic development of the town;

(c) contribute to the vibrant cultural and artistic development of the town;

(d) protect and enhance the natural and historic environment;

(e) contribute to mitigation and adaptation to climate change in line with the objectives of the Climate Change Act 2008;

(f) positively promote high quality and inclusive design for the maximum number of people including disabled people;

(g) ensure that decision-making is open, transparent, participative and accountable; and

(h) ensure that assets are managed for long-term interest of the community.

(1C) In this Part "infrastructure" includes—

(a) water, electricity, gas, telecommunications, sewerage or other services;

(b) roads, railways or other transport facilities;

(c) retail or other business facilities;

(d) health, educational, employment or training facilities;

(e) social, religious, recreational or cultural facilities;

(f) green infrastructure and ecosystems;

(g) cremation or burial facilities; and

(h) community facilities not falling within paragraphs (a) to (f); and

"land" includes housing or other buildings (and see also the definition in Schedule 10 to the Interpretation Act 1978), and references to housing include (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, the building or part of building concerned.'"

5.30 pm

Roberta Blackman-Woods: Our purpose in tabling the amendment and new clause 13 is to enable the Committee to consider new town development corporations as a way of speeding up the development of housing and the appropriate supporting infrastructure.

The Government have talked much of late about supporting new garden cities. As we know, however, they have pretty much been reannouncing existing schemes. New clause 13 would transform the Bill by inserting provisions that would enable us to modernise new towns legislation to deliver the settlements we need.

I am grateful to the Town and Country Planning Association for helping me to develop the provisions and for so tirelessly championing the case of garden cities, especially when it was not necessarily fashionable to do so. Its works on this issue has highlighted how the Bill could frame a positive debate about how to deliver new settlements.

The Government have endorsed the development corporation model by proposing to designate an urban development corporation at Ebbsfleet. They have signalled in a letter to peers that they believe that UDCs, rather than new town development corporations, are the way to deliver a new generation of garden cities. But the TCPA strongly disagrees with that approach, which risks confusing the real differences in the nature of the challenge of regenerating existing places and that of building new communities. We agree with the TCPA on that point.

New town development corporations were designed in 1946 specifically for the creation of new towns. That is reflected in their core statutory purpose. The designation process includes a public inquiry, in recognition of the need to involve people in such major planning decisions. UDCs were designed in 1980 specifically to deal with relatively localised urban regeneration initiatives, which is reflected in both their purpose and their designation, which does not require a public inquiry. The issue is simply being clear about using the right tool for the job. The TCPA believes that both forms of corporation have valuable roles to play, but keeping them clearly defined is vital, particularly in building public confidence. We agree on that point as well.

We have the opportunity to use the Bill to amend the purpose of new town development corporations to ensure that they are fit for purpose for creating a new generation of garden cities. Currently, new town development corporations have no place-making objectives in law. Their remit has no obligation on community participation or human health and well-being and no reference to sustainable development or climate change. Making those a statutory purpose rather than a Government policy would provide confidence that place-making is a central objective in housing policy. It would also allow any new Government after 2015 to be properly prepared to deliver a comprehensive housing growth strategy.

The TCPA supports new clause 13, which would amend the objectives of the new town development corporations. The new clause would build upon the detailed research the TCPA has carried out on the measures necessary to make new town legislation fit for purpose. The New Towns Act 1981 is still in force. It provides for the setting up of powerful development corporations to drive delivery. Those corporations were the engines that drove the rapid deployment of the new towns programme and had the following core powers. They could compulsorily purchase land if it could not be bought by voluntary agreement; prepare a master plan; apply to the Minister for the equivalent of outline planning permission for comprehensive tracts of the new town; control development; deliver utilities; procure housing subsidised by Government grant and by other

means; act as a housing association in the management of housing; and carry out any other activity necessary for the development of the town.

Although there was strong delivery, the outcomes in new towns did not always reflect the highest design and quality standards. For example, many estates were built using poor quality materials or techniques that have not stood the test of time and so today require renewal. In addition, there is now a need to modernise the objectives of new town development corporations to ensure that they have the visionary purpose to effect change, while creating new opportunities for partnership and participation and planning for a low-carbon future. Partly because of the nature of the new towns legislation, very little of the high social ambition which drove the originators of the New Towns Act 1946 was reflected in the legal objectives of development corporations. They are quite brief and mechanistic, referring only to the laying out and development of the new town. There is a risk that development corporations might see themselves as engineering departments rather than organisations engaged in the wider social enterprise of place-making.

Over the past 30 years, there has been a wide recognition that planning has few, if any, outcome duties. That, in turn, has led to much criticism that planning has become a process without a purpose. New legal provisions have been introduced to focus the system on sustainable development, climate change and good design but they do not apply to development corporations because they are not local planning authorities. New clause 13 is designed to extend and modernise the list of objective and duties of new town development corporations. To modernise the objectives, the new clause draws on the outcome duties invoked in the Planning and Compulsory Purchase Act 2004 and the Planning Act 2008, as well as the legislation that created the new Homes and Communities Agency, which has statutory objectives that include people's well-being, good design and sustainable development.

New clause 13 would also introduce new and important obligations for the social and cultural as well as physical and economic development of a new town. Crucially, it would introduce obligations for community participation, which are so vital in building public confidence. The new clause includes a new definition of sustainable development, based on the successful wording of New Zealand's Resource Management Act 1991. If inserted into part 4 of the Infrastructure Bill, the new clause would help us significantly to update this legislation in a satisfactory way. What we want to see and what is contained in new clause 13 is place-making objectives for new town development corporations, so that the corporation can be established for the purpose of a new town. It can secure the physical layout of the infrastructure but also the long-term sustainable development of the new town.

Because of the time pressures facing us, I will not read out every measure contained in new clause 13. I hope that it is sufficient for the Committee's deliberations to say that we want the legislation to be updated so that it can achieve sustainable development. We want it to have provisions that enable it to look at sustainable economic development as well as cultural and artistic development, while enhancing the natural and historic environment and looking at the mitigation of and adaptation to climate change. We want it positively to promote high-quality and inclusive design for the maximum number of people, including for disabled people. We also want it to ensure that decision making is open, transparent, participative and accountable and that assets are managed in the long-term interest of the community.

We think that the legislation should include all aspects of infrastructure, including: water, electricity, gas, telecommunications, sewerage or other services; roads, railways or other transport facilities; retail or other business facilities; health, educational, employment or training facilities; social, religious, recreational or cultural facilities; green infrastructure and ecosystems; cremation or burial facilities and community facilities not falling within the categories outlined.

There should be specific references to the quality of any housing delivered. If we were to amend the new towns legislation, it would enable some meaning to be given to the Government's commitment to delivering a new generation of garden cities. At the moment, proposals are coming forward for new garden cities. They are being called garden cities, but they are not underpinned by any of the principles that would lead anyone outside the Government to recognise them as garden cities. I am interested to hear the Minister's response.

Stephen Williams: New clause 13 laid by the hon. Member for City of Durham seeks to set out two main objectives for a development corporation established for the purpose of creating a new town; first, the physical laying out of infrastructure and secondly, the long-term sustainable development of the new town. The core of my argument against the need for this new clause is that it is simply unhelpful to prescribe in detail in legislation what a new town development corporation should do. I certainly agree with the hon. Lady that creating well designed sustainable communities should be at the heart of all new development, but I do not think that describing the objectives of a new town development corporation in detail in legislation would help achieve those objectives in a way that allowed for sufficient flexibility on a local basis. There is much to be said for the simplicity in the current statutory objective for a new town development corporation to secure the laying out and development of a new town. As my noble Friend Lady Stowell said in the House of Lords, this brevity has been proven to be helpful in the past. The detailed objectives of development corporations can be established in response to what is needed and wanted locally.

The amendment proposes that sustainable development should be included in the objectives of new town development corporations. The hon. Lady came up with quite an exhaustive list of what should be in the objectives, including crematoriums at one point. I emphasise that the Government strongly support the principle of sustainable development. It is central to the national planning policy framework. That document provides a clear view of what sustainable development should mean in practice. Creating an additional statutory definition of sustainable development could serve to reduce that clarity.

Mr Raynsford: Before I ask my question, I should make clear my role as a trustee of the Town and Country Planning Association. It is a non-pecuniary interest but I think Members should be aware of that.

[Mr Raynsford]

As the Minister says he is committed to sustainable development, what proportion of affordable housing would he see as an appropriate element in any garden city developed under the prospectus that the Government are offering?

Stephen Williams: I am not going to give the right hon. Gentleman an exact percentage proportion because that would have to vary depending on local circumstances. There are a number of proposals for garden cities or garden settlements—call them what you will—coming forward as a result of the Government's invitation for new proposals. I would expect them not only to be garden settlements in an ecological sense in order to deliver sustainability but also to be balanced, in order to have a sustainable community. Whether that settlement is starting completely from scratch in an area that currently has no housing at all is different from building a garden settlement on the edge of an existing urban area where there may already be a given proportion of affordable housing. It is not that I am dodging the direct question asked by the right hon. Gentleman. I am just saying that it will clearly vary according to local circumstances. An assessment will be made when the planning authority is considering the range of houses to be built and it will no doubt look at the housing stock in the district and come to a view as to whether it wants more affordable housing to be built.

As I have said to the right hon. Gentleman on several occasions when he has asked oral questions in the Chamber, this Government have a record of which I am quite proud of reinvigorating the building of affordable homes and building them at the fastest rate since the time of Mrs Thatcher. The next affordable homes prospectus, which is out there at the moment, was to cover 2015 to 2018, but in the autumn statement we said it would be extended to 2020, with additional Government resources being put on the table. That is the most ambitious affordable homes programme of any Government since I was in primary school.

5.45 pm

Mr Raynsford: I shall not take the Minister up on that issue, as I have on other occasions, other than to say to him that history will show that this Government's record of housing development over the past four years is the lowest of any Government since the 1920s, and that the affordable housing programme has been derisory, with virtually no new social housing being built at all. I simply want to put him that we need social rented housing at genuinely affordable rents, rather than properties at percentages of market rents, many of which are unaffordable other than with housing benefit.

Coming to the specific point I wanted to put to the Minister, does he agree that 0% affordable housing in a garden city would not be a sustainable proportion?

Stephen Williams: I agree that 0% would not be what I would want to see. If a garden settlement is constructed, say, 10 miles from the nearest existing urban settlement, a new community is being created completely from scratch in a greenfield environment. I would want—as I am sure the developers of a garden settlement and the local authority would want—that new community to be socially balanced. However, to come back to my initial answer to the right hon. Gentleman, it would entirely depend on local circumstances. Some of the proposals that are coming forward for garden settlements are adjacent to well established towns, such as Bicester. I am not an expert on the current disposition of housing stock in that part of Oxfordshire. It is up to the local authority to come to its own view as to what it thinks is an acceptable proportion of new affordable homes being built in the area.

Again, I completely refute what the right hon. Gentleman says about this Government's record. In the period from 2011 to the end of this Parliament, we will have delivered an affordable homes programme of 170,000 new units. We have announced 165,000 new units for the first three years of the next Parliament, and further provision was outlined in the autumn statement.

Mr Raynsford: Jam tomorrow.

Stephen Williams: Well, quite a big jar of jam has already been built over the past few years. I have been around the country visiting some of the sites in the course of construction. I have had the classic photo opportunity that I am sure every Housing Minister wants. I shall refer to an exact example, in Cornwall. I visited a settlement on a former mining site, where incidentally the HCA was instrumental in bringing forward the land acquisition, at Pool—the Cornish Pool, not the Dorset Poole—where I met the tenants of the affordable homes that had been built under the Government's affordable homes programme. I opened a street of new council houses in the constituency of my right hon. Friend the Member for Hazel Grove (Sir Andrew Stunell). I simply do not recognise the picture that the right hon. Member for Greenwich and Woolwich describes of nothing having happened.

I do recognise, as someone who grew up on a council estate, that this is the first Government who have required local authorities to reinvest the proceeds from the sale of council houses back into the affordable homes programme, in order to put new affordable homes back into the community. I remember from the 1997 general election campaign that the right hon. Gentleman's party criticised the right-to-buy programme that Mrs Thatcher instituted, under which stock was not replaced. That was an entirely reasonable point, but Labour did not do anything about it when it was in office.

I certainly acknowledge that the right hon. Gentleman has something that he should be proud of in the decent homes standard. The previous Government did a very important job in bringing the residual stock of council houses up to a decent standard, and the current Government have continued to support that. However, to pretend that there was some golden era between 1997 and 2010, with a lot of new affordable homes being built by the Government rather than as a result of section 106 agreements, is simply to have a rose-tinted view of those 13 years. I remember the Prime Minister at the time, the right hon. Member for Kirkcaldy and Cowdenbeath (Mr Brown), saying in the run-up to the 2010 general election, I think in a "Newsnight" interview, that house building was not something that the Government should do but something that the market delivered. I

am proud of what the Government have done on affordable homes, and I am proud of my party's role in ensuring that the Government have an affordable homes programme.

I return to the amendment and new clause tabled by the hon. Member for City of Durham.

Roberta Blackman-Woods *rose—*

Stephen Williams: I give way to the hon. Lady, hopefully on that precise point.

Roberta Blackman-Woods: I am glad that the Minister mentioned the decent homes standard, because I was going to intervene and say that we cannot take out of the equation the number of council houses that were either kept in use or brought back into use through the decent homes standard.

Will the Minister accept that Labour's housing policy was not just about reliance on the market? We also put a lot of money into housing associations, and the output of housing associations during the 1997 to 2010 period was much higher than it is at the moment. Also, affordability is not 80% of market rents. Will he accept that for a lot of people across the country, that is not affordable?

Stephen Williams: The percentage definition of "affordable" obviously varies in different parts of the country. In some places, a percentage of the market rent will be considerably lower than a social rent in other parts. There is a huge difference between rental levels in Bristol, in London and in Durham, so that is not something we can make general points about.

The last point I will make before returning to the amendment and new clause is that the stock of social and affordable homes fell every year from 1980, or whenever it was that right to buy was introduced, and fell below 4 million homes in, I think, 2004. The latest housing statistics that we have show that the stock of social and affordable homes has now gone back above 4 million for the first time in 30 years. I am quite proud of that, and I do not think that either the hon. Member for City of Durham or her colleagues can refute that statistic.

I come back to new town development corporations and sustainable development. They are central to the NPPF, which provides a clear view of what sustainable development means in practice. As I was saying before we went off on a wider debate, creating an additional statutory definition would reduce that clarity. I note the hon. Lady's enthusiasm for new town development corporations, but none have been created since 1970. We have gone through the Wilson, Callaghan and Blair Governments, and the premiership of the right hon. Member for Kirkcaldy and Cowdenbeath, with nobody thinking it was necessary to create new town development corporations to get sustainable urban development off the ground.

I am clear that whether there are new town development corporations or urban development corporations, which are the vehicle that the Government have chosen to use to establish the new garden settlement at Ebbsfleet, they should, whatever their corporate model, have a strong focus on securing sustainable development in a way that reflects local circumstances and needs.

Amendment 58, tabled by the hon. Member for City of Durham, would mean that any regulations made by the Secretary of State to enable property rights or liabilities of a public body or bodies to be transferred to the Homes and Communities Agency must include new development corporations. The new power provided by clause 27 already enables the Secretary of State to specify extant new town development corporations in the secondary legislation that will flow from the clause. However, naming such a body would be necessary only when the land owned by it was required to be transferred to the Homes and Communities Agency or the Greater London authority. It is not currently clear whether a new town development corporation will be required to transfer land to the HCA or the GLA, and as such there seems little benefit to mandating in primary legislation that they should be named in secondary legislation for that purpose.

I cannot see a good case for singling out new town development corporations in the way that the hon. Lady has set out. The purpose of them is fundamentally clear—to secure development—so it is not clear why, for example, we would expect them to transfer to the Homes and Communities Agency land that is central to delivery. With those precise remarks—perhaps not the wider remarks, on which we differed—I hope that the hon. Lady will withdraw her amendment.

Roberta Blackman-Woods: First, I wish to point out to the Minister that my enthusiasm for new town development corporations is for the model that I proposed in my amendment; I was not suggesting for a moment that current legislation is good enough to deliver the new generation of garden cities and urban extensions that we all want to see. I am extremely disappointed that the Minister did not take the opportunity provided by the amendment and new clause to be visionary and enthusiastic about updating legislation. They would enable us to ensure that from day one of the next Parliament, we can deliver garden cities that are built on garden city principles, that have a good percentage of affordable housing, that meet all the needs of the community, that are genuinely place-making and that ensure that money goes back to the local community for long-term investment.

I am going to leave the Minister to ponder on my disappointment and his lost opportunity. Perhaps he will think again. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 27 ordered to stand part of the Bill.

The Chair: We now come to the debate on clause 28 stand part. No amendments have been selected for debate—

Mr Brooks Newmark (Braintree) (Con) *rose—*

The Chair: Wait one moment.

Mr Newmark: Enthusiasm, Sir Roger.

The Chair: Well, I will dampen it a little. No amendments have been selected for debate because the amendment to clause 28 that was tabled is starred. I must therefore point out to the two Members who tabled amendment 62

[The Chair]

that the stand part debate is not an excuse to speak to that amendment. I am sure that the hon. Gentleman's ingenuity will get around that.

Clause 28

EASEMENTS ETC AFFECTING LAND

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

Mr Newmark: Thank you, Sir Roger. I appreciate that time is pressing, so will keep my remarks to below 30 minutes, if possible.

I welcome the Government's determination to tighten up the legislative shortcomings of the Housing and Regeneration Act 2008, but the drafting of clause 28 provides only a partial solution to those shortcomings. The problem is that the protection that will be provided by the clause as it stands will not fully cover historic disposals; in other words, some key development land will not be covered by the Government's reform, and so will remain unprotected. I believe that that would be contrary to the Government's reason for introducing the clause and therefore must be addressed.

In order to be legally robust and prevent the unnecessary blocking of planned strategically important developments, the changes made by clause 28 must be retrospective and cover all historical disposals. In order to reverse the adverse effect of subsection (11), I ask the Minister to consider changes that would cover relevant developments from the time when section 11 and schedule 3 to the 2008 Act came into force, thereby ensuring that all relevant land left unprotected by the defective provisions of schedule 3 is covered by the changes and corrections made by clause 28. I look forward to hearing the Minister's feedback on my concerns and how the Government might address them.

Alistair Burt *rose—*

The Chair: Mr Burt—I beg your pardon, it is Sir Alistair.

Alistair Burt: No, it is not, unless you know something I don't.

The Chair: Well, it ought to be.

Alistair Burt: Thank you very much, Sir Roger. It is a pleasure to serve under your chairmanship, and I wish you a happy new year.

I will be brief. I rise to support my hon. Friend the Member for Braintree. On Second Reading, my hon. Friend the Member for Bromley and Chislehurst (Robert Neill) spoke about the concerns of some in London, particularly the Mayor of London, that some land left after the Olympics might not be covered by existing legislation. We propose a protection to ensure that easements run and that future complications are avoided. I am pleased to associate myself with my hon. Friend the Member for Braintree, and I hope that this probing amendment might get a fair response from our Front Benchers.

The Chair: Order. Nice try, but the probing amendment is not an amendment, because it has not been selected.

Alistair Burt: This is not an amendment, I agree.

The Chair: The not-amendment may get consideration.

Stephen Williams: I will speak briefly about the purpose of clause 28 and respond to the speeches made by my hon. Friend the Member for Braintree and my right hon. Friend the Member for North East Bedfordshire. The clause will ensure that future purchasers of land owned by the Homes and Communities Agency, the Greater London authority or mayoral development corporations will be able to develop and use land without being affected by easements and other rights and restrictions. The HCA, the GLA and MDCs have powers to override certain third-party rights and restrictions on their land, such as easements and restrictive covenants. However, purchasers of that land are unable to override such interests, and that can cause delays in the progress of schemes for development and cause issues in relation to the use of the land.

Clause 28 is designed to bring the position of purchasers of land from the HCA and the other bodies into line with that currently enjoyed by purchasers from local authorities and other public bodies involved in regeneration and development. That, in turn, will enable us to increase the attractiveness of surplus public sector land to developers, and it will facilitate the development of much-needed new homes and support economic growth by removing obstacles to development.

I turn to the remarks that have been made. We do not believe that it is necessary to amend subsection (11) to allow powers to override easements to transfer to sites that have already been disposed of. Clause 28 is intended to accelerate development. The proposed amendment—which, as you have quite rightly said, Sir Roger, was not selected—would not help to facilitate that any further. Developers who have bought land and entered into agreements were clearly aware of the powers available to them. The conditions with which the land was sold and the price that was paid will have reflected those conditions.

We are satisfied that where land has been leased but the GLA, HCA or MDC has retained the freehold, the existing powers to override easements already apply and will continue to do so. That is sufficient to support development on most of the sites that are being disposed of. Changing the law now to apply to sites that have previously been sold would be an unusual approach and might have unintended consequences.

We accept that in a small number of cases of which we are aware, the freehold may have been disposed of, meaning that the power does not apply. However, alternative mechanisms are available to address such situations, such as taking out insurance, negotiating with easement owners and making references to the upper tribunal's lands chamber. Given that such mechanisms are already available, and given the small number of sites that would be affected, the Government do not believe that we need to make further legislative changes. I hope that those remarks will give some comfort to my two hon. Friends.

Question put and agreed to.

Clause 28 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Dr Coffey.)*

6.3 pm

Adjourned till Thursday 8 January at half-past Eleven o'clock.

Written evidence reported to the House

IB 15 Local Land Charges Institute's (LLCI)

IB 16 United Kingdom Onshore Oil and Gas (UKOOG)

IB 17 Local Government Technical Advisers' Group

IB 18 38 Degrees Stroud

IB 19 Local Government Association's (LGA)

IB 20 Public and Commercial Services Union (PCS)

IB 21 Miss E R Adam

IB 22 Alan Tootill

IB 23 Campaign for the Protection of Rural England (CPRE)

IB 24 Alliance of British Drivers (ABD)

IB 25 John Oddie

IB 26 National Farmers' Union (NFU) (on energy and planning)