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HOUSING AND PLANNING BILL

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(Morning)

CONTENTS

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The Committee consisted of the following Members:

Chairs: Mr James Gray †, Sir Alan Meale

† Bacon, Mr Richard *(South Norfolk)* (Con)
† Blackman-Woods, Dr Roberta *(City of Durham)* (Lab)
† Caulfield, Maria *(Lewes)* (Con)
† Dowd, Peter *(Bootle)* (Lab)
† Griffiths, Andrew *(Burton)* (Con)
† Hammond, Stephen *(Wimbledon)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
† Hollinrake, Kevin *(Thirsk and Malton)* (Con)
† Jackson, Mr Stewart *(Peterborough)* (Con)
† Jones, Mr Marcus *(Parliamentary Under-Secretary of State for Communities and Local Government)*
† Kennedy, Seema *(South Ribble)* (Con)
† Lewis, Brandon *(Minister for Housing and Planning)*
† Morris, Grahame M. *(Easington)* (Lab)
† Pearce, Teresa *(Erith and Thamesmead)* (Lab)
† Pennycook, Matthew *(Greenwich and Woolwich)* (Lab)
† Philp, Chris *(Croydon South)* (Con)
† Smith, Julian *(Skipton and Ripon)* (Con)
† Thomas, Mr Gareth *(Harrow West)* (Lab/Co-op)

Glen McKee, Katy Stout, Helen Wood, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 8 December 2015

(Morning)

[Mr James Gray *in the Chair*]

Housing and Planning Bill

9.25 am

The Chair: I welcome the Committee to what must be the penultimate day of our consideration of the detail of the Bill, given that it must be reported by 5 pm on Thursday evening.

Clause 104

Approval condition where development order grants permission for building

Stephen Hammond (Wimbledon) (Con): I beg to move amendment 190, in clause 104, page 48, leave out lines 30 and 31 and insert—

"(1) The Town and Country Planning Act 1990 is amended as follows.

(2) In section 60 (permission granted by development order), after subsection (1) insert—".

This amendment is consequential to amendments 191 and 192.

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

Amendment 191, in clause 104, page 48, line 42, at end insert—

"(3A) In section 70 (Determination of applications: general considerations), in subsection (1)(a) after 'permission' insert 'in whole or in part and'".

This amendment gives local planning authorities the same power as the Secretary of State presently has on appeal to grant planning permission for part of the development proposed in an application.

Amendment 192, in clause 104, page 49, line 3, at end insert—

"(4A) In section 78 (Right to appeal against planning decisions and failure to take such decisions), in subsection (1)(a), after 'it' insert 'in part or'".

This amendment gives local planning authorities the same power as the Secretary of State presently has on appeal to grant planning permission for part of the development proposed in an application.

Stephen Hammond: I share your excitement that this is our penultimate day of scrutiny, Mr Gray, and I am pleased to see you in the Chair.

Many of us have a number of developments in our constituencies that are mostly popular and enjoy almost universal acceptance, but have controversial aspects. I can think of three sizable potential developments in my constituency where a large amount of what is being proposed is universally popular, but small elements are not so popular. I can think of one within the last year to which that applies.

The three amendments would make a relatively small technical change that is absolutely in line with what the Government are trying to do—to bring forth more housing and more development more quickly. The thrust of the amendments is to give local planning authorities exactly the same power as the Secretary of State has on appeal to grant planning permission for part of a development proposed. Such a power would be useful where planning applications can be split into several different elements, one of which is acceptable. I can think of a regeneration scheme currently going through for the southern end of my constituency, large elements of which are popular, but there are two controversial elements involving the scale and density of certain housing.

The amendments would put into statute a power for planning authorities. At present, planning authorities have the implicit ability to grant a lesser permission by using some of the conditions—a relevant case is Kent County Council *v.* Secretary of State for the Environment 1976. The planning practice guidance says that express powers to issue split decisions were given to the Secretary of State and the inspectors in section 79 of the Town and Country Planning Act 1990 when it was amended, allowing the Secretary of State and inspectors to reverse or vary any part of the decision of any local planning authority where the approved part is severable or substantially different from the scheme applied for. Those factors need to be taken into consideration.

The three amendments have considerable support. The chairman of the board of the Planning Officers Society recently spoke in favour of such an amendment. The amendment would grant the ability on appeal to approve a scheme, the larger part or some parts of which enjoy great support, while other parts do not.

Mr Gareth Thomas (Harrow West) (Lab/Co-op): Will the hon. Gentleman give way?

Stephen Hammond: I will, but I am keen to move the Committee quickly.

Mr Thomas: It is always important to debate new provisions. In that spirit, I am grateful to the hon. Gentleman for giving way. I think of the proposal to redevelop the College Road site in my constituency. The bottom area, in which a new square is proposed to attract high-end restaurants and so on, is very popular, but the height of the overall development, at 20-plus storeys, is not popular. Might that development benefit from his amendment, or would it not be covered?

Stephen Hammond: From that limited explanation, I think it probably would be covered. As I said in my opening remarks, we all know developments where parts enjoy substantial support, yet some elements do not, particularly if the parts are severable from each other inside the application.

The amendments would allow a scheme to be approved in part. The purpose is to allow development to get under way more quickly. I accept that there will be circumstances where it is inappropriate or impossible to separate parts of schemes, but the amendments would allow developments and housing supply to happen more quickly, which is the thrust of the Bill. I hope that the Minister will either reassure me that his interpretation of the Government's interpretation of the guidance is sufficient—many planning officers do not think it is—or let me know what his thoughts are and whether there may be room for discussion before the Bill proceeds further.

Mr Thomas: Very briefly, and following up the hon. Gentleman's request for more information, I wish to talk about the planned development on the College Road site in Harrow West, which may or may not be covered by the amendment. The proposed development is in the centre of the shopping area in my constituency, so it is well known to most of my constituents. Many of them will be concerned about its height—potentially 20-plus storeys high, it might block out the iconic St Mary's church in Harrow on the Hill. If there was some way in which residents, or the inspector on behalf of residents, could intervene to express a view on the height, the other parts of the proposed development at ground level, which will refresh and improve a part of Harrow town centre that has been blighted by lack of development for some time, would be popular. It is the height that worries residents. If the hon. Gentleman's proposal for Wimbledon were to allow an inspector to vary something like the height of a development, I am sure his amendment would be of considerable interest to my constituents. I, too, look to the Minister with great interest to see whether his hon. Friend has managed to persuade him.

The Minister for Housing and Planning (Brandon Lewis): It is a pleasure to serve under your chairmanship in these last sittings of the Committee, Mr Gray.

Local planning authorities have the ability to issue planning permission for part of a development by way of conditions. The use of conditions in this way is restricted in case law so that what is granted permission by the local authority does not fundamentally differ from what the applicant applied for and the scheme consulted on. Best practice is only to grant permission in part with the agreement of the applicant, because to do otherwise can have a substantial impact on the wider viability of a development. The proposed amendment would remove those restrictions and allow local authorities to grant permission for something substantially different from the scheme that was applied for.

I have not had a chance to look at the amendment in much detail or to explore the potential impact, but accepting it would have a number of unintended consequences. They could include depriving the public of the opportunity to be consulted and to comment on an application that is different from the one that was actually applied for. That has serious implications. There may also be a risk of not complying with the requirements of regulations made in 2011 under the Town and Country Planning Act 1990 if the development is significantly different from that applied for and consulted on.

None the less, my hon. Friend raises an interesting question about the way these permissions in part can be and are used to get developments going where they are consensual and agreed, although it may take longer to work through issues relating to other parts of the development on a larger scale. If he will bear with me, I would like to consider this further and come back to him, perhaps outside the Bill. The question has been raised and is due wider consideration and consultation with the sector. For those reasons, I hope my hon. Friend will be able to withdraw the amendment.

Stephen Hammond: I raised these points because I was very keen to hear my hon. Friend's response, and I have listened carefully. He has been extraordinarily kind in giving me time to discuss some of these matters before the Committee. I heard his point about the unintended consequences and I hope that if he grants me further time, I will be able to persuade him that what I propose will not substantially alter schemes. I beg to ask leave to withdraw the amendment.

Amendment withdrawn.

Stephen Hammond: I beg to move amendment 193, in clause 104, page 49, line 3, at end insert—

"(4B) In section 106 (Planning obligations), after subsection (2) insert—

(2A) A local planning authority may enter into a planning obligation as a person interested in land and as the local planning authority, including an obligation by agreement in both categories."

This amendment empowers local planning authorities to make planning obligations binding their own land, for example, if they wish to grant planning permission prior to selling land for development.

Again, the amendment is designed to allow housing development to come forward substantially more quickly. The issue it deals with is relatively minor but relatively important. One of the thrusts of the Government's plans to bring forth more applications is to bring excess unused public land into use more quickly. Local planning authorities will often seek planning permission on their own land, either for their own schemes or to sell land with consent for development. Developers may also seek to get planning permission on the land when it is owned either in whole or in part by local planning authorities. Given that the Government intend to make public sector land available for development, I think it is highly likely that we will see more applications that fit in this category over the next few years.

At the moment, a planning obligation will bind the interests in land only of the parties to it. The problem—I accept it is relatively small—is that a local planning authority can enter into a planning obligation as the landowner, and there is concern about whether, legally, it can enter into an obligation with itself. As my hon. Friend will know, there is some case law that obscures whether this can happen, but if the local authority cannot do so, there will be some issues about how quickly that land can be brought into use. The attempts to get round this, as he will know, are complex, uncertain and likely to cause delay. This relatively simple amendment will allow a local planning authority to enter into a consent with itself.

Mr Thomas: I want to support the hon. Gentleman as a fellow London MP, but I think it would help him to gain the Committee's support if he could give us some examples of where the problem he describes has been enough to stop development going ahead. I do not want to cause him trouble or difficulty, but I want to see how serious the problem is.

Stephen Hammond: The hon. Gentleman will have noticed that I prefaced my remarks about the clause by saying that is a relatively small but nonetheless important point. It is likely to become more important as we see more and more unused public sector land released. I can think of a circumstance of a relatively small pocket of public land where a local authority was the owner, but was also acting as the authority in terms of granting planning permission to produce a scheme of, I think, 12 properties in part of my constituency. I know there are a number of planning experts on the Committee with much greater knowledge than I have who would be

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able to confirm the point that, although such cases may not be numerous, resolving the issue is complex and there may be problems in bringing land forward.

I am not suggesting that it is a huge problem, but a relatively small amendment to section 106 of the Town and Country Planning Act 1990 will authorise a planning authority to act as a party with an interest in the land as well as the planning authority granting an obligation. That obligation may be made unilaterally or by agreement, so it is important that it is legally acceptable when made by agreement. I look forward to the Minister's response. The amendment, rather than like my previous ones, would help the Government with its ambition to bring forward housing developments more quickly.

Brandon Lewis: It is vital that local authorities are able to mitigate the impact of unacceptable development and to make it acceptable for their communities in planning terms. Planning obligations play a key role, but the introduction of the community infrastructure levy has already reduced the need for such obligations in many circumstances. In recognition of the importance of planning obligations, we have made a commitment in our productivity plan in Government to introduce a dispute resolution mechanism for section 106 agreements, to speed up negotiations and enable housing starts to proceed much more quickly. We have also improved the guidance on the use of the obligations.

The amendment would allow local planning authorities to make planning obligations binding on their own land—for example, if they wished to grant planning permission before selling land for development. Planning permission can be granted subject to conditions, including Grampian or negative conditions, that require certain actions to be undertaken, and local authorities can include requirements in a contract of sale when they dispose of land. Although I will keep the situation under review, at this time I am not convinced that the amendment is required. I therefore invite my hon. Friend to withdraw it, while saying to him that perhaps outside of the Bill we can look at the matter further.

Stephen Hammond: My hon. Friend is, as ever, persuasive and logical in his argument. It would be appropriate therefore, on the basis of his reassurance that he intends to keep the matter under review, that I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Helen Hayes (Dulwich and West Norwood) (Lab): I beg to move amendment 284, in clause 104, page 49, line 3, at end insert—

"( ) When granting development orders, local planning authorities shall prescribe, in accordance with the objectively assessed needs identified in the Local Plan—

(a) Appropriate density;

(b) Suitable dwelling mix;

(c) Affordable housing required, and

(d) Community and social infrastructure requirements."

This amendment would ensure that development is suitable in planning terms on a site specific basis, and will also assist in controlling the price of land. The upfront identification of planning conditions will speed up the time it takes for developers to start on site, and also complete development.

The Chair: With this it will be convenient to discuss amendment 285, in clause 104, page 49, line 3, at end insert—

"( ) The Secretary of State must make regulations which—

(a) require sufficient testing of the land to be carried out before permission in principle may be granted, and

(b) ensure provision of adequate funding to carry out the testing in subsection (a).

In this subsection 'sufficient testing' means carrying out necessary studies and assessments to ensure that a site is suitable for the development benefiting from permissions in principle."

Helen Hayes: These are probing amendments, designed to explore further the concept of permission in principle and the Government's intentions in introducing it. There is considerable confusion regarding the concept and what it will mean for the English planning system and local communities. The Opposition wish to see a planning system that delivers the housing we need but does not override or overrule communities, or repeat the mistakes of the 1980s, when communities were built and developed and left without the facilities they needed to thrive and with no scope for future expansion.

I understand that there will be three types of permission in principle: sites included in brownfield registers, sites identified in local and neighbourhood plans, and straight applications made to local authorities. Already, permission in principle is starting to look confusing, since those three routes will have been subject to different levels of scoping and public consultation. It is not clear what needs to be known about a site or who needs to have commented on its suitability for permission in principle to be granted. A site that has been identified through the local planning process will have been consulted on. The consultation arrangements for brownfield registers are not yet clear, and an application made by a landowner or developer direct to a local authority might have had no consultation at all on the principle of development.

Permission in principle, as far as we can tell, will not set any parameters for development other than land use. A developer will know that housing can be built on a site, but not how much, or of what size or type, or what the design and quality standards must be. Importantly, developers will not necessarily know anything about the land on which they want to build, unless they have voluntarily undertaken investigations. I will set out why I believe that permission in principle as drafted offers nothing to local communities and little to developers, and why, as a consequence, it will fail to speed up the pace of development or to help to secure new homes.

The current development management process balances the interests of landowners and developers and local communities. Planning permission gives developers the certainty they need to unlock the finance for development, in return for having undertaken a rigorous process of analysis and design and consulted with local communities. Local communities have the opportunity to comment on and feed into the planning process and, where necessary, to make objections, in return for which parameters and safeguards should be written into the planning permission to help ensure the best possible outcomes for communities.

9.45 am

The certainty of a planning permission for both developers and communities rests in the content of that permission. For the developer, it rests in knowing how

many homes can be built and at what size; understanding the costs that must be absorbed to accommodate infrastructure requirements and environmental, heritage and archaeological constraints; and knowing that a process has been undertaken in which all opportunities to object to the development have been explored and agreement has been reached through a democratic process. Certainty for communities rests in knowing the details of what is proposed, understanding that the design is sympathetic to the local area, that the materials are well considered, that local amenities have been protected and new amenities provided for, that issues concerning much-loved local heritage or wildlife habitats have been carefully considered and that, if the developer breaches the conditions set out in the plan, there is a process for addressing it.

Permission in principle appears to divorce entirely the principle of development from the detail of development. In my view, and in my experience of working with communities on planning issues for almost two decades, that is as illogical as it is unworkable. For communities, the acceptability of the principle often depends on at least some aspects of the detail. Often, community views on a development are not binary. They are not as simple as yes or no; they are "Yes, if the buildings are made from local stone, not red brick," or "Yes, as long as we can still see that particular view," or "Yes to houses but not to flats," or "Yes, but only if new school places are provided to accommodate an increased population," or "Yes, but we know that there are some rare plant species growing on the site and we want them to be properly taken care of."

We know from the Government's track record over the past five years that a combined approach of increasing planning consents and deregulating the planning system is not helping the increased delivery of new homes. Against a backdrop of increased planning consents and continued deregulation, house building starts fell by 14% between April and June of this year. Amendment 284 seeks to ensure that permission in principle has a minimum level of content. That will benefit both developers and communities. The amendment states simply that permission in principle should include an appropriate level of density for the site in question, an indication of suitable dwelling mix, the affordable housing requirements for the site, and an indication of the community and social infrastructure requirements. Those are all areas of key focus for objections through the planning process.

Peter Dowd (Bootle) (Lab): Many of us remember the brutalist structures built in the 1960s and planned under Tory Governments in the 1950s, and we recognise how dreadful many of those buildings are. Does my hon. Friend have any fear that proposals such as the Government's will lead us back to those brutalist buildings?

Helen Hayes: One of the great concerns about the Government's proposals is that at present they contain no safeguards on quality of design, which our communities all care very much about. Which of us, as elected representatives, has not been asked to represent constituents objecting to a planning application because it is too tall, or too many homes are proposed, or because it is all small flats where the local need is for family-sized homes, or there is insufficient affordable housing.

Mr Richard Bacon (South Norfolk) (Con): Some of the best dwellings in the country are the old estates in central London, such as the Cadogan estate and the Belgravia estate. One thing that they have in common is that they are dense and tall. The hon. Lady said "too tall". Who is to say what is too tall?

Helen Hayes: I thank the hon. Gentleman for his intervention, but I am not sure he was listening to my comments. I was saying that many of us, as elected representatives, have been asked to support communities in objecting to applications involving buildings considered by the community to be too tall. The point I am making is that if the content of a permission in principle contains height parameters, it will reduce the scope for objections on those grounds, because the matter has already been resolved. Communities can be secure in the knowledge that the content on height has been agreed. That is the point that I was making.

Similar grounds for objection include concern that an application will leave the area too built-up without adequate open space, or that there will be too much pressure on schools or GP practices as a consequence of development. A minimum level of detail contained within a permission in principle, which could be stated within the local plan or within the listing on the brownfield register, or determined by the local authority where an individual applicant comes forward, will be helpful in giving a genuine level of certainty to developers and a genuine level of comfort to communities.

Mr Stewart Jackson (Peterborough) (Con): As an hon. Friend said to me just now, the proposal is not for in principle permission but detailed permission. It is the Stalinist tractor figures. The hon. Lady would be more compelling and persuasive in her arguments if there were any timescale to give effect to the changes. She will know that the uncertainty over permitted development rights, the conversion of offices into houses or flats, has stymied that development to a certain extent. To include the amendment in the Bill would do exactly the same thing and slow down the production of people's homes.

Helen Hayes: I thank the hon. Gentleman for his intervention, notwithstanding the reference to Soviet dictators, which is never a helpful contribution to political debate in this Parliament—I stand by that. He made a good point about the need for timescale and for the development management process to be rigorously managed. I agree with him on that point.

The content of permission in principle for which I argue could be contained in the entry on the brownfield register about a particular site. It could be part of the process of designating that site on the brownfield register. It could be part of the local plan process, and it could be something that the local authority designates when an applicant comes forward in person.

Without that level of detail, permission in principle is a very confused concept. It purports to be a move towards a zonal system but it misses the key point about the zonal system in countries such as the Netherlands, which is that all of the work required to give certainty through the planning process is undertaken in those countries during the plan-making stage. A zonal system that has comparatively little detail at the plan-making stage, and apparently even less detail in

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the planning permission stage, gives certainty to no one, will fail to minimise risk and may even succeed in increasing—

Seema Kennedy (South Ribble) (Con): Would the hon. Lady give way?

Helen Hayes: I would like to make a little more progress, if I may. It may even succeed in increasing alarm local communities, leading to further objections and challenges at the technical details stage.

The amendment is supported by the National Housing Federation written evidence that says:

"We believe that permission in principle should be broadly comparable with outline permission. So, for it to be granted, there will need to be clarity over the number of homes to be delivered, the tenure mix, the house type, the density and other permitted uses…and the permission in principle, should be time-bound to incentivise delivery."

Amendment 285 seeks to ensure that sufficient investigatory work is undertaken prior to permission in principle being granted to determine that the site in question is suitable for the proposed development. It would require the Secretary of State to make regulations on the information about a site that must be known before permission in principle is granted. The content of that information should be defined by the regulations, but obvious examples include heritage and archeological considerations, ground contamination, wildlife habitats and protected species, flood risk and rights of light to neighbours. There are several others.

It seems only sensible that planning permission in principle should not be granted on whim or a hunch but on the basis of a sufficient level of information for all concerned to be confident that the land is suitable and that development can be delivered.

It is not at all clear how permission in principle will relate to technical details consent, or that other forms of consent that are currently required in sensitive locations, such as demolition consent, listed building consent or conservation area consent, will still be required.

Historic England has presented a case study that illustrates the issue well: brownfield land in an historic town centre. It may be possible to judge without too much detail that 10 housing units might be developed on the site. Permission in principle could, therefore, be given, but what may be very serious is the impact on below-ground archaeology, the massing of the building and the style of the architecture. If these issues cannot be dealt with thoroughly at the technical details stage, then nationally important archaeology and historical places, which I think all of us on the Committee would agree that we value, could be seriously at risk.

Chris Philp (Croydon South) (Con): Is not the whole purpose of the technical details consent stage that exactly the matters the hon. Lady has referred to will get considered fully at that point, prior to full permission being given? If we try to force all these things to be considered at the in principle stage, it will simply place obstacles in the path of the in principle consent being given in the first place by making it much more difficult to achieve.

Helen Hayes: What I am not clear about is the relationship between in principle consent and technical details consent if something as significant as a Roman fort underneath a site or other important archaeological considerations emerges at the technical details stage that would override the suitability of the principle of development on the site. What is the relationship between the two forms of consent, and can development be refused on principle at the technical details stage? That is unclear, and many of the important stakeholders, including Historic England, the National Federation of Housing Associations, and the Town and Country Planning Association, have made representations to this Committee along those lines.

Mr Thomas: One thinks at the moment of the flooding that is taking place in many parts of the country. From time to time, there will be applications to build on a floodplain. Would my hon. Friend's amendment potentially give a developer an indication of what might be acceptable to be built on a site that is in a floodplain, bearing in mind the potential risk to exacerbate flooding down the line?

Helen Hayes: I thank my hon. Friend for his helpful intervention. What would arise from the adoption of amendment 285 is the provision in the regulations whereby development in flood risk areas, including the issue of whether or not a development is in the floodplain, should have been identified and that information set out prior to permission in principle being granted. That would give some security to communities that development is not being undertaken in an irresponsible way.

Dr Roberta Blackman-Woods (City of Durham) (Lab): I refer my hon. Friend back for a moment to the intervention from the hon. Member for Croydon South. I think that part of the discussion that we had in the Committee last Thursday was exactly about that question of what would happen if something has permission in principle but it is then discovered that the site is an important archaeological site. Can the permission in principle be removed? I think there was clarification from the Minister, but perhaps he could return to that issue at some point today to say whether or not the permission in principle would be removed on that basis.

Helen Hayes: I thank my hon. Friend for that intervention. In drawing to a close, I simply say that the amendments taken together seek to ensure that permission in principle is underpinned by a sufficient level of knowledge about the site and its context, so that it is genuinely meaningful both to local communities and developers. Without that, I fear that developers will find this device to be a hollow one that provides no certainty at all, and communities will simply be let down and will feel the need to object to and challenge the process at the technical details stage, or through the courts.

I hope the Minister will consider the amendments and provide reassurance about the issues I have raised.

Seema Kennedy: I will speak quickly about amendments 285 and 285, which were tabled by the hon. Member for Dulwich and West Norwood. Referring to what my hon. Friend the Member for Peterborough said, I think that the whole thrust of these clauses is to have permission in principle to allow people to start

building quickly, and attaching too many conditions would slow the process down. I speak as somebody who has acted as a developer, developing a piece of land that had been occupied by Courtaulds for 50 years. It is highly contaminated, but the cost of decontamination has been gradually coming down during the last 30 years.

I wanted to ask the hon. Lady about paragraph (a) in amendment 284. Are there not already adequate provisions in environmental law, land law and laws of tort that cover that material? She talked about risk and knowledge. Currently, there is a good balance in the Bill between the knowledge that a developer would have and the risk they are willing to take, whereas the paragraph (b) of the amendment would put more of that risk on to the taxpayer. Again, it would slow down the process and put more of the burden on the public purse rather than on the developers.

10 am

Dr Blackman-Woods: It is a pleasure to serve under your chairmanship again, Mr Gray. I rise to support the amendments in the name of my hon. Friend the Member for Dulwich and West Norwood. I seek further clarification from the Minister following our discussions on Thursday. Unusually, I want to thank him for putting the policy factsheet on permission in principle into the House of Commons Library yesterday. I think he intended to help us get a better understanding of what the Government seek to achieve in this part of the Bill.

Mr Thomas: When my hon. Friend found the Minister's policy statement, did she by any chance find attached to it the operational document that the National Housing Federation and the Government were apparently going to publish on how voluntary right to buy will work?

Dr Blackman-Woods: Unfortunately, unless I missed it, there was not an operational document attached. Perhaps that is something about which we will get some clarification from the Minister. After all, we do not have many sittings left to be enlightened about the contents of the operational document. Presumably, it will come forward very quickly indeed.

I was somewhat unusually in the middle of thanking the Minister for the document. However, unfortunately, when I actually read the document, I thought, "This provides more questions than answers about how permission in principle will operate in practice", so I have a few questions to ask the Minister this morning. There are now not three but four ways to get planning permission in this country. We know from our discussion on Thursday that the first way is through land being placed on a brownfield register. The second is clearly outlined in the factsheet, which states:

"The Bill will allow permission in principle to be granted automatically when housing is allocated in future local and neighbourhood plans or identified on brownfield registers."

We need clarity from the Minister on that very strange wording. Does "future" mean "from now on"? In other words, does it mean that all of the current plans that have been adopted are not the plans on which permission in principle will be granted? Does it mean that it will be granted for new plans that will presumably start at some time that will be set out in regulations? Does it apply to neighbourhood plans that perhaps were approved just last week following a referendum? The factsheet very clearly says "future", so one has to assume that it does not mean the ones that are currently in existence.

That is a really important point, because in our discussion on Thursday it was suggested that permission in principle will be attached to plans that have already been adopted. We are totally unclear, on the basis of that document, about which plans we are talking about. Are they the ones that have been adopted? Will there be a new system where all the plans have to be redone? Will they go through a process that we do not know about at the moment so that permission in principle can be given? I was really surprised to see that in the document following our discussion on Thursday when no mention was made of the confusion about what plans we might be talking about.

There is a third possibility for getting planning permission, which seems to go direct to the local authority. A paragraph in the document states:

"Recognising the specific challenges that developers of smaller sites can face, the Bill will also make provision for permission in principle to be granted for minor development on application to the local authority."

Through what process will they make an application to the local authority, and what role will there be for local people having a say? Do the sites have to already be on the brownfield register, or is this in addition to the register? Such matters are incredibly important and will affect all our constituencies and our constituents' ability to have a say over what development takes place in their area.

I have another question for the Minister, although how he will answer when he is not listening is beyond me. Nevertheless, the document states:

"Permission in principle will only be granted where development is considered to be locally acceptable in principle."

How will that be known? By what process will people be consulted to give their views on a development, particularly since the paragraph above states that developers can go direct to the local authority? We do not know whether that bypasses the local community or whether it goes via the brownfield register or a local or neighbourhood plan. Those are my questions.

The final mechanism for getting planning permission is where a local authority is designated and people can choose to go directly to the Secretary of State to get planning permission. There could be four ways to get planning permission, or there could be three ways. We are not absolutely clear. Unfortunately, the document, which I know was intended to be helpful, has not given us the answers that we sought on Thursday. Perhaps the Minister will come back and clarify the issues for us this morning.

There are a couple of other matters in the excellent amendments tabled by my hon. Friend the Member for Dulwich and West Norwood that need to be emphasised. The document that was placed in the House of Commons Library yesterday states:

"The Government has engaged widely with a range of key stakeholders with different interests—including local government, planning sector, house builders, other developers, lenders, and environmental and community groups. This engagement has been tremendously useful and has influenced our thinking. We look forward to continuing discussions as we further work up the finer details, and expect to publish a detailed consultation later this year."

[Dr Blackman-Woods]

Who have the Government consulted about the proposals in the document? Yesterday, I contacted several local authorities, a few developers, and some of the main planning umbrella organisations. None of them had been consulted on the proposals. If the Government are going to put that in a document in the House of Commons Library, we need to have some information demonstrating to us who has been consulted and what they said. The summary on my piece of paper does not tell us what they said, let alone who they are. That is a major problem for us when debating the clauses. There is no doubt that it is helpful to have that document, but it would have been more helpful to have had it last week.

Yesterday, we got two consultation papers—one on the equality statement on the proposed changes through permission in principle and other elements of the Bill, and one on the operation of permission in principle—but I hope it will not have escaped members of the Committee that we discussed some of those issues on Thursday afternoon, in advance of the consultation papers being issued. I am not sure whether that is just tardiness on the Government's behalf or whether there is more to it, but hopefully we will be able to return to the contents of the consultation documents at some later stage, because they go through a lot of the issues that my hon. Friend the Member for Dulwich and West Norwood questioned earlier about the exact nature of brownfield and how the Government will define "affordable housing". All those sorts of things are in the consultation documents.

Personally, although the Minister might have a different view, I think it would have been helpful if those consultations had taken place in advance of legislation being produced, rather than afterwards. It is not clear whether significant elements of the Bill will be able to be changed as a result of that consultation exercise because the Bill will probably have completed its passage through Parliament before the consultation reports. That begs the question of why the consultation is happening now. Perhaps the Minister will enlighten us on the consultation's exact purpose.

As my hon. Friend said, these important concerns are not only being raised by Opposition Members. A number of people have written in to comment. I have brought a sample of five or six to mention this morning, but many, many different organisations from across the planning and housing sector have written in to say, "Look, we don't really have a problem"—this is where we all are—"with permission in principle as a principle, but approving legislation without knowing exactly how it will operate and without ironing out the issue of what happens with regard to material considerations or technical details that happen, or are discovered, further down the line is a huge problem."

Wildlife and Countryside Link reminds us all that the clauses are "profoundly radical" and are some of the most contentious in the Bill. Wildlife and Countryside Link says that we are allowing

> "the Secretary of State to create a development order, for any land allocated for development in a qualifying document… that gives permission to development in principle."

Wildlife and Countryside Link says that the Bill allows the granting of permission in principle whether or not the qualifying document is in place, or even in existence, when a local development order is made. That is getting to the nub of the question because, if the Wildlife and Countryside Link is correct, I do not see how it fits with what the Government are saying in this document—the one they put in the House of Commons Library—about future development plans and neighbourhood plans. Or are they in fact saying that this will be some future document, and it does not matter whether it is in existence at the moment because the Secretary of State will be able to grant permission anyway?

Does the document have to be in place? Is it a future document? How is the Secretary of State going to take note of that document? Does he need to take note of it, or can he just decide himself that site A in area B shall have permission in principle because someone has made an application directly to him?

10.15 am

Mr Bacon *rose—*

Mr Thomas: Is it about self-building?

Mr Bacon: I will ignore that comment from the hon. Member for Harrow West and concentrate on my intervention. We have had enough parping from him for one day already. Does the hon. Lady think that it is just possible that the Secretary of State might choose to exercise his or her discretion? Where and when local communities are getting on with it and producing high-quality local neighbourhood plans, that can carry on, but where people—as is often the case—are taking longer than it took to fight the second world war to produce a local plan of any kind at all, the Secretary of State should have the power to act, and that is what the Bill gives him or her.

Dr Blackman-Woods: The hon. Gentleman makes an interesting intervention, but those two issues need to be separated. The first question to be asked, arising from what I think was the first part of his intervention, is: do we want a planning system where the Secretary of State has discretion to say that site A in area B can have a development?

Mr Bacon: Will the hon. Lady give way?

Dr Blackman-Woods: I will in just a moment, after dealing with the second part. The second question is: do we want a plan-led system that operates within fairly tight timeframes, and does not go on for years and years before a plan is produced? The answer is that yes, of course we all want that. We set out proposals in the Lyons review that would greatly speed up the plan-making process. We are all saying that we want our system to be plan-led. The question for the hon. Gentleman is: how does that sit with the discretion for the Secretary of State? Does the Secretary of State then have to take note of the local plan, or does he not?

Mr Bacon: The answer to the hon. Lady's question is that I want a planning system that works—one that occasionally has a bowel movement—rather than to hear the authentic voice of the planning blob, which we have been listening to for the past three quarters of an hour.

The Chair: Order. Before the hon. Lady replies to that point, I am allowing a fairly wide-ranging stand part-type debate on this, and so I will not call her to order. None the less, we should remind ourselves of the amendments which we are considering at the moment.

Dr Blackman-Woods: Thank you, Mr Gray.

We know that the Government's productivity plan indicated that the proposals for permission in principle would relate specifically to brownfield land, but the Bill itself—I think the Minister confirmed this on Thursday—places no such limitations upon it. Given the three methods that can now lead to permission in principle, this could be fairly widely applied. If it is going to be so widely applied, I hope that in his summing up the Minister will say what will happen to local communities, how they will have a say, and in particular what will happen if they are really unhappy about some of the details. My hon. Friend the Member for Dulwich and West Norwood was right to say that although people might have concerns or objections about building in a particular area, often these can be alleviated or ameliorated with some discussion about the type of materials to be used, or by more land being given over for environmental benefits or something of that nature. We are absolutely not clear how that happens in this case.

Peter Dowd: Does my hon. Friend agree that this is one of the most centralising pieces of planning legislation that this country has ever seen, dressed up as localism?

Mr Thomas: Stalinist!

Peter Dowd: Indeed, it is almost Maoist. Does my hon. Friend the Member for City of Durham agree that the reality is that local people would rather trust local decision makers than centralised diktats from Secretaries of State?

Dr Blackman-Woods: My hon. Friend makes a powerful point and comes to the nub of what I want to ask the Minister. As requested by Wildlife and Countryside Link and many other organisations, he needs to confirm that the measures are not a contravention of article 6 of the Aarhus convention, which was ratified by the UK Government in 2005. I am sure the Minister knows, because he studies the convention over breakfast in the morning to ensure that all planning decisions that come to the Department do not contravene it, that the article sets out standards for public engagement, with particular regard to ensuring a strong local agenda. It is public engagement in its widest sense.

People are concerned that the Government proposals simply ditch the entire localism agenda and that they are instead adopting, as my hon. Friend just said, a highly centralist and top-down approach to how planning permission is granted.

Returning to public participation, because of the many ways in which people can get planning permission, the new system will be difficult to navigate not only for the public, who may want to have a say, but for developers, who will have to choose between three or four routes—we do not yet know how many—of getting planning permission. That seems unhelpful.

To emphasise what my hon. Friend the Member for Dulwich and West Norwood said earlier, we learned from the Minister on Thursday that there are no time limits, so if a developer gets permission in principle through a mechanism about which we are not entirely clear at this point, it is possible that nothing will have happened 15 years down the line. What incentive does the system offer for a developer to build once it has permission in principle? It could simply do as developers do at the moment and hold on to pieces of land until the market improves. According to its market model, a developer may want to build 400 houses in a neighbouring borough and hold on to the piece of land until there is a downturn or something of that nature. The National Housing Federation wrote specifically about the proposal that it

"should be time-bound to incentivise delivery."

We totally agree. Without time limits, we cannot see how the change will speed up planning and the delivery of new housing, which is what we all want. Planning is one thing, but getting houses built is what is really important. We just do not see how the measure will achieve that end without some timeframes.

I want to speak in support of paragraph (a) and also briefly on paragraph (b) proposed in amendment 285. It is incumbent on all of us, but in particular the Minister, given that it is his responsibility, to ensure that if additional burdens are placed on planning departments or a strong role is required from them to make these measures work, local authorities are given the resources to undertake that work. We know that they have had a 46% cut in funding in the last five years and that fees are not set at full cost recovery, so taxpayers make up the approximately £450 million needed to make planning departments function. A number of people have told us that this is a serious issue. It needs a serious response from the Government about how they are going to get the necessary resources into planning departments so that they can deal with planning well, respond quickly and easily to inquiries from the public and, critically, from developers, and turn round planning applications, technical details consent or anything that the new system requires of them both quickly and professionally. Without any measures in the Bill to tackle the lack of resources we cannot see how local authorities can respond in the way that the Minister expects.

Chris Philp: It is a pleasure to serve under your chairmanship, Mr Gray. I will endeavour to be a model of brevity in opposing amendment 285—[Hon. Members: "Hear, hear!"] That is the most popular thing I have said so far.

I spent the five years prior to coming here running a business that financed residential development. I can tell the Committee that a grant of permission in principle is of great use to financing organisations in offering finance either to acquire land or to fund the professional fees associated with developing it. Even though not all the technical details will have been signed off at that stage, it will give both funders and the prospective developer a huge amount of confidence and a measure of certainty that a particular kind of development scheme can be brought forward. As such it will be extremely valuable and will undoubtedly expedite the process of development.

On the question of technical details raised by the hon. Lady the Member for Dulwich and West Norwood, I think it is reasonable that they are dealt with later. If we insist on them being dealt with up front, there will be

[Chris Philp]

significant associated costs that may deter acquirers of land or developers from proceeding with a project. If the subsequent technical investigation uncovers problems such as bats, newts or Japanese knotweed, developments can be fine-tuned to address those issues in granting detailed consent.

The hon. Lady mentioned Roman forts. My father is an archaeologist and has encountered many Roman forts in his career. It is generally possible to reconfigure developments to avoid causing disruption: for example, my father was involved with a Roman fort in Dover that was going to be destroyed by a road, and they simply lifted up the road to go over the Roman remains. There are always ways of changing developments to resolve whatever problem subsequent technical investigations uncover. If the hon. Lady looks in the basement of many buildings in the City, she will see Roman remains that have been preserved.

Helen Hayes: The hon. Gentleman is making a helpful contribution. I am fully aware that in almost all circumstances it is possible to accommodate any constraints that might be found on a development site. The point is simply that there is a significant cost in doing that. If a developer is entirely unaware that the problem exists or even the potential that a problem exists, they may be biting off more than they can chew in seeking to bring forward that development.

Chris Philp: To that point I would say "Caveat emptor"—buyer beware. The developers should assess risk. If they choose to take the risk of not having done those investigations, that is their problem. Moreover, once they have got permission in principle, they will have the confidence to invest the money required to undertake those investigations.

Mr Bacon: It is not also true that, were a developer to find that he or she had bitten off more than they could chew, in the words of the hon. Lady, then with the development in place it would be easier to sell on to another person or developer who could take the project forward?

Chris Philp: My hon. Friend is quite right. I also agree with my hon. Friend the Member for South Ribble, who said earlier that paragraph (b) of amendment 285 is unreasonable in proposing that local authorities bear the cost of these investigations. That is quite wrong. The developer who stands to profit should bear the cost of those investigations. That is currently the case and I believe it would be the case under the Bill. For those reasons I strongly oppose amendment 285.

10.30 am

Mr Thomas: I very much enjoyed the speech by the hon. Member for Croydon South, but I want to take the Committee back to the issue that underpins some of the Government's intentions in this part of the Bill: the price of land. The price of land in London is probably the single biggest constraint on housing development, and in particular helping small housing developers to enter the market. I therefore find myself torn on the question of permission in principle. I recognise that for some developers it is potentially a helpful tool, but I worry that it will exacerbate the rise in land values in certain places, notably London, where by any definition land prices are rising extremely fast. Amendment 284 would help to control—a little—the cost of land for development by setting out clearly the expectations of the community in its broader senses for a particular spot of land.

I raised in interventions the example of the College Road site in Harrow town centre; it is the site of the former post office, which has lain empty and earmarked in theory for development for 10 years and more. Part of the reason for the failure to develop that site is that the purchasers bought it when land values in Harrow were at their highest, they had unrealistic expectations of the value they might extract from the site, and as a result they finally had to sell the site off. If the requirements in amendment 284 had been on the statute book 10 years ago, that developer might not have rushed quite so quickly to buy the site, or, if it had bought the site, would at least have had some sense of the community's expectations of what might be appropriate on that site. In that sense, I think it is a helpful amendment.

I come to the example of flooding I gave in an intervention on my hon. Friend the Member for Dulwich and West Norwood. I think in particular of a site in Keswick in the Lake district, which has been subject to particularly heavy flooding. I am sure the whole Committee sends its support to the people of Keswick, who have been so badly affected by flooding. I think of a small industrial estate in Keswick which houses a number of business and, indeed, a small museum, which might in future be a development site. However, it is close to the River Greta, which has once again flooded, despite some flood alleviation measures put in place since the last time it flooded. With amendment 284 in place, Sir James—

The Chair: Order. Unless the hon. Gentleman has heard something that I have not, it is just Mr Gray. One day, perhaps.

Mr Thomas: You should be knighted for your service on this Committee, but I appreciate your guidance, Mr Gray.

There is a general need to give would-be developers on a floodplain some sense of what might be acceptable so as not to exacerbate the flooding risks.

Dr Blackman-Woods: My hon. Friend is making a powerful point. Is this not where paragraph (b) of amendment 285 would be extremely helpful? After the previous intervention, perhaps I should clarify that that paragraph would require the Secretary of State to ensure the provision of adequate funding to carry out the testing that is needed. That testing might be for the risk of flooding.

Mr Thomas: My hon. Friend makes a good point and I look forward to hearing the Minister's response.

Ministers have occasionally said that they want to help small and medium-sized house builders to increase their market share. Giving those developers much more certainty about what would and would not be acceptable on a site would surely reduce their costs over time and increase their chances of accessing sites that they can afford.

I would have thought that amendment 284 would appeal to the Government, given their enthusiasm for starter homes. Giving greater clarity to would-be developers about the proportion of starter homes required on a site as part of the suitable dwelling mix that a community might expect would surely both encourage the starter homes initiative that the Government want to push and give more certainty to developers.

Finally, I come to the question of the re-election of the hon. Member for South Norfolk. I paraphrase it in those terms because he prayed in aid with enthusiasm tall buildings in central London. I worry that his constituents might not share his love of tall buildings. I see their virtue in places such as Croydon; I am not quite so enthusiastic about the prospect of having them in central Harrow, and nor are my constituents. I have to confess that I do not know, but I suspect that the constituents of South Norfolk would not be too enthusiastic about the prospect of 20-storey blocks of flats being part of developments there or in the surrounding area.

Mr Bacon: I can resist no longer—the hon. Gentleman is such fun. I am not suggesting 20-storey blocks of flats in South Norfolk or anywhere else. I pointed out that the Cadogan estate in Chelsea has slightly higher blocks. If he visited the self-build project known as "Elf Freunde"—meaning 11 friends; it is a German footballing pun—in central Berlin that produced 11 four-storey terraced houses for €220,000 each, he would see what I am talking about.

Mr Thomas: The hon. Gentleman provokes me to return to self-building and custom house building in a minute.

The Chair: Very briefly, perhaps.

Mr Thomas: Well, it is an important point, Mr Gray. I was not for a moment suggesting that the hon. Gentleman would be enthusiastic about a proposal for tall buildings, but there would be much less likelihood of his constituents being provoked by an application for an unnecessarily high development if the provisions in amendment 284 were on the statute book and would-be developers in South Norfolk knew that the community, South Norfolk Council and so on did not expect a development of more than, perhaps, 11 storeys, as I think he referred to in his Berlin example—

Mr Bacon: Four storeys; 11 houses.

Mr Thomas: Oh, I beg his pardon: a development of four storeys, or even fewer. That would help to give some confidence to the community about potential developments. If the hon. Gentleman were to have the courage to resist the power of the Government Whips Office and back the amendment, I have no doubt that he would be smoothing the path a little to his re-election.

The hon. Gentleman provokes me to speak about self-build and custom housebuilding—

The Chair: Strictly in the context of the amendment.

Mr Thomas: Indeed, Mr Gray, this is within the context of the amendment. Paragraph (b) of amendment 284 would give local authorities and broader communities in South Norfolk, Harrow and Dulwich and West Norwood the opportunity to send a signal that they want more self-built or custom built properties on a particular site. I hope that the hon. Member for South Norfolk would want to see a housing co-operative designated on many of the sites. Paragraph (b) offers the hope that some local authorities might want to do even more on custom and self-build. In that spirit, I support the amendments of my hon. Friend the Member for Dulwich and West Norwood.

The Chair: Mr Jackson.

Mr Jackson: Don't say it with such enthusiasm, Mr Gray. It will not be that bad, and I think I will be brief.

The Chair: It is simply that the hon. Gentleman was not standing up, so I was questioning whether he was seeking to catch my eye. If he wants to speak in the debate, he ought to stand up and let me know that he wants to speak.

Mr Jackson: My Whip is giving me a strange look, so I will be quick. Before I start, I should parry the hon. Member for Bootle with hideous monstrous socialist carbuncles. I offer him the Chalkhill estate in Wembley and the Stonebridge estate in Harlesden as two great results of socialist architecture.

Moving on, the amendments are intellectually incoherent. They pray in aid a commitment to localism and local autonomy, but were they ever given effect they would be very prescriptive and present serious impediments to new house building. In fact, they would kill stone dead many marginal prospects for regeneration on brownfield sites across the country, and that is a serious concern.

Peter Dowd: It is a shame the hon. Gentleman mentioned brownfield sites, because I know one or two things about them, certainly in terms of my constituency. He talks about the amendment killing marginal developments, but some of the sites are so contaminated that the developments should be killed. The contamination is dreadful. The concern I have, which is missed out of these measures and I would like the Minister to comment on, is the testing done on those sites, which can be incredibly dangerous. Those tests should be done and should be codified.

Mr Jackson: In fairness, I do not know the hon. Gentleman's constituency as well as he does, but I have visited Bootle and seen the challenges with regeneration across Merseyside, with Scotland Road, Rock Ferry, Tranmere and other parts of Wirral. Looking at the whole country, there are marginal regeneration cases that have resulted in good-quality housing.

My second criticism of the amendments tabled by the hon. Member for Dulwich and West Norwood is that there is no context. The context is that there are structure plans and local development plans that have gone through the proper processes of public engagement and formal consultation, and those plans are subject to the strictures imposed in primary legislation, including the Town and Country Planning Act 1990. A local planning authority should come to a settled view on what it wants to do with its land. The clue is in the name; the measure is a permissive capacity for the Secretary of State to intervene in extremis where a local authority has not brought forward appropriate land use plans. As my hon. Friend the Member for Croydon South said so eloquently, to

[Mr Jackson]

put these strict impediments on the face of the Bill would kill stone dead attempts to build more homes and to develop marginal units.

On the points made by the hon. Member for City of Durham, I was concerned by land banking so I looked at the Local Government Association figures from 2012. When one looks below the surface at the facts, the No. 1 factor in this was the capacity and expertise of the planning departments. If a legal duty is imposed on those planning officers to spend significant amounts of public money, both in consultation and viability assessments for these units, it would reduce the capacity of those local planning authorities to give permission. We need to look at the Secretary of State's plans in that context.

10.45 am

Dr Blackman-Woods: Is the hon. Gentleman suggesting that permission in principle should be given without adequate testing of those sites being carried out? We heard from the Minister on Thursday that it does not seem to be possible to remove permission in principle if subsequently a technical detail means that the development should not go ahead.

Mr Jackson: We already have a vast array of assessments and objective criteria by which we measure developments. We have the local plans, structure plans, site location plans and viability assessments. We have vacant building credit, for instance, which is now in court as the result of a legal case. We have plenty of opportunities for engagement, even without talking about neighbourhood plans. The idea that the first base of the Secretary of State is to intervene straightaway is nonsense.

Finally, it ill behoves being lectured on localism by a party responsible for home information packs, eco-towns and the disaster of regional special strategy with Prescott's density and parking targets, which gave rise to some of the worst-quality housing we have seen in this country since the war.

Brandon Lewis: It has been enlightening to have effectively a second clause stand part debate on clause 102. The amendments clearly relate to clause 102, so I will respond to them in that context.

I was particularly taken by my hon. Friend's comments about the Roman forts. I would encourage his father to visit the Caister Roman fort to see how we do it in Great Yarmouth and give us some views on how to get some development around that.

I was amused by the comments of the hon. Member for Bootle about a centralist approach, which I assume were tongue-in-cheek. In his opening remarks, my hon. Friend the Member for Peterborough perfectly summed up what the amendments do. Having been a councillor for 11 years under a Labour Government, I know what centralism in local authority planning terms feels like.

With the best will in the world, the amendments in the name of the hon. Member for Dulwich and West Norwood miss a key point, which is that permission in principle is driven locally—planning permission in principle will come through decisions made by local people in their local communities. That is a fundamental fact. I know the hon. Lady was not here when we touched on that at the end of last week.

Amendment 285 would require the Secretary of State to set out in regulations that sufficient testing of a site must take place before permission in principle is granted. The regulations also set out that adequate funding is provided to carry that out. I will come back to that in detail in a moment.

I have two fundamental concerns about amendment 285. First, prescribing the particulars to be addressed when granting permission in principle builds unhelpful rigidity into the process. My hon. Friend the Member for Croydon South made the point very well. We have been clear that we consider the particulars to be granted permission in principle should be use, location and amount of development. The approach taken in the Bill is a prudent, balanced one that allows for the particulars to be set out in secondary legislation. It gives us the flexibility to ensure that permission in principle works as intended.

My second concern is the detailed nature of the issues that amendment 284 requires to be fully addressed at the permission in principle stage. We have been clear from the very beginning that, in order for the measures to deliver real change in unlocking sites and avoiding unnecessary costs, permission in principle should give up-front certainty on the core matters underpinning the basic suitability of a site, namely its use, location and amount of development, and allow matters of detail to be agreed subsequently, as we have outlined before.

Amendment 284 proposes that matters of detail, such as density, affordable housing provision, community and social infrastructure requirements, be settled at the permission in principle stage. Let me be clear that those are matters that should be addressed before development is allowed to proceed, and the local planning authority may well consider them when deciding whether to grant permission in principle. However, if we were to require those to be covered by permission in principle, far more detailed information and analysis would be required, which would entirely negate the value of the Government's measures and effectively duplicate the existing outline planning application process. Matters such as affordable housing contribution and community infrastructure provision will be agreed and negotiated at the technical detail stage, in line with local and national policy.

On amendment 285, clause 102 will enable permission in principle to be granted when a site is allocated in qualifying documents. The Secretary of State will prescribe a qualifying document only if it has been through a suitably robust process, including public consultation and a site assessment. We intend to set out in secondary legislation that the qualifying documents will be local plans, neighbourhood plans and the brownfield register. Before allocating a site in a local plan, as I am sure Members will appreciate, local authorities already go through a detailed site investigation and assessment process as part of their strategic housing land availability assessment.

In the neighbourhood planning context, the neighbourhood planning qualifying body should carry out an appraisal of options and an assessment of individual sites if it intends to allocate sites for development. Any such appraisals carried out by qualifying bodies are subject to scrutiny by both the local planning authority and an independent examiner. Neighbourhood plans also go through a full referendum of the local community. That is absolute local power in the hands of local people—true localism.

Therefore, extremely robust testing already exists in plan-making processes, and the whole purpose of the permission in principle model is to draw on that and make the best use of all the local effort, detailed work and resource at the plan-making stage, so that we get back to what we should be aiming for, which is a plan-led system. As the Government's measures propose to utilise existing plan-making processes, we do not anticipate additional burdens on local authorities.

Dr Blackman-Woods: Can the Minister deal with the point about the nature of qualifying documents? People will have been involved in a process to put local plans in place, and in a consultation system, but they will not have understood that that will lead to permission in principle, because it was not there when they were involved in the previous process. Will the measures apply to plans developed from now on, or plans already in existence?

Brandon Lewis: Local people go through the process in the full knowledge that they are looking to allocate land. One frustration expressed by areas—while travelling around the country, I have spoken to people in a lot of areas that have done both local and neighbourhood plans—is that they go through all that work and must then effectively do it all again for every individual planning application, which defeats the object of the work that they have done in the first place. Our proposals will back up the work that they have done.

I finish on this point. On the brownfield register, I can reassure the hon. Lady that we intend to require local planning authorities to assess the sites that they propose to put on local registers against criteria to be specified in regulations. That will ensure that the sites are suitable for housing. We will shortly consult on our proposed criteria. We expect them to assess whether sites are available and capable of being redeveloped for housing, and whether development is viable. Local planning authorities already take such matters into account when assessing potential sites in their strategic land availability assessments. Local authority decisions will have regard to the national planning policy framework and to local plans. Our intention is that local authorities will draw on existing strategic housing land availability assessment processes as much as possible to identify and test the suitability of sites for inclusion on the brownfield register.

We also have a rigorous new burdens assessment process in our Department to ensure that local planning authorities receive the relevant resources to meet their statutory obligations. I therefore ask the hon. Lady to withdraw the amendments.

Helen Hayes: I thank the Minister for that explanation. It is good to hear proposals regarding some of the detail that might be included in the requirements for the brownfield register and the assessment process.

I remain unclear about the status of the proposed third route to gaining permission in principle—direct application to the local authority. I am unclear whether it might be possible to apply to a local authority for permission in principle for a site that is not on the brownfield register or in one of the other qualifying documents. If that is the case, what requirements for assessment and consultation will there be?

I want briefly to address Government Members' comments about paragraph (b) in amendment 285. That proposal does not necessarily imply that costs should be borne by the taxpayer; it simply says that the Secretary of State should make provision for regulations that ensure there is adequate funding. Funding for local authority development management functions is an important issue, and we will return to it in the debates on some of the new clauses.

Points were made about environmental and other regulations, and I want the processes and guidance around permission in principle clarified. The hon. Member for South Ribble referred to her own experience, and I am sure that, as a developer, she was experienced and responsible in the projects she undertook. However, I have come across many developers in my constituency who have taken on sites, even under the current system, without knowing some of the constraints in terms of what lay under the ground or, sometimes, the demolition of the buildings on the site. Constraints exist anyway, and it is important that they are acknowledged up front in permission in principle. Unless they are, permission in principle becomes the emperor's new clothes of the planning system—a piece of paper that purports to give someone permission, but which, when we delve down into the layers of detail and the constraints, offers only short-term certainty, leading to a whole lot of expense and heartache in the long term.

These were probing amendments, and I would like to return to this issue on Report, when we may have seen further detail from the Government. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

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

New clause 19—*Granting of planning permission: change of use to residential use—*

"After section 58 of the Town and Country Planning Act 1990, insert—

'58A Granting of planning permission: change of use to residential use

(1) efore planning permission is granted under section 58(1) for change of use of a building to residential use as dwellinghouses, the body considering granting planning permission must consider the impact of noise and other factors from buildings which have been in continuous and unchanged use for at least a year in the vicinity which would affect the amenity and enjoyment of the residents of the dwellinghouses.

(2) Where planning permission is granted under section 58(1) for change of use of a building to residential use as dwellinghouses, the permission must include conditions imposed on the persons granted planning permission in respect of the building changing use to—

(a) eliminate noise between the hours of 10pm and 6am from neighbouring buildings which have been in continuous and unchanged use for at least a year before the permission is given; and

(b) counteract any other impact seriously impairing the amenity and enjoyment of the residents and prospective residents of the dwellinghouses arising from neighbouring buildings which have been in continuous and unchanged use for at least a year before the permission is given.'"

This new Clause would ensure that residents of buildings converted to residential use are protected from factors, particularly noise, affecting their amenity and enjoyment. Such measures shall be the responsibility of the agent of the change of the permission.

New clause 20—*Permitted development: change of use to residential use—*

"Where the Secretary of State, in exercise of the powers conferred by sections 59, 60, 61, 74 or 333(7) of the Town and Country Planning Act 1990, makes a General Permitted Development in respect of change of use to residential use as dwellinghouses, the change must first be subject to prior approval in respect of the impact of the amenity and enjoyment of the prospective residents of the dwellinghouses arising from neighbouring buildings which have been in continuous and unchanged use for at least a year before."

This new Clause would ensure that residents of buildings converted to residential use are protected from factors, particularly noise, affecting their amenity and enjoyment when buildings are converted to residential by virtue of a General Permitted Development order. Such measures shall be the responsibility of the agent of the change of the permission.

I should make it plain to the Committee that I have allowed a fairly extensive, Second Reading-type debate on the content of the clause, so anyone who wishes to make any remarks should focus those on the two new clauses.

Dr Blackman-Woods: I rise to discuss one of my passions: permitted development and what we do to try to overturn the changes the Government have made to permitted development rights. The new clauses tabled by my hon. Friend the Member for Barnsley East (Michael Dugher), myself and other hon. Members are extremely interesting and important. They seek to draw to the Minister's attention a problem that has arisen from the granting of permitted development, with the conversion of office accommodation into residential accommodation.

To try to crystallise where we want to get to with the new clauses, let me explain what often happens under the change of use procedure, as property moves from office to residential. The new residential block, which might be in a commercial or retail area, could have a music venue next to it. That venue could have been there for many years, not causing a problem to anyone, but then it finds a residential block next to it and many people who are unhappy about the noise.

11 am

The issue is significant enough to have attracted a number of news reports and for the Mayor of London to have produced the "London's Grassroots Music Venues Rescue Plan", a report that came out of the music industry and some others. Small music venues act as important centres for cultural activity in our towns and communities. Grassroots music venues in particular act as important hubs for local music talent, offering a means by which musicians and performers may cultivate and nurture their creativity. Such venues are important to the future of the music industry in this country. The Mayor of London's music venues taskforce report of October stated that grassroots venues in the capital had declined in number by a huge 35% in the past eight years. The new clauses seek to introduce measures into the Bill that would help to arrest that decline.

The report gives evidence to support the view that the decline in the number of venues has continued in lots of different areas and in a moment I will talk about some of its suggestions. The London Mayor commissioned the report, though it was driven by the music industry itself, but the issue is not peculiar to London. It is important to emphasise at an early stage in this debate that other cities are affected: Birmingham, Manchester, Edinburgh, Glasgow, Bristol, Plymouth, Newport and Swindon, to mention only a few. They have expressed concerns about the threat to their music industry, in particular from the change of use from office to residential.

Smaller towns are also affected, because of the restricted space that might be available in such areas and the restricted number of opportunities for music venues. Small towns could be most affected by even one block changing from office to residential without consideration at any stage in the process of what surrounds the office block and what problems might arise for residents.

I will be extremely brief about this, but the problem was pointed out to the previous Minister for Housing and Planning. When the far-reaching changes to permitted development were proposed, a number of us made important points about who was going to do the checks for prior approval and what prior approval encompassed. In the scheme that we ended up with, issues of that nature were not considered appropriate for prior approval, which is very much about traffic and other more technical aspects and not about whether the area is generally suitable for a change from office to residential. At the time, the Government suggested that the permitted development changes would be temporary, but now they are being made permanent.

It is the permanency of the changes that has added such acute tension to the industry, because of concerns about the extent to which developers proposing change from office to residential might have been held back by the temporary nature of the measure. They might have wondered whether they would get a development done on time, but now they will have complete carte blanche. We know we need more housing in this country and that office to residential might be a mechanism to achieve that. We have always argued that that should happen through a proper planning permission system and not one that seeks to work simply on permitted development, ultimately leading to problems for communities, exactly as these two new clauses seek to address.

It is not a matter of whether we have these changes but how we bring them about to ensure that proper planning matters are considered in detail and not swept under the carpet, as they are being by changes from office to residential that do not consider all of the issues that are important for the local area.

The music industry is saying that one of the main problems is that the guidance provided to planning authorities for how to deal with a grassroots music venue is simply insufficient. It says there is wording in the national planning policy framework and national planning policy guidance that is helpful, yet the onus falls on planning officers to identify impacts without specific guidance being made available.

The permitted development right enables offices to be converted into homes without having to apply for full planning permission, as I have just said. That bypasses environmental noise assessments. We all know that that should not be happening in any sensible planning system. Any sensible Government would not put in place a regime that allowed for a whole office block to be converted to residential without noise assessments being taken into consideration. That is not a noise

assessment of the block itself; it is a noise assessment of the surrounding blocks and the impact that could have on the developments.

Venues have existed happily alongside office spaces for years. However, hon. Members will know what is happening now because we have all had complaints in our constituencies. Music venues are now subject to a lot of complaints about noise. That does not mean the residents are being unreasonable. Often they are being perfectly reasonable in the complaints they bring forward about noise going on to 2 am, sometimes 4 am. They might say they did not know about the music venue, how long it was there or the licensing conditions. That arises from the fact that those blocks did not get proper planning permission.

Some areas requested exemptions because of the nature of the music industry there. A number of councils and boroughs, particularly in London, came forward to the Minister to ask to be exempted from having to apply these permitted development changes because it would bring about particular problems in their area.

They were worried, first, about losing office space. Let us not forget that permitted development changes take office space away and that some inner city areas do not want to lose it. Secondly, the areas were not suitable because of the mix in their communities. Yet most of those areas were not allowed to apply exemptions. Over time, the number of exempted authorities has reduced drastically. I suspect, if the Government do not listen and bring forward changes, this will become a bigger problem, with an even bigger impact on the music industry.

The report carried out by the music industry and the Mayor suggests some helpful changes that the Government could bring about. They could, for example, consider the agent of change principle that operates in other countries for responsibly managing noise nuisance. An application is assessed in terms of what it will mean for the music industry: what does the change bring about in the community? Does it affect other businesses? We do not have that principle in the UK, and it is suggested that we should. Of course, proper planning procedures would enable that wider impact to be taken on board. The concept is interesting, and I wonder whether the Minister or his Department is considering it.

The Government's position seems to be that the existing framework provides sufficient protection for music venues, but that is clearly not the case. If there was sufficient protection, we would not have music venue after music venue saying, "We are at risk of not being able to continue because of the complaints made to the local council." As a result of such complaints, local councils, because they have already converted blocks to residential use, take action to close down the music venues, or to so restrict their operation that they are no longer able to function in a way that stimulates the music industry. There is a growing campaign to convince the Government that Status Quo is not good enough—I brought that in just to show that I know something about the music industry.

The situation is an unhappy one. The music industry feels under siege, and that sufficient recognition is not given to its needs, with newspaper headlines such as "Neighbours battle music venues over noise". We do not want new residents feeling that they have to make complaint after complaint about music venues to get the local council to do something; that does not help anyone. We need the Government to take the matter on board. Both the Mayor's report and other documents present a very clear analysis, showing that planning and licensing policy and fiscal policy struggle to balance the needs of grassroots music venues with those of residents and businesses. The increasing population means that residential development sits, in an unanticipated way, cheek by jowl with night-time activity, and there is nothing to prevent the venues from having to close.

Simply requiring planning officers and planning committee members to identify potential impacts on live music venues is not appropriate since, because of the permitted development system and the prior approval system, people who know an area in detail might never have been involved in the process. I know from a number of councillors that the first time they know there is a problem is when residents come to their surgeries and say, "We have just moved into a block that has recently been converted from office to residential use and we did not know, because no one told us, that there was a live music venue next door. We are really unhappy about that". My point is that the Government cannot rely on planning officers or planning committee members assessing such issues because the decision to do so might never have been anywhere near them.

11.15 am

If the council ultimately decides that it wants to do something more about that issue, the report also states that there is a need for training and guidance on music venues, because most local authorities do not know how to manage these new housing developments that are in close proximity to music venues. That is because before the permitted development changes they would not have allowed a housing development in that particular area, but now, of course, with the permitted development changes and the prior approval system, they feel pretty powerless to address such matters.

There is a whole issue, which I hope the Minister can address, about what change can overturn the permitted development system, and about going back to needing a full planning application and planning approval for large changes of this nature, while at the same time ensuring that council officers are trained and have the necessary skills to handle these fairly complex issues.

Too often what happens is an application goes through the environmental health aspect of a council and it is simply overwhelmed. Again, we have had a number of councils coming forward and saying, "Look. We've got lots and lots of complaints about these music venues. We want you—the local authority—to go and carry out testing to see whether these levels of noise are too high, or whether this is noise nuisance." Local authorities simply do not have the resources to undertake those assessments.

It has also been suggested that local authorities should consider the use of an article 4 direction to protect music venues. As we all know, an article 4 direction—

The Chair: Order. I am reluctant to interrupt the hon. Lady, who has had ample time to expand on her point, but I think that she has probably made the point in general. Article 4 directions do not actually come within the finer points of the new clauses that we are considering. I suspect that she may be coming towards the end of her remarks.

Dr Blackman-Woods: I am indeed, Mr Gray—absolutely. The point I was making about article 4 decisions is that they had been suggested as a way of addressing the issue, but in practice councils are saying that article 4 decisions are not a suitable mechanism to help them do that, because it is often too difficult to get an article 4 decision and to get it in the areas affected. Mr Gray, you are absolutely right.

I think that this is an important issue for the Committee to consider. There is an increasing volume of permitted development that is seeking to convert office property to residential property, so the issue is likely to grow and the problem will be exacerbated in future if the Government do not take some action.

I hope that we will hear from the Minister about how he might seek to work with the Mayor—

The Chair: I am looking forward to hearing from the Minister.

Dr Blackman-Woods:—and with other local authority officers about how to address these issues.

Mr Thomas: I rise to support these new clauses. To me, they seem to make eminent sense. They are not an over-the-top provision and they are not creating a particularly onerous regulatory burden. However, they are seeking to re-establish a balance between, on the one side, the need and the appetite for new housing that all Committee members report and, on the other side, the need to maintain centres of cultural activity.

My hon. Friend has just set out some of the rationale for these amendments. I want to draw the Committee's attention to what motivates my support for the new clauses. I am motivated in part by the experience of one of the grassroots venues that has closed in my constituency. The Rayners pub used to host jazz and ska nights on a regular basis, and when it closed there was a long campaign to stop it being earmarked for development. The campaign was led by an excellent local resident, Bill Ashton, who was then the conductor for the National Youth Jazz Orchestra. He was rightly concerned to protect a local music venue, and he argued that very few such venues in outer London hosted jazz and ska nights. My worry is that, without the amendments, the environmental health concerns that my hon. Friend alluded to will continue to increase the pressure on licensing authorities to take away licences for music venues.

The Trinity pub in my constituency is still very much going on. It has two floors and the upper floor often hosts small bands, or bands that have not yet made it. There are many offices within the vicinity of that pub. It is an excellent pub—Labour-supporting, which is an additional benefit that the Trinity brings—and I would not want to see it forced to stop allowing performances by local and other bands as a result of the pressure that may or may not come from those who move into homes where there were once offices.

Mr Bacon: Having visited the National Youth Jazz Orchestra with the all-party group on jazz, I am keen, as I am sure the hon. Gentleman is, to hear what the Minister will say to protect jazz.

Mr Thomas: Again, I gently encourage the hon. Gentleman not to go for a long liquid lunch, but to be back promptly to be able to hear the Minister when he declaims on this subject. I am glad he is an enthusiast for the National Youth Jazz Orchestra, but it is not only jazz that might be affected in future; a host of other genres might also be affected. I hope the hon. Member for South Norfolk is not in a parochial phase, but that he might be willing to recognise that the idea of a European city of culture bid from outer London—something for which I have campaigned for some time—might benefit from the provisions in the amendment. The pressure on music venues to close might not be there and there would be opportunities for more parts of our great capital city to benefit from the European city of culture and provide an additional range of cultural activity for people in the area.

My hon. Friend the Member for City of Durham rightly dwelt on the Mayor of London's music venue taskforce. I am not a huge fan of the current Mayor of London, but I give him credit when it is due on occasion. His taskforce has shone a spotlight on the closure of grassroots venues—a 35% decline, as my hon. Friend said, in the past eight years in London. That is deeply worrying and ought to be a wake-up call for us all, not only in this Committee but across London, to see what else we can do to make sure there is not pressure to lose such venues.

My hon. Friend rightly highlighted the fact that London has borne the brunt of the closure of music venues, but it is not only in London where music venues have closed; Birmingham and Manchester have seen small music venues closing, as have Edinburgh and Glasgow—of course, Scotland is outwith the scope of the Bill—and Bristol, Plymouth, Newport and Swindon have all seen important local music venues closing. We must do more to stop such local venues closing in future.

As my hon. Friend has alluded to, it is clear that there is insufficient guidance for our planning authorities to stop the closure of music venues.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.