PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HOUSING AND PLANNING BILL

Fifteenth Sitting

Tuesday 8 December 2015

(Afternoon)

CONTENTS

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

£6·00

PBC (Bill 075) 2015 - 2016

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

not later than

Saturday 12 December 2015

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

The Committee consisted of the following Members:

Chairs: 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, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 8 December 2015

(Afternoon)

[Mr James Gray *in the Chair*]

Housing and Planning Bill

Clause 104

Approval condition where development order grants permission for building

2 pm

Question this day again proposed, That the clause stand part of the Bill.

The Chair: I remind the Committee that we are considering 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) Before 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.

When we broke for lunch we were discussing clause 104 stand part, albeit with an injunction to focus on new clauses 19 and 20, having had a reasonably full debate on the clause previously. Mr Thomas was on his feet.

Mr Gareth Thomas (Harrow West) (Lab/Co-op): I am grateful for the opportunity to resume where I left off, Mr Gray. I hope that Conservative Members, particularly the hon. Member for South Norfolk, have had a good lunch and continue to look forward with enthusiasm to the Minister's response to the new clauses, not least out of concern for and interest in jazz at small venues, but also out of more general interest in the concerns of small music venues that may be at risk.

Mr Richard Bacon (South Norfolk) (Con): Mr Gray, for the record I feel I should point out that I have had no lunch at all. The time I had allocated for lunch was taken up with that vote we have just had and I just managed to eat a banana on the way up here.

Mr Thomas: The hon. Gentleman has, I am sure, secured the sympathy of the whole Committee. Anyone reading the extracts from *Hansard* of this section of the debate will be instantly sympathetic.

As well as paying tribute to my hon. Friend the Member for City of Durham for the way she introduced this debate, I also pay tribute to my hon. Friend the Member for Barnsley East, who has championed the new clauses and worked with a number of organisations within the music industry concerned about the impact of planning legislation on music venues. It is in part through his work, as well as the work of the industry itself, that the idea of trying to write into legislation the principle of an agent for change concept being established in planning law has come to fruition. The industry points to a number of examples where this principle is already written into law. I am told it has been particularly successful in Melbourne in Victoria, Australia, and I think it is well worth looking at in the British context, not least given the sharp decline in music venues in London.

On Thursday evening we will all go back and Government Members will celebrate the fact that the legislation has got through its Committee stage and that they have successfully resisted any temptation to engage with the Bill in a critical way. They might want to go out on the town to celebrate, and look for a music venue. Perhaps the hon. Member for Peterborough will want to go out to see an ABBA tribute band—he has the look of someone who likes that type of music—

The Chair: Order. Before lunch we had a reasonably expansive debate on this subject. I remind the Committee that we are discussing two new clauses which discuss the way in which offices may or may not be converted into dwellinghouses and the effect that may have on the music industry. That is not an opportunity for an extensive discussion about the music industry and the various kinds of music we might enjoy. We have to focus entirely on the two new clauses, leaving aside wider discussion of the music industry.

Mr Thomas: I am extremely grateful to you, Mr Gray, for your guidance, which further confirms my view that a knighthood should be pressing for you.

My point is simply that there are many forms of music outwith those that attract large crowds that are

performed in small music venues; those venues are under threat and we should do more to protect them. New clauses 19 and 20 wold give us the opportunity to make some progress in offering that kind of protection. The Minister for Housing and Planning is perhaps a fan of Duran Duran, again not necessarily a band that would perform—

The Chair: Order. In the event that the two new clauses became part of the Bill, it would then of course become possible to encourage all kinds of music and all kinds of other things that might create noise. This is not an opportunity for those kinds of discussion. We must focus our attentions entirely on the text of new clauses 19 and 20.

Mr Thomas: Again, Mr Gray, I welcome that guidance.

The particular benefit of new clause 19 is to place on anyone who wants to convert offices to other buildings in an area with a music venue nearby the duty to make clear the potential impact of the noise from that music venue. It is in that spirit that new clauses 19 and 20 are tabled—to bring the agent for change principle into UK law. They are entirely sensible provisions, and with that I urge the Committee to support new clauses 19 and 20.

Helen Hayes (Dulwich and West Norwood) (Lab): I will be brief. I want simply to point out that one of the key problems with the Government's extension of the permitted development rights is that they allow change to happen without consideration of local economic impacts.

We know that the cumulative loss of employment space as a consequence of permitted developments rights is a significant concern across London. We also know that there are no safeguards on the quality or the suitability of development. That is illustrated by the potential loss of music venues, which play an important cultural and community role in the locations in which they are situated. This is yet another example of the ways in which the Government are seeking to achieve short-term progress at the expense of longer-term outcomes and the quality and character of our neighbourhoods. I therefore very much support the new clauses.

The Minister for Housing and Planning (Brandon Lewis): The aim of new clauses 19 and 20 is effectively twofold: first, to ensure that, where planning permission is granted for change of use to a residential use, the new residents' amenity is protected; and secondly, to require that the cost of any mitigation measures needed to protect residents' amenity, particularly against noise generated, is borne by the developer. I believe that the new clauses are unnecessary. They will impose inflexible requirements on local authorities and others where there are already appropriate protections to address these issues. One of my hon. Friends made that point this morning in our extensive debate.

In fact, the national planning policy framework itself incorporates the agent of change principle. It makes clear that businesses that want to develop should not have unreasonable restrictions put on them because of nearby changes to land use. Our thriving city centres are successful because they contain a vibrant and diverse mix of uses. It is therefore inevitable that modern city centre living will be co-located alongside other commercial and, as we heard, leisure uses. That is what makes our cities such dynamic places to live, work and, indeed, play.

In the case of planning permission granted by local planning authorities, they must decide the applications in accordance with the local plan unless material considerations indicate otherwise. Consideration of amenity impacts such as noise and disturbance is already a well established part of decision making, and the NPPF is a material consideration. National planning policy already establishes the principle that local authorities should approve applications for change of use from commercial to residential where there is an identified need for additional housing in that area—one thing that I hope we all agree on is the need for extra housing.

The framework also includes strong protections against pollution. It makes it clear that the planning system should prevent new and existing development from being adversely affected by unacceptable levels of pollution, including noise. The effects, including cumulative effects of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. In addition, planning decisions should aim to avoid noise which gives rise to significant adverse impacts on health and quality of life as a result of new development.

The framework goes further by making it clear that existing businesses that want to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land use since they were established. The planning guidance supporting the framework is clear that the potential effect of the location of a new residential development close to an existing business that gives rise to noise should be carefully considered. The guidance underlines planning's contribution to avoiding future complaints and risks to local businesses from resulting enforcement action. To avoid such situations, local councils are encouraged to consider appropriate mitigation, including designing the new development to reduce the impact of noise in the local environment and optimising the sound insulation provided by the building envelope.

I am keen to look further at this matter. I have been working with my hon. Friend the Minister for Culture and the Digital Economy, who is arranging for me to sit down and meet some of the music organisations that were mentioned this morning. If a business is working and a nearby building converts to residential housing, that is a good thing; we want more housing. It would be entirely wrong of the people who moved into the residential housing to complain about the business that existed before the residential housing was there. When I was the Minister with responsibility for pubs, I came across examples of residents who complained about a pub that had been there for 150 years two weeks after moving in next door. We need to ensure that those businesses are protected.

In December 2014, we made amendments to the planning guidance to underline planning's contribution to protecting music venues, but I am interested in looking further at that issue. As I said, my hon. Friend the Minister for Culture and the Digital Economy has arranged for me to meet with those organisations shortly.

Mr Thomas: The Minister has virtually answered my question. I was going to ask whether he would meet

[Mr Gareth Thomas]

with a delegation, and he has said that he will. Will he commit telling us before Report stage whether he is minded to do anything else in planning law to help the music industry, which is worried about the future of some venues?

Brandon Lewis: The hon. Gentleman is right that I will meet with those organisations. My hon. Friend the Minister for Culture and the Digital Economy, who has responsibility for the creative arts, has arranged for me to sit down and meet with them. If we were to do anything in the Bill, I would make Members aware of that before Report stage. The new clauses are not needed because the planning powers are already there; we just have to make sure they are properly used, but I will talk to the industry about that before we go forward.

With that caveat, the approach set out in the Bill provides flexibility and enables local planning authorities to protect new residents' amenity, particularly from the impact of noise, while ensuring that we protect established businesses from disruption to their operations. Local authorities, when they look at such situations and organisations, look at what is said in this House. The debate we have had today will very much inform their decisions.

On new clause 20, permitted development rights for change of use play an important role in the planning system. They provide flexibility, reduce bureaucracy and allow the best use to be made of existing buildings. In 2014-15, they provided 8,000 much needed new homes, particularly in our capital city. In introducing permitted development rights, the Secretary of State can make provision for local authorities to approve measures relating to the impact on local amenity, including from noise, where development is permitted for a change of use.

The hon. Member for City of Durham touched on the article 4 situation. I gently say to her that she should challenge local authorities that say it is difficult to use, because there is no evidence to back that up claim. The article 4 process is straightforward and simple. Local authorities should look at other authorities that have used it so they can use it appropriately and correctly. More broadly, if there are genuine concerns about the impact of permitted development rights on new residents' amenity, including noise impacts, local councils have the ability to bring forward an article 4 direction. Article 4, in and of itself, does not prevent development; it requires the planning application to be considered before a building can be converted. It is an immensely powerful tool for local authorities to use. They just need to ensure they are using it appropriately and in a focused way.

The licensing process also provides an adjudication mechanism between local residents and licensed premises by which practical measures can be introduced to control and mitigate noise. Statutory guidance advises that licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community. We can all think of events in our own constituencies, such as live music, that bring the community together and are a valuable source of community spirit. I do not consider the new clauses necessary and I invite the hon. Lady to withdraw them.

2.15 pm

Dr Roberta Blackman-Woods (City of Durham) (Lab): Probably nothing crystallises better the different approaches of the Opposition and the Government than permitted development. We are arguing for a proper system of planning approval that looks at all the issues likely to arise from a particular development, and for mitigation if planning is approved, or for planning to simply not be approved. The previous planning Minister said he was introducing a degree of chaos into the system. We have ended up with a permitted development system, a prior approval system and an article 4 direction, but none of those elements adds up to a planning system that can control the sort of problems we are talking about.

We at least agree across the Committee on our analysis of the problem: these developments are leading to complaints from residents about noise. I heard what the Minister said about meeting the groups involved. Clearly, this is a problem; if it was not, the Mayor would not have set up a taskforce and the music industry would not be saying it is a real problem. I hear what the Minister says about meeting representatives of the industry and others to see if something can be done to improve the current unsatisfactory situation for residents and the music industry. On that basis, I beg to ask leave to withdraw the motion.

The Chair: The new clauses will be considered later on in our proceedings.

Question put and agreed to.

Clause 104 accordingly ordered to stand part of the Bill.

Clause 105

Planning applications that may be made directly to Secretary of State

Stephen Hammond (Wimbledon) (Con): I beg to move amendment 286, in clause 105, page 49, line 4, at end insert—

"(1) In section 62A of the Town and Country Planning Act 1990 for 'Secretary of State' substitute "in respect of land in Greater London by the Mayor of London and in respect of land in England outside of Greater London by the Secretary of State" except in subsection (1)(a).

(1A) In section 62A of the Town and Country Planning Act 1990 (when application may be made directly to in respect of land in Greater London the Mayor of London and in respect of land in England outside of Greater London to the Secretary of State), in subsection (1), for paragraphs (a) and (b) substitute—

"(a) the local planning authority concerned is designated by the Secretary of State for applications of a description specified in the designation;

(b) the application falls within that description.""

This amendment would provide for applications in respect of land in Greater London to be made directly to the Mayor of London and to the Secretary of State for land elsewhere in England.

It is a pleasure to see you in the Chair again, Mr Gray. My pleasure is increased by the fact that, from listening to your strictures in this Committee, I know that you, like me, are a fan of the Radio 4 show "Just a Minute"—*[Interruption.]* My Whip has just asked how long my

speech is going to be. Unlike the hon. Member for Harrow West, who is leaving, and my hon. Friend the Member for Peterborough, who discussed Whips Offices and courage, I always remember the old adage, "Bravery and courage are a thin line, and stupidity is following close behind."

I move amendment 286 in the spirit in which I moved amendment 240 on Thursday afternoon. I was grateful for the attention and comments of a number of Committee members on that amendment, and therefore I shall detain the Committee only briefly.

Although the Mayor has mainly strategic powers with regard to London, he has decision-making powers on developments of strategic importance and can therefore take over an application and act as a local planning authority. Although, quite rightly, he has only used that power sparingly, it exists. Recognising both the Greater London Authority Act 1999 and the Localism Act 2011, I hope the Minister will agree that the Bill should recognise that while applications outside London can be made directly to the Secretary of State, applications of strategic importance inside London can be made to the Mayor. I hope that my hon. Friend will be able to give me some comfort and agree that this is a tidying-up amendment.

The Chair: That was just a minute.

Brandon Lewis: That is a challenge for me, Mr Gray. I will keep an eye on the clock to see if we can improve on the two and a half hours we have spent on one clause thus far today.

Dr Blackman-Woods: No repetition or deviation.

Brandon Lewis: I will endeavour to take the hon. Lady's comments on board.

If the amendment were accepted, applications for major and potentially for very minor developments—right down to applications for one house—in underperforming London boroughs could be submitted directly to the Mayor. For a typical London borough, if applicants chose to apply directly to the Mayor, that could run to literally hundreds of applications per year. I suspect that my hon. Friend the Member for Wimbledon and others would agree that that would not fit in with the important role of the Mayor as a strategic decision maker.

It is right that the Mayor of London has that important role in strategic decisions affecting the capital. He already has the power to decide to call in applications of potential strategic importance—for example, when more than 150 dwellings are proposed. We are taking steps in the Bill for the Mayor to set his own thresholds in high-growth areas, through the London plan. The clause will allow us to extend our successful designation process to assess performance in applications for non-major developments. The amendment has the potential to significantly change the Mayor's role and go beyond providing that vital strategic direction in decision making across the capital. It would also have implications for the performance regime in and of itself. Planning applicants might expect the Mayor to be part of the safeguards, rather than the decision maker on how quickly their applications should be determined. I will continue to look at this issue and to engage with my hon. Friend, but at this stage I urge him to withdraw the amendment.

Stephen Hammond: I listened carefully to what my hon. Friend the Minister had to say. The thrust of the amendment was to ensure that applications of strategic importance—clearly not minimal or de minimis applications—could be made directly to the Mayor. I am grateful for the Minister's reassurance that he is prepared to continue to consider the issue, because it is important that the potential strategic importance of applications is considered. Given his words of comfort, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 105 ordered to stand part of the Bill.

Clause 106 ordered to stand part of the Bill.

Clause 107

Development consent for projects that involve housing

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

Dr Blackman-Woods: The clause will enable some housing developments to be determined under the national infrastructure planning regime, if they are part of a larger mixed development that includes infrastructure. On the face of it, we have no objection to that in principle, but we are concerned about how the process for granting approval is going to work in practice. It brings me back to the discussions we were having this morning about whether there are going to be three or four ways in which applications for housing can be determined. We have come to an additional way, so perhaps we are now on the fifth way for applicants to get planning permission for new housing.

A number of organisations, including the National Infrastructure Planning Association, have written to the Committee to say that there is a need for greater clarity in the Government's guidance. It is very welcome that we received the briefing note for the guidance relating to clause 107 before we came on to debate it. I do not know who is responsible for that, but they should be commended, because it is clearly much better that we get the documents that are relevant to a clause before we debate it, rather than afterwards, which has typically been the case with the Bill so far.

The briefing note states that the clause will

"minimise regulation and provide maximum flexibility"

and that

"more detailed issues relating to the inclusion of housing will be covered in guidance."

It goes on to tell us about some of those issues, which include

"the types of infrastructure that housing could be included with; the two circumstances in which housing… might be built…; the location of housing in relation to the infrastructure; the assessment of housing proposals; and how the housing element of any nationally significant infrastructure project will be treated at each stage of the nationally significant infrastructure planning process and the considerations that will need to be taken into account by developers."

I was reassured when I read that. I thought, "Good. We're not exactly clear what the process will be and we're not entirely sure what sorts of infrastructure projects it will relate to, but all we have to do is be

[Dr Blackman-Woods]

patient and wait for the guidance, which will tell us all those things." Unfortunately, the draft guidance does not do that job.

Taking the point about the infrastructure to which housing can be attached, the guidance just says:

"The Government does not propose to place limits on the categories of infrastructure project that may include housing."

We are technically none the wiser and just have to assume that it could be any sort of infrastructure in almost any circumstances. Paragraph 20 outlines some of the restrictions that will be placed on the building of housing in certain areas and provides four examples, but it is unclear whether they are examples or the totality. The restrictions include

"sites protected under the Birds and Habitats Directives and/or designated as Sites of Special Scientific Interest;"

That is a good thing. Also included are:

"land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority);"—

again, we very much welcome that—

"designated heritage assets; and locations at risk of flooding or coastal erosion."

Is that a definitive list or are they examples? The guidance is not clear whether they are the sorts of things that local authorities should take into account or whether they are the only things. Given the potentially extensive application of the clause, it is important that we get that information.

I will not detain the Committee any further on the guidance except to say to the Minister that I have been through it and cannot see where it sets out in detail how housing applications will be considered at each stage of the national infrastructure process. Will they have a particular designation, or will they just be considered as part of the overall scheme? Some clarification from the Minister would be extremely helpful.

Matthew Pennycook (Greenwich and Woolwich) (Lab): It is a pleasure to serve under your chairmanship once again, Mr Gray. I will be relatively brief, but I speak to raise concerns about clause 107 with a particular example from my constituency in mind. The Mayor of London and Transport for London are consulting on a nationally significant infrastructure project, the Silvertown tunnel, which is a road tunnel linking the Greenwich peninsula to Silvertown Way north of the river. It is a locally contentious proposal for a variety of reasons, but primarily due to its impact on the local road network and already dire air quality.

Like my hon. Friend the Member for City of Durham, I see nothing wrong with the principle of allowing housing to be built and this mechanism to be used if it is functionally linked to the infrastructure project under consideration. However, I have particular concerns about new subsection (4B)(b) which states:

"'Related housing development' means development which… is on the same site as, or is next to or close".

I hope that the Minister can reassure me on this. I am concerned that in an infrastructure project such as that road tunnel, where I can see no housing that is functionally linked, this clause could allow for housing to be built in a different part of the borough, bypassing local accountability and any community influence, simply because there is a nationally significant infrastructure project in the vicinity and we have no idea what that means. I press the Minister to reassure me about what

"or is next to or close to"

might mean and whether any guidance will be forthcoming, or, if not, whether he will consider clarifying that part of the Bill. It is important that the housing that might be delivered through this mechanism is functionally, or more directly, linked to the infrastructure we are discussing than it might otherwise be.

2.30 pm

Brandon Lewis: The clause has the effect of allowing the Secretary of State to grant development consent for housing that is related to a nationally significant infrastructure project. We think it is important that we change things for national infrastructure projects so that there is an ability to have related housing linked in. I will answer the hon. Member for Greenwich and Woolwich more directly in a moment. I appreciate that he has asked probing questions, and I am glad that he and the hon. Member for City of Durham made those points because, despite all that Opposition Members say about wanting more housing, at every stage of the Bill, they seem to making arguments against anything that will deliver more housing.

The Planning Act 2008 does not permit any consent for housing. That means that, when a developer wants to include housing as part of a nationally significant infrastructure project, they must make a separate application for planning permission under the Town and Country Planning Act 1990. That is inefficient, because obtaining separate consent under a separate regime adds time and cost to developers.

The hon. Member for Greenwich and Woolwich made a point about community influence. It might be worth his looking at how the national infrastructure planning framework actually works, because, in that, local communities have a say in any proposals for their area. The applicants are required to engage with and consult local communities from the outset. Local authorities have a role in assessing the adequacy of that consultation. I go further, in that clause 107 amends section 115 of the Planning Act 2008, to add "related housing development" to the types of development for which the Secretary of State can grant development consent. Related housing development is defined in the amended section 115. I am happy to be clear on the Floor of the Committee that it is about related housing development.

The notes to which the hon. Lady the Member for the City of Durham referred use the word "includes", so they are not exhaustive, but just a few examples. If enacted, the clause will allow development consent to be granted for housing where it is on the same site or close to a nationally significant infrastructure project or is otherwise associated with it. I refer hon. Members back to my quote from a few moments ago.

We propose to set out in more detail matters, such as the maximum amount of housing that may be consented, the location of housing and how applications that include housing will be assessed, in guidance. The clause itself requires the Secretary of State to take account of any matters set out in guidance when deciding an application for development consent. This reform will improve the nationally significant infrastructure planning process,

by creating the opportunity for developers—bearing in mind that, on average, there are only 15 applications a year—to benefit from a more efficient process for these kinds of applications for housing that is relevant, appropriate or related to an national infrastructure project.

Dr Blackman-Woods: I rise to emphasise to the Committee the point I made at the beginning of our discussion on the clause. To be clear, we are not objecting to the principle of having housing attached to large-scale infrastructure projects. We simply wanted to question the Minister on some of the details of the guidance. In scrutinising the Bill, it is important that we ask questions about whether the scheme will work in practice.

Question put and agreed to.

Clause 107 accordingly ordered to stand part of the Bill.

Clause 108

Designation of urban development areas: procedure

Brandon Lewis: I beg to move amendment 183, in clause 108, page 51, line 16, after "subsection (1)" insert "in relation to land in England".

This amendment would state that the consultation requirement inserted into section 134 of the Local Government, Planning and Land Act 1980 by clause 108(2) would only apply in relation to an order creating an urban development area in England.

The Chair: With this it will be convenient to discuss Government amendment 184.

Brandon Lewis: Amendments 183 and 184 make it clear that the duty to consult when designating land as an urban development area or establishing an urban development corporation will apply in England only, as planning policy in this respect is devolved. These are minor, technical amendments.

Amendment 183 agreed to.

Clause 108, as amended, ordered to stand part of the Bill.

Clause 109

Establishment of urban development corporations: procedure

Amendment made: 184, in clause 109, page 52, line 2, after "section" insert

"in relation to an urban development area in England".—*(Brandon Lewis.)*

This amendment would state that the consultation requirement inserted into section 135 of the Local Government, Planning and Land Act 1980 by clause 109(2) would only apply in relation to an order establishing a corporation for an urban development area in England.

Dr Blackman-Woods: I beg to move amendment 236, in clause 109, page 52, line 24, at end insert—

"(4) Section 136 of the Local Government, Planning and Land Act 1980 [objects and general powers] is amended as follows.

(5) After subsection (2) insert—

'(2A) Corporations under this Act must contribute the long-term sustainable development and place making of the new community.

(2B) Under this Act sustainable development and place making means managing the use, development and protection of land and natural resources in a way which enables people and communities to provide for their legitimate social, economic and cultural wellbeing while sustaining the potential of future generations to meet their own needs and in achieving sustainable development and place making, development corporations should—

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

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

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

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

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

(f) positively promote high quality and inclusive design;

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

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

(6) Section 4 of the New Towns Act 1981 [The objects and general powers of Development Corporations] is amended as follows.

(7) For subsection (1) substitute—

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

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

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

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

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

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

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

(f) positively promote high quality and inclusive design;

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

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

This amendment would insert place-making objectives for both UDC's in Local Government Act 1980 and for New Town Development Corporations in the New Towns Act 1981 and sets out a high quality purpose for making the development of scale growth.

The clause relates to the procedure for establishing urban development corporations. The purpose of amendment 236 is to try to ensure that if new developments are established under this regime, they conform, at least to a degree, to garden city principles. I am sure that I do

[Dr Blackman-Woods]

not need to remind Committee members about this. I am sure that they all follow matters to do with setting up new towns and garden cities with as much fascination as I do. The Government put through a new garden city under an urban development corporation last year.

Opposition Members' concern about the procedure relates to the fact that although urban development corporations can deliver new housing and even some associated infrastructure, in their current form they most certainly do not deliver garden cities, because they are not underpinned by garden city principles. The purpose of the amendment is to try to ensure that they are—that they contribute in that way. In particular, the amendment, as opposed to some of the measures that we discussed earlier in our proceedings, focuses on sustainable development and ensuring that the new housing developments are sustainable for the future. They would have built into them, for example, provision to ensure that they contributed to

"the vibrant cultural and artistic development of the community".

They would

"protect and enhance the natural and historic environment".

They would also—I am quite concerned that this is missing from the Bill at present—have to

"contribute to mitigation and adaptation to climate change in line with the objectives of the Climate Change Act 2008".

They would have to

"promote high quality and inclusive design".

They would have to ensure that decision making was

"open, transparent, participative and accountable"

and that assets were managed for the

"long-term interest of the community."

The amendment is also designed to ensure that local people are very much involved in the setting up of a new town or garden city and with the infrastructure and the area's long-term development.

This approach has been helpfully outlined for the whole Committee by the Town and Country Planning Association. In fact, the manifesto that it recently launched in Parliament directly addresses this clause and the amendment to it. Basically, it argues that planning in this country needs to be much more people centred and to get back to some of its roots. It points out that Planning4People is a coalition of organisations and individuals who share a common belief in the value of place making to achieve a just and sustainable future. Together, they are determined to ensure that planning shapes the kind of places that this nation deserves. Planning must change so that it is genuinely focused on people's needs. Our objective is to bring about the rebirth of the creative, social town planning, which did so much to lay the foundations of a civilised Britain—

Mr Stewart Jackson (Peterborough) (Con): For the record, can the hon. Lady dissociate herself from the comments of the witness from the Town and Country Planning Association? The TCPA compared the Government's very sensible legislation to racially motivated zoning, which was struck down by the US Supreme Court. That was effectively nonsense on stilts.

Dr Blackman-Woods: The point I remember the TCPA representative making—which is an issue that perhaps the Minister will want to deal with today—was that the Government appeared to be trying to put together the American zonal system of planning with our local plan-making system and that those two things do not sit very well together, and perhaps we should have one system or the other. I apologise to the hon. Gentleman if I have missed something else, because I was focusing on the difficulties that would be caused by having the two systems together.

Mr Jackson: I do not want to try your patience, Mr Gray, but the hon. Lady is praying in aid the evidence of the TCPA. I raised the point that that evidence was very contentious. It made a number of assertions about the Bill from which I invited the hon. Lady to distance herself.

Dr Blackman-Woods: Perhaps I should clarify for the hon. Gentleman that the evidence to which I am referring at the moment was put together by a whole range of different organisations, which go under the umbrella of Planning4People. This group said that they are trying to get back to an idea of town planning that did so much to lay the foundation of a civilised Britain, using democratic planning to put people at the heart of the process. This is relevant to the amendment because this group of planners are guided by a very powerful definition of sustainable development, which emphasises social justice as a key outcome. They also say that they want a real concentration on building places that are sustainable for future generations, not only to live in but to live decent lives in. They go on, very helpfully, to outline for us what some of those places would look like.

This means that there would be a concern to reduce inequalities of income and of access to education and health, and to promote places where individuals and communities can achieve lasting levels of happiness and wellbeing. I thought that Conservative Members could get behind this particular idea underpinning planning and, indeed, that they would relish getting behind a planning system that seeks to put the achievement of happiness and wellbeing at its heart. I am sure that we would all like our planning system to deliver that.

Planning4People is asking for a new legal duty in planning legislation that would ensure that planning is based on outcomes. It stresses in particular how sustainable development will be achieved, with the requirement to reduce social inequality, give councils back powers over permitted development and so on. That is what this amendment would do. I draw that particular publication to the attention of hon. Members, because I think that it sets out very clearly for us a context in which perhaps I can persuade the Minister that, in introducing urban development corporations, he will ensure that they are underpinned by some of the garden city principles that we want to see.

2.45 pm

Could some consideration be given to capturing land value that could be used for the long-term benefit of the community? There could be community ownership of the land and long-term stewardship of assets. We touched

on that in our discussion about how Letchworth had managed to do that and set up a community development fund for the future.

Peter Dowd (Bootle) (Lab): My hon. Friend mentioned wellbeing, which made me recall a speech by the Prime Minister—I pay huge attention to his speeches—in which he talked about wellbeing. He said:

"I am excited about this, because it's one of those things you talk about in opposition, and say that this is something we ought to try and measure, get right, and understand".

Does she agree that the Prime Minister is spot on in trying to ensure that wellbeing is at the front of Government policy?

Dr Blackman-Woods: Well, is not that interesting? We obviously have a convert to the cause in the Prime Minister, who will clearly join us in our efforts to get the pursuit of happiness built into the planning system. Let us hope he will send a quick text to the Minister so that we can get agreement on the amendment, because an excellent outcome to our deliberations would be to ensure that we got a planning system with some vision for the future built around sustainability principles, with wellbeing at its centre.

The amendment specifically asks the Minister to ensure that: urban development corporations have land value capture attached to them; there is community ownership of land and long-term stewardship of assets; there are mixed tenure homes affordable for ordinary people; there is a strong local jobs offer in the garden city; and there is high quality, imaginative design and generous green space, linked to a wider natural environment, including a mix of public and private networks of well-managed, high-quality gardens, tree-lined streets and open spaces.

The Opposition think it is extremely good that Ebbsfleet is being put forward as a garden city. The Labour party thought about that and put down the foundations for it about a decade ago. It is great to see that coming to fruition, but calling something a garden city does not make it a garden city. If it is going to be a garden city, it has to have high-quality gardens, tree-lined streets and open spaces, as well as

"opportunities for residents to grow their own food, including generous allotments",

a strong cultural offer, and

"recreational and shopping facilities in walkable neighbourhoods".

I do not think that we have touched on this so far in our deliberations, but if we are to produce and build truly sustainable communities, we have to think about how we encourage people to walk or cycle, or how we connect them through good, publicly accessible transport systems.

We need built into the legislation the principles of what will make up a garden city such as Ebbsfleet or any future developments that will come under UDCs. Otherwise, I am not sure—the Minister might know another way—how it will deliver a garden city as opposed to a UDC that will simply deliver new homes. Those new homes are very welcome—we are not against them—but we are concerned about the fact that there is nothing to ensure that a garden city emerges in any way at all.

The Minister seems to think I do not get out enough, so I just want to reassure him that I do sometimes go to see new developments and I did go to see Ebbsfleet. The developers are very keen to have good infrastructure underpinning that development. However, the urban development corporation that underpins Ebbsfleet does not require them to do any of this. That does not seem satisfactory. It is called a garden city, yet there is nothing that makes it a garden city.

If I have missed something in what the Minister is bringing forward for these new development corporations, I apologise and he can correct me, but as I read what is in clauses 109 and 110, I cannot see anything that aims to put into the Bill that these urban development corporations must address issues of sustainability. We want, for example, to see really good-quality houses built, but we also want to see zero-carbon homes. That is what was meant—I quote the Government expressly—when they said their aim for Ebbsfleet and garden cities generally was to provide

"high quality, attractive and sustainably constructed housing".

How can the Minister be sure that that will be achieved without having something in the Bill about how these development corporations must address issues of sustainability?

Opposition Members feel strongly about this issue. We have argued long and hard for a new generation of garden cities. Many organisations, including the Campaign to Protect Rural England, have written to the Minister and to the Committee urging them to take on board what is in the amendment and to put more in the Bill so that we can ensure that we have the sort of development we want to see—an attractive environment with workable housing and social facilities, an amazing, visionary new place to live, an amazing regeneration of an area that we can all be proud of.

Matthew Pennycook: I support the amendment. We all welcome development and new homes, but I strongly agree that garden cities and corporations, when they are bringing development forward, need to put sustainability and place making at the heart of their plans. That has a particular resonance with something that I am very passionate about, which is climate change and energy efficiency.

New subsection (2B)(e) would ensure that, in building new homes, UDCs would have to ensure that those homes and that development

"contribute to mitigation and adaptation to climate change in line with the objectives of the Climate Change Act 2008".

We know that homes are central to the UK meeting its climate change targets and that meeting our EU obligations of 15% renewables by 2020 looks ever more precarious; a leaked letter from the Secretary of State only a few weeks back showed that. Homes have a crucial role to play.

The context at the moment for delivering sustainable homes is not great. The Government have scrapped the zero-carbon homes policy that was starting to bear fruit in many areas. The London Mayor has taken a different view and sought to put some of the provisions of that policy back in place through the London plan, and I welcome that. The context for bringing forward environmentally sustainable, high-quality homes has become more precarious and the amendment would go some way, in relation to UDCs, to making sure that sustainable homes are at the heart of what is built. That is important.

[Matthew Pennycook]

It goes back to the debate we had earlier. The hon. Members for Peterborough and for South Norfolk, and others, bemoaned the socialist architecture of the 1950s—I would call it brutalist, though they may not draw such a distinction—when homes and places for people to live were built that have not fared well over the decades. We have an obligation because the cost of retrofitting homes that fall below environmentally sustainable standards far outweighs that of the measures we need to put in place. We want to build homes that last for generations and are fit for people to live in. For that reason I support the amendment.

Helen Hayes: I, too, want to speak briefly in support of the amendment. However the planning system is defined, it embodies a set of values and prioritises a series of outcomes. Garden cities of the past were so successful as communities, function so well and are such popular places to live in precisely because of the high aspirations and strong values on which they were founded and the extensive efforts to secure high-quality design and the long-term sustainability of the resourcing of those communities, in all sorts of different ways. That happened because their founders were thinking about long-term success and the values of the communities that they were developing and because they were established on strong principles.

In contrast, some of the early urban development corporations did not embody those same aspirations. The development that took place was, in many cases, far less attractive as a consequence and far less well served with open spaces and amenities. It was often unsustainable or lacking in things such as local school places and good public transport connections. Some of those lessons from the early urban development corporations have informed the way in which development has taken place in the last 10 years or so. We have seen an emphasis on bringing forward community infrastructure early in the development process, so that communities are not left stranded and ill-provided for.

So far, I have seen nothing in the Bill that will ensure that new development under the Bill will be built to a high quality or high standard of sustainability. That is of significant concern. That is what the amendment is seeking to ensure both for urban development corporations and garden cities, which can and should play a significant role in building the homes we need. We must ensure that those homes are built to the highest standards for the long term, that they become part of the heritage of this country and of communities we can be proud of for the long term. We will do that only if we get right the values and the aspirations on which they are founded. That is why I am pleased to support the amendment.

Peter Dowd: I, too, support the amendment. It is partly because of my experience of being raised in an urban area where, post-war, many houses, and communities, were knocked down. Those communities were not fantastic all the time, but at their heart they had a community spirit. There was a genuine attempt in the post-war environment to expand and continue with that spirit, which was often difficult to do. Part of that was to ensure that when people left the slums—there should be no beating about the bush, because that is what they were; it was slum clearance—they went to an environment where houses were designed as best they could be and for the best reasons. However, there is a danger in the current proposals that there is a push, a push and a push for growth. Although there is nothing wrong with that, the quality of the housing that arises from that push can get lost in the race. This is an attempt to lay out a protocol for building.

In Merseyside, the village of Port Sunlight, which many people may have been to, was built by Lord Lever. It is a perfect example of a garden city that, to this day, looks virtually no different from the way it did 100 years ago. It is a fantastic place. Many other places in Liverpool have smaller versions of that, such as Norris Green, which won awards in the 1920s and 1930s for the design of its buildings. There is nothing to stop us supporting this proposal and to reify—to put into clear, unambiguous terms—what we expect from some of the garden city developments.

3 pm

Earlier, when I referred to the Prime Minister, I was not trying to be facetious. The whole question about wellbeing and the health of people has to be put within the project.

There is also the issue of sustainable economic development, which is also in the national policy framework. That is laudable, but there sometimes has to be a reasonable break at times—not an absolute stop—in the planning process to ensure that in five, 10, 15, 20, 30 or 40 years' time we do not regret that we did not intervene, especially given the lessons we learned in the post-war period.

Dr Blackman-Woods: Once again, my hon. Friend hits the nail on the head. We often forget that we are talking about planning places that we hope will exist for generations to come. We want to be proud of the quality of the new developments and it behoves all of us, including the Minister, to ensure that garden city principles underpin the new developments.

Peter Dowd: I fully recognise those aims. Not far from where I live, the Criddle's Estate was developed by a well-known socialist in our neck of the woods. It remains a beacon to the way developments can occur, if you get things right. The houses are solid, well sought after and an integral part of the community. We owe it to our children and grandchildren to make sure that, when we build garden cities, or developments that are not garden cities, we set out the principle clearly for everyone to see.

The amendment is perfectly reasonable. It sets out a framework for future development and I hope the Minister, even if he does not agree with it completely, understands and accepts the principle on which it is based.

Brandon Lewis: I wholeheartedly agree that, where statutory delivery vehicles such as urban development corporations or new town development corporations are created, high-quality, sustainable place making should be absolutely at the heart of what they do. As we are having a clause stand part debate, let me pick up on the question raised by my hon. Friend the Member for Peterborough, who made a very good point about the inflammatory nature of some of the remarks of the TCPA. They were not only inflammatory, but ill-advised,

and they discredited that organisation. I do not intend to give it the credibility of commenting on the remarks any further.

The hon. Member for City of Durham and I worked together in the previous Parliament, cross party, to get the urban development corporations set up. I thanked her colleagues at the time—the right hon. Member for Leeds Central (Hilary Benn) and the hon. Member for Wolverhampton North East (Emma Reynolds)—for their work in taking that forward and for showing how we can work together. We all want Ebbsfleet to develop appropriately. The establishment of the Ebbsfleet development corporation highlighted that the process itself needed updating, especially in the light of the more familiar practice of consultation. At the time, I said to our friends in the other place that we would come forward with this legislation as soon as we could to rectify the situation. That is where we are coming from.

In a more general sense in response to some of the comments we have heard this afternoon, while agreeing with the ethos of wanting high-quality development and communities to be delivered, we can see the difference between where the Opposition and the Government stand. For example, because of the way in which the proposal is drafted, it could slow down development in and of itself, as well as not providing good quality outcomes. That is because it so focused on a process of having to tick the boxes for A, B, C, D, E, F, G and H in order to qualify. We will find developers ticking those boxes rather than looking at what the right outcome is and working with the local community. I have some understanding of and sympathy with Opposition Members, who are very determined to ensure that they are planning well for people. The difference between us is that I believe that planning should be done by local people for local people and that it should not be done to them. We have to be very clear that we trust local people. I will comment on that in a moment.

Mr Thomas: I gently suggest that the Minister is stripping away the opportunities for local communities to influence the planning process.

Brandon Lewis: I suggest that the hon. Gentleman reads the national planning policy framework. It is only 50 pages long, and I am sure that it will entertain him this evening. I suggest that he looks at how local plans work, how neighbourhood plans work, and at consultation more generally. Even the corporations will come from local areas. On garden cities, towns and settlements and new settlements more generally, I am very keen, as are the Government, to work with various developers, but they will come from the area. There will not be the top-down, failed approach of the past.

Sustainable development in itself is hardwired into the planning system. It is absolutely central to the national planning policy framework, and rightly so. The framework provides a clear view of what sustainable development means in practice. It is explicit that the purpose of the planning system is to contribute to achieving sustainable development, and that three pillars are key: the environment, society and the economy. They are mutually dependent and cannot and should not be pursued in isolation. We do not need a separate, statutory, tick-box requirement around sustainable development that applies only in a case where an urban development corporation or new town development corporation has been created. It would be quite unhelpful and distorting to have a separate definition of sustainable development outlined that applies only to them.

Nor do I think that we should limit local flexibility. Where local areas decide that an urban development corporation or new town development corporation is the best way to deliver regeneration or, indeed, a new town or settlement, rather than ticking their way through that long list of objectives, they should have the freedom to create strong, sustainable communities in a way that best reflects their local circumstances. It is they who best know their local needs, not us sitting here in Whitehall.

Great place making in and of itself is secured not through detailed central prescription, but through good, strong, clear and transparent local leadership. That applies whether or not the development is led by an urban development corporation, such as in Ebbsfleet. A master plan has been worked through for Ebbsfleet that makes it very clear that the ambition is to see the development of garden city principles. I saw that just yesterday when I went to announce the new Didcot garden town development, which is looking for innovation as well as good-quality development.

We see that where settlements are being developed in areas right around our country, from Northamptonshire right the way through to the south-west and Hampshire. Indeed, we only have to look at the well-known example of north-west Bicester, where 6,000-odd high-quality homes are being developed to zero-carbon standards. That is being done without central prescription, highlighting that local areas can be trusted to do the right thing and get the right quality for their local community. The local authority itself or the local development corporation when it is set up can deliver that, and should be empowered to do so without those strictures being put on them by central Government. I hope that that provides the hon. Lady with sufficient confidence to withdraw her amendment.

Helen Hayes: Will the Minister clarify whether the homes in Bicester that are being delivered to the zero-carbon homes standard were consented to and the process of their delivery begun prior to the abolition of the zero-carbon homes standard?

Brandon Lewis: There has not been a zero-carbon homes standard, and we have decided not to go forward with it. They are continuing it in Bicester anyway, and are in fact going to some quite interesting lengths. I say to the hon. Lady that, when I last visited Bicester, I was shown a really ambitious programme to develop a really sustainable community. In one area, the homes that are being built are provided with electric chargers for the cars, and the developer working with the local authority has negotiated with local car dealers to lend the new home buyers an electric car for a couple of weeks to show them how practical they are and how well they work in order to encourage electric cars. That is locally decided, not working to a tick-box from central Government. That is why it is right that local areas are empowered to do those things. More importantly, we should trust local people to do what is right for them. Time and again when we trust local people, they prove that they get it right. I am happy to continue supporting that, so I ask that the amendment be withdrawn.

Dr Blackman-Woods: The Minister's response is entirely what I expected, unfortunately. The amendment seeks to provide a set of principles that can be attached to urban development corporations. Those principles are not prescriptive. Indeed, if an urban development corporation is not contributing to an area's sustainable economic development, is not contributing to the vibrant cultural and artistic development of a community, is not protecting and enhancing the natural and historical environment, is not contributing to mitigation and adaptation to climate change, is not promoting high-quality and inclusive design, is not ensuring that decision making is open, transparent, participative and accountable, and is not ensuring that assets are managed in a community's long-term interest, what exactly is it doing? Those are all things that we would expect to see from any new development. I am very disappointed with the Minister's response and, on that basis, I will press amendment 236 to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 11.

Division No. 13]

AYES

Blackman-Woods, Dr Roberta	Pearce, Teresa
Dowd, Peter	Pennycook, Matthew
Hayes, Helen	
Morris, Grahame M.	Thomas, Mr Gareth

NOES

Bacon, Mr Richard	Jones, Mr Marcus
Caulfield, Maria	Kennedy, Seema
Griffiths, Andrew	Lewis, Brandon
Hammond, Stephen	Philp, Chris
Hollinrake, Kevin	Smith, Julian
Jackson, Mr Stewart	

Question accordingly negatived.

Clause 109, as amended, ordered to stand part of the Bill.

Clause 110 ordered to stand part of the Bill.

Clause 111

RIGHT TO ENTER AND SURVEY LAND

The Parliamentary Under-Secretary of State for Communities and Local Government (Mr Marcus Jones): I beg to move amendment 246, in clause 11, page 52, line 32, after "survey" insert "or value".

This amendment ensures that the right of entry in clause 111 may be exercised to value land as well as to survey it.

The Chair: With this it will be convenient to discuss Government amendments 247 to 256.

Mr Jones: It is a pleasure to serve again under your chairmanship, Mr Gray. Before I get into the detail of the amendments, it may be helpful if I provide a little background on the measure to which they relate: the right to enter and survey land. Any acquiring authority may need to enter land to survey it before deciding whether to proceed with a compulsory purchase order. For example, an acquiring authority may need to find out whether there are any underground structures or contamination that may hamper a proposed scheme. Currently, most, but not all, acquiring authorities have that power of entry, but there is no logical reason for that difference in powers.

3.15 pm

Clauses 111 to 117 therefore introduce a new general power of entry, which will be available for all acquiring authorities to use prior to acquiring land. As well as ensuring that all acquiring authorities have the powers that they need, the measure will benefit those whose land is affected by ensuring a clear and consistent approach to entering land in such circumstances.

Government amendments 246, 248 and 249 to 256 ensure that the right of entry in clause 111 may be exercised to value land as well as survey it. A number of the existing powers of entry cover that purpose, so it seems sensible to include it in the new general power. Government amendment 247 also amends clause 111 to ensure that the right of entry can be exercised where land is being acquired by agreement as well as by compulsion. At the proposal stage, the acquiring authority might not know whether it will be able to acquire the land by agreement or whether it will have to exercise its compulsory acquisition powers. For the avoidance of doubt, therefore, we are making it clear that the power can be used in either case.

Mr Thomas: I am minded to support the Government amendments, particularly as it is the hon. Gentleman moving them rather than the Minister for Housing and Planning, but will he set out why he thinks they are needed? Compulsory purchase powers have existed for a long time, and I am not aware of a huge problem in terms of access in order to survey land. Why is it a problem now?

Mr Jones: I do not know what my hon. Friend the Minister for Housing and Planning has done to upset the hon. Gentleman. The reason we are introducing the provisions is to put all authorities on a level playing field when undertaking or exercising the right to compulsory purchase. At the moment, the rights that we are discussing can be exercised by local authorities, the Homes and Communities Agency and urban development corporations, but there are organisations, such as NHS trusts and Natural England, and certain Ministers within the Government, who do not have the same powers, so we have sought to extend them to ensure that the situation is consistent.

Peter Dowd: At the moment, to the best of my knowledge, those authorities tend to be, as the Minister has identified, effectively public authorities, such as Ministers, the NHS and so on. Can we have clarity as to whether the powers will extend that authority status to private authorities?

Mr Jones: There are circumstances in which that could be the case, but it would generally be where a local authority or another public body exercises its compulsory purchase powers before using a private organisation, for example, as a delivery vehicle for the proposed scheme. A town centre scheme is probably a good example. On that basis, I believe that I have answered the Opposition's questions so far, and I commend the amendment to the Committee.

Amendment 246 agreed to.

Amendments made: 247, in clause 111, page 52, line 32, leave out "compulsorily".

This amendment ensures that the right of entry in clause 111 may be exercised prior to acquiring land by agreement as well as compulsorily.

Amendment 248, in clause 111, page 52, line 35, after "survey" insert "or value".—*(Mr Marcus Jones.)*

See Member's explanatory statement for amendment 246.

Dr Blackman-Woods: I beg to move amendment 281, in clause 111, page 52, line 37, at end insert—

"(c) may do so when an existing planning permission has expired".

This amendment would ensure that compulsory purchase order powers exist where planning permission has expired.

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

Amendment 282, in clause 111, page 52, line 37, at end insert—

"(d) may do so when development has failed to commence".

This amendment would ensure that compulsory purchase order powers exist where development has failed to commence.

Amendment 283, in clause 111, page 52, line 37, at end insert—

"(e) may do so where an empty dwelling exists".

This amendment would ensure there are strong compulsory purchase powers to tackle empty homes.

Dr Blackman-Woods: Before I speak to amendment 281, I think it is worth putting on the record that, once again, we are very pleased that the Government have looked in detail at the recommendations of the Lyons review and have brought forward more of the measures that were recommended in that excellent document, although we think there could be a bit of tweaking to improve matters further—that is the premise of amendments 281, 282 and 283. These are designed to ensure that the process of compulsory purchase orders is expedited and prioritises the ability for land to be used in order to build more homes, which both sides of the Committee have agreed we very much want.

In its evidence to the Committee, Milton Keynes Council called for the proposed reforms to go further and to include a default position that all decisions on confirmation of a compulsory purchase order are delegated to the acquiring authority; a more fundamental consolidation and streamlining of the legislative provisions for compulsory purchase; and stronger compulsory purchase powers where planning permissions have expired and development has not commenced. Hon. Members who have looked at the Lyons review in detail will know that we spent a great deal of time looking at what happens when planning approval has expired, when there does not seem to be any building on the site or when building on the site has stalled for no obvious reason, and when the council does not appear to be able to do very much to move that development on. Milton Keynes and other councils have argued for stronger powers where planning permissions have expired and, in particular, where development has not commenced and does not look as if it will commence in the near future.

They have also asked for stronger compulsory purchase powers to tackle empty homes. What I have done—I hope it is in order, Mr Gray—is to put the three amendments together and I will speak on that basis. We also want stronger powers for councils to direct the use of publicly owned land. As I said, Milton Keynes Council is not alone in calling for the legislation to be strengthened. The Local Government Association has also been a leading voice in calling for the process to be streamlined. It has given a lot of evidence to the Committee suggesting that and I draw the attention of Members to its briefings on the subject. They give a lot of background detail about why the LGA wants the sorts of measures outlined in the three amendments to be adopted by the Government so as to speed up the process of compulsory purchase orders.

Amendments 281 and 282 would ensure that compulsory purchase orders are made faster and fairer by inserting specific instances that could provide that ease. The Government said in the October consultation that they want to streamline the process and make it more transparent. We believe that the amendments provide for that. They would strengthen compulsory purchase powers where planning permission has expired. That would be used as a measure of last resort, and with appropriate safeguards, to allow councils to tackle sites that have had planning permission for a long time but that have not been built out.

The entire notion of compulsory purchase orders is to make sure that land that is not being used can be put to use to benefit the community. Where planning permission is granted and subsequently expires without development having begun, why is there not the ability to take stronger action to ensure that development takes place on the site? It might be worth the Minister considering the suggestion in the Lyons review that land with planning permission that has not been built out within five years should be put up for auction if a new application for planning permission does not seem to be forthcoming. How does the local authority get access to that land in order to ensure that development takes place? That is an extremely important issue in trying to get more land into the system and in trying to ensure that the land that is already in the system, and that has been identified and given planning permission for housing, is brought forward.

If we want to overcome the housing crisis through a more efficient and effective planning process, one way for that to happen is to ensure that, in the circumstances I have outlined, compulsory purchase orders can not only be made but be made fairly easily. We have part 7 of the Bill because there is agreement on both sides of the Committee that the process needs to be streamlined. The view of councils and local authorities, which are often at the hard end of needing to get land developed, is that the proposals need to go a bit further.

Similarly, amendment 283 would ensure that compulsory purchase orders are able to support local authorities to bring empty homes back into use—the amendment would enable local authorities to refurbish such properties and bring them back into a habitable state. To put that in context, Government tables show that, in October 2014, there were 610,000 vacant homes in England alone, which is a very high number. A small number of those homes, only 25,000 or so, were owned by the local authority. If we compare the number of homes that

[Dr Blackman-Woods]

local authorities can do something about at the moment—around 20,000 or 25,000—with the massive 610,000 vacant properties that are out there, it clearly shows that something needs to happen to bring those homes into use, and to bring them into use more quickly.

In its response to the consultation on improving the compulsory purchase process, the LGA pointed out that there is a lot to be gained from supporting councils to bring empty homes back into use:

"Local authorities could…recoup their investment through rental income over the set time period, and even acquire nomination rights, returning the properties back to their owners at the end of the lease."

Moreover, there is something to be gained within the wider community by supporting councils to address empty homes. Long-term empty homes tend to have a negative impact on surrounding homes and areas. Although addressing empty homes will not provide a solution to the need for new homes, it is part of the solution. Both sides of the Committee agree that we need a multi-tenure approach and that we have to get more homes into the system through a range of measures. It is therefore incumbent on all of us that we do not forget how empty homes could provide part of the solution. We recognise that empty homes are only part of the solution, but they are an important part of making the best use of the stock that already exists.

It is also important to allow, and perhaps enable, councils to show that they are actively engaged in finding practical solutions to housing problems in their area. I am sure we have all had local people say to us, "With so many families on the housing waiting list and so many homeless families, why aren't those houses that are lying empty brought back into use?" Of course, the reality, as we know, is that it is often very difficult for local authorities to find out who owns a property or what state the ownership is in. They have to go down a very lengthy and costly compulsory purchase order route that is often challenged at later stages in the legal process.

3.30 pm

Therefore, it is vital that this particular amendment is considered very seriously by the Minister, given the strong representations that have been made by LGA members and by other councils. Indeed, the LGA has told us that it has long called for councils to have stronger CPOs to tackle empty homes, and that councils should be able to acquire time-limited leaseholds. That is interesting, because it is the sort of short-circuiting of compulsory purchase that in effect means councils would have compulsory purchase powers for a given period of time.

The LGA is asking the Government to consider that option. It would enable councils to undertake refurbishment work to properties, to bring them back to a habitable state. However, as the LGA says, councils could also recoup their investment through rental income.

The LGA is also asking for a removal of the requirement for councils to pay compensation on long-term empty properties, which is currently 7.5% of the property's value and up to £75,000 per home. The LGA argues that if councils have to do that, even where a home has apparently been abandoned or left unmanaged, that is essentially putting a prohibitive cost on to the local authority, so it is likely that that home will remain empty rather than being brought back into habitable use.

That is an extremely interesting suggestion from the LGA and it would be useful to learn from the Minister, when he responds, whether the Government, as part of the consultation process on these particular proposals, have sat down with the LGA and its leaders to work out how the system could be made to work much better, not only for central Government but for local government.

I know that the LGA has argued strongly to the Government that it wants a re-evaluation and reform of the whole process and that is why it is disappointed that there are not better, clearer and more explicit ways to facilitate that in the Bill. Because of that, and because of the very strong recommendations that councils and the LGA have made to members of this Committee, I look forward to hearing what the Minister has to say.

Peter Dowd: I think that what I am about to say is a little counter-intuitive, but I suspect that it is based on the principle of more haste, less speed, in relation to this matter. May I say for the record that I am a Shostakovich man and not a Duran Duran man?

This clause raises more questions than it answers, and that is more about what is in it than what is not in it. Many organisations are perplexed at the lost opportunity in relation to CPOs. I think that many rural communities will be concerned, and I will come on to that point later.

One organisation that has concerns is the Country Land and Business Association. It wrote a document in 2012—it may have been updated, but I do not think it has been—called Fair Play. The association, which comprises 34,000 members, owns and manages half the rural land in England and Wales; there are 250 different types of businesses involved with it and they have concerns about CPOs and the process in general. They are right, because they tend to be on the receiving end of CPOs, whether from the utilities, local authorities or public bodies in the form of schools or hospitals and so on. Of course, they also have concerns about private development on their land, and compulsory purchase arising from that.

Developments in and legislation on compulsory purchase have been incredibly piecemeal over the past century and that is the context in which this debate is set. That has happened not just under Conservative Governments or Labour Governments, but under every Government. Whether the major change in development is progressive or not—I will not get into that argument—and whether it is centralising or localising, it is important for the Minister to consider some of those issues.

The CLA talked about a

"significant impact on people, their lives and their aspirations"

and I want to touch on rural areas. HS2 is a particular concern for them. It is an example where CPOs are seen as a blunt, aggressive and overbearing instrument of "state oppression".

In light of what is a significant—groundbreaking, if the Committee will excuse the pun on house building—change to the law, there are issues of duty of care, which are addressed to some extent in the amendments. If the provisions are the way forward for planning and a longer-term economic plan, whether that plan is A, B or C, and

are setting the scene for planning for growth, they must also take into account the economic impact on those who are directly and indirectly affected by CPOs.

The issues that arise include asking, what about a statutory code of practice on CPOs? What about an independent person to oversee the process? That is the counter-intuitive bit. It seems that that would take longer than the current arrangement, but many organisations take the view that such a process, with the elements of independence and a code of practice, would speed the process up. That is something that should be considered carefully because we all accept that we must get on with house building.

Blight is another issue. A classic example that has affected many Members is HS2. Statutory blight kicks in only once a scheme has been confirmed and safeguarded in the planning process. Something needs to be done about that. If the Government are taking a central role in major infrastructure projects, they should ensure that central protection is in place for small businesses, farmers, rural enterprises and the like. It is crucial that if the dead hand of Whitehall is to be involved in the process—vicariously, I accept, via the Minister to someone else—there should be protections.

I wanted to touch on a historical issue, the so-called Crichel Down affair, which I suspect many Conservative Members are well aware of. I do not raise it to cause any concern to the Minister: Sir Thomas Dugdale had to resign over the matter, which involved the sale of agricultural land to the military, and then back for agricultural use, and caused trauma to the people involved. I raise it because the Crichel Down guidelines arising from it must be considered carefully. They are, effectively, voluntary, and we need to tighten them up and possibly put them on a statutory basis, instead of extending a century's piecemeal creep of CPOs. The Minister might want to consider that, otherwise it is a lost opportunity to protect, psychologically and financially, people who are affected by significantly different proposals in the planning process. It is important that that point is picked up.

Another issue we must pick up on is the reconsideration of lost payments. Forcing a sale—some call it legal sequestration; call it what you will—demands a transparent process that exudes fairness. A possible payment over and over the value of land may be important where uncompensated losses are concerned. The key is that that arguably saves time, with all the haggling that goes on in relation to land values, so it is something that could be considered. Other issues to consider include a tight advance payment process, timing notices, the amount of land required, interest on payments, and the water industry serving notice to enter land without prior negotiation, which rubs people up the wrong way.

The Government have an opportunity to give careful consideration to the issues related to CPO, and to be slightly bolder in taking the matter forward. That would be to the benefit of everyone, and it would be in the long-tried British tradition of being fair and reasonable in the process. In that regard, we need protections that assure landowners—small or large—that the Government only use land that they need, rather than land that they want.

The amendments tabled by my hon. Friend the Member for City of Durham helpfully clarify the important need for action in relation to CPOs, where the empty home blights not just the homeowner but the whole area. When we compensate, we should expect those who own the property to co-operate with the compulsory purchase as soon as is practically possible.

Finally, the Country Land and Business Association gives some heart-rending examples of people affected by CPOs that are not carried out right, fairly and reasonably:

> "A Welsh sheep farmer, who had a substantial proportion of his holding acquired, had to rent additional land on which to graze his stock. His agent submitted and agreed the farmer's claim with the district valuer and vigorously chased the acquirer for payment. Four years of non-payment followed with spurious excuses such as 'the girl who writes the cheques is on holiday'. The acquirer also claimed to have lost the paperwork submitted by the claimant. The saga ended tragically when the bank foreclosed on him and he took his own life."

The responsibility of the Committee is to ensure that fairness and reasonableness—the British way—prevails, especially when people's property is being taken away. We also need to do that as expeditiously as possible, and we have the opportunity to do so. I ask the Minister to give careful consideration to my points.

Mr Thomas *rose—*

The Chair: Order. Before I call the next speaker, it is perhaps worth pointing out that I have been fairly relaxed about allowing people to cover the whole subject of compulsory purchase and I therefore suggest that we do not have stand part debate later.

Mr Thomas: I am grateful to you, Mr Gray, for allowing me to catch your eye.

In April 2015 a series of Conservative MPs came to the constituency of Harrow West to support unsuccessfully their candidate. As they were leaving, some of them may well have paused for a cup of coffee at Harrow-on-the-Hill station—a very nice coffee shop there is there. Just around the corner, however, stands the former post office site, lying empty, as it has done for some 10 years. Why do I raise that? It is partly to begin to make clear the reason for my support for amendments 282 and 283. Both my hon. Friends have explained the need to accelerate situations in which a planning application or development has stalled and local authorities or developers might want access to information about the value of a site, what is on it and how it might be developed in future.

In the context of the former Harrow post office site, there is an additional complication. It is located next to the Metropolitan railway line. Indeed, it is very close to Harrow-on-the-Hill station, which suffers from the lack of a lift, making access extremely difficult. There has long been talk of a new access point through the former Harrow post office site to the Harrow-on-the-Hill station platforms. With the benefit of amendment 282, it might be easier for local planning officers, developers and even Transport for London surveyors to access the former post office site to examine what potential it might have for new access and a new position for the main parts of Harrow-on-the-Hill station.

3.45pm

Without the addition of this helpful amendment tabled by my hon. Friend the Member for City of Durham, I worry that the people of Harrow West—and

indeed the people of Harrow East—who use Harrow-on-the-Hill station might continue to suffer for a long time from the lack of access facilities, which means that they must use the stairs. For someone disabled, that usually means that Harrow-on-the-Hill station is not accessible, and for a new dad like me, it means that one must go to the gym to develop the muscles to carry one's child's pram up and down the stairs.

If we had access, or had confidence that developers could have access, to the former Harrow post office to explore the potential for a new bridge over the Metropolitan line so that people would not have to use the stairs, it might give my constituents confidence that their long-held aspiration of a more accessible crucial central station at Harrow-on-the-Hill might be within sight. I urge the Minister to continue in the reasonable nature that he has demonstrated up to now, and perhaps to have the courage to defy his civil servants and support amendment 282.

Dr Blackman-Woods: I am grateful to my hon. Friend for giving way. Has he not just given a brilliant example of what we are discussing? Having better compulsory purchase powers would enable local authorities to unlock a necessary development for his constituents of the sort that we have all been talking about.

Mr Thomas: That is generous of my hon. Friend. It is a particular concern of my constituents, given the huge cuts to Transport for London grant, which might mean that access programmes that exist for other stations are cut, putting even further away the prospect of better access at Harrow-on-the-Hill station. If there were a way to secure some planning gain from the development at the Harrow post office site that might be invested in better access and it might be another route to achieving the objective that my constituents have had for a long time now, under both Mayors of London, which is to make Harrow-on-the-Hill a fully accessible station. I hope that the Minister will be particularly attracted to amendment 282. In that spirit, I support my hon. Friend's amendment.

Mr Jones: In replying to the hon. Member for City of Durham and Opposition Members, it may be helpful if I start by clarifying the purpose of clause 111. It does not confer any compulsory purchase powers on acquiring authorities; it merely allows acquiring authorities to enter land for survey or valuation purposes in connection with a proposal to acquire land. The intention behind the hon. Lady's amendments therefore could not be delivered through the clause. In any case, the amendments are unnecessary. Local authorities already have the powers to acquire land by compulsion in the circumstances that the hon. Lady mentioned, provided there is a compelling case in the public interest and they have a deliverable scheme.

Also, to set the record straight, there are not currently 600,000 long-term empty properties. If the hon. Lady checks back and looks at the figures, 600,000 was the number of long-term empty properties under the last Labour Government. Under the guidance of my party in coalition and now in Government on our own, we have the lowest level of long-term vacant properties on record: 206,000. There is still significantly more to do, but we have put significant provisions in place to reduce the number of vacant properties, and the figures show that those provisions are working.

Dr Blackman-Woods: The figures—I did not actually say that they related to long-term vacant properties; I simply said they were empty—came from the Minister's own Department in October 2014. The figures given by the Department state that there are 610,123 vacant homes. I am clear that that is the figure I was given.

Mr Jones: I hear what the hon. Lady says, but I think she is putting up a false argument, because homes that are vacant in the short term are often let. That is obvious on the basis that the number of long-term vacant homes is a significantly lower number than the number of short-term vacant properties.

On the LGA, I can reassure the hon. Lady that Ministers meet it to discuss such matters regularly. On empty dwellings, local authorities can apply for empty dwelling management orders under the powers of the Housing Act 2004. That would be a far better vehicle than the amendment that she has tabled. In relation to the concerns raised by the hon. Member for Bootle about the process and clarity, in October we published updated guidance on the compulsory purchase process in a new format that has new user-friendly language to try and help people understand a very complex area of law.

Given the assurances that I have given to the hon. Lady, and on the basis that the intention of her amendment would not be achieved through the amendment, perhaps she will consider withdrawing it.

Dr Blackman-Woods: I know that under clause 111 as drafted it would not be possible for acquiring authorities to have access to compulsory purchase orders, but that was why we tabled the amendment. If the amendment were agreed to, the clause would allow that, and that would speed up the process of dealing with empty properties. I just say to the Minister that if the system and the Bill were okay, and if local authorities were to be enabled to do all that they want to bring forward development in their area, with sufficient land available for that, and to tackle the scourge of empty properties, they would not have asked us all to think about amending the Bill. Will he have another look at the issue? Local authorities are saying, "We cannot do what we want to do for our areas through the Bill as it stands." I ask, in as nice a way as possible, that he thinks about the matter again, and especially what can be done to bring empty properties back into use as quickly as possible. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 111, as amended, ordered to stand part of the Bill.

Clause 112

WARRANT AUTHORISING USE OF FORCE TO ENTER AND SURVEY LAND

Amendments made: 249, in clause 112, page 53, line 18, after "surveying" insert "or valuing".

See Member's explanatory statement for amendment 246.

Amendment 250, in clause 112, page 53, line 20, after "survey" insert "or valuation".—*(Mr Marcus Jones.)*

See Member's explanatory statement for amendment 246.

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

Mr Thomas: I am grateful to have caught your eye, Mr Gray. I rise in the context of one or two cases in which *Hansard* reports of proceedings have been used to help a judge to understand the motives behind measures, thus allowing them to make a judgment on a case before them. I also wish to ask the Minister a number of questions about this clause. When he introduced clauses 111 to 117, he described how several parts of government do not have the same opportunities as others to access, enter and survey land. If I remember his response to my intervention correctly, he referenced NHS trusts in particular, as well as one or two Departments. I wonder whether the situation is the same specifically with regard to clause 112, because it seems a little odd to include in the Bill a clause that authorises the use of force to enter and survey land. Will he set out examples of when NHS trusts or Departments have wanted or felt that they needed to use force, but had to back off because there is no provision in law to allow that, meaning that they either had not to go down the compulsory purchase order route, or had to find some other way of getting the information that they needed?

It would also be helpful if the Minister gave some examples of what is meant by "to use force". Are we talking about guns or wire cutters? It would be helpful if he could give examples of local authorities that have said to him, "We need the ability to use force to enter and survey land because otherwise we won't be able to go ahead with a whole series of compulsory purchase orders that have been set out."

I worry that subsection (2) involves, once again, the word "reasonably" being written into law. That word that has all sorts of connotations for different people. The clause might create a lot of case law, so this is an opportunity for the Minister to set out his definition of "reasonably necessary" and therefore to limit the possibility of misunderstandings in court when a warrant is being challenged by a potential developer. I ask my questions in the spirit of gentle inquiry and look forward to the Minister's reply.

4 pm

Mr Jones: We would expect most acquiring authorities exercising their compulsory purchase rights to reach agreement with owners and occupiers about entry to their land. Warrants are only for those cases when entry is refused or is likely to be refused. It is impossible to predict how many warrants will be sought, as that will depend on the number of compulsory purchase proposals that come forward, the number of affected owners and occupiers, and their reaction to each particular proposal. Just to give the hon. Gentleman some reassurance, however, clause 112 makes it absolutely clear that while the warrant authorises the use of force, a justice of the peace, when deciding whether to issue a warrant, must be satisfied that the use of force is reasonable in the particular case, and the force that may be authorised is limited to what is reasonably necessary. In addition, all evidence in proceedings must be given under oath and the warrant must specify the number of times that entry will be allowed.

Mr Thomas: The Minister has helpfully detailed the context in which a warrant might be issued and specified that he expects that the vast majority of efforts to enter and survey land will not require a warrant in the first place. However, to come back to the nub of my earlier comments, why is the power necessary? Have the Minister's civil servants had to field a series of requests from local authorities or developers for these powers?

Mr Jones: I have set out that the warrants will be used only when the landowner has an adverse reaction to a request to enter and survey or value land. It is clear that many acquiring authorities and landowners will come to arrangements themselves, but the case the hon. Gentleman mentioned of his own railway station is a prime example of when a scheme was being put forward but the landowner completely refused to allow the acquiring authority the right to come on to the land to survey and value it. I expect that he would want some sort of mechanism whereby that acquiring authority would be able to enter the land.

Mr Thomas: Does the Minister have fracking in mind? He shakes his head and looks pained—I recognise that that is a sensitive subject for Conservative Members—but does he envisage a warrant requiring the use of force being needed if protesters had barricaded themselves in, or if the person who owned the land did not want someone who had been given fracking consent to survey what may or may not be underneath the ground?

Mr Jones: The hon. Gentleman has come up with many conspiracy theories during our scrutiny of the Bill and I suspect that this may well be another one. I have set out the reasoning behind clause 112 in detail and hope that hon. Members will agree to it.

Question put and agreed to.

Clause 112, as amended, accordingly ordered to stand part of the Bill.

Clause 113 ordered to stand part of the Bill.

Clause 114

ENHANCED AUTHORISATION PROCEDURES ETC. FOR CERTAIN SURVEYS

Amendments made: 251, in clause 114, page 54, line 11, after "surveys" insert "or values".

See Member's explanatory statement for amendment 246.

Amendment 252, in clause 114, page 54, line 15, after "survey" insert "or valuation".

See Member's explanatory statement for amendment 246.

Amendment 253, in clause 114, page 54, line 17, after "survey" insert "or valuation".

See Member's explanatory statement for amendment 246.

Amendment 254, in clause 114, page 54, line 32, after "survey" insert "or valuation".

See Member's explanatory statement for amendment 246.

Amendment 255, in clause 114, page 54, line 33, after "survey" insert "or valuation".

See Member's explanatory statement for amendment 246.

Amendment 256, in clause 114, page 54, line 40, after "survey" insert "or valuation".—*(Mr Marcus Jones.)*

See Member's explanatory statement for amendment 246.

Mr Jones: I beg to move amendment 257, in clause 114, page 54, line 40, at end insert—

"(5) See section 169(4) of the Water Industry Act 1991 and section 171(4) of the Water Resources Act 1991 for additional procedures in relation to the exercise of the power in section 111 on behalf of a water undertaker, the Environment Agency or the Natural Resources Body for Wales."

See Member's explanatory statement for NC18.

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

Government new clause 18—*Amendments to do with section 111 to 117.*

Government new schedule 3—*Right to enter and survey land: consequential amendments.*

Mr Jones: Amendment 257, new clause 18 and new schedule 3 clarify how the new right of entry will interact with a number of existing powers of entry. As I have explained, the intention is that all acquiring authorities should, when possible, use the new general power of entry, so when the new general power covers all the purposes of an existing power of entry, that existing power will be repealed in its entirety. If the scope of the existing power is wider than that of the new general power, we will amend the existing power so that it no longer applies to the specific purposes for which the general power can be used.

Amendment 257 signposts additional procedures that relevant acquiring authorities must follow when exercising the right of entry under clause 111. Those additional procedures, as set out in the Water Industry Act 1991 and the Water Resources Act 1991, require water undertakers, the Environment Agency and the Natural Resources Wales to seek the Secretary of State's written authorisation before exercising the right to enter in certain circumstances. The amendment simply replicates an important safeguard in the existing power of entry.

New clause 18 introduces new schedule 3, which sets out the changes to each of the existing powers of entry. I will highlight one particular point. The existing powers of entry repealed by paragraphs 8, 9, 19, 20 and 27 of new schedule 3 allow entry in connection with any claim for compensation in respect of an acquisition. The new general power of entry in clause 111 does not cover that purpose. However, as such claims arise after a compulsory purchase order has been confirmed, paragraph 6 of new schedule 3 clarifies that acquiring authorities will be able to rely on the power of entry under section 11(3) of the Compulsory Purchase Act 1965 for that purpose.

Amendment 257 agreed to.

The Chair: Before we move on, I would like to comment on a small matter of protocol. On several occasions today, members of staff have come into the Strangers Gallery and handed documents and other things to members of the Committee. That is not in order—you may not do that. If you want to get something from members of staff, go outside into the corridor and do it there, if that is agreeable.

Clause 114, as amended, ordered to stand part of the Bill.

Clause 115 and 116 ordered to stand part of the Bill.

Clause 117

RIGHT TO ENTER AND SURVEY CROWN LAND

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

Mr Thomas: In the spirit of my contribution on clause 112, I want to ask some questions about clause 117. Why do we require a clause on the right to enter and survey Crown land? I struggle to understand why a warrant authorising the use of force might be necessary to enter and survey Crown land, so I would welcome the Minister's setting out an example of why that might be necessary.

I also struggle to understand why somebody who is, presumably, employed by the Queen might be at risk of committing an offence under clause 116 in relation to entering and surveying Crown land. Why on earth do we need to include Crown land under the Bill? One assumes that, as a general rule, Her Majesty and those who exercise control of her lands would work with Government Departments and developers to allow them to enter and survey land. Even if those employed by Her Majesty did not co-operate, I struggle to understand why we would want to take action against staff employed to look after Crown land, or why the Minister thinks that a warrant authorising the use of force is necessary. Will the Minister set out in particular whether this measure covers Crown Estate land? Has he had any consultations with the Crown Estate itself about how clauses 111 to 116 apply to Crown Estate land under the terms of clause 117?

Mr Jones: I will respond quickly to the hon. Gentleman's questions. Clause 117 explains that the new power of entry will be available in relation to Crown land—any land in which there is a Crown or a duchy interest, for example—but the permission of the appropriate Crown authority must be obtained first. That ensures that there is appropriate protection for Crown land. The measure is based on existing precedent. For instance, the power of entry set out in sections 53 and 54 of the Planning Act 2008 involves a similar provision in respect of Crown land.

Question put and agreed to.

Clause 117 accordingly ordered to stand part of the Bill.

Clause 118 ordered to stand part of the Bill.

Clause 119

CONFIRMATION BY INSPECTOR

Mr Jones: I beg to move amendment 258, in clause 119, page 57, line 1, leave out from beginning to "is" in line 2 and insert—

"Where an inspector decides whether or not to confirm the whole or part of a compulsory purchase order, the inspector's decision".

This amendment would mean that an inspector's decision whether or not to confirm the whole or part of a compulsory purchase order would be treated as a decision of the confirming authority. The current wording would mean that only a decision to confirm a compulsory purchase order would be treated as the authority's decision.

Before I explain the amendment, it might be helpful if I provide a little background about the provision to which it relates—clause 119, on confirmation by an inspector.

The purpose of the clause is to allow each Secretary of State with powers to confirm a compulsory purchase order to appoint an inspector to make the decision directly in suitable cases. That would speed up the decision-making process by removing the two-stage handling of the confirmation of an order, which is where an inspector makes a recommendation to the Secretary of State, who makes the decision.

An inspector may be appointed to act in relation to a specific order or a description of compulsory purchase orders. The Government intend to publish a policy on which orders are suitable for confirmation by an inspector after further engagement with stakeholders. The provision is, however, likely to be useful in cases that do not raise issues of more than local importance. In such cases, the Secretary of State often fully agrees with the inspector's reasoning and decides the order in accordance with the inspector's recommendation. Removing this double handling could shorten the process by up to 12 weeks.

4.15 pm

I now turn to amendment 258. The proposed new section 14D(5) of the Acquisition of Land Act 1981 states that

"Where a compulsory purchase order is confirmed by an inspector, the inspector's confirmation is to be treated as that of the confirming authority."

This refers only to where an order is confirmed. Amendment 258 would mean that an inspector's decision on whether to confirm the whole or part of the compulsory purchase order would be treated as a decision "of the confirming authority". That will ensure that an inspector's decision not to confirm an order is also treated as the decision "of the confirming authority".

Amendment 258 agreed to.

Dr Blackman-Woods: I beg to move amendment 280, in clause 119, page 57, line 24, at end insert—

"(d) submitted to the acquiring authority".

This amendment would include local authorities in the compulsory purchase order decision.

I would appreciate a bit of direction from the Chair, Mr Gray.

The Chair: I will be happy to provide it.

Dr Blackman-Woods: Thank you, Mr Gray. I wish to speak about amendment 280 and to make some wider comments about clause stand part, and I seek guidance as to whether I should do them both together.

The Chair: It might be simplest if the hon. Lady spoke about amendment 280 and made comments on clause stand part; we could then avoid having a separate debate later. Please range wider than the amendment would indicate.

Dr Blackman-Woods: That is very helpful. Thank you very much indeed, Mr Gray.

Amendment 280 aims further to include the local authority in planning decisions and asks for local authorities to be engaged with the compulsory purchase order decisions. It would add a useful element to the Bill for two main reasons.

First, it would ensure that local authorities have a strong and active role in the CPO decision. As we have highlighted throughout the Committee process, and it has been backed up time and again by those giving evidence, local authorities often have a much better knowledge of and insight into the needs and realities of a local area than central Government or, in this particular instance, a planning inspector.

That is obviously also true when it comes to planning decisions and putting local people at the heart of the planning process. It is important that local councillors in particular are involved in compulsory purchase. They are often in a very good position to bring about a collaborative approach, rather than one that is simply top-down, and can play a pivotal role in explaining to a local community and to the owners of the land why compulsory purchase is a sensible decision. We feel that this role for local authorities and their councillors in mediating some of the disputes that can arise from CPO decisions has been overlooked, or perhaps it has not been exploited enough by Government and those seeking to bring about compulsory purchase. It could also be an important element in speeding the process up, because that mediation that can be brought about locally could help to highlight some of the difficulties that exist.

Again, this amendment has come forward very strongly from the LGA, which says that it wants to be actively engaged in the process; it thinks that it could have a positive impact on decisions. The LGA has said that the consultation that the Government carried out before introducing the Bill proposed enabling powers to allow the Secretary of State to delegate decisions for confirmation to an inspector in certain instances, which is exactly what we are discussing in relation to clause 119.

Although that is a step in the right direction and should speed up decision making to a degree, we think that the Government should be even more ambitious. That is why we think that the requirement for permission from the Secretary of State to proceed with a compulsory purchase order should be removed, or at least that consideration should be given to removing it in certain circumstances, particularly where safeguards are in place and it is clearly set out in legislation that local authorities could be given that decision. It would be interesting to hear from the Minister when he responds to these points why he thinks that we should not do more to strengthen the role that local authorities could play in bringing about CPOs swiftly and ensuring that all parties are on board with the decision.

I have a few wider comments, which I will keep extremely brief. Again, the LGA, on the back of this clause and other related clauses, has said that it thinks that there could be a

"more fundamental consolidation and streamlining of the legislative provisions for compulsory purchase".

In particular, it points out:

"A number of different Acts and statutory instruments introduced over more than 150 years pertaining to compulsory purchase have resulted in antiquated legal terminology, inconsistences and uncertainties, all of which add to the costs of the CPO process and the scope for dispute."

That is an extremely interesting point. Although the clause contains some of the streamlining that we all want to speed up the CPO process and make it easier to understand and more transparent, we are probably seeing the need for consolidating legislation that would make it easier for everyone.

[Dr Blackman-Woods]

The LGA makes another important point:

"Land valuation should be considered by the tribunal up front, in cases where a compulsory purchase order is in contest, not at the end of the process, creating greater certainty"

for all parties. I would be grateful, when the Minister is responding to both the amendment and clause stand part, if he said more about what we can do to help local authorities. I point out to him that we have an incredibly complicated 10-stage process in place at the moment. Anything that we can do to streamline it would be helpful. It is clear from the many representations made to the Committee that giving local authorities a greater role would help streamline the process hugely. More than that, it would show that the Government have faith in local authorities to do the best for their area. We understand fully the need for safeguards in certain circumstances, but we would like the Government to extend localism to having some faith that local authorities know what is best for their communities, and allowing them a direct role in the compulsory purchase process.

Mr Jones: I thank the hon. Lady for her explanation of amendment 280 relating to clause 119(3), which substitutes for section 2(2) of the Acquisition of Land Act 1981 a new section 2(2) requiring a compulsory purchase order to be made by the acquiring authority and submitted to the confirming authority—the Secretary of State—for confirmation in accordance with part 2 of the 1981 Act. Amendment 280 would require the order to be submitted to the acquiring authority also. The amendment is unnecessary and inappropriate because the compulsory purchase order will have been made by the acquiring authority and submitted to the confirming authority. There is therefore no need or purpose for the order to be submitted back to the acquiring authority.

Section 2(2) of the 1981 Act is about the submission phase, not the decision phase. Part 2 of the 1981 Act concerns the decision phase. The compulsory purchase decision phase must comply with article 6 of the European convention on human rights, which means that the decision on an order needs to be made by an independent and impartial tribunal. The current process, whereby the confirming authority makes its decision, after the affected parties have had the opportunity to make objections and have them heard by an inspector, ensures a fair and impartial process that is article 6 compliant. I hope, therefore, that the hon. Lady will consider her proposal unnecessary and inappropriate. I invite her to withdraw the amendment.

Dr Blackman-Woods: The LGA and the councils clearly feel strongly about the issue because they are asking for changes to be made. I hear what the Minister says about ensuring a degree of independent adjudication, and it would help if he could indicate whether he will keep talking to the LGA about how its concerns might be better addressed in the current system. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 119 ordered to stand part of the Bill.

Clause 120

TIME LIMITS FOR NOTICE TO TREAT OR GENERAL VESTING DECLARATION

Mr Jones: I beg to move amendment 259, in clause 120, page 57, line 36, leave out "made" and insert "executed".

This amendment, together with amendments 260, 261, 272, 273, 274, 275, 276 and 277, amends references to a general vesting declaration so that they are consistent with the terminology of section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 (although "make" and "execute" mean the same thing).

The Chair: With this it will be convenient to discuss Government amendments 260, 261 and 272 to 277.

Mr Jones: This series of amendments, starting in clause 120, all do the same thing. They change the terminology from "made" to "executed" in reference to a general vesting declaration. Although such a declaration is "made" when it has been "executed", and hence the words mean the same, section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 uses "executed" and we think, therefore, that it will help all parties involved in compulsory purchase if we are consistent throughout.

Amendment 259 agreed to.

Clause 120, as amended, ordered to stand part of the Bill.

Clause 121 ordered to stand part of the Bill.

Schedule 7

NOTICE OF GENERAL VESTING DECLARATION PROCEDURE

Amendments made: 273, in schedule 7, page 91, line 26, leave out "made" and insert "executed".

See Member's statement for amendment 259.

Amendment 272, in schedule 7, page 91, line 12, leave out "made" and insert "executed". *—(Mr Marcus Jones.)*

See Member's statement for amendment 259.

Schedule 7, as amended, agreed to.

Clauses 122 to 127 ordered to stand part of the Bill.

Schedule 8 agreed to.

Clauses 128 to 130 ordered to stand part of the Bill.

Clause 131

POWER TO MAKE AND TIMING OF ADVANCE PAYMENT

Amendments made: 260, in clause 131, page 63, line 4, leave out "made a" and insert "executed a general".

See Member's statement for amendment 259.

Amendment 261, in clause 131, page 63, line 21, leave out "make a" and insert "execute a general". *—(Mr Marcus Jones.)*

See Member's statement for amendment 259.

Clause 131, as amended, ordered to stand part of the Bill.

Clauses 132 and 133 ordered to stand part of the Bill.

Clause 134

OBJECTION TO DIVISION OF LAND

4.30 pm

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

Dr Blackman-Woods: The clause relates to objections relating to the division of land, and I have a question for the Minister. If an objection to the taking of only part of the land is served by a landowner, the project for

which powers of compulsory purchase have been granted is likely to come to a halt until the landowner's desire to have the entirety of the interest acquired has been resolved either by agreement or by the Lands Chamber. This can create a situation in which the landowner can hold the intended project to ransom on account of the likely delay to the project, given the delay in resolving the issue in the Lands Chamber, which can often amount to a year or a number of years if the issue is particularly complex. Does the Minister think the measures in the clause will help in that situation? Will they help to provide a remedy that speeds up resolution of problems that emerge when there is a division of land or land is split in some way? If the Minister thinks that it does, will he explain to the Committee how?

Mr Jones: It will probably help if I explain clause 134, which introduces schedules 9 and 10, which contain a dispute resolution procedure where material detriment has been alleged. This may arise when only a part of a claimant's land is required by the acquiring authority. Schedule 9 applies when a notice to treat has been served and schedule 10 applies following the execution of a general vesting declaration. It may help the Committee if I briefly outline the concept of material detriment.

Some projects, such as roads, may require only part of someone's land, and that will be the land included in the compulsory purchase order. The taking of land and the nature of the project will have differing effects depending on the nature of the remaining land. Material detriment arises where the claimant's retained land would be less useful or less valuable to a significant degree. If the claimant thinks that taking part of the land will cause material detriment to a house, building or factory, including part of a garden or park belonging to the house, he or she can serve a counter-notice, which can then be referred to the upper tribunal for determination.

The procedure for claiming material detriment differs depending on whether an acquiring authority serves a notice to treat or executes a general vesting declaration. The intention in the Bill is to harmonise the two procedures as far as possible. That goes some way to simplifying the process by giving both parties a greater understanding of the process, and giving a better steer to the courts in relation to making sure that the procedure is harmonised for when both systems are used.

Paragraph 3 of schedule 9 inserts new schedule 2A into the Compulsory Purchase Act 1965. This sets out the procedure for serving a counter-notice requiring the purchase of land, not the notice to treat, and its subsequent determination. Among the procedural details are three important points. First, the acquiring authority is permitted to enter the land that it wants and to get on with its scheme where the counter-notice has been referred to the tribunal. That is set out in paragraph 11 of new schedule 2A, referred to in paragraph 5(b). Secondly, if the acquiring authority does that, there is no going back, as it will be compelled to take the remainder of the land if the tribunal finds in favour of the claimant. That is the effect of paragraph 21(1)(c) of the new schedule 2A, which allows the acquiring authority to withdraw its notice to treat only if it has not yet entered on and taken possession of the land. Thirdly, if the tribunal requires all or some more of the remaining land to be taken, the claimant will be compensated for any losses caused by the temporary severance of the land where the authority has already entered part of it. For example, if part of a claimant's business premises is taken, he or she may incur trading losses over and above those that would have occurred had the land been taken in the first instance. That is provided for in paragraph 26(5) of new schedule 2A.

Among the consequential amendments in part 2 of schedule 9 is a new feature of the material detriment regime. Paragraph 9 inserts a new section 2A into the Acquisition of Land Act 1981 that allows acquiring authorities to disapply the material detriment provisions for land that is 9 metres or more below the surface. That provision will prevent spurious claims for material detriment from owners of land above tunnels where the works will have no discernible effect on the land. Provisions of that nature are common in hybrid Acts, such as the Crossrail Act 2008.

Schedule 10 provides a similar counter-notice procedure where material detriment is claimed following the execution of a general vesting declaration under the Compulsory Purchase (Vesting Declarations) Act 1981. I commend clause 134 to the Committee.

Question put and agreed to.

Clause 134 accordingly ordered to stand part of the Bill.

Schedule 9

OBJECTION TO DIVISION OF LAND FOLLOWING NOTICE TO TREAT

Amendments made: 274, in schedule 9, page 94, line 5, leave out "made" and insert "executed".

See Member's statement for amendment 259.

Amendment 275, in schedule 9, page 95, line 36, leave out "made" and insert "executed".—*(Mr Marcus Jones.)*

See Member's statement for amendment 259.

Schedule 9, as amended, agreed to.

Schedule 10

OBJECTION TO DIVISION OF LAND FOLLOWING VESTING DECLARATION

Amendments made: 276, in schedule 10, page 103, line 9, leave out "made" and insert "executed".

See Member's statement for amendment 259.

Amendment 277, in schedule 10, page 103, line 22, leave out "made" and insert "executed".—*(Mr Marcus Jones.)*

See Member's statement for amendment 259.

Schedule 10, as amended, agreed to.

Clauses 135 and 136 ordered to stand part of the Bill.

Clause 137

POWER TO OVERRIDE EASEMENTS AND OTHER RIGHTS

Mr Jones: I beg to move amendment 262, in clause 137, page 66, line 39, after "authority" insert ", or

(ii) been appropriated by a local authority for planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990".

This amendment, together with amendment 264, would mean that the power to override easements and other rights in clause 137 applied to land which a local authority already held prior to the coming into force of clause 137 but only appropriated for planning purposes after the coming into force of that clause.

The Chair: With this it will be convenient to discuss Government amendments 263 to 271.

Mr Jones: This group of amendments contains mainly transitional provisions and drafting improvements. With your permission, Mr Gray, before I explain what they all do I will set out the purpose of clauses 137 to 139 to put them into context.

Regeneration and redevelopment projects will, almost by definition, take place on previously developed land. To ensure that there are no impediments to the proposed regeneration, it may be necessary to deal with restrictive covenants and easements that affect the land acquired. The Law Commission has found that there are easements over at least 65% of registered freehold titles. Those third-party interests are typically rights to allow the underground services—for example, water, gas, electricity and telecommunications—of one property to pass beneath the land of neighbouring properties. There are also rights of light, rights of way and covenants restricting development to certain uses or density.

The statutory power to override such easements and covenants for both the construction and use of development is currently restricted to local planning authorities and regeneration agencies such as the Homes and Communities Agency and urban development corporations. New town development corporations and housing action trusts also have that power, but there are none in existence at present. One important aspect of the power is that it devolves to subsequent purchasers of the land without the local authority or agency having to do the development itself. It is therefore an important feature of town centre redevelopment schemes where local planning authorities acquire land and sell it on to their developer partner.

Not all development schemes are undertaken on land held for planning purposes or acquired by regeneration agencies. The Government have therefore decided to extend the power to override the easements and other rights to all bodies with compulsory purchase powers. Clause 137 contains that power, which will be available in respect of land acquired by or vested in a specified authority, as defined by subsection (7), when the provision comes into force.

It may help the Committee if I describe the amendments in sub-groups. Amendments 262 and 264 are transitional provisions to enable local planning authorities to do in the future what they can do now. At the moment, land not held for planning purposes may be appropriated for planning purposes to benefit from the power to override easements in section 237 of the Town and Country Planning Act 1990. Clause 137(2)(b) does not provide for appropriation of land, so without the amendments, land already held for other purposes could never benefit from clause 137, even though land newly acquired for the same purpose after commencement could do so. That is clearly not a desired outcome, so amendments 262 and 264 take us to the right place.

Amendments 263, 266 and 269 are the main transitional provisions. Amendments 263 and 266 extend the provisions to other qualifying land, which is defined in amendment 269 as land that is or has been owned by those bodies that already have the power to override easements and other rights. The effect is that those bodies will be able to exercise the new power in clause 137 on that land instead of their existing powers, which will be removed by schedule 11 to the Bill.

Amendment 265 is a substantive amendment. Clause 137(4)(c) states that the power to override easements and so on applies to the use of land where the authority could have purchased the land compulsorily to construct or erect any building for that use. That is too limiting, as some uses do not require a building to be constructed, such as a carpark or landscaping. Amendment 265 therefore extends that provision so that it refers to the carrying out of any works for the use in question.

Amendments 267 and 271 are consequential to the motion to split clause 137 into two clauses. Clause 137 will be unwieldy once the definitions in subsection (7) have been extended by the definition of "other qualifying land" in amendment 269. The motion will therefore split clause 137, with its substantive provisions in subsections (1) to (6) and the new clause containing the definitions in subsections (7) and (8).

Amendments 268 and 270 regularise the definition of local authority in the provisions. Amendments 262, 264 and 269 introduce references to a local authority's planning purposes. The list of authorities that are local authorities for those purposes is not the same as the general definition of "local authority" in subsection (7). In the future, we only need a general definition in the context of a specified authority, also defined in subsection (7). Amendment 268 therefore removes the now superfluous general definition of "local authority" and amendment 270 places the definition within that of a specified authority.

4.45 pm

Dr Blackman-Woods: I thank the Minister for carefully taking us through the amendments and for answering one of my questions already, but there are a couple of others which I will deal with quickly.

It does make a lot of sense to split the clause in the way the Government suggest. The clause gives acquiring authorities a power to override rights in land following compulsory purchase, similar to provisions in section 237 of the Town and Country Planning Act 1990, which allows planning authorities to override easements and other rights in land following compulsory purchase or in seeking to develop its own land to another purpose. If the land is subject to rights benefiting other persons, such as a right of way or a restrictive covenant, the right can be overridden and development carried out even if the right would be breached. Provision is made for the payment of compensation, but the quantum of compensation is limited to the diminution in value to the interest in land that benefited from the right. There is no provision for recovery of other losses, such as loss of business income, arising as a consequence of the overriding.

I was going to ask the Minister whether the amendment would specifically look at land already held by local authorities that is intended to be appropriated and developed in future, but he answered that question directly. However, are the provisions for compensation sufficient to compensate for losses, particularly for lost profits, and are they compatible with article 1 of the first protocol to the European convention on human rights?

Mr Jones: I thank the hon. Lady for her question. Diminution of value is how the system works under current compulsory purchase powers. The provisions are designed to extend the existing powers to other

bodies with compulsory purchase powers, not to amend them. I hope that that answers her question.

Amendment 262 agreed to.

Amendments made: 263, in clause 137, page 66, line 41, at end insert—

'( ) Subsection (1) also applies to building or maintenance work where—

(a) there is planning consent for the building or maintenance work,

(b) the work is carried out on other qualifying land, and

(c) specified authority could acquire the land compulsorily for the purposes of the building or maintenance work.'

Schedule 11 removes a number of existing powers to override easements. This amendment, together with amendments 266, 267, 268, 269 and 271, would mean that the new power in clause 137 could be exercised instead of the powers removed by Schedule 11.

Amendment 264, in clause 137, page 67, line 6, after 'authority' insert

', or

(ii) been appropriated by a local authority for planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990'.

See member's explanatory statement for amendment 262.

Amendment 265, in clause 137, page 67, line 8, after 'building' insert

', or carrying out any works,'.

Clause 137(4)(c) limits the power in clause 137(3) to use land despite existing easements or restrictions so that it may be exercised only when a specified authority could acquire land compulsorily for the purpose of erecting or constructing any building for the use in question. This amendment would adjust the restriction in clause 137(4)(c) so that it is not limited to erecting or constructing a building but includes carrying out any works.

Amendment 266, in clause 137, page 67, line 8, at end insert—

'( ) Subsection (3) also applies to the use of land in a case where—

(a) there is planning consent for that use of the land,

(b) the land is other qualifying land, and

(c) specified authority could acquire the land compulsorily for the purposes of erecting or constructing any building, or carrying out any works, for that use.'

See Member's explanatory statement for amendment 263.

Amendment 267, in clause 137, page 67, line 15, leave out 'In this section' and insert

'In sections 137 and 138'.

The changes that would be introduced by amendments 263, 266, 269 and 271 would add considerably to the length of clause 137. This amendment, together with the motion after amendment 270, would prevent clause 137 becoming too long by removing the interpretation subsection from that clause and putting it into its own clause.

Amendment 268, in clause 137, page 67, leave out lines 18 and 19.

Amendments 262, 264 and 269 would introduce references to a local authority's planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990. The list of authorities that are local authorities for those purposes is different from the list that are local authorities for the purposes of the definition of "specified authority" in clause 137. This amendment and amendment 270 therefore remove the general definition of "local authority" and define the term "local authority" only in relation to the term "specified authority".

Amendment 269, in clause 137, page 67, line 19, at end insert—

'"other qualifying land" means land in England and Wales that has at any time before the day on which this section comes into force been—

(a) acquired by the National Assembly for Wales or the Welsh Ministers under section 21A of the Welsh Development Agency Act 1975;

(b) vested in or acquired by an urban development corporation or a local highway authority for the purposes of Part 16 of the Local Government, Planning and Land Act 1980;

(c) acquired by a development corporation or a local highway authority for the purposes of the New Towns Act 1981;

(d) vested in or acquired by a housing action trust for the purposes of Part 3 of the Housing Act 1988;

(e) acquired or appropriated by a local authority for planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990;

(f) vested in or acquired by the Homes and Communities Agency, apart from land the freehold interest in which was disposed of by the Agency before 12 April 2015;

(g) vested in or acquired by the Greater London Authority for the purposes of housing or regeneration, apart from land the freehold interest in which was disposed of before 12 April 2015—

(h) vested in or acquired by a Mayoral development corporation (established under section 198(2) of the Localism Act 2011), apart from land the freehold interest in which was disposed of by the corporation before 12 April 2015.'

See Member's explanatory statement for amendment 263.

Amendment 270, in clause 137, page 67, line 38, after 'authority' insert

'as defined by section 7 of the Acquisition of Land Act 1981'.—*(Mr Marcus Jones.)*

See Member's explanatory statement for amendment 268.

Ordered,

That Clause No. 137 be divided into two clauses, the first (Power to override easements and other rights) consisting of subsections (1) to (6) and the second (Interpretation of sections 137 and 138) to consist of subsections (7) and (8).—*(Mr Marcus Jones.)*

Clauses 137A and 137B, as amended, ordered to stand part of the Bill.

Clause 138

COMPENSATION FOR OVERRIDDEN EASEMENTS ETC

Amendment made: 271, in clause 138, page 68, line 14, leave out subsection (5).—*(Mr Marcus Jones.)*

See Member's explanatory statement for amendment 263.

Clause 138, as amended, ordered to stand part of the Bill.

Clause 139 ordered to stand part of the Bill.

Schedule 11

AMENDMENTS TO DO WITH SECTIONS 137 AND 138

Mr Jones: I beg to move amendment 278, in schedule 11, page 107, line 5, at end insert—

'Welsh Development Agency Act 1975 (c. 70)

A1 (1) Schedule 4 to the Welsh Development Agency Act 1975 is amended as follows.

(2) Omit paragraph 6 and the italic heading before it.

(3) In paragraph 9 omit sub-paragraph (a).'

This amendment would repeal paragraph 6 of Schedule 4 to the Welsh Development Agency Act 1975. The provision to be repealed is a power to override easements in certain circumstances. The power would in future be exercisable under clause 137, as amended by amendment 269.

[Mr Marcus Jones]

Amendment 278 adds paragraph 6 of schedule 4 to the Welsh Development Agency Act 1975 to the list of repeal provisions in schedule 11 to the Bill, meaning that the power to override easements and other rights currently exercised under the Act will in future be exercised under clause 137, as now amended.

Amendment 278 agreed to.

Schedule 11, as amended, agreed to.

Clauses 140 to 143 ordered to stand part of the Bill.

Clause 144

COMMENCEMENT

The Chair: I call Mr Lewis to move amendment 279.

Brandon Lewis: Mr Gray, the Government are not moving amendment 279 at this stage. We want to consider the matter further and come back on Report.

The Chair: The amendment is not moved.

Clause 144 ordered to stand part of the Bill.

Clause 145 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Julian Smith.)*

4.52 pm

Adjourned till Thursday 10 December at half-past Eleven o'clock.