PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NEIGHBOURHOOD PLANNING BILL

First Sitting

Tuesday 18 October 2016

(Morning)

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not later than

Saturday 22 October 2016

The Committee consisted of the following Members:

Chairs: †Mr Peter Bone, Steve McCabe

† Barwell, Gavin *(Minister for Housing and Planning)*
† Blackman-Woods, Dr Roberta *(City of Durham)* (Lab)
† Colvile, Oliver *(Plymouth, Sutton and Devonport)* (Con)
† Cummins, Judith *(Bradford South)* (Lab)
† Doyle-Price, Jackie *(Thurrock)* (Con)
† Green, Chris *(Bolton West)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
Hollinrake, Kevin *(Thirsk and Malton)* (Con)
† Huq, Dr Rupa *(Ealing Central and Acton)* (Lab)
† McMahon, Jim *(Oldham West and Royton)* (Lab)
† Malthouse, Kit *(North West Hampshire)* (Con)
† Mann, John *(Bassetlaw)* (Lab)
† Philp, Chris *(Croydon South)* (Con)
† Pow, Rebecca *(Taunton Deane)* (Con)
Tracey, Craig *(North Warwickshire)* (Con)
† Villiers, Mrs Theresa *(Chipping Barnet)* (Con)

Ben Williams, Glenn McKee, *Committee Clerks*

† attended the Committee

Witnesses

Roy Pinnock, Member of the BPF Planning Committee, British Property Federation

Andrew Dixon, Head of Policy, Federation of Master Builders

Ross Murray, President, Country Land and Business Association

Andrew Whitaker, Planning Director, Home Builders Federation

Councillor Tony Newman, Member of the LGA's Environment, Economy, Housing and Transport

Board and Leader of London Borough of Croydon, Local Government Association

Duncan Wilson OBE, Chief Executive, Historic England

Angus Walker, NIPA Board Chairman, National Infrastructure Planning Association

Hugh Ellis, Interim Chief Executive and Head of Policy, Town and Country Planning Association

Public Bill Committee

Tuesday 18 October 2016

(Morning)

[Mr Peter Bone *in the Chair*]

Neighbourhood Planning Bill

9.25 am

The Chair: Before we begin, I have a few preliminary announcements. Please switch off electronic devices, or turn them to silent. Teas and coffees are not allowed as props during sittings. We will first consider the programme motion. We will then consider a motion to allow us to deliberate in private about our questions before the oral evidence session and a motion to enable the reporting of written evidence for publication. In view of the time available, I hope that we can take those matters formally, without debate.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 18 October) meet—

(a) at 2.00 pm on Tuesday 18 October;

(b) at 11.30 am and 2.00 pm on Thursday 20 October;

(c) at 9.25 am and 2.00 pm on Tuesday 25 October;

(d) at 11.30 am and 2.00 pm on Thursday 27 October;

(e) at 9.25 am and 2.00 pm on Tuesday 1 November;

(2) the Committee shall hear oral evidence in accordance with the following Table:

Date	*Time*	*Witness*
Tuesday 18 October	Until no later than 10.30 am	British Property Federation Federation of Master Builders Home Builders Federation Country Land and Business Association
Tuesday 18 October	Until no later than 11.25 am	Local Government Association Historic England National Infrastructure Planning Association Town and Country Planning Association
Tuesday 18 October	Until no later than 2.30 pm	National Association of Local Councils Royal Institute of British Architects
Tuesday 18 October	Until no later than 3.00 pm	Locality Campaign to Protect Rural England
Tuesday 18 October	Until no later than 4.00 pm	Compulsory Purchase Association Royal Institution of Chartered Surveyors Law Society Royal Town Planning Institute
Tuesday 18 October	Until no later than 4.45 pm	Department for Communities and Local Government

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 3; Schedule 1; Clauses 4 to 7; Schedule 2; Clauses 8 to 36; new Clauses; new Schedules; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 1 November.—*(Jackie Doyle-Price.)*

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—*(Gavin Barwell.)*

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—*(Gavin Barwell.)*

The Chair: Copies of written evidence that the Committee receives will be made available in the Committee room. We will now go into private session to discuss lines of questioning.

9.27 am

The Committee deliberated in private.

9.28 am

The Chair: Before we start hearing from the witnesses, do any Members wish to make declarations of interest?

Oliver Colvile (Plymouth, Sutton and Devonport) (Con): I think I probably need to do so, because I still have shares in a company called Polity Communications, which gives advice to developers on how to get planning permission. I have in the past done work on opposing things with community groups as well.

Helen Hayes (Dulwich and West Norwood) (Lab): I should mention that I employ a local authority council member in my parliamentary team.

Chris Philp (Croydon South) (Con): I should draw colleagues' attention to my entry in the Register of Members' Financial Interests. I am a shareholder in a business that provides finance for construction projects.

Jim McMahon (Oldham West and Royton) (Lab): I am a councillor in Oldham.

Kit Malthouse (North West Hampshire) (Con): I draw the Committee's attention to my entry in the Register of Members' Financial Interests. I am the majority shareholder of a company that provides finance for construction equipment.

The Minister for Housing and Planning (Gavin Barwell): I employ two local authority members in my parliamentary and constituency office. For the record, I should probably also say that one of the witnesses is the leader of the council in my local area.

Examination of Witnesses

Andrew Whitaker, Roy Pinnock, Andrew Dixon and Ross Murray gave evidence.

9.30 am

The Chair: We will now hear oral evidence from the British Property Federation, the Federation of Master Builders, the Home Builders Federation and the Country Land and Business Association.

Before calling the first Member to ask a question, I remind all Members that questions should be limited to matters within the scope of the Bill, and that we must stick to the timings in the programme order. The Committee has agreed that, for this session, we have until 10.30 am. Welcome, witnesses. Would you introduce yourselves, from left to right?

Andrew Whitaker: Certainly, sir. I am Andrew Whitaker. I am the planning director at the Home Builders Federation.

Roy Pinnock: I am Roy Pinnock. I am a solicitor and partner at the law firm Dentons, and I am here on behalf of the British Property Federation.

Andrew Dixon: I am Andrew Dixon. I am head of policy at the Federation of Master Builders.

Ross Murray: Chairman, good morning. I am Ross Murray. I am president of the Country Land and Business Association, representing the rural interest and the rural economy.

The Chair: The first Member to ask a question is the shadow Minister.

Q1 Dr Roberta Blackman-Woods (City of Durham) (Lab): Thank you, Mr Bone. Good morning. It is a pleasure to see some of you again. We have been around the houses a bit on planning and housing Bills.

I will start with the most contentious part of the Bill for the Labour party, which is the changes to pre-commencement planning conditions. What evidence is there to suggest that pre-commencement conditions are overused and cause delays in planning processes? It would be helpful if you could give some examples to help us understand the issue.

Andrew Whitaker: Obviously, anything that prevents somebody from getting on site and starting implementation of their planning permission is a delay to implementation. Any condition on a planning permission that says that you have to do something before you can commence that development is an obvious delay. Therefore, by very definition, pre-commencement conditions are a delay. However, I want to make it very clear that we are not against pre-commencement conditions per se. They perform a valuable role and are a valuable tool in allowing permission to be granted subject to various things that still need to be sorted out. Therefore, we are supportive of the provision in the Bill.

We want to see greater dialogue between local planning authorities and applicants about the kind of conditions that they believe are necessary on their permission and the timing of those conditions. At the moment, the default for those conditions is to make them pre-commencement, rather than to have a discussion with the applicant about the most appropriate time for those conditions to be discharged in the development process.

We accept that some very important conditions must be discharged before the commencement of development but, similarly, we believe that a lot of unnecessary pre-commencement conditions are put on planning applications that, by definition, delay implementation.

Roy Pinnock: I will address the question in relation to the number of instances of those conditions. The Killian Pretty review, which reported eight years ago almost to the day, conducted research that identified an average of eight pre-commencement conditions. I am not sure which sample of consents it looked at, because now the number of pre-commencement conditions could range up to as many as 22.

In my experience as a practitioner, you would be lucky these days to get away with eight pre-commencement conditions; 22 is more likely to be the norm. That is a lot to work through to get on site, particularly when there is an effect on the ability to fund schemes, to get them across the line and to get them moving in a period where there may be uncertainty. The BPF's position, to reflect Mr Whitaker's points, is that pre-commencement conditions play an important role. They often reflect the choices made when applying for consent, and do not provide detail or engage in fully detailing some of the plans and costs before consent is granted. But pre-commencement conditions are often imposed in a way that is arbitrary, unnecessary and indiscriminate. The British Property Federation would support greater use of model conditions backed by a system for being able to seek determination of whether it is appropriate to use those model conditions and modifications to the proposed section 100ZA, which is proposed by clause 7(5). I would be happy to outline the BPF's proposals for those amendments in due course.

Andrew Dixon: Those of our members who are small-scale house builders consistently tell us that the number of planning conditions they are facing has increased very significantly in recent years. Our 2016 House Builders' Survey asked a question as to which of a number of different causes of delays within the planning application system—

The Chair: I am sorry to interrupt. It may that I am going deaf, but the volume seems a little low in here today. I do not know if anyone can flick a switch or something to try to get it turned up, or perhaps the witnesses could speak closer to the microphone. It was just a little difficult to hear at this end.

Andrew Dixon: I may have been mumbling—I apologise. I was saying that our latest House Builders' Survey asked a question as to what our members saw as the most significant causes of delay within the planning application process, and the signing off of planning conditions came at No. 2 out of six, I think, just behind the under-resourcing of local planning departments and ahead of things like negotiations and signing off of section 106 and delays caused by statutory consultees that have traditionally been seen as major causes of delay and stasis within the system. There is some evidence there. As the last two speakers have said, our members report this is a problem.

Q2 Dr Blackman-Woods: I am sorry to interrupt you, Andrew. You said there is evidence there. Actually, what you have collected is the opinions of your members. Did they provide examples to demonstrate what was actually causing the delays?

Andrew Dixon: In terms of what causes the delays, it is not just undertaking the actions specified in the conditions but the delays in signing off those conditions. It is the delays in having those conditions discharged. Unfortunately, quite significant delays in signing off conditions are, we think, the norm.

There are any number of reasons for that, but I think one of them is that the incentives within the system for local authorities are to process applications within a given period of time and, to some extent, to have permissions in place, but the strong perception from our members is that once the permission is granted, the impetus from the local authority's point of view goes out of the window. Quite reasonably, their priorities then may be elsewhere. That is the fault within the system that leads to conditions causing unnecessary delays.

Ross Murray: The Country Land and Business Association carried out a survey of its members this summer, in July, and over half said they wished to partake in provision of more rural housing, which we thought was very encouraging. But a third of them said that they are frustrated in making these investments because of the planning system in general. This is not specific to your question, but we also provide our 32,000 members with an advisory service and by far the largest call on advice was to do with planning: roughly 4,000 inquiries a year are to do with planning, of which a proportion—I cannot give an exact amount—relate to conditionality.

Q3 Dr Blackman-Woods: Are the measures in the Bill sufficient to speed up the whole pre-commencement planning conditions issue, so that you will get quicker agreement on what needs to be done by your members and in the discharge?

Ross Murray: No, not at all. In my experience, the problem with the whole planning process is that the potato stamp comes out from the harassed officer who is dealing with the application, and the first time the applicant generally sees the conditions is when the report goes to committee and becomes public five days before committee hearing. Best practice would suggest that actually the planning officer should negotiate and discuss with the applicant pre-commencement conditions during the process of assessing the application, but in reality I do not believe that happens. So the problem is that the applicant, if he is successful when the committee has passed the application, has then got to deal with pre-commencement conditions that might not accord with section 206 of the national planning policy framework, in that they are unreasonable or whatever.

Andrew Whitaker: We actually think that it will help. We have tried to get local authorities to have a conversation with applicants about the conditions they wish to place on planning applications in order to grant permission, and it has just not happened. Good practice has not worked, so using legislation appears to be the only way we will be able to get local authorities and applicants to have a dialogue about what conditions are being imposed on the decision, which of those should rightly be pre-commencement and which should be discharged further in the development process.

Roy Pinnock: Could I put forward a middle way in that context? The BPF's position is that it has concerns that the measures as put forward under section 100ZA(5) would not deliver a faster outcome for applicants. That is because where applicants disagree with the draft conditions, the only recourse they have is the recourse they have already got, which is ineffective given the time and cost implications of pursuing a full-blown planning appeal. So it leads us no further forward, but we have introduced a further layer of complexity to the planning onion for people to talk about.

Although I agree with Mr Whitaker's comments and the other comments that have been made about the need for dialogue and the need to promote that dialogue—where that is done, it can lead to some quite good results—the difficulty, in particular in the context of local authority resourcing, which we might come on to later, is that those authorities simply do not have the capability, the capacity and, I stress, in a few cases, the competence to deal with it now, because they have been totally denuded of that. So the ability to actually deliver what the Government are seeking is under huge pressure.

The BPF's proposal is that there is a specific right of appeal under section 100ZA, so that if a consent is refused or has to be appealed solely because of a failure to reach agreement in relation to pre-commencement conditions—where peace has been given a chance—it should be possible to appeal and to appeal on that point alone. That appeal is then dealt with on a constrained basis, so that, rather than a wholescale reconsideration of the application de novo, only the issues relevant to the condition itself are considered. Obviously, as you know, applications to vary existing planning conditions under section 73 of the Town and Country Planning Act 1990 are already dealt with on that basis, so there is already a clear legal framework, both in terms of statute and case law, for dealing with appeals on that narrow basis. How narrow it is—and the law confirms—depends on the nature of the condition.

My last point on that is that that appeal system should provide for a fast-track written reps appeal process. That was done for the section 106BC appeal route that was provided for under the Growth and Infrastructure Act 2013. It was very successful in terms of timescale, and there is absolutely no reason why that could not be done here, subject to resources being available within the Planning Inspectorate to deal with it. Given that it should reduce the overall burden on the inspectorate in relation to appeals, one would hope that a fast-track system would actually deliver something. We are hearing that it is required, ultimately, and sometimes it would be inevitable that it would be. The BPF's position is that costs should sit squarely and clearly from the outset with the party that fails. The BPF's position is simply that in using the legislation—the levers Government have—there can be changes, like section 96A and other changes that have been introduced, that drive a cultural change quickly, so that people do not constantly need to have recourse to legislation to effect what we are trying to achieve on delivery.

Q4 Oliver Colvile: Thank you very much, gentlemen, for giving up your time to come and have a chat with us. Before I was elected to this place, I did a lot of work in the development industry, giving advice to developers on how to manage community consultations and stuff like that. A number of my clients would have said that every time the Government get involved in producing another piece of planning law, frankly, that delays everything. I would be interested in your comments.

Turning to preconditions, I am very keen to make sure that local communities are absolutely and utterly involved in the whole decision-making process and feel that they should have their say. How do you think we can ensure that the preconditions are also considered by local communities in the process?

Andrew Whitaker: I do not think there is any doubt that local communities are involved in the planning process and in the planning application process. Therefore, the discussion over the determination of the planning application should involve whether things about the planning application need to be sorted out at a later date, and therefore communities should be expressing those concerns in their representations as part of the planning process. They are represented by elected members at a local level, so I have no worries that local communities are not involved in the determination of a planning application as it proceeds through all the legal procedures. Whether to place a condition on that planning permission is part of the determination process, so whether or not as a community you agree that condition or that the condition should be pre-commencement, it is possible to raise that through the normal procedure, rather than as a discussion on the particular schedule of those conditions. That is a technical process as to whether you need the condition in the first place.

Andrew Dixon: We would very much agree with that. We do not see this as in any way reducing the extent to which local communities and local residents can be involved in the process or can have their say on particular applications. Broadly speaking, the Federation of Master Builders is positive about the provisions on conditions in the Bill because we think that they would institute an earlier conversation about which conditions are necessary, which need to be pre-commencement conditions and which do not, and which can perhaps be pre-occupation conditions, but none of that precludes those conditions being in place or those issues being tackled in some other way. It should serve to institute an earlier conversation about how best to deal with those issues.

Q5 Helen Hayes: Mr Whitaker, you mentioned a couple of times that it is best practice for conditions to be agreed in discussion between the local authority and the applicant, and I agree with you. The Bill proposes a much more formal process than that through an exchange of letters between an applicant and the local authority to agree the conditions. The mechanisms in the Bill for resolving a dispute, when that process can be resolved through an exchange of letters, are pretty blunt: the rejection of the application wholesale, and the developer is then left in the position of going to appeal. Notwithstanding what you said about the system not working so well at the moment, can you comment on whether this will help to further encourage best practice, or whether formalising the process in the way proposed in the Bill might have unintended consequences?

Andrew Whitaker: Formalising the discussion in writing—of course, that does not mean by post these days—is reasonable. It makes it very clear what people have and have not agreed to, and one can go back and check that that is the case. We would agree with the BPF's proposal that a fast-track appeal mechanism when disagreement continues would be a good idea, because that would sort out some of the potential further delay that this provision would introduce.

In terms of whether this is a blunt sword—a blunt instrument—the whole point is that one is not supposed to hold the other party to ransom. The applicant is not going to say, "I am not going to accept any pre-commencement conditions on my planning decision at all," because then it might be perfectly right for the local planning authority to say, "In which case we will refuse your application, on the basis that you haven't sorted out a particular detail that you could do via condition, so long as you do it prior to commencement of your application." Or they have to think to themselves, "Would we be happy defending that at an appeal when the only thing we are concerned about is not whether this particular issue can be dealt with via condition but whether it needs to be worded as a pre-commencement condition, rather than as a condition that can be discharged at a different stage in the development process?"

There are lots of trigger points in a development, the most obvious of which is prior to the occupation of a dwelling. You are allowed to do all the groundwork—to slab level, as we call it—so you can word conditions like that. You do not need to agree everything prior to commencement, and we believe that that discussion will be able to focus minds and, ultimately, will lead to the best practice that we all seek.

Roy Pinnock: I have just two points on that in relation to the discussion and dialogue, and the role of the planning onion—we just add another layer to it and make things more complex, rather than less complex. I think that is in part your point: do we add to the systemic complexity that we already have in this regime, which is already a series of layers? As I have already said, the BPF's position is that there is an opportunity here to do something that is quick, clear and effective, which is where a measure that has real teeth tends to drive cultural changes.

I go back to the question on whether more legislation can really achieve anything in the planning world. Section 96A is a really good example of that. It is a very small amendment to the Town and Country Planning Act 1990 that has had a great impact on the day-to-day lives of practitioners by making things a lot easier, and it has driven a cultural change without people having to rely too heavily on legalistic points.

The second point is in relation to how we actually speed up the dialogue and use this as a tool. In part, the solution may be to have greater use of model conditions, which the Planning Inspectorate used to promote. We feel there is an opportunity for the Government to be much clearer about what their model conditions are, using working groups from industry and the government sector to say, "This should be the starting point. This should be when these kinds of conditions are imposed. We shouldn't be asking for details of windows when you are decontaminating a site or knocking buildings down. This is the form of the conditions imposed." By doing that we would drain away a lot of the administrative tasks that planning officers, of whom there are too few, are being required to do. They can rely on those model conditions and say, "We have done our job and have justified departures from them because we think it's important to local people on this particular issue. We are prepared"—as Mr Whitaker said—"to justify that in front of an inspector, and we think they will reach the same decision."

Q6 Helen Hayes: I am a member of the Select Committee on Communities and Local Government, and yesterday we heard evidence from a range of witnesses within the sector, including from the Federation of Master Builders and the Home Builders Federation, about the lack of resource and capacity in local authority planning departments. It was suggested in that evidence session that the reported overuse of pre-commencement planning conditions is a symptom of a lack of resource in planning departments, rather than a wilful misuse of pre-commencement conditions on the part of local authorities. Will you comment on your experience of the resourcing issues in local authority planning departments?

Andrew Dixon: We would certainly agree that under-resourcing is one of the major drivers behind the high level of use of planning conditions. The strong perception among our members is that planning conditions are often being used to limit the necessity of engaging in detail with a full application. Among the things that often arise from that are planning conditions that have actually been covered in the full application. An example of that would be landscaping. I have heard a number of our members say that detailed landscaping plans were included in their full application but that there did not seem to be any engagement with it, there then being a condition to bring forward those details. Under-resourcing is a major issue that causes numerous hold-ups within the system, and we think it is one of the drivers behind the excessive use of conditions.

Ross Murray: This is very profound in rural planning authorities, which are significantly under-resourced in planning. Our members around the country see that all the time. The Committee must also have a mind to the resource of the applicant and the risks within the process. We should do anything that we can to provide certainty of process after the application has been determined, and when an applicant finds that the pre-commencement conditions just do not work for him. In a rural context, these are often low-return projects, and the planning process is the highest risk point at the start of the process.

Andrew Whitaker: It is very much a chicken-and-egg situation. If local authorities do not put enough resources into determining a planning application, the temptation is—rather lazily, in my opinion—to deal with everything via condition, rather than as part of the primary application. If authorities focused their resources on what needed to be done as part of the application, they would need to condition less. That would relieve them of having to discharge conditions, which can take just as many resources as the primary application. Therefore, we think that local authorities should reassess their systems and processes to focus their limited resources into the right parts of the process.

Q7 Chris Philp: I would like to continue the line of questioning on resourcing and planning departments that Helen Hayes started. Mr Dixon, you said earlier that the lack of resourcing in planning departments was the No. 1 impediment to getting more applications. Will you confirm that that was the case?

Andrew Dixon: That was the case.

Q8 Chris Philp: Mr Murray said that certainty of process was the most important thing. Would your members or the development community be willing to pay for further resources in local authority planning departments by way of higher planning fees if, in exchange, they had guaranteed service levels—that is, the extra planning fee would be refundable if the service level was not met? Are you willing to pay to remedy the problem you are highlighting?

Andrew Dixon: The overwhelming feeling of our members is that they are quite happy to pay a higher application fee as long as those resources are ring-fenced and go into a demonstrably improved service. There would be very little resistance to that.

Chris Philp: They would be willing to pay higher fees.

Andrew Dixon: Yes.

Q9 Chris Philp: It is relatively rare to find people volunteering to pay more money.

Andrew Dixon: It is fairly standard in any walk of life that people are prepared to pay more for a better service. Our members are no different in that sense.

Ross Murray: From my perspective, I would agree. Delay is risk; risk is money.

Roy Pinnock: The BPF's position is absolutely in agreement with that. It has set that out in its response to technical consultations. There are issues of how the application is structured, indexation, inflation, and the linking of that fee not just for authorities that are performing well, but for those that are under real pressure for other reasons. There is a general consensus, particularly among commercial development investors, that you get what you pay for. There is a completely profound lack of resource in authorities to deal with the situation in which we find ourselves. It is the single biggest brake on development, in terms of applications and starts on site, in my experience as a practitioner.

Q10 Chris Philp: What level of fee uplift, compared to today's levels, would your members or the development community be willing to pay if a guaranteed service level—an application determined within x period—was associated with that fee uplift? Give us a feel for the quantum.

Roy Pinnock: I might just duck that question, like any true lawyer. The critical point is that we are very used to planning performance agreements, and to guaranteed service levels being offered and assumed, and then not being delivered. There is sympathy for the reasons for that, not least because applications are complex. Local people's relationship with planning is complex, and quite rightly so, as we are making difficult decisions. Probably the worst thing, from an applicant's point of view, is that a guaranteed committee date is set and you do not get that committee. You then go into the long grass, and that is used to ransom the applicant. Concessions are made throughout the application process to get to that committee.

Q11 Chris Philp: So if the fee uplift was refundable if the date got missed, would that give comfort?

Roy Pinnock: It would and the planning guarantee should achieve that currently. The BPF would support that planning guarantee being amended, which would require the application regulations to be changed. The original idea of the planning guarantee was that you should determine either way—refuse if it is a rubbish

scheme or approve if it is a great scheme. Within 25 weeks there should be certainty. That certainty is crucial to everyone.

How the planning guarantee works at the moment is that where there is an agreed extension of time, it drops away entirely. It is not the case that if you agree to extend the time to enable a sensible dialogue about the detail of planning application matters, and then that extension fails to deliver a result, you go back to the position of being able to claw back the application fee. What happens, for no good reason, is that it kills off altogether the ability to rely on the planning guarantee. That is completely wrong and undermines the whole purpose and intended effect of the guarantee. In our view, that should be amended so that the system has real teeth.

Q12 Chris Philp: Am I right in thinking that the current planning agreements apply only to large applications? The planning agreements that can already be entered into do not currently help small applications, so one could also introduce that.

Roy Pinnock: Yes, although there is another resourcing issue around entering into and administering planning performance agreements. There is a cultural shift that needs to go on around how applications are project managed. That is true of the commercial sector, in terms of how it approaches negotiating section 106 agreements, when it looks at conditions in the application process and how much it is prepared to take things on at the earliest stage.

There is also an issue around how to programme-manage people's diaries. Within an authority, you need sign-off from transport, the education aspect of the authority and housing officers. At the moment, you cannot get a meeting. I have waited three months for an authority to sit down. We said, "Look, there's no point us sending ping-pong emails on this agreement because you keep telling us everything is not agreed. We just want to sit around the table with everyone and understand your views." That is impossible, and it is partly due to the chaos, unfortunately, that is going on because of the multiple restructurings and the lack of resource.

Q13 Chris Philp: Are you satisfied that section 106 agreements, which are currently entered into after planning permission is granted, are adequate? It can take a long time to agree them. Are you satisfied that they are adequately addressed by the Bill or not? Do you think that they can still be a source of delay?

Roy Pinnock: They can be a source of delay, but equally, they are highly sophisticated tools for development. I will give you one example: the North Greenwich peninsula. There are 15,000 new homes approved on public land, despite the number of parties involved: the Greater London Authority, the developer and the Royal Borough of Greenwich. That took place within three months of the planning board.

There are other examples. I have just done two schemes further south and west in the country, and it has taken more than a year to get from committee resolution to approval to planning consent. It depends very much how that is approached, but fundamentally, far too much is in section 106 agreements. Much more should be in planning conditions. The Housing and Planning Act 2016 provides a mechanism for a dispute resolution service. We think that should be used in the same way as the appeal that we have spoken about in relation to section 100ZA to provide recourse where planning obligations are used unnecessarily.

Q14 Chris Philp: Should we make section 106 part of the main planning application so that the whole thing gets dealt with in an expeditious fashion in one go?

Roy Pinnock: The difficulty with that, from a practical point of view, is that there should be dialogue about what needs to go into that agreement. It is fine to do a first draft, but there is a dialogue in planning applications. Other witnesses will have a contribution on this as well.

Q15 Chris Philp: Yes, but dialogue can happen in pre-app.

Roy Pinnock: Yes. No plan survives contact with reality. There is always dialogue. There should be dialogue in planning; it is fundamental. I think BPF members value pre-application discussions but recognise that once you are in the mix, having submitted the application, the most important thing is how you project and programme manage those discussions so that you know when local authority resources are available. The crucial thing is that we preserve the ability to have a sensible dialogue about quality, but drain off some of the issues involving technical things, which can be addressed by model planning obligations and model conditions.

Andrew Dixon: Just to pick up on a couple of points, you asked about the use of PPAs on small sites. They are not normally used on small sites—they are probably too clunky and an inappropriate tool for small sites—but we think there would be value in a standard, very basic, perhaps one-page agreement for covering small sites that would perform the role of some kind of service level agreement against which the applicant can hold the planning authority.

Q16 Chris Philp: So if I pay a higher fee, then this is a service I get in return?

Andrew Dixon: You could have that range or, whatever fee you pay, you could have an agreed service level that the planning authority has to meet—

Q17 Chris Philp: Without extra resources, there will not be any extra service, and extra resources mean more money.

Andrew Dixon: No, and in response to your other question, I cannot put a figure on how much more our members would be prepared to pay, but the planning application fee is a fairly small proportion of the total cost of moving forward a planning application. For an improved service, they would be prepared to pay more.

Chris Philp: Excellent.

Ross Murray: Can I take the Committee on a journey from the Greenwich peninsula, with applications for 15,000 homes, to the barn conversion, which is my members' domain? The concept that someone would instruct lawyers, pay for the authority's legal department and negotiate a section 106 agreement for a very small, low-value application beforehand is just not practical. There is not time and it will load risk and cost on to the

applicant, so I think there are probably circumstances when the section 106 agreement will follow after the determination of the resolution to grant.

Q18 Chris Philp: Finally, on the question of pre-commencements, are there any particular conditions or parts of the planning process that you think are particularly onerous or absurd and would like to draw the Committee's attention to? It might be anything to do great crested newts, for example, without wishing to lead the witnesses.

Andrew Whitaker: No. It is possible to discuss everything. It is right that we have conditions that control various things that are not controlled in the planning application, but as I said before, people should be focusing on what is in the application and what the applicant is going to do to mitigate all the concerns on any subject. We frequently find that the mitigation that is proposed in the planning application itself is ignored. A planning condition is placed on the decision notice and the applicant then resubmits the self-same evidence that they submitted as part of the planning application and it is approved under discharge of planning conditions. That is a total nonsense. It is absolutely right that we take a lot of things into account. A lot of people are engaged in the planning application process.

I am interested in the evidence from your questioning of the other witnesses in respect of whether people pay for a better service and whether they get one. Small applications already have a PPA. Those are statutory timetables within which local authorities need to determine a planning application, and they get a fee for that.

Q19 Chris Philp: If the LPA breaks that, no consequence flows from it, other than a bad statistic in its report.

Andrew Whitaker: Absolutely, and we have suggested in various documents that a staged payment process of all the planning application fees would be better, because the other thing that your questions draw attention to is that there are lots of stages of a development, and not just the tiny part that is the planning application and/or the conditioning of that planning decision. We are also talking about allocations of site in local plans and in neighbourhood plans—the other part of the Bill—and then pre-application discussions, the application discharge conditions and section 106 agreements. All those things need to be looked at in the round, rather than merely focusing on a tiny little part and asking, "Would you pay more for a planning application fee?". It is a very simple approach but it does not have a very simple answer.

Roy Pinnock: Just to round that off, where those additional fees are ring-fenced for the planning service—either where they are going into a smaller application so that an officer who might be a specialist in the 15,000-unit scheme, but who is dealing with smaller but no less valuable schemes, is freed up, or where they are funding on a locum basis, or however we need to deal with this problem—we should use that fee. We should ring-fence it and use it to allocate resource. I think the industry would probably support that. You get what you pay for, in that sense, and I think that is more important than the idea that we have a specific set of milestones, which may well be missed, just because that's life.

We need to know that we have someone dealing with the application, that they have read all the papers and are not going to get switched over, that they understand the ecological mitigation because they have read, unfortunately, the three habitat surveys that have been done, and that they can have that conviction, because it comes from a deep knowledge of these complex schemes. At the moment, we have a real crisis in dealing with these applications, because we do not have the deep knowledge available. Unfortunately, with the best will in the world, this is a resource issue.

Ross Murray: May I come back to your point about newts, Chair? Newts and bats are totemic in rural England and Wales in the planning process. I offer you a personal story about an application for a barn conversion. Thieves came and stole the slate roof. There was no roof and, therefore, there were no bats. The planning authority insisted on the bat survey—and there we were, £1,000 later.

Chris Philp: Which, of course, can only happen at a certain time of year.

Q20 Mrs Theresa Villiers (Chipping Barnet) (Con): I possibly take a slightly different view from my colleague of newts and bats. There is some anxiety about the Bill, probably based on a misunderstanding of what the changes on pre-commencement conditions actually involve, so this discussion is very helpful from that point of view. I have constituents who are keen to see local authorities retain the power to ensure that proper surveys are done in relation to wildlife and archaeological heritage. From what I understand from the debate on Second Reading and from what you have said today, the planning authorities will retain the power to impose conditions of that kind; there will just be a change in how that is done to ensure that it involves the developer at an earlier stage and does not necessarily have to happen right at the start, before the whole process has begun.

Mr Whitaker, can you explain, in simple terms, at what stage of the process surveys of that kind can be required? I can then reassure my constituents that the Bill will not prevent an archaeological survey if it is necessary, and that the aim is to ensure that it happens in a way that causes less delay and cost to developments. It is obviously important to ensure that such work is done before a final decision is made on a planning application.

Andrew Whitaker: You are absolutely right and we agree with you. There are many stages in the planning process at which a local planning authority can reflect the community, in many instances, by asking what are the important things that need to be considered as part of the development of a site. They can do that when they allocate the site in a local plan—they can set out various matters that will need to be addressed as part of the development. That can be done by the community themselves at a neighbourhood plan level; it can be done as part of the pre-application and consultation discussion, with the potential applicant, of the issues that the local authority will want to be addressed via the planning application process; and it can then be discussed as part of the planning application process itself, prior to a decision being made. It can also be addressed as part of a planning condition attached to the planning permission.

At all those stages, one can quite legitimately raise any issue that one sees as being key to the planning decision, whether that is archaeology, bats and newts, or any other issue—for example, drainage is often seen

as causing delay. Some of those issues will be so critical to whether the development is allowed to go ahead that they should, of course, be addressed very early on in the planning process.

If my local plan allocated a site but said, "This is a difficult site to drain. We will want to see all drainage details sorted out as part of the planning application. We are not going to leave this to a planning condition because it is fundamental to how much development you are allowed to put on the site, depending on your drainage scheme.", the developer would accept that as a constraint and would submit a detailed drainage scheme with their planning application. It is up to the local planning authority to then say, "Okay, this is an important issue for this site. Is the proposed drainage system capable of mitigating the drainage issues and should we approve the planning application on the basis of the scheme submitted with it?" The problem we see is that a lot of local authorities say, "We haven't got time to do that now. We will make a planning condition that says that, prior to the commencement of the development, we want to agree a drainage system for the site."

As I have previously explained, frequently, all that happens is that you submit exactly the same drainage system as was submitted with the planning application, or the same mitigation for wildlife, or the same detail that you knew was critical to the determination of your planning application later down the line as a pre-commencement planning condition, rather than it being sorted out as part of the original planning application. We think there are lots and lots of points along the planning journey at which the things that are key to the development of sites can be sorted out. The Bill does not change that at all.

Mrs Villiers: Thank you. That is helpful.

Q21 Rebecca Pow (Taunton Deane) (Con): I was pleased to hear that answer, Mr Whitaker, because that issue was on my mind as well. You suggested earlier that planners might focus on the essentials of preconditions. We have to be clear about who determines what the essentials are. For example, when is a bat more essential than a ditch? I think you have made it quite clear, and I do not think that those of our environmental colleagues who are listening will feel you are trying to steamroller over the environment. Can you just give me a yes or no?

Andrew Whitaker: Yes.

Roy Pinnock: He is not.

Q22 Rebecca Pow: You are not. Good. Then I would like to go on to my main question, which I put to Mr Murray first. If the local authority and the developer disagree on a pre-commencement condition, there is no recourse in the Bill other than to reject the application and to then appeal the whole thing. I wonder whether that puts off, in particular, rural folk from applying for planning conditions. Does the system put them off because it is too arduous if they fear being turned down the first time?

Ross Murray: They can be put off at two stages. They can be frightened by the whole prospect of a change of use and actually applying in the first place. In the post-common agricultural policy Brexit world, we know that the rural economy has got to diversify and we have got to reduce our reliance on agriculture, so there has to be development. I think if we have legislation that does not ease that process of the scrutiny of applications, it will put people off. It will also discourage people from actually going through with appeals. I have members who have applied for planning permission, and when the list of conditions comes out, even if it is passed, they know an appeal is not affordable. They are put off by the prospect of a very expensive appeal, because there is the prospect of the inspector opening up the whole principle of the application.

Q23 Rebecca Pow: They cannot just appeal on one of the small preconditions that was under debate, is that right?

Ross Murray: They cannot appeal just on that, or they are at risk of it being opened up. I must say I think clause 7 is almost there, but it could be bettered if you put in a simplified appeals process. We already have a simplified system for householder or advertisement development, which is eight weeks' written representations rather than a full-blown appeal. There is a precedent there, and I think that would help.

Q24 Rebecca Pow: Do you think we would get more houses and more developments as a result of a small tweak like that?

Ross Murray: I think there is absolutely no doubt about that. If we get the legislation right with clause 7 and bring in a proposal like that, I think people will understand that the planning process is fairer, simpler and less costly.

Q25 Rebecca Pow: Shall we just put that to Mr Dixon? Do you think that would that help small and medium-sized developers as well?

Andrew Dixon: Some kind of appeals process on the issue of pre-commencement conditions?

Rebecca Pow: Yes; making it simpler, rather than have to go through everything.

Andrew Dixon: It could be a useful addition to the system. By and large, and perhaps we are being too optimistic, we do not think it is very likely that there will be protracted negotiations about the use of pre-commencement conditions. The aim should be for some of those conversations to be conducted fairly simply and fairly quickly. We are perhaps a bit more optimistic, particularly around smaller applications, about the scope for huge controversy in those conversations. We think the most important things is that that conversation takes place at an early point in the process.

Roy Pinnock: Just to be clear, the BPF's perspective is that the clause, as it stands, will not achieve anything—that is to be somewhat bleak. It will leave applicants in the position they are already in, which is that, if they do not like their consent, they can appeal and have a de novo consideration by the Planning Inspectorate, which will take some time. That is very weak as a dialogue and as a negotiating position.

Q26 Oliver Colvile: Thank you for allowing me to have a second go, Mr Bone.

[Oliver Colvile]

I have always thought very seriously that we should make sure we have master planning taking place at a very early stage as well, which would mean the local community could get very involved in it. I am also not going to miss an opportunity to talk about ecology and about making sure that we include hedgehog superhighways in the development, too. That is important, because it is something that does not often necessarily feature in the discussion that takes place with developers. It would be a really good thing if we could encourage that, in my view, because hedgehog numbers have declined by 50% over the past 15 years.

Roy Pinnock: Planning application resources have also declined by 50%, which I think was recently noted in the Communities and Local Government Committee's evidence session on the local plans expert group. That is perhaps unrelated.

The Chair: I think we will move from hedgehogs to the Minister.

Q27 Gavin Barwell: Thank you, Mr Bone.

There are just three brief points I want to make, picking up on what a number of you have said. The first is a request of Mr Dixon. You referred to the survey you had done of your members. First, can you tell us how many members you had surveyed? Committee members might find it helpful to see a copy of the results of that survey.

Andrew Dixon: We are very happy to submit that information to the Committee. I understand that 108 SME housebuilders took part in that survey, so a not insignificant number.

Q28 Gavin Barwell: With all due respect to the HBF, I suspect there is a very strong consensus across the House that one of the things we want to do is to encourage more SME builders. If this is particularly a concern to that sector, it is highly relevant.

Mr Murray, if I understood you correctly, I think you were saying that you were not sure that these changes regarding pre-commencement conditions would achieve anything, because dialogue between applicants and planning committees was needed. I put it to you that surely that is what this change will require. Because it is going to stop local authorities imposing pre-commencement conditions without an applicant's agreement, it will surely create the kind of dialogue you want to see.

Ross Murray: The proof will be in the pudding going forward. My principal concern about clause 7 is the process of appeal afterwards, if those conditions are not acceptable and not viable. Regarding the point we have just discussed, an appeal that focuses purely on the offending commencement condition would be beneficial to everybody, if the dialogue has not resolved it beforehand.

Q29 Gavin Barwell: Yes. I think we will go on to discuss this when we get to line-by-line consideration, but the difficulty is that when an inspector looks at a condition, it is difficult to judge it in the absence of the overall application, because the council would say that the condition is necessary to make the overall application acceptable. It is difficult to just look at one condition in the absence of the overall package.

My last question is for Mr Pinnock. I understand the point you are making that there will still be an issue if this Bill goes through as it stands. I want to challenge you on what you said, that people would be in no better a position at all. At the moment, as an applicant, if you do not like the conditions attached to your application, you can appeal. I would argue that there is a beneficial step here in that, now, authorities will not be able to attach conditions that you do not agree to. The authority would have to feel so strongly about one of these pre-commencement conditions as to turn down permission for the whole application. Do you not think that it is at least going to reduce the number of cases where there is a problem, even if it will not eliminate the problem all together?

Roy Pinnock: It may do, but it is an uncertain position. The issue for investors and also for communities is about how we create a more certain pathway to the number of homes that need to be delivered, and the amount of supported development and infrastructure. It will stop local authorities granting planning permission. That is what clause 7 does at the moment, and the BPF is wary of any measure that arguably stops authorities granting consent. There is a real risk that it is in the "too difficult" box already, and in terms of that dialogue and that negotiation, the authority will just sit back and say, "We've got a load of other applications that have come in, and we've got to meet our deadlines on that. This one's just gone straight into the 'we're under a statutory restriction to grant consent' box, so come back to us in a few months' time when you want to agree our pre-commencement condition," which, probably, is what would happen. We would still have the delays of discharging the pre-commencement conditions.

A targeted, fair system that allows authorities to stand by their concerns and have those adjudicated by the planning inspector on the same basis as the section 73 consideration that is undertaken at the moment, which has opened out where a condition goes to other points of the application. Quite fairly, it is broadened out. If the majority could be dealt with by written representations, that would provide a real release valve.

Also, as I say, the key thing about any legal change is that it drives a cultural shift, rather than necessarily being something people rely on. The BPF's view is that this must have teeth and must be speedy and deliver the ultimate objective of certainty for everyone, in order to be a meaningful provision.

Q30 Jim McMahon: This follows on from the Minister's point about how you compile an application with conditions to make it acceptable to the local community and the design elements within that locality. We have heard a lot about bats and newts, and a bit about hedgehogs too. There have probably been more discussions on those than on people and community. I want to explore a bit more the points you were making about the type of conditions being put forward and how reasonable or unreasonable they were perceived to be. Let us use the example of landscaping, which has been used to say, "This is how ridiculous the system is." Following on from the Minister's point, the idea that landscaping—planting a few plants here and there—will somehow delay an important development could be the difference between whether an application is acceptable to the

local community or not. If a development is alongside your house, the screening and treatment of that could be critical to whether you support it.

Equally, the idea of phasing elements, whereby some conditions could be delayed or brought further into the application—drainage was mentioned—was predicated on the view that costing delays mount up, and that it is better to crack on, get the site done and resolve those issues later. The counter-challenge is that if you are applying for plant equipment or site security, but you cannot get an agreement on drainage, surely there is an inherent cost with that proposal. I want to challenge that to try to get some balance. We are in danger of going from one extreme to the other, and the truth is always somewhere in the middle.

Andrew Whitaker: I do not think we are. We are obviously talking about something different. We appreciate that some conditions on a planning permission will have to be pre-commencement. They are right at the heart of the application, and all types of different conditions may well be at the heart of a particular application. We are not suggesting that all landscape conditions cannot be pre-commencement.

You are absolutely right that in some cases—few, I would suggest—the landscaping proposals might well be the fundamental determining issue of that application. In others, it will be other things. The whole point of this proposal is to have that dialogue so that applicants to local planning authorities can say, "Is this really fundamental to you granting me a planning consent, given what I have already put into my planning application proposal?"

To use your example, if I have already screened the neighbour using whatever it was we agreed at the pre-application discussion, it is there as part of the plans of my planning application, and all you need to do is grant me consent in accordance with the plans that I have already submitted to you. You do not need an unnecessary condition requiring further landscaping details to be submitted.

If we have that discussion, I can point out to you that I have already submitted what I believe to be an adequate landscaping scheme. You, as the local planning authority, must then tell me why that is not adequate, whether I could address it through amended plans and all sorts of things, rather than just using the potato stamp—I think we heard that term earlier—of saying, "There is a pre-commencement landscape condition. Let's sort this out later." That leads to the delay, but we could have had a discussion about it as part of the planning application or as part of the determination process.

Andrew Dixon: I mentioned landscaping, so I am keen to clarify that point. I was not for a second suggesting that landscaping is not a proper consideration within a planning application. Above all, I stress that we do not see the provisions as a means to exclude certain considerations from the planning process. This should be about rationalising when certain information is needed and the optimum point in the process for it to be submitted, so that the development can come forward as speedily and efficiently as possible. If we get that right, the gains are huge.

Roy Pinnock: I have one point to add. I have sympathy for authorities, in that they will raise the issue of monitoring. They can generally see, when site operations start, that they will receive pre-commencement discharges anyway. Sorry to hit on this point again, but it goes back to resourcing. They will say, "It is just too difficult for us to monitor, after commencement, what is going on at the site, so we need it to be pre-commencement to create certainty." We always have to be sympathetic to real life, boots-on-the-ground planning where we understand what is happening with these sites.

Some thought needs to take place between the Government, the sector and the commercial sector as to how we can assist the process and set the right stage. There is a preoccupation with many things. There will be a genuine concern that that trigger is missed, that you then cannot evict people and that it is a weak trigger. Therefore, getting it right, and having examples, guidance and model conditions from the Government is important.

The Chair: We will have to end this session. We could have gone on for a lot longer, but 10.30 am is our limit. I thank all the witnesses. The conversation we have had today is most helpful, and undoubtedly will inform and help Members as we progress the Bill. Thank you.

Examination of Witnesses

Councillor Tony Newman, Duncan Wilson, Angus Walker and Hugh Ellis gave evidence.

10.31 am

The Chair: We now come to the second panel of witnesses. I refer Members to page 28 of the brief.

We will hear oral evidence from the Local Government Association, Historic England, National Infrastructure Planning Association and the Town and Country Planning Association. For this session we have until 11.25 am. I welcome the witnesses. Could you please introduce yourselves?

Councillor Newman: I am Councillor Tony Newman representing the Local Government Association. I am a member of the LGA's Towns and Environment Board and also leader of the London Borough of Croydon.

Duncan Wilson: I am Duncan Wilson, chief executive of Historic England.

Hugh Ellis: I am Hugh Ellis, interim chief executive of the Town and Country Planning Association.

Angus Walker: I am Angus Walker, board chair of the National Infrastructure Planning Association.

The Chair: Does the shadow Minister want to go first on this one? We have already done declarations of interest so the Minister has made it clear, councillor, that he is going to be on his best behaviour.

Councillor Newman: Likewise.

Q31 Dr Blackman-Woods: Thank you and welcome everyone. We are going to continue the discussion on pre-commencement conditions. It would be helpful to hear your views on whether they are overused, whether they do in fact cause delays in the planning process and whether you have evidence to support that.

Councillor Newman: If you are looking at the whole of clause 7 of the Bill—the conditions and the pre-commencement—best practice is where there is a strong, well-resourced local government planning department, to use traditional language, working in partnership with developers. I know that is a view the British Property Federation share: two thirds of them support the LGA's

view that we should see well-resourced planning departments. The whole perspective of what I am seeing in the Bill looks very much like a sledgehammer to crack a nut approach—another layer of red tape. If you look at the actual outcomes in terms of local government and planning, nine out of 10 permissions are given, and 470,000 permissions are already granted for homes up and down the land that await development for various reasons.

I am not saying there is not room for improvement from an LGA perspective and from a planning perspective on how you conduct pre-commencement conversations or any other approach. There is always room for improvement, which I think the starting point of the clause—this is a huge issue that the LGA needs to address. There is a collective issue about how we genuinely work better.

On best practice, I am not here specifically to talk about Croydon, but there is an awful lot of development happening there. As the Minister would recognise, where there are strong relationships between a council and the developers, it is all about taking a strategic view—what is a sustainable position and what do you want to achieve for the wider community?—and coming up with really exciting plans that are actually happening. Where development becomes mired in red tape and becomes a legal battle, more often than not the end result, as we have seen in my borough in the past, is a piece of land that sits empty for years while legal wrangling takes place. This does feel like unnecessary red tape, I think.

Duncan Wilson: On behalf of Historic England, our primary concern is with archaeological investigation pre-commencement conditions. Essentially, we believe the current system works quite well. We understand that developers need certainty and the system provides for conditions relating to investigation of sensitive sites. Only about 2% of planning applications are covered by these archaeological pre-commencement conditions. Most developers want to know what is there.

I go back quite a way at English Heritage in a former existence and I remember the Rose theatre, where there was a lot of messing around that did not really suit the developer and did not necessarily provide the best archaeological outcome either. That was because there was no clear archaeology pre-condition. Afterwards PPG 16 was introduced and has worked quite well, we believe.

We are more than happy to discuss any perceived problems with the system or any real problems with the system. We are not actually aware that archaeology in particular is causing those problems. We think, on balance, the system as it exists works pretty well for developers because it is based on an investigation of what is actually there and an assessment of the risks. That relies on local authority expertise and resources to help make that assessment, and we have our part to play in that too. I suppose it would all depend on the regulations that came with the Bill, which we do not yet know about, as to whether archaeology was mentioned as something where a pre-commencement condition would normally be appropriate in a very small number of sites. In a sense, we would have to await that.

Hugh Ellis: From our point of view, the concern about conditions is that they are fairly crucial in delivering quality outcomes. The short answer to your question about whether we have evidence that conditions result in delay is that we do not. What we do have is a growing concern that planning has to strike the right balance between the efficiency of the system for applicants and outcomes for people. The evidence about outcomes is a bit more worrying, particularly in relation to things like quality design, flood risk and various other issues, which are often secured through conditions.

The reasons for that are complicated. The discussion about resources, though, is overwhelmingly crucial, because that really is about the expertise of setting conditions, ensuring that they deliver strong outcomes and, ultimately, ensuring that they deliver the objective of sustainable development in the round. The question is: how does this measure help us with that wider endeavour of planning and delivering sustainable development?

Angus Walker: I also cannot provide you with any evidence this morning. Indeed, my expertise is more in the national infrastructure planning system where all this will not apply, but I can see that there may be one or two unintended consequences of this clause when put into operation. It is clearly designed to eliminate the lazy application of conditions where the survey, as you heard earlier, is already in the application and all that sort of thing. I can see situations where more planning permissions are refused because the applicant and the planning authority cannot agree on whether to impose a condition. I can also see conditions being recast as not being pre-commencement conditions but as having the same effect later on—pre-operation conditions, if you like—so I am not sure whether this will work, essentially.

Q32 Dr Blackman-Woods: Do you think that the measures in the Bill change the balance of power more towards the developer, and what are the risks with that? We have not yet talked this morning of the risks, particularly in clause 7.

Hugh Ellis: Pursuing that point, it is an issue about whether you end up with a planning system whose primary purpose is the efficient allocation of units or a wider endeavour around place-making and inclusion. Although it seems like a good idea because it is difficult to defend inefficiency or apparent inefficiency when it is thrown up, really good place-making requires good dialogue with developers, but also strong control from local government and an empowered local government to ensure that community visions are truly delivered.

The system has been weakened—permitted development is one example of that—and the Bill needs to strike the right balance. I suppose that if it went forward, the safeguard would be, and would need to be in the wider system, the place-making objective, otherwise we would find a series of outcomes that potentially have very long-term and serious impacts on everything from public health to wider economic efficiency.

Councillor Newman: I agree with that. As I said earlier, the Bill would potentially build in a more confrontational approach, and we would lose that ability to have a place-making and sustainability overview of a development, along with the benefits and perhaps future development to come.

Somebody mentioned permitted development. We have certainly seen the flip-side of that. Where permitted development has sometimes let rip, we have seen poor-quality provision of homes—perhaps people do not

have any choice in a market such as London. Permitted development has proved not to be the answer. At one point, I think, half the permitted development in London was happening in Croydon. We got an article 4 direction for Croydon town centre, and we were able to protect what is now thriving business use and office space, so permitted development was not only delivering poor-quality planning outcomes but threating our local economy by damaging a space that is now at a premium for investment in jobs.

All that would reinforce my view that you need a holistic approach where possible. That is not to be naïve—there will always be confrontation in the system, but to build it in at the start seems to me to be the wrong approach, and in the LGA's view it is an unnecessary further layer of legislation or red tape in the process.

Duncan Wilson: It seems to me that there are two issues. One is the imposition of unnecessary conditions and the other is the time taken to discharge conditions. I have been on the other side of the table too as, in effect, the developer of a number of major heritage schemes in London, and inasmuch as we had any trouble, it was to do with the time taken to discharge conditions, which was largely related to the people and resource within the local authority—it is simply a matter of getting people up to the place to tick the box and see that we had done what was required of us. The same applies to a whole load of other things such as building regulations.

On the imposition of unnecessary conditions, the local authority has to be reasonable already—if it is felt that unnecessary conditions are being imposed, it is challengeable. I worry that the proposed new system will lead the local authority to have to make a choice early on as to whether it wants to impose a condition that would be challenged—the application could be turned down and the condition challenged again. That whole system would surely take longer than arguing about the condition and determining whether to impose it at the beginning.

Angus Walker: In line with the other speakers, I think that the planning system is a balance. Although economic growth is important and development contributes to that, it still has to be in the right context and have regard to social and environmental factors.

I can see that, if an applicant and a local planning authority cannot agree on a condition, in some cases the planning authority will refuse permission, which may be appealed and then allowed. In others, the authority will agree the application without the condition in it, even though it might have been one that ought to have been imposed. In answer to your question, it seems to me that there is a slight increase in the balance being weighed towards applicants by the measure.

Q33 Chris Philp: Good morning. One of the speakers briefly touched on this. What is the panellists' opinion about whether planning departments in local authorities are adequately resourced to deal with the kind of issues we are discussing—pre-commencement conditions and the determination of applications?

Councillor Newman: Local government has taken more than its fair share of efficiency savings in the past few years and has faced serious cuts. Planning has to be properly resourced: the LGA would put forward the figure of £150 million a year for the planning department, which is effectively subsidised by the council tax payer. The British Property Federation—two thirds of it anyway—supports the view that they would rather see a contribution that meant it was properly resourced and not subsidised by the taxpayer, and there are always issues around recruitment. Many planning departments work well but are stretched to the limit. There are extra pressures and other challenges in growth areas. I do not just want to sit here and say that more resources are needed, but local government is operating on tight budgets after year-on-year decreases in our budgets.

Q34 Chris Philp: Will other members of the panel comment on the resourcing question: do you think local authority planning departments are adequately resourced bearing in mind the demands being placed on them?

Duncan Wilson: In relation to archaeology, it very much depends on the archaeological advice rather than the planning department. Some local authorities have that advice, but in the past few years there has been a reduction of around 30% in the volume of archaeological advice directly available to local authorities. There is no straight-line relationship between the quality of the advice, its timeliness and the number of hours that the local authority has, but obviously there is a relationship. There is also the question of conservation offices, which is another specialist area where there has been a significant decline in local authority resources. It would be counterintuitive to suggest that there is no relationship between the volume of resources available to the local authority in terms of its planning department and conservation and archaeological advice, and the timeliness of turning casework around, but it is not quite as simple as that.

Hugh Ellis: I am trying to choose my words carefully based on research we have just carried out on the production of local plans. The research showed that planning teams had fallen below the critical mass capable of delivering a local plan effectively in the rural areas that we looked at that were at severe risk of flooding. In some of those authorities we visited, we found 1.2 full-time equivalent members of staff were working on a local plan process, which I found quite shocking. There is no fixed limit for how many people you need in a planning department, but minimum service levels are a critical issue, both establishing them effectively and resourcing them properly.

What struck me about your discussion with previous witnesses was that, while fees could be increased—that is an option—there are low-demand areas where not many applications are submitted. Those applications would not attract much fee income but would require significant planning services, particularly in those areas trying to deal with the aftermath of significant severe weather and flood risk. Cumbria is one of those places.

There is a crisis in the planning service—it is not everywhere because some urban areas have sustained resource—that overwhelmingly affects efficiency and the quality of neighbourhood planning service that the community receives. That is probably the single biggest thing for us as an organisation presented to us by applicants and communities about the state of the modern local planning process in England.

Angus Walker: I do not think there is any question that a large number of local authorities are not adequately resourced in their planning departments.

Chris Philp: Sorry can you say that again?

Angus Walker: A large number of local authorities—perhaps not all—are not adequately resourced.

Q35 Chris Philp: The previous group of witnesses, who by and large represented the property development industry, appeared unanimously to support the idea of paying higher planning fees for some kind of guaranteed service level—for a determination within a particular time. If that target was not met, the extra planning fee might be refunded. Do panel members think that that might be one way of getting extra financial resources into local authority planning departments? If one proposed that idea, the Chancellor would probably say—I am putting words in his mouth—"The danger is that you put the extra money into the planning department, and the council reduces its subsidy, to spend it on something else, so the total amount of money stays the same; it just comes from applicants, rather than the subsidy." If you do think extra planning fees for a guaranteed service is a good idea, how do you prevent existing resource being diverted to another part of the council's activities? I suppose that is a question for Councillor Newman.

Councillor Newman: As you alluded to, if there was a different planning fee, there would be some relationship with, or expectation relating to, the outcome. I think what you are asking is whether it would be ring-fenced. There is a way of doing that without getting into the ring-fenced budget piece. The other position on that, the LGA would say—I welcome the question in that sense—is to have locally set planning fees. That would involve people who know an area, know what the demand is, and know what the recruitment issues are for the planning department in one area, vis-à-vis another. Then it would be for the local authority to justify both the fees it charges and the outcomes of the service it offers. Locally set planning fees and, related to them, performance indicators on how the process works—that is something that should be explored.

Q36 Chris Philp: Would you support the specific idea of extra planning fees conditional on service delivery?

Councillor Newman: I have to be careful what I support. I represent LGA policy here. There is a principle in the line of questioning you are asking. I think there is a way forward around locally set planning fees related to an expectation of the service one gets. That would be a step forward in terms of localism, and democratic accountability locally for the performance of the planning department.

Q37 Chris Philp: Do you accept that there is a danger that if you allowed local authorities to charge higher planning fees, you would at the same time have to stop them from simply diverting existing financial resources elsewhere, in order to make sure that you got an increase in total resource level in the planning department?

Councillor Newman: I do not think it would be beyond somebody to construct the model, but the key test would the outcome—whether the planning process was working well, or was speeded up, depending on what the local challenge was.

Q38 Chris Philp: Can I invite other panel members to comment on that exchange?

Duncan Wilson: In the Historic England context, clearly the issue of hypothecation is really important. My colleague has said more or less what I would want to say on that. However, it is probably worth noting that Historic England has operated something called enhanced advisory services for the last year or so on more or less that basis. If it is worth your while as a developer, you can buy a tighter outcome, in terms of deadlines and delivery, and a more detailed assessment in relation to listed buildings and scheduled monuments. That has been introduced with the encouragement of the development industry, on the whole, and the British Property Federation.

Q39 Chris Philp: Have you found them coming forward and saying that they would like to pay these higher planning fees?

Duncan Wilson: Exactly. It can be consensual, because the cost of a planning application, certainly in the sorts of services that we provide in relation to listed buildings, is a tiny percentage of a major development project.

Hugh Ellis: I would add that there are two problems here; it is partly the planning service in local authorities, but I would not want us to completely ignore the fact that there is also a crisis in the number of planners. There is direct investment in planning schools that we also need to get right. There is a major recruitment problem in local government, not just in being able to afford planners, but in finding them. We need to take a wider step back and look at how we bring planners through the process. It is also about the messages you send to young people about why planning is important and why it might be a career that they want to take up. That is important.

Q40 Chris Philp: One of the challenges is that local authorities lose planning experts to private practice, because private practice can afford to pay more, and because local authorities are very stretched, so it is a slightly stressful and harassed environment to work in. The resource issue might partly address the brain drain to private practice.

Angus Walker: Undoubtedly, if you pay more for dedicated resources, you will get a better service. My concern would be that those who made applications and had not paid any more would get a worse service as a consequence. Maybe the diversion of funds would be a consequence of that. It would not necessarily be more money in the system that everyone would benefit from.

Q41 Chris Philp: Of course, you would still have the statutory time targets, and if you increased total resource levels, it may most directly benefit those paying more, but it might have wider benefits as well, even to applicants who were not paying the extra fees.

Angus Walker: It is possible, but in my field, it is not financial deadlines—we have time deadlines in some areas, and not in others. The ones that have a decision required, statutorily, in a certain length of time get their decisions within that time; the others probably take longer than they otherwise would have done, because more of the resources are devoted to making those decisions on time.

Q42 Helen Hayes: I have a question for Councillor Newman, and perhaps Hugh Ellis as well. Have either of you undertaken any assessment of the likely additional burden to local planning authorities from the new proposed

process in the Bill? Supplementary to that, and following the discussion that was just had about the possibility of applicants paying for an enhanced level of service, might a better system be for local authorities to be able, on a transparent and consultative basis, to charge the full cost of their development management service through fees? One concern I have about the proposal that developers be able to buy in an enhanced level of service is that it is potentially quite difficult for local authorities to manage fluctuating demand, in relation to individual applications. Surely what we actually want is for local authorities to be properly resourced to do the job well for everybody, irrespective of who the applicant is.

Councillor Newman: We do want to be properly resourced anyway, as a starting point. There is a £150 million tax subsidy going in; that would absolutely be the starting point for me, but I still think that this is worth exploring, in terms of the particular recruitment issues we have, because there will never be agreement on what "properly resourced" would be. That is why I would not rule out looking at—I do not like the word "enhanced". There is something around fast-track and something around some major developments perhaps requiring more resource than other developments, but there is a discussion to be had. One way or another, we have to get more resource into a system that is under-resourced financially, and where in many areas, as we have heard, there are pressures regarding recruitment and staff coming forward.

On the other question you asked, I know the LGA is submitting written evidence later in the week. I have not got figures in front of me to evidence the extra burden, but I think the extra work this would potentially bring round is significant. As colleagues here have said, you could see more refusals, and the whole thing could become mired in a more confrontational process that, by definition, will set planning applications back, rather than them being, where possible, resolved, sometimes in a mature manner.

Hugh Ellis: Just to reiterate, planning is a key service with vital outputs for communities; in that sense, it needs to be resourced properly, and certainly at a minimum level. It also worries me that a lot of this resource in fees would go into development management, leaving open the question of how you fund the rest of the planning service, which is, in some senses, the most important part for us—the development plan, neighbourhood planning and master planning process, and getting it right up front.

On the idea that applicants would pay a fee base for a particular service, and that that would somehow sustain the planning service, there are some real questions to answer. It could be part of the answer—that is absolutely true—but I return to the point, on section 106 and the community infrastructure levy, that there is already, in pure taxation terms, a slightly regressive element to planning: you get most in high-demand areas. If this was another measure that led to that, it would be challenging, partly because the planning system has to deal with all sorts of varied issues. The examples coming in from Cumbria really reinforce that. They need very powerful local plans; how are they to pay for them if the predominant form of income generation is fees from applications that they do not get?

Q43 Helen Hayes: I have a further question for Duncan Wilson. You mentioned concerns about archaeology. It seems there have been indications from the Government that some assurance might provided around the question of archaeology, and we will wait to see what comes forward in that regard. Are there other areas of heritage about which you have potential concerns relating to pre-commencement planning conditions?

Duncan Wilson: Less severe ones. A number of concerns were raised in the context of the Housing and Planning Act that were perhaps more significant than in relation to this particular clause, other than for archaeology. Our concerns on brownfield land, design, massing and density are not really centre stage, as I understand, with pre-commencement conditions here.

Q44 Kit Malthouse: Obviously, the Government are trying to strengthen neighbourhood plans in the Bill. Do you think the provisions they have in there at the moment are likely to eliminate the erratic decision making from the Planning Inspectorate that we have seen with regard to neighbourhood plans?

Hugh Ellis: They go some way. The relationship between neighbourhood plans and local plans in law is still really quite problematic. There is a direction of travel question about whether or not we end up with a full coverage of neighbourhood plans and in some sense an idea that they might replace local plans. That is talked about but it is important to get that right.

There are a range of challenges. For example, the neighbourhood planning process is producing neighbourhood plans of variable coverage, predominantly in areas with the social and economic capital to prepare them. In law, neighbourhood plans escape a number of the placemaking duties that the wider planning system has applied; those on good design, for example, in law, do not apply to neighbourhood planning but do apply to local plans. I think these measures try, do they not, to fill some of those loopholes in relation to the status of an unadopted neighbourhood plan as it comes through the process, which might help solve part of that appeal process.

For us there is still a wider issue about how the system will work as a whole and the friction that is inevitably produced by neighbourhood plans coming forward in advance of a local plan; the different legal status between the two plans; and ultimately the adoption of a neighbourhood plan as part of the development plan. Part of this debate could very usefully settle what the vision is for neighbourhood planning. Is the idea that the neighbourhood plan ultimately becomes the key lodestone of the English planning process with local plans doing something else, or are local plans going to remain intact? That is a very important question going forward, because many neighbourhood plans are not dealing with the full range of placemaking issues that we need to resolve. That is perfectly fine because communities have a measure of choice about what they do with them, but in relation to good design, flood risk and climate change, for example, those issues are not well represented in the content of neighbourhood plans. So, this is a step; I am not sure it resolves the full range of legal issues that we are confronted with between neighbourhood and local plan status.

Q45 Kit Malthouse: So in your view, even if this provision goes through and a post-examination neighbourhood plan is given full weight in a planning application, in the absence of an approved local plan, do you still think we are likely to see neighbourhood plans effectively upended?

Hugh Ellis: You can still see neighbourhood plans upended because of the tensions that exist about whether we have a plan-led system, which is probably another three-hour debate. In a nutshell, the difficulty we have the moment is that because of the tension between the national planning policy framework presumption in policy in favour development and the legal presumption in favour of the development plan, you can find circumstances where a brand-new development plan can be rendered out of date because of its performance on five-year land supply—literally within months of adoption, rendering the entire framework of housing policy in that plan out of date. If they have adopted neighbourhood plans in support of that plan, then communities can quite understandably feel confused about that. That is a wider issue about the status of whether we have plan-led system. For us, that balance needs some attention, to say the least.

Q46 Kit Malthouse: But if we do have a plan-led system, which seems to be the way that we are going, would you therefore support greater strength being given to local authorities' ability to defend the five-year land supply?

Hugh Ellis: There is a need to end that uncertainty and it seems to me that the core issue—very crudely and very quickly—is that local development plans allocate five-year land supply but have very little influence over delivering it. The issue about joining those two things together is about other measures in play: local authorities playing a much stronger role with housing companies, and as lead and master developers. That is the way to resolve it. But the position at the moment, whereby allocations can be made and then overturned because of a deliverability issue that the local authority has no control over, needs attention. Otherwise, what happens—five-year land supply is crucial, by the way, to deliver the housing we need—is that the system becomes discredited in the public's mind, particularly when neighbourhood plans are being overturned as a result of it.

Q47 Kit Malthouse: Given that the overall objective perhaps ought to be certainty for resident, council and developer alike about what is allowed where over time, if you can get to a situation where you have a post-inspection neighbourhood plan and an approved local plan—in other words, you have got two of the pillars in place—with a five-year land supply available, do you think that the role of the planning inspector in that circumstance should be diminished or not?

Hugh Ellis: That is an attractive proposition, but it is extremely difficult to see how you could remove an individual developer's appeal rights without engaging a whole other legal debate. Whether you want to balance legal rights in the planning system between communities and applicants is a very interesting question.

Councillor Newman: I certainly would not want a position where neighbourhood plans were seen to override a local plan. I don't think that is what you are suggesting, but the local plan does enable strategic and sustainable planning, in terms of health provision, schools or whatever, and a neighbourhood plan, by definition, is coming from a different starting point. The LGA would want to see local government having, in relation to the local plan, more powers to agree, for example, where homes should be, when they are not coming forward. That takes me back to the nearly half a million planning permissions granted that have not been acted upon as we sit here today.

As you said, it is about credibility in the system, so that the public do not start believing that their neighbourhood plan is going to have no impact or will probably be overridden, either by the local plan or by developers going to appeal. I do not have the answer sitting here, but I think it has to be about a system that has credibility—where people believe that if they make representations to their council or their Member of Parliament, although it may not always come out how they would want, the system is responsive, and respects their—there are tensions in this.

Q48 Kit Malthouse: On that point, is it possible for a developer to obtain a large permission in an area, and then not develop it out, and then challenge a refusal on another site in that area on the basis that a five-year land supply has not been fulfilled? That happens, right?

Hugh Ellis: Yes.

Q49 Kit Malthouse: That does happen. Therefore, by being patient, they are able to blow a hole in the land supply and get a permission that they otherwise would not have done, and double up.

Hugh Ellis: I would not want to comment on their motivations, but as a strict matter of policy and law, yes, absolutely that is what can happen.

Duncan Wilson: On behalf of Historic England, we do get engaged with neighbourhood plans when we are asked for advice and expertise, and it has been pretty positive, in the sense that it gives the local community a voice in a system that can seem, frankly, rather arcane otherwise. Where that has happened, we have found that neighbourhood plans have been quite strategically drawn and they have not fulfilled people's worst fears, which were that they would be very narrowly drawn.

Angus Walker: I suppose it would be interesting to know, as Mr Ellis said, whether the intention is that the whole country will eventually be covered by neighbourhood plans. The resourcing issues that were raised earlier would be a lot worse if it were reliant on parish councils and neighbourhood forums to produce all these plans.

Q50 Kit Malthouse: Presumably the Bill is designed to provide that incentive. The incentive is that if you have a neighbourhood plan and it is strengthened you are more likely to have certainty about what is going to be developed in your area, so if you are bothered about development you should have a neighbourhood plan. I am interested in what you say about local plans. We hear that neighbourhood plans deliver more housing than was otherwise predicted. Is that your experience?

Hugh Ellis: It is. I think the Government produced some statistics about that. It has been one of the really positive surprises about the neighbourhood planning process. On housing, there are positive ways forward. On whether or not neighbourhood plans offer the full range of issues that planning needs to cover in a local area, the evidence we have is that they probably do not. But then, that is not what they are being set up to do. That is why I ask, is the ambition is for them to be a kind of replacement for the local plan, or not? In our view, you need both. Neighbourhood plans are great at articulating community aspiration inside the local plan framework. When both work together very powerfully, that can be a very strong framework for a community.

Q51 The Chair: I just want to clarify for the Committee what Mr Malthouse was asking. If I understood right, Mr Malthouse was asking: if there is a neighbourhood plan, a local plan and an established five-year land supply, should there be a restriction on the right of developers to appeal?

Kit Malthouse: Yes.

The Chair: I was not quite sure whether the witnesses had answered that. Would everyone just say yes or no to that?

Hugh Ellis: I will try and be a bit clearer. In policy terms, you could probably strengthen that issue, but a legal restriction on an applicant's right to appeal has always been in the legal territory of impossible because of engages of the legislation. You could certainly tighten the policy framework, but an absolute restriction on appeal is probably impossible in law.

The Chair: Thank you.

Q52 Oliver Colvile: Thank you, gentlemen, for coming to see us. What a delight, Councillor Newman, to have you here, for the simple reason that I was the Tory party agent in Mitcham in the 1980s when Nicholas Ridley introduced the whole local plan process in the first place. I have been very interested in following all this.

You have talked quite a bit about resources. I am pretty aware that my council in Plymouth, for which I am the Member of Parliament, has similar issues. However, we have a university and a planning school. To my mind, councils could have a much closer relationship with their planning schools and try to use some of those resources. Is that something that you have looked at?

Councillor Newman: Periodically but, to be completely frank, not enough. As the LGA, and perhaps as local councils, sometimes we do not sell the exciting career that local planning can be for many people. Many people who are part of it stay for many years and have a good career. There is more work to be done on how we market a career in the local planning department and some other roles in local government.

There are other pressures. If you are in London, it is not about marketing the career. Social workers, for example, cannot afford to live in many localities. In London, the question is whether people can afford to live in the area where they might want to come to work. It is not just a single issue. I would encourage the sort of practice you describe in Plymouth.

Q53 Oliver Colvile: It seems to my mind that students, I keep being told, find it very difficult to make ends meet. They have tuition fee loans and all those kinds of things. It would actually be a way of trying to get them to have some practical experience in the planning world. Similarly, local archaeology people come to see me, some of whom are doing things at the university. Is that a resource that you might think about using and looking at?

Duncan Wilson: There are certainly supply-side issues with archaeology over the whole country in relation not just to local authority advice, but to the large number of archaeologists we will need to fulfil the demand for archaeology arising from major infrastructure projects. It would be an oversimplification to say that that is just an aggregate supply of archaeologists. The higher education sector is not necessarily producing archaeologists with exactly the right kind of skills to deal with the different kinds of problems that archaeology in Britain throws up. More fieldwork is rather an important issue in that context.

The Chair: I am sorry to interrupt, Mr Colvile, but I am very conscious that we have limited time and three people want to ask questions. I will bring in John Mann, because I know he will be brief.

Q54 John Mann (Bassetlaw) (Lab): How many of these 500,000 unmet house planning consents are in neighbourhood development plan areas? Does anyone know?

Councillor Newman: I do not, but we will write to you rapidly with that information.

Q55 John Mann: What is the average number of new house proposals that come from existing neighbourhood development plans?

Councillor Newman: Again, the LGA will write to you.

Q56 John Mann: Nobody knows. What is the increase from what the position was in the same areas covered by neighbourhood plans, in terms of proposed new housing units in areas covered by neighbourhood development plans?

Angus Walker: I do not know the answer to that, but I think the Secretary of State said on Second Reading of the Bill that, of those who had an increase, the average increase was 10%. That does not give how many there were overall.

Q57 John Mann: You said that the five-year land supply for housing was critical for housing development. How do you know that?

Hugh Ellis: It is an element of it. To be clear, the problem with the delivery of housing in this country is not primarily the planning system; it is development, but five-year supply is important.

Q58 John Mann: Correct. Am I right in saying that every neighbourhood development plan, in order to be in any way legal, has to incorporate new housing development?

Hugh Ellis: The position is that it has to be in conformity with the development plan, if there is one, and the NPPF, which means that it has to recognise local housing need and the five-year land supply to go with it.

John Mann: No, is it not the case that a neighbourhood development plan has to have an increase in housing supply?

Hon. Members: No.

Hugh Ellis: The general view, when neighbourhood plans were being developed, was that they could not plan for less housing—which is sometimes how people tried to use them—than the local development plan had allocated, so there is a kind of floor. They certainly can plan, and have planned, for more housing than the local development plan has allocated.

Q59 John Mann: Is there a reason why English Heritage has not tried to initiate neighbourhood development plans using major historic buildings, such as cathedrals, as the core basis for defining urban communities?

Duncan Wilson: As I said before, we do engage with neighbourhood development plans, but normally on request, rather than proactive consultation on every neighbourhood development plan. When we do engage, we certainly encourage proper consideration of the historical character of the area and how development can sit alongside that. Cathedral cities are a really important subset of that group.

Q60 John Mann: My final question: is not the strength of neighbourhood development plans also their weakness? The strength is that at the moment a plan lends itself perfectly to villages with parish councils, which can easily, and very ably and effectively, localise the planning process—in my area virtually every parish council has or is developing a neighbourhood development plan, all of them increasing the housing supply significantly, and they will be delivering on that housing supply significantly over the next five years—whereas the weaknesses are in urban areas, where defining what the community is actually requires a bit of original thinking; otherwise everything simply becomes one urban mass. Is that not the opportunity, be it for the English Heritages, the good planners or enlightened councils, to get urbanised neighbourhood planning to involve communities in exactly the way that villages have hugely successfully involved vast numbers of people in the development of the existing neighbourhood plans that have been agreed, or are currently rolling forward?

Councillor Newman: I think you could have more urban neighbourhood plans, but I would want to see them still sitting with the overarching plan in an urban area—such as the one I am very familiar with, Croydon—to be the local plan. As we have learned from mistakes in the past—although I know this is not what you are suggesting—we should not just focus on increasing housing numbers without looking at the sustainability of the community in terms of health provision, school provision, transport links and everything else. Much as we need new homes, it should not just be a numbers game that leaves us in the same place we were in the '70s.

Duncan Wilson: In relation to our historic towns, yes, I agree that neighbourhood plans would be and sometimes are a good way of crystallising that discussion, but it is really important that the areas around towns are brought into consideration too. Otherwise, you have a plan for an historic town and all the housing gets pushed out to the periphery, without a proper strategic consideration of how that relates to the historic town in terms of transport links, public spaces, infrastructure or design.

Hugh Ellis: In a way, the critical flaw in neighbourhood planning is the neighbourhood forum model. There has to be an issue around making that accountable. The differences in neighbourhood planning between an accountable parish or town council and an unaccountable forum were always pretty stark. It was always unclear where that ended up. There would probably be more enthusiasm for urban neighbourhood planning if that problem could be resolved.

Q61 Rebecca Pow: Will the changes proposed to the pre-commencement conditions leave enough flexibility to deal with things that local communities are really concerned about? In my area of Taunton, the big issues are all about what Mr Ellis referred to: design quality, the look of the houses, vernacular character, flood resilience. Can we get all that cleared through the changes proposed, or are we relying utterly on neighbourhood plans to do that? Are there enough teeth for that to be taken into account when the planning consents are given?

Hugh Ellis: Although there is conflicting evidence in planning, one thing we can be absolutely certain of is that the design quality of domestic housing in this country is one of the great lost opportunities.

Q62 Rebecca Pow: And it is one of the big bugbears locally, when you talk to people, in all neighbourhood planning.

Hugh Ellis: We are capable of delivering so much better. That would require two things: a sense that planning is part of the solution to these problems and not always part of the problem, and a fairly robust local planning process. I think it would also include a greater emphasis on good design as an outcome in planning.

Q63 Rebecca Pow: But where would you put it? In the pre-commencements?

Hugh Ellis: You would need to think about it right from the top. The content of the NPPF on design is actually quite good, but I do not see it being enforced, particularly, through plan-making.

Q64 Gavin Barwell: I have two quick questions for Councillor Newman. You felt that the planning conditions measures were a sledgehammer to crack a nut. I want to get a sense of the size of the nut. Among the previous witnesses, there was a consensus that the use of pre-commencement conditions has been growing over time. Does the LGA share that view?

Councillor Newman: As I said at the start, I think there is sometimes a perception in Government that planning is the problem. Maybe we are not even looking to crack a nut. To repeat what I said at the start, we risk setting up a far more confrontational process at the start. Conversations around design, sustainability and so on get lost, because people have to take a fixed position very early on in the process. Look, it is not perfect—there will always be examples that people can give of where it has ended up in confrontation—but the evidence seems to suggest that the nut is not particularly large.

Q65 Gavin Barwell: It is not getting bigger, in the LGA's view?

Councillor Newman: No.

Q66 Gavin Barwell: In its submission to us, the District Councils Network acknowledged that the discharge of planning conditions can be a factor in slow decision making and supported the Government in seeking to address conditions. Why did district councils take a different view on this from the LGA as a whole?

Councillor Newman: I have not had district councils coming to me, knowing that I was coming here, but if that is the position of their network, we will include it in our evidence.

Gavin Barwell: Do I have time for one more question, Chair?

The Chair: Yes.

Q67 Gavin Barwell: You made a very good point that in the year to 30 June, this country granted a record number of planning applications for housing, but that there is a gap between the planning permissions we are granting and homes being built out. If you do not think planning conditions are part of the problem—I would certainly say they are not the sole problem—what do the panel think are the reasons for that gap?

Hugh Ellis: The core reason is that we have restricted our delivery of housing to a single development model. You have signalled, Minister, that you are interested in exploring how we can find new ways to challenge that. The critical issue is that from 2019-20 onwards, the private sector will probably go on building 150,000 homes a year, almost forever. The critical elements missing from our debate—I know your mind is open to this issue—are how we deal with scale strategic development, how we join up infrastructure with housing development and, crucially, how we deliver a new generation of new settlements.

I am very conscious of Macmillan's achievement in delivering 350,000 homes in the mid-1950s, but he did have a programme that was 32 new towns strong at that point. They are a fantastic way of delivery. They overcome the issue of delivering numbers. Milton Keynes is delivering almost 4,000 homes a year. I believe that there is an exciting opportunity for us to take that up again, but it seems to me above all that in our collective debate about housing delivery in this nation, we need to address our attention to that strategic scale.

Councillor Newman: I will finish with an example from Croydon. If a planning permission has not been taken up within three years, perhaps a council building company like Brick by Brick should be invited to step in and start building the homes that somebody promised they would build but did not.

The Chair: I am afraid that time has beaten us, although we could have gone on much longer. Thank you, witnesses. That ends this morning's evidence session.

11.25 am

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

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NEIGHBOURHOOD PLANNING BILL

Second Sitting

Tuesday 18 October 2016

(Afternoon)

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No proofs can be supplied. Corrections that Members suggest for the final version of the report 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 22 October 2016

The Committee consisted of the following Members:

Chairs: † Mr Peter Bone, Steve McCabe

† Barwell, Gavin *(Minister for Housing and Planning)*
† Blackman-Woods, Dr Roberta *(City of Durham)* (Lab)
Colvile, Oliver *(Plymouth, Sutton and Devonport)* (Con)
† Cummins, Judith *(Bradford South)* (Lab)
† Doyle-Price, Jackie *(Thurrock)* (Con)
† Green, Chris *(Bolton West)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
Hollinrake, Kevin *(Thirsk and Malton)* (Con)
† Huq, Dr Rupa *(Ealing Central and Acton)* (Lab)
† McMahon, Jim *(Oldham West and Royton)* (Lab)
† Malthouse, Kit *(North West Hampshire)* (Con)
† Mann, John *(Bassetlaw)* (Lab)
† Philp, Chris *(Croydon South)* (Con)
† Pow, Rebecca *(Taunton Deane)* (Con)
† Tracey, Craig *(North Warwickshire)* (Con)
† Villiers, Mrs Theresa *(Chipping Barnet)* (Con)

Ben Williams, Glenn McKee, *Committee Clerks*

† attended the Committee

Witnesses

Ruth Reed, Chair of the RIBA Planning Group, Royal Institute of British Architects

Jonathan Owen, Chief Executive, National Association of Local Councils

Carole Reilly, Head of Neighbourhoods and Housing, Locality

Matt Thomson, Head of Planning, Campaign to Protect Rural England

Colin Cottage, Chairman, Compulsory Purchase Association

Richard Asher FRICS, Royal Institute of Chartered Surveyors (Director in the Development Department and Head of Compulsory Purchase and Compensation for Savills)

Tim Smith, Member of the Law Society's Planning and Environmental Law Committee and partner at Berwin Leighton Paisner LLP, Law Society

Richard Blyth, Head of Policy, Practice and Research, Royal Town Planning Institute

Gavin Barwell MP, Minister of State (Housing, Planning and London), Department for Communities and Local Government

Steve Evison, Deputy Director—Local and Neighbourhood Plans, Department for Communities and Local Government

Tony Thompson, Deputy Head of Development Management Division, Department for Communities and Local Government

Public Bill Committee

Tuesday 18 October 2016

(Afternoon)

[Mr Peter Bone *in the Chair*]

Neighbourhood Planning Bill

The Chair: We will continue with evidence from the National Association of Local Councils and the Royal Institute of British Architects.

Examination of Witnesses

Ruth Reed and Jonathan Owen gave evidence.

2 pm

The Chair: Welcome, witnesses. Will you introduce yourselves for the record?

Ruth Reed: My name is Ruth Reed. I am past president of the RIBA, I chair the RIBA planning group and I am representing the institute today.

Jonathan Owen: I am Jonathan Owen. I am chief executive of the National Association of Local Councils, which represents 10,000 parish and town councils in England.

Q68 Dr Roberta Blackman-Woods (City of Durham) (Lab): Do the provisions of the Bill go far enough to support groups that want to undertake a neighbourhood plan and, in particular, does the Bill do enough to support groups in disadvantaged areas? Please address both parts of the question.

Jonathan Owen: You have probably put your finger on the most important issue facing the plans, which is how to make them credible and respected in the system, so that communities engage with and buy into them. The Bill does a lot to help with that process. I have visited lots of parish councils over the last few years and they certainly have expressed concerns about how difficult it is to revise some neighbourhood plans, and about some of the advice that they are getting from principal authorities. Some elements of the Bill will help with that, but I do not think that it tackles the fundamental issue, which is how credible the neighbourhood planning process is within the planning system as a whole. We are in danger of building a lot of expectations that will not be fulfilled.

Neighbourhood plans have been enthusiastically embraced by parishes and communities, with loads of people volunteering to help with them and 400,000 people voting in elections or referendums on them. A really good plan is produced at the end of that process, but all too often those plans are set aside on appeal, or decisions by planning authorities are taken contrary to the plans. We would like to see the Bill tightened to ensure that neighbourhood plans have more influence in the process, and so that there is a clear statement from Government about what exactly the role of neighbourhood planning is in the planning process.

Ruth Reed: Funding has already been put in place for providing plans for disadvantaged areas, but local authorities are beholden to identify and bring forward local plans and we do not yet know whether the funding is sufficient to enable that.

Where you have a clearly identified community, whether it be parishes or other well-knit communities, it is very easy to put in train the process of producing a local plan. In a city area with no clear community boundaries or, necessarily, a sense of community, plans are much harder to bring forward. I am not sure that there is anything other than the intention under previous instigations to provide funding—there is nothing necessarily in the Bill—to promote the identification of those areas and to bring them forward. It would be good to see this rolling out across all communities to give them the same access to the democratic influence in their immediate area.

Q69 Kit Malthouse (North West Hampshire) (Con): Dr Owen, you said that a lot of neighbourhood plans had been overturned, or that decisions on appeal have blown a hole in the neighbourhood plan—that certainly happened in my constituency—so do you think that the provisions of the Bill will iron some of that out? Do you think that the intervention point, or the point at which the plan has more weight post-inspection, is the right moment, or could it conceivably be earlier in the process?

Jonathan Owen: I think it is helpful that the Bill proposes, in effect, giving plans influence from earlier in the process. Obviously we need to see how that works in practice, but it goes some way to address some of those concerns. We probably need during the passage of the Bill to try to press for greater clarity on the exact role of the neighbourhood plan and get some statements about the importance and significance attached to them.

Q70 Kit Malthouse: What do you think it should be?

Jonathan Owen: I think we should have a much more plan-led system—I am sure that will not surprise anybody. Neighbourhood plans need to sit very closely with the local plan, and together they should form a robust base on which planning decisions can be taken. The problem at the moment is that some local plans are not as developed as they might be. They do not have five-year land supplies. We have neighbourhood plans coming on stream more quickly, and they have caught the problems of the tension between the various tiers. A bit more clarity in the Bill about the respective responsibilities of those tiers and plans would be helpful.

Ruth Reed: Nothing beats having in place a local plan that is robust and that has sufficient provision for housing land supply, which it can renew throughout its life. The concern is that, if neighbourhood plans are brought forward pre-referendum immediately before local plans have been adopted, it will slow down the very necessary local plans process. The problem then is about the provisions to go back and amend neighbourhood plans. The danger is that you are disillusioning local groups that have thrown a lot of voluntary time and effort into preparing those plans. They will see the local authority, which in cities can seem quite distant—less so in the smaller authorities—wading in and changing something they hold dear because they have gone through the process of having prepared it themselves.

Q71 Kit Malthouse: But is it the case that, wherever you pick in the lifespan of the neighbourhood plan—from inception through to referendum—by picking a point at which you create weight, you also create a window for land speculators or developers to try to get in under the wire? Do you think the point the Government have chosen for the cut-off date—post-inspection—which is where this weight occurs, is too late? Of course, all the work is done pre-inspection. As you say, part of the mission is to make the process credible so people who are embarking on a two and possibly three-year, process do not feel their time is wasted because an application comes in just before inspection.

Ruth Reed: I do not want to run down the majority of neighbourhood plans, but they are generally prepared by voluntary work, sometimes by amateurs, and until they have gone through the inspection process they are probably not rigorous. It would be difficult to indicate to decision makers, whether the local authority or the inspectorate, that they should be given significant weight, because they have not had the thorough scrutiny of the inspectors' examination. I personally would not bring it any further forward than that. My greater concern is that they are produced without the backing of, and without being in sync with, a local plan, which would ensure coherence and strategy across a local authority to provide housing where it is needed.

Jonathan Owen: Hopefully, the requirement in the Bill to make local planning authorities provide clear assistance to parishes should help to improve the efficacy of neighbourhood plans. My colleague is right that they are produced by volunteers, but that is a strength. They are often produced by volunteers with exceptional experience. I think that the earlier in the process they have a robust position, the better.

Q72 Kit Malthouse: Thank you. You have both referred to the importance of the local plan. Obviously, a neighbourhood plan is hampered in the absence of an overarching local plan with a five-year land supply. That is not the fault of the area that has put the neighbourhood plan in place. Do you think there is scope in the Bill or elsewhere to create some kind of compulsion on local authorities to have a plan in place? Some of them seem to take their time.

Ruth Reed: I believe that has already been addressed by the Local Plans Expert Group. I understand that the Minister has already made some comments about that. It would be extremely desirable for there to be some mechanism to make it a statutory obligation to have a local plan in place. Presumably, that should include a robust way of reviewing the five-year land supply to ensure it continues to be effective and not out of date throughout its lifespan.

Jonathan Owen: I agree very much with that. We would also like to see some certainty about how the community infrastructure levy will operate, and perhaps a time limit for getting those schemes in place. Again, one of the things that I hope the Bill will do is incentivise local communities to take control of their places and develop neighbourhood plans, but they need to see some reward for that, and I think that a share of the community infrastructure levy is a key element. The National Association of Local Councils is pushing for that to be increased from 25% to 35% where an approved neighbourhood plan is in place, which would help incentivise and perhaps persuade some communities, including some of the more deprived ones, to see the benefits of having a plan in place.

Q73 Kit Malthouse: On that notion of having a neighbourhood plan and a local plan, probably the most feared organisation in my constituency is not the Inland Revenue or the police, but the Planning Inspectorate. When a neighbourhood plan that has been through a referendum is in place and a local plan has been approved and has a five-year land supply, do you believe that there should be some restrictions on the jurisdiction of the Planning Inspectorate in such circumstances?

Ruth Reed: The Planning Inspectorate has a duty to make decisions in accordance with the development plan and other material considerations, one of which is national policy. I do not think that it is pushing a particular agenda; it is merely carrying out its duties. I declare an interest: I was an inspector.

Jonathan Owen: I think we would like to see some process perhaps to review the decision of those inspectors. We are calling for a right to be heard, or a right of appeal, so that where decisions are taken contrary to a neighbourhood plan and a local plan, people may have some reference to the Secretary of State or Minister to take a final view on the thing. It is really important that we have consistency across the piece, and that communities developing neighbourhood plans are confident that when they do the work, backed up by a local plan, those plans will have real importance and significance. If they do not, people will ask, "Why bother volunteering time to do these things?" Why bother to spend a lot of time on how to accommodate more housing and more growth in your community if those considerations are set aside for all sorts of complicated legal reasons that the planning system always seems capable of throwing up?

Ruth Reed: May I make a technical point there? The inspectorate is the Secretary of State—it stands in the shoes of the Secretary of State—and the recourse is a section 288 challenge.

Q74 Kit Malthouse: Yes, I understand that. All MPs can, pretty much, point to inexplicable decisions by the Planning Inspectorate in their area. One of the things that alarms local communities is this notion that the decisions made seem broadly random. I guess what I am trying to fish for is whether there is some way for an area that can prove it is playing ball, is providing housing and has its plans in place, to have the planning inspector say to a developer, "Well, don't even bother asking, because we are not going to participate"?

Ruth Reed: Every group can be an appellant and has the right to appeal to the Secretary of State, so it would be undemocratic to deny people the opportunity, whether they be housing developers or individuals. Everyone has a right to appeal.

Kit Malthouse: But would you extend that—

Q75 The Chair: It is a very important point that Mr Malthouse is making, but may we just be clear that if there is a neighbourhood plan, a local plan and a five-year land supply, you still think that the developers should have the right to appeal to the Planning Inspectorate?

Ruth Reed: If everything is in place, the developer's case would not have any weight.

The Chair: But do you think they should have the right to appeal?

Ruth Reed: Everyone should have the right to appeal; they do not have the right to succeed.

Q76 Kit Malthouse: When you say "everyone" should have the right to appeal, you do not mean the residents.

Ruth Reed: Everyone who has had a decision made—no, I am not talking about third parties. I am talking about planning refusals under section 78. Anybody who has had a refusal is allowed to appeal the decision—appellants themselves may appeal the refusal, whoever they are.

Q77 Kit Malthouse: I understand, but you said that was of democratic importance—

Ruth Reed: Yes—

Q78 Kit Malthouse: But obviously a lot of residents believe the system is one-sided, because they cannot appeal an appeal that is allowed.

Ruth Reed: If there is a material error of process, they may ask the local authority to take it up as a 288 challenge in the High Court.

Q79 Kit Malthouse: Okay. My final question is on neighbourhood plans and the areas, to which you alluded earlier. Do you think that neighbourhood plans could be put in place by self-defined areas?

Ruth Reed: My understanding was that you could put forward an area and have it accepted. That is, to a degree, self-defining.

Q80 Helen Hayes (Dulwich and West Norwood) (Lab): May I have your views on the availability and level of resources to support communities that want to undertake neighbourhood planning? What more could be done to enable and encourage neighbourhood planning in more deprived communities and in areas of high housing need, for example, where there are voices that might not be heard in the planning process, but that might stand to benefit from the neighbourhood planning process?

Ruth Reed: I personally believe that there should be a proactive role for local authorities to instigate and identify neighbourhoods, and put in train a process. There should also be an opportunity to financially enable not only the technical aspects of planning, but—on behalf of the Royal Institute of British Architects—to provide design capacity to enable them to input well-worded design policies, and even design codes so that individual neighbourhoods can give expression to the kind of development that they would like to see, and to make it real to them. We believe that there may now be financial provision for this. One of the problems in planning is that it is a paper, two-dimensional base exercise. Sometimes you need people like architects to make it real and three-dimensional and to be able to explain what it would look like, using models or digital models.

Jonathan Owen: The pump-priming funding provided by the Government to support neighbourhood plan development has been an element that has encouraged parish councils to get involved, and it has driven neighbourhood planning of the 2,000 plans that have been produced. Parishes have led 90% of them, so they are embracing that opportunity, and I would like that to continue. The element in the Bill requiring planning authorities to identify the kind of advice that they would provide to groups and draw up neighbourhood plans is helpful. Where it falls a bit short is where it does not set out what is required or expected by the local planning authority.

We would like to see something more formal by way of either a statutory memorandum of understanding or a code of practice relating to what might be expected of the local planning authority in terms of helping with community involvement, helping them to access the principal authority website to do consultation work on it and that kind of thing, rather than just a basic entitlement. So it would be a mix of hard cash and softer things that could be provided by the planning authority. I know that would cost them money, and there was a good debate this morning about planning authority resources.

Q81 John Mann (Bassetlaw) (Lab): Prince Charles's Foundation for Building Community did the groundwork in my area to self-define an urban area around a historic church as a community. It is a coherent community, and it is a community that has not been defined as such for 300 to 400 years. In your position, would you say that there was far more scope for this? Imagine if it had been done for the St Paul's neighbourhood plan 40 years ago. Things might be rather different. Do you see great scope in this, and do you see scope for your organisation in prompting this kind of thinking?

Ruth Reed: I think we have locally active members who have been engaged in the first phase of neighbourhood plans. It is not core to architects to bring forward planning initiatives. There is no reason why certain individuals should not get involved, but it is not something that the RIBA would do, since the RIBA exists to promote architecture rather than enable communities to deliver local plans. There are groups aligned to the RIBA, including the Design Council, the Commission for Architecture and the Built Environment and the Architecture Centre Network to put design capacity into local authorities. The RIBA would be involved in initiatives in this kind of area to provide resources to local groups.

Q82 John Mann: Some would say great architecture defines communities and I hope you will give further thought as to how you might inspire people, particularly in urban areas and around our great cathedrals and other great buildings. Most of your member organisations were busy consulting vast amounts of local people over local plans, and then the Government changed the goalposts in March 2013. How many local plans have had to be redone because of the requirement to consult neighbouring authorities?

Jonathan Owen: I don't have the answer to that. Two thousand neighbourhood plans have been prepared by our parish and town councils—

John Mann: No, not neighbourhood plans; local plans.

Jonathan Owen: I am not able to answer about local plans.

John Mann: There must be a significant number, because councils like mine that had had all the consultation were informed that they had to start again entirely from scratch, which seems to me to be quite a way of delaying house building—albeit inadvertently—by the coalition Government.

Ruth Reed: I think stability in the planning system is to be welcomed, because it gives confidence to developers and other people bringing forth developments that they will get planning. That is why it is important that local plans are in place, and it is very important that they have adequate provision for housing land in particular. The stability we have had since 2012 has been quite welcome.

Q83 John Mann: The stability we have had? There has been no stability in all those councils that had to abandon their local plans—there is no plan there, so in fact there has been instability. Dr Owen, have there not been cases where small district councils, with the risk of adverse costs should they lose at appeal, have felt obliged to pass things that they do not want and their local communities vociferously do not want for fear of risking a quarter of a million pounds in costs from their budget? Does that sound familiar?

Jonathan Owen: I am sure there are examples of that, but from a parish perspective I guess that also introduces uncertainty into those neighbourhood plans themselves. We have had plenty of examples of where those neighbourhood plans have had to be redone, revised or tossed aside. In the pack of papers we sent in by way of submission, we quoted Haddenham parish council, which gave evidence to an all-party parliamentary group last week mapping out the enthusiasm of the people who drew up that neighbourhood plan. They got experts involved from within the community and produced a really great plan, but within six months it got set aside through a judicial review.

The representative from that parish came here and was deeply disappointed that all that hard work and effort had come to naught. He could not see how he would be able to engage his local residents or his community in shaping such a plan again. That is why we need some certainty, clarity and credibility around the whole system. Hopefully the Bill will help address that.

Q84 John Mann: Indeed. My own parish council had exactly the same experience. Vast numbers participated. A community plan was drawn up with huge engagement. It was environmentally sound and very forward-thinking on green technologies. Architecture was built into it, with what the new housing should look like to fit in with the feel and history of previous architecture, but that was overturned because of the five-year housing supply. Someone wants to build something that does not fit in at all, and that was not agreed by anyone, because someone in Whitehall says, "You've got to have this number of houses." Will that inspire more neighbourhoods to have plans, or will that mean there will be even more cynicism about the planning system?

Jonathan Owen: Well, I think you are right—cynicism is a very real risk. That is why we need to ensure that we build a system where the role of neighbourhood plans is clearly spelled out and we are not raising expectations unreasonably, so that, together with local plans, they provide a really robust framework to support communities to have control over their areas and get the right kind of development.

Q85 John Mann: The evidence, overwhelmingly, is that where there is a neighbourhood plan that increases the potential housing supply through land allocation, that housing will be built and will be built quickly. However, there is a bit of a time lag in proving that in huge numbers. Do you intend to keep providing that information on how successful neighbourhood plans have been in bringing forward new housing? Would that not therefore strengthen the argument that where there is a neighbourhood plan that has been formally adopted by one of your members in district council, after a referendum and a council vote, that that should be the plan stuck to by everybody?

Jonathan Owen: We will certainly showcase those examples. Government research shows that something like 10% additional housing is provided by neighbourhood plans. I am particularly pleased that Newport Pagnell, one of our larger town councils, won an award from *Planning* magazine for the quality of its neighbourhood plan, which, among other things, provided for 30% more housing than was set out in the local plan.

We believe—you would expect us to say this—that parishes can really drive forward neighbourhood planning, and can set aside the outdated nimby view of parishes and build communities that have housing for local residents and others, provided in a way that has infrastructure and community support. The key thing is to make sure that people's enthusiasm for that is not set aside because the plans are set aside or overturned on appeal or whatever.

Q86 John Mann: Indeed. With more than 20 local plans either agreed or proceeding in my constituency, every single one brings forward new housing—more than any plan previously. Every single community is willing to have housing, but wants to have a great say on what kind of housing—what shape, what design—and where it should be. Seing as so many of them are in beautiful parishes such as the village where I live, is there not a danger that one part of society is going to benefit from this whereas in more deprived communities, in urban areas, there is the same desire for local control over neighbourhoods, but it requires a bit more imagination to create communities sufficiently robustly small to carry out this kind of planning? Should we not be giving far more incentive, encouragement and expert advice to those communities, on the basis that all politics is local as long as you are prepared to trust local people?

The Chair: In 10 seconds, please.

Ruth Reed: I think we have already said that we would support the proactive work by local authorities in identifying communities and bringing forward neighbourhood plans in more deprived areas.

Jonathan Owen: And parish councils, of course, are increasingly being set up in urban areas these days. Sutton Coldfield, Swindon and many other places are setting them up, so hopefully, with a bit of luck, we will see more parish councils in those urban areas helping those deprived communities.

Q87 Mrs Theresa Villiers (Chipping Barnet) (Con): Part of this has been covered by John Mann's questions, but just to be clear, it seems to me there are far fewer neighbourhood plans in big cities than elsewhere. It would be useful to understand from you what you think the main cause of that is. Is it because it is very difficult to identify a community small enough to be viable for a neighbourhood plan within a bigger urban area?

Jonathan Owen: I think it is that, and I think those communities need support from their local planning authorities. Of course, the absence of a parish or town council in those areas means there is no institution that can drive it forward and raise funds through precepts to support the neighbourhood plan, with an ongoing democratic existence over time.

Q88 Rebecca Pow (Taunton Deane) (Con): One of the things so many communities want is to have an influence on how their communities look and feel, what nice places they are to live in and all of that. Do you think the changes proposed in the Bill will help that? Will people really feel that they are going to influence the places in which they live?

Ruth Reed: I think it would be helpful if it was explicit that provision is made for enabling the capacity for local communities to express what they want out of the quality of their environment. I do not think it is explicit. It is implied that there will be funding provided for guidance, but it does not say that that should be what it is. I think it would be good if the Bill made a clear statement that good design will be brought forward through this process.

Q89 Rebecca Pow: Do you think that will be an incentive for people who are sceptical about the process we have been discussing? Would it really encourage them to do it?

Ruth Reed: I think if they felt they had some control over the way things looked, they would be much more incentivised to bring it forward.

Q90 Jim McMahon (Oldham West and Royton) (Lab): I am interested in the powers providing the finance to deliver and get the expertise in, and so on. What about practical support beyond that, for instance toolkits, pro formas and websites that can generate content and formatting? Maybe I can use this opportunity to blow the trumpet of Greater Manchester, which is currently embarking on a project with the Cabinet Office to develop open data mapping. Would more projects like that help your parish and town councils?

Jonathan Owen: I have been interested in how the neighbourhood planning process has taken off over the last few years. We should recognise that it was an experiment, really, and we are at the early stages of that experiment. In any experiment we need to have plenty of ways to share good practice and showcase what others are doing, and the kind of toolkits you have mentioned. Certainly, from talking to parishes, they are reassured when they are able to talk to other parishes or other neighbourhood forums that have done it and learn lessons from that. Anything that we put in place—not necessarily in the Bill but through any financial support—to ensure that sharing of good practice would be brilliant.

Ruth Reed: Any obligations placed on local authorities to provide extra services, if they are not accompanied by funding, are going to put extra pressure on a system that is already in a—

Jim McMahon: The mapping, of course, could be provided by central Government. The technology platform could be provided centrally.

The Chair: Order. I am really sorry, but time has beaten us, and we have to move on. Thank you so much for coming and giving evidence.

Examination of Witnesses

Carol Reilly and Matt Thomson gave evidence.

2.31 pm

The Chair: We now hear oral evidence from Locality, and from the Campaign to Protect Rural England. For this session we have until 3 pm. I welcome the witnesses. Could you please introduce yourselves?

Carole Reilly: Hello, I am Carol Reilly. I am the head of neighbourhoods and housing at Locality.

Matt Thomson: Good afternoon. I am Matt Thomson. I am the head of planning at the Campaign to Protect Rural England.

The Chair: Thank you. My plan has been ruined as the shadow Minister is no longer there.

Q91 Jim McMahon: I am interested in the balance of the drive and ambition to build more homes with trying to protect the environmental standards, in particular around the green belt. I would welcome your views on that.

Matt Thomson: Shall I kick off, given that green belt is one of the key things that the Campaign to Protect Rural England is concerned with? It comes down to the general principle behind neighbourhood planning, that people and communities at the local level are best placed to make decisions about the impacts of development on their area, and about the type of development that takes place in their area. The more local the level at which decisions are made, the better the outcomes can be for those kinds of concerns.

Carole Reilly: I think it is really important that we listen to communities. We have seen a number of neighbourhood planning groups that are challenging local authorities that have not got a "brownfield first" policy. That is one the things that we see: a brownfield list that is going to be updated and reported on. That surely will be one of the ways, viability issues all being considered, of securing the green belt.

Q92 Chris Philp (Croydon South) (Con): Welcome to Westminster. Do you think the way the local plan interacts with the neighbourhood plan could be improved in any way, particularly bearing in mind that the neighbourhood plan has been subject to local referendum? If you think that interaction could be improved, how would you suggest improving it?

Carole Reilly: I think we are going to see quite an interesting two years coming up, where local planning authorities are getting their local plans in place. I think neighbourhood plans and local plans can be produced in tandem. They depend on a lot of the same evidence. We are very heartened that this Bill shows a commitment for local authorities to explain what their support is going to be. There are a number of ways in which the development of the local plan would really help the development of a neighbourhood plan: giving maps, giving evidence, sharing diagrams—stuff that often does not happen at local authority level. So I think there is a way that they can be developed together. Without a local plan, obviously the latest plan takes precedence under the national planning policy framework—it is the neighbourhood plan. Where there is no five-year land supply, that leaves your neighbourhood plan terribly vulnerable. So I think the two have got to be intertwined. We also have to remember that, in practice, we are four years in, and there was a lot of scepticism from local authorities about neighbourhood plans. It feels like there is a far more open, partnership approach now.

But local planning authorities have been stripped of funding and they have reduced huge amounts of skills. Lots of people do not have a lot of experience with neighbourhood planning, and their focus will be on writing and producing the local plan. So I think they should be produced together, they should be meshed together, and that can be done by sharing that top-level evidence that is gathered by the local planning authority, but I think the resources are tight and the focus is going to be on the local plan.

Matt Thomson: I would agree with a lot of what Carole said. The question reflects one of the key problems that we have been facing with the operation of the planning system for decades. That is that where you have tiers of nested planning policy documents, there is always a question of which has precedence over the other. It should not necessarily be just a question of the one that is produced most recently holding the most weight in a planning application environment.

Another, bigger, question has vexed us with regard to the relationship between local plans, county structure plans and regional strategies. We tend to think of neighbourhood plans as somehow needing to be prepared in the context of an adopted local plan, despite the fact that, although we have lots of adopted local plans, we do not have enough adopted local plans. But we need a relationship whereby the work that goes on at the neighbourhood plan level informs the preparation of the local plan, rather than the local plan, when it is finally produced, somehow trumping a short-lived neighbourhood plan and forcing the neighbourhood to review that plan. We need somehow to protect the policies and proposals of the neighbourhood plan, and bring them into the local plan when it is being produced.

Q93 Chris Philp: On that point, can you think of particular examples of the type of policies or measures that might appear in a neighbourhood plan and that you think could or should trump a local plan?

Matt Thomson: The existing NPPF says that detailed policies—non-strategic policies—in a neighbourhood plan, where they exist, can outweigh the policies in the local plan.

Q94 Chris Philp: What is the definition of "strategic" in that context?

Matt Thomson: I think, generally speaking, that that is interpreted as relating to the scale and location of mainly housing development. It is the big picture things. A lot of local plans have quite detailed policies on design, and on the kinds of development management policies and conditions that can be imposed on planning permissions and so on. A neighbourhood may feel that the design policies are not the right design policies for their particular area, and so produce their own design policies. It is that kind of thing.

Q95 Chris Philp: As an example, let us say that the local plan specifies the total number of housing units in a five-year period to be built in a particular area—in a village or a particular neighbourhood of a suburb. Would it be reasonable to say that a neighbourhood plan could allocate different sites—that would take precedence—provided that the total number of housing was the same as specified in the local plan?

Matt Thomson: That, I think, is a tricky area. A good example of where this has worked well is Thame in Oxfordshire. The district council gave an overall housing requirement for the Thame neighbourhood plan to meet and identify its own sites. It is more difficult when the district council has already identified sites, because the owner of that site has a reasonable expectation that they will get planning permission for it. It would be difficult for a neighbourhood plan to de-allocate a local plan. It is not impossible, and it may be appropriate to do that.

One of the other pitfalls we would want to watch out for is this: we know that neighbourhood plans are allocating more housing sites than they were expected to—that is the 10% or 11% figure that the Government have been talking about—and that is great news. What I would be really concerned about is when a neighbourhood is expected to provide 100 houses, but plans for 110 houses, and the local plan then takes the extra 10 houses off its total. It should be putting those 10 houses somewhere else in the district and not just double-counting, because it might lead to a void and end up punishing that neighbourhood for being much more forthcoming with housing sites.

Carole Reilly: Also, where a local plan is allocating a large housing development, quite often what we have seen in practice is that, on designation of the area, the local authority has removed that strategic site from the neighbourhood planning designated area, against the wishes of the qualifying body. Quite often they are not even able to take those out, and there has been quite a lot of wrangling over designation for boundaries that are coterminous with parish boundaries, because strategic sites have been removed. Whether that is about not wanting to interfere with housing development or about protection of the community infrastructure levy, there are a lot of questions.

Matt Thomson: To clarify, if it is desirable for a neighbourhood plan to de-allocate one site and allocate a different site, then that is a good thing—it is something that the CPRE would often support, because, as I said before, it is better for local people to make the decision. I am just saying that it would be tricky to do that. It could be tricky and there could be legal ramifications if an investor has invested in that site as a result.

Chris Philp: I am not sure that any public body has ever been financially liable for changing planning permissions.

Q96 Helen Hayes: May I ask Carole Reilly how many neighbourhood plans Locality has supported to date?

Carole Reilly: To date? Under the current programme, we have supported 1,300 neighbourhood plans with grants for technical support. In outline, there are two ways in which you can get support. You can get cash—£9,000 for straightforward plans and, for those that are more complex, the grant can go up to £15,000—and, alongside that, we offer a number of technical support packages. Under the current programme, which we have been running since the beginning of 2015, we have worked with 1,200 or 1,300 groups.

Q97 Helen Hayes: Of those, how many neighbourhood plans have been in urban areas and/or in areas of significant deprivation?

Carole Reilly: It is pretty similar to the national figure, so we are talking about 10% deprivation, but on the programme about 15% of groups coming from non-parish areas, which is slightly more—it stands to reason that those people would come in for higher levels of support.

Q98 Helen Hayes: Have you done any work to understand good practice or the resources necessary to engage effectively communities that might not naturally have the capacity or inclination to engage in strategic planning?

Carole Reilly: We have. We undertook an internal review early days, thinking, "Why is this going on?" because we always seemed to be speaking mainly to the parish council. I have to say that that is one of the elements of the Bill that I feel most disappointed with—it does not go far enough. There was a manifesto commitment to encourage neighbourhood planning across the country, but I think we could be sitting in this room in 10 years' time and, if we have not done something very significant around urban and deprived areas, we will still be having 10% to 15% of forums doing neighbourhood plans.

Some of the issues are very straightforward. Parish and town councils have a place, a building, a phone, a clerk and an address where people know to go, so they are easy to do. When we did all the asset transfer work at Locality, people understood district councils better than counties. People understood where to go. Those councils also have a big infrastructure, like a number of other bodies, to inform them, "This is an opportunity, take it!" and they have a bank account that they can get going straightaway.

In urban areas, who is your neighbourhood? Is someone on the next street your neighbourhood? Where is the boundary? Is it coterminous with another one you know, such as your political or health boundary? What is it? That is really difficult. Who are the leaders on that? I think it is a major problem that neighbourhood forums have a five-year lifespan. From the start, that does not build in long-term thinking.

There is a problem about funding for implementation for forums, so while my first reaction would be to say that CIL is an issue, it and the new homes bonus scheme only channel funding to areas where there is growth already. If we look at those forums in deprived, urban areas, where CIL is set but set at nought, 0% of nought is still nought, so it makes no difference. These issues could be helped in terms of big-picture stuff. A national policy that tried to balance regeneration and planning would be really helpful so that people can understand what a neighbourhood plan can do for an area where there is actually not a lot of housing demand—there is not a problem because there is not a shortage—but where there is a shortage of employment. Using your neighbourhood plan to understand employment space and encourage and generate that would be great.

The reason why it does not happen in urban areas is that there is not already a thing or a vehicle to do it. In poorer areas, there is an issue about personal investment. If you do not own your own home—if you live in private rented accommodation—you have no investment there, and there is nothing to lose. If you are time-poor, you are not going to get involved. There are also things about skills, transient communities and a general point about focus.

I think a huge amount of work can be done. There have been promotional campaigns on neighbourhood planning, but I think we need something much more targeted and focused, something that works with the people that we know on the ground—the local planning authority—and supports them. We also need to fund it, so it is about a very proactive, promotional mobilisation campaign that targets specific groups to take it forward, otherwise we will be still be at the same picture.

Q99 Mrs Villiers: I would very much like to ask Matt Thomson about one of the points made in your recent report, "Safe Under Us?" about housing development on the green belt. Obviously our planning rules say that such development should be made only in very exceptional cases, but I am alarmed by the research that CPRE and the London Green Belt Council have done, which seems to suggest that inspectors are now deeming general housing pressure and housing need to be sufficiently exceptional to justify green belt development. Could you expand on that?

Matt Thomson: Well, you have put the case that I think CPRE would make very eloquently. Despite the fact that Ministers have said on several occasions that housing demand on its own is not sufficient justification to grant planning permission on green belt land, it is of concern to us that neither local authorities nor the Planning Inspectorate have necessarily enforced that in all cases, and certainly not in a number of cases that are of concern to CPRE.

Secondly, under the same principle, it is very clear, in our view, in paragraph 14 of the NPPF that, while local authorities should plan to meet their objectively assessed need in full, the requirement does not apply in green belt areas and other areas listed in footnote 9. However, councils are planning for growth—despite being restricted by green belt—and releasing land from the green belt to meet that growth need at an increasing and higher rate than regional plans were doing before they were abolished, largely for the reason that they were proposing development in the green belt. Yes, that is a great concern to us. Housing need obviously needs to be met somewhere and there is still some way to go in order to overcome the problem of how housing need should be met while protecting the green belt and other areas of landscape importance and so on that we would expect to be protected.

Q100 Mrs Villiers: Is there a legislative fix to this? Should we be thinking about adding something to the Bill to resolve the problem?

Matt Thomson: Strangely, we are not calling for that. Our position is that the NPPF should be enforced, as the policy is clearly worded at the moment. At the moment, our feeling is that local authorities, which are hard-pressed to get local plans in place and to meet their unrealistic housing targets, are granting planning permission and releasing sites from the green belt through their local plans simply because they do not feel like they will get the support from the Planning Inspectorate and the Secretary of State if they choose to do what the NPPF policy actually tells them to.

Q101 Jim McMahon: I want to try to get under the skin of trying to encourage planners to come forward in areas of deprivation. In previous sessions, we have heard about a conflict between identifiable neighbourhoods of scale. Planning tends to be easier where a village can be identified that is very defined in its own right, but a lot harder in urban areas. Is that partly because, in urban areas, local is extremely local—the street or collections of streets, rather than defined villages and towns on a bigger scale? Could more support be given even more locally so that people could have a say? Perhaps clusters of communities might be able to come together with a bit more support than is currently offered.

Carole Reilly: In urban areas?

Jim McMahon: In urban areas.

Carole Reilly: There are lots of examples of how you can find leaders in urban areas to help to identify what the needs are. Until recently, we ran the community organisers programme, funded through the Office of Community Services. That was an amazing way of finding out what people were passionate about in their communities, because—let's face it—2,000 groups doing neighbourhood planning is not about a passion for planning. It is about a passion for places and for placemaking. We need to be really clear about that. It happens in cities and towns as much as in rural areas, so we should try to harness it, and there are a lot of ways of doing that.

We must commend the 14% of groups on our programme that are from urban areas and are delivering neighbourhood plans as forums, and we should understand why those groups exist. There is a really active group in London that is bringing together London neighbourhood planners and inspiring people, despite enormous odds including enormous development pressure, high land values and conflict over boundaries where every scrap of land is worth so much money. Conversely, in the north, regeneration may be at the very core of city centres, but is not in suburban areas.

There are loads of examples. Community organising approach is a big one, as is working with neighbourhood planning forums already in urban areas and getting them to spread the word. We have just started to run the neighbourhood planning champions programme, which is a really good way of inspiring people—come and see it. The resource programme is good. A lot of money has been dedicated to neighbourhood planning, but the promotion around urban areas has been under-resourced. The way to mobilise people in urban areas is to have a far more focused, targeted and funded intervention.

Q102 Rebecca Pow: In suggesting modifications that might be introduced to the neighbourhood plans, do you think that there will be enough chances to include and consider the environmental implications?

Matt Thomson: The existing legislation—the Bill does nothing to harm this—gives communities the opportunity to address whatever issues they feel that they want to address through their neighbourhood plan. The serious question is whether the effort to which they go to do that will be taken notice of when it comes to planning permissions being granted.

Neighbourhood planning has the power for placemaking and environmental protection. Difficult decisions at a local level about how to balance the need for housing in a green-belt village with the desire to protect the green belt and that kind of thing are effectively made through neighbourhood plans. The question is whether the decisions actually get made in accordance with the neighbourhood plan. At that point, the concern about environmental protection really kicks in.

Q103 Rebecca Pow: If this was made very clear, perhaps with the guidance of the Bill, would that encourage communities to be keener to have development?

Matt Thomson: There is already evidence that demonstrates that as soon as communities start considering about their development needs, even when they start off from a very NIMBY perspective, they think, "We are really worried about development that is going to come and destroy our village," or whatever, and then they all sit down together and start talking about it. They then realise that there is a development need: the neighbour's children need somewhere to live, there is a school that is threatened with closure or a shop that is closing down and so on, and people start to recognise the needs that they have. But again, because they are the local people and they know their area, they are best positioned to resolve the potential conflict between growth and conservation.

Carole Reilly: There is a wide interpretation of environmental issues. We talk about coding on houses and new developments having to reach certain codes, but neighbourhood planners are the best people to understand their area and to build into it those things that make places permeable—things that make you able to walk to your shop, and not have a development that faces out in which you get in your car and drive to the mini-supermarket.

We do see lots of neighbourhood plans that are coming up with environmental policies, and they are very interesting. They have policies around walkability and building cycle paths. I think that is core to building communities; I do not think they are separated.

Q104 John Mann: On that point, before you spoke, Ms Reilly, I wrote down safe walk routes, including school routes, and road design and layout. Are there sufficient powers in neighbourhood planning in relation to those issues, or is that merely illusory? Separately, Mr Thomson, in relation to neighbourhood plans that specify explicit preference for forms of energy that should be used within the neighbourhood and state that preference should be given only to housing that uses those forms of energy—in other words, plans that define what the energy requirements should be and how they should and perhaps should not be delivered—is there more scope for that? Are the powers there?

Carole Reilly: I think there is more scope for it. One of the things we see time and again in neighbourhood planning is protecting green spaces. There is a balance between what is a land use planning policy and what is something that has actually drawn people to the table in the first place but is not a land use planning policy, and is then appendicised in a neighbourhood plan and therefore does not form part of a statutory document. These things always have to be dealt with on a case-by-case basis, but there are loads of examples of neighbourhood plans that have protected green space and encouraged cycle paths, and there are other things that are more tangential that have not.

On the issue that was Matt's answer about environmental energy use, the key question will be about viability. One of our technical support packages is around viability. We see neighbourhood planning groups being increasingly interested in site allocations, understanding the strategic environmental assessment and, on top of that, looking at the viability of a site. Neighbourhood planning groups will look at those sites that are not interesting to the volume house builders—they will look at a site that might have four plots on it. We run a programme for community-led housing in locality and we see these inspirational community organisations that think, "Actually, we need something for old people and we want to build it here," in stuff that would be completely overlooked. I think it is not just about energy; it is about understanding those areas that would be distressed areas forever and understanding them within their viability in terms of using different sources of energy.

Q105 Dr Rupa Huq (Ealing Central and Acton) (Lab): Carole Reilly, I think you said that the five-year life spans of neighbourhood plans do not encourage long-term thinking, if I understood you correctly.

Carole Reilly: For neighbourhood forums. A neighbourhood plan is the length you determine it to be.

Q106 Dr Huq: Right. The Bill requires a local planning authority to review its statement of community involvement every five years. I wonder whether both of you think that is a suitable length of time. For a neighbourhood forum, do you think that five years is not long enough? In a constituency such as mine, there are a lot of transient people, and a lot of neighbourhood plans. People staying in urban areas do not get them, and there seems to be a mushrooming, with every street seemingly submitting one at the moment. There used to be a Central Ealing one, but now, even with that, everyone is coming forward with the whole impetus to localism. I wonder, for both of you, what those timeframes should be.

Matt Thomson: My view on statements of community involvement is that they are a strange hangover from the former form of development plans. Really an SCI should be a piece of information, which is on a council's website, that explains how people engage with the planning system in that council area. So it should be updated every time that the council has a new bit of information that it wants to share. The idea of reviewing the SCI every five years is bonkers; it should be reviewed all the time to make sure that people know how to engage with the planning system.

The Chair: Order. On the point of bonkers, I am afraid we are going to have to stop. I have stretched it as much as I possibly could. I really apologise, because we could have gone further. Thank you for being excellent witnesses, but we have to move on. We will now hear evidence from the Compulsory Purchase Association, the Royal Institution of Chartered Surveyors, the Royal Society and the Royal Town Planning Institute—for Members, page 32 of the brief. For this session we have until 4 pm.

Examination of Witnesses

Colin Cottage, Richard Asher, Tim Smith and Richard Blyth gave evidence.

3.1 pm

The Chair: Welcome, witnesses. Will you introduce yourselves?

Richard Blyth: My name is Richard Blyth. I am head of policy for the Royal Town Planning Institute.

Richard Asher: My name is Richard Asher. I am a chartered surveyor and a member of the RICS governing council.

Colin Cottage: I am Colin Cottage. I am also a chartered surveyor, and I am chairman of the Compulsory Purchase Association.

Tim Smith: Good afternoon. My name is Tim Smith. I am a solicitor and member of the Law Society planning and environmental law committee.

Q107 Jim McMahon: I will start with the planning conditions element but perhaps, with the Chair's permission, return to the compulsory purchase powers element later. On the planning conditions, what evidence is there to suggest that pre-commencement conditions are overused? Is there evidence that they are unnecessary?

Tim Smith: The Law Society represents those in private practice and in local government, so we get both sides of the story, as it were. The complaint is more from those who benefit from planning permission and have to implement the conditions. Certainly there is complaint there that the weight of pre-commencement conditions can be onerous for those wanting to start on site.

It is probably helpful to categorise the problem by breaking it down into two separate areas—first, pre-commencement conditions that are relevant but need not be discharged before commencement. One can conceive of conditions that perhaps affect the operation of development, which would certainly have to be complied with before occupation, but not necessarily by commencement, yet often by default the imposition is that they must be discharged before commencement of development.

Secondly, on a more granular level still, "by commencement of development" means, in essence, before any development at all is carried out—development as defined in the legislation. There are some examples, we feel, where certain early works, such as demolition and site clearance, could take place before the conditions fall to be discharged, which would help with the timely implementation of development, but still ensure that the details that need to be discharged are done by the time that they need to be. I have seen one commentator express the view, for example, "Do you really need to approve the details of your roof tiles before you start to demolish and clear the site?" The answer is probably not. However,

if there were a way to ensure that the conditions were discharged when they had to be discharged, some development could be got under way quicker than it is at the moment.

Q108 Jim McMahon: In order to allow flexibility—so you would not argue for a blanket rule to allow demolition in all cases, because there might be an argument to say that what is there now could be better than the alternative, depending on the final scheme presented.

Tim Smith: Yes. It is the kind of thing that is susceptible to regulations and policy far better than it is to primary legislation, but that would be an example of where some welcome flexibility could be brought.

Richard Blyth: I think there is an issue around whether the condition needs to be pre-commencement or not—around leverage, I suppose. If construction is under way, there is less incentive for the developer to come forward and submit the relevant scheme because they are already getting on with it, whereas saying, "You must do all this before you start," gives a very powerful incentive for the party to come to the table. That may be why local authorities have tended to do that. They are afraid that, if they try to implement and enforce a condition after the starting gun, they might find that that was very difficult to do in terms of ultimately getting the court to agree. There are lawyers here who would probably better interpret that than me, but that may be why this has arisen.

Under the Infrastructure Act 2015, if a condition is not discharged by a certain time, it will be discharged in a deemed fashion, so the issue of having to discharge them is not necessarily requiring further legislation—we have just had some legislation on that. The other question is that, if a condition is not really serving a useful planning purpose, welcome other aspects of the Bill would say that it should not actually be possible to impose it in any case.

I am just a little concerned that requiring every good developer and every good planning authority to go through a written sign-off procedure for the sake of the minority, perhaps, of planning authorities and developers who may be pursuing less good practice is kind of asking everyone to take on an extra burden for the benefit of some bad eggs. Maybe there is another way of dealing with the problem of poor practice than requiring everyone else to have to go through the process of signing off conditions and, ultimately, the risk of applications being refused as the only way of resolving the dispute.

Q109 Chris Philp: The draft legislation provides that the Secretary of State by regulations can prohibit the use of certain planning conditions entirely, should the Secretary of State see fit. First, do you think that is a reasonable provision? Secondly, assuming you do—or if you do—are there any particular kinds of planning condition that you, if you were advising the Secretary of State, would advise him or her to prohibit?

Tim Smith: We have some visibility about how this might play out, because the consultation has been issued for views on what sort of conditions might be prevented. What we have in those proposals are things that, as a matter of policy, ought not to be applied anyway. I recognise that putting them on a statutory footing places a different emphasis on them. It is not just a question of whether policy should be interpreted so as to prevent them. The starting point will be that they should not be applied.

Having seen the list of conditions that are proposed, I would have a concern that some of them are not capable of being drafted in a sufficiently precise way. One proposal, for example, is that conditions should not be imposed that place a disproportionate financial burden on developers. That is easy to state and easy to understand as a concept—

Q110 Chris Philp: So you think that is inappropriately broad.

Tim Smith: I think that, as the proposal stands, that would present difficulties both for developers and local authorities in deciding whether or not it were a permissible condition, and it is not the kind of thing that I can see is easily capable of being further defined so as to provide that certainty.

There are other things that I think are appropriate. One of the examples is—

The Chair: Order. Sorry to interrupt. The hon. Member is taking a sip from that cup. It looks remarkably like tea. I am sure that it has cooled down to a temperature that is no longer regarded as hot. In other words, we cannot have hot drinks in here, bizarrely. I am afraid that is one of the rules. I am sorry—do continue.

Tim Smith: I think that the proposals we have before us in the consultation are on the species of condition that it would be apt to prevent. I do not know whether this is an appropriate answer to this question, but I should perhaps flag that there is one type of condition that should be expressly permitted that currently is not. It would be a missed opportunity if the Bill did not allow for it. It is something that the Law Society has expressed a view on before. I am happy to elaborate on that now or, if you would prefer, I can come back to it.

Q111 Chris Philp: No, elaborate now, please.

Tim Smith: At the moment, one cannot use a condition for the payment of a financial contribution. In some cases of minor development, the planning obligations sought from a developer upon the granting of planning permission are those that would be minor financial contributions. As things stand, the developer and the local planning authority are forced to use the vehicle of a planning obligation under section 106, which is the negotiation of an agreement, and that takes time and incurs additional cost for both sides. The cost, however, will be borne by the developer in defraying the cost to the local authority in putting that agreement in place.

One of the things that the Law Society has recommended in response to previous consultations is that, so long as it be agreed between local authority and applicant—a proposal that forms part of the Bill, albeit for different reasons—it would speed up the system to prevent the developer from having to enter into a section 106 agreement because they will have consented to a condition requiring the payment of a financial contribution. That is the very reverse of what is being proposed at the moment. These are conditions that must not be opposed. We are saying, and we have recommended this previously in consultations, that it would add utility to the system to allow conditions that are expressly approved by the developer to require the payment of financial contributions.

Q112 Chris Philp: So are you in effect suggesting that what we currently refer to as a section 106 agreement should be integrated into the main planning consent to avoid having to then have a lengthy and uncertain subsequent negotiation?

Tim Smith: It will not be appropriate for all cases. This relates to a safeguard that would apply for the benefit of the developer. The concern had always been that, if you allowed conditions to be imposed about the payment of financial contributions, it could be done unilaterally by the planning authority, leaving the developer having either to appeal the permission or to submit another application to get rid of that condition.

A sufficient safeguard would be if the developer said, "I'm fine with the process here. I'm fine with the principle of paying this contribution, so let's put it into a condition so that I do not then have to negotiate the planning obligation." In a sense, you might be surprised that I am sitting here as a lawyer saying that there are some things that lawyers get involved in that are perhaps not necessary, but the view expressed fairly broadly in the committee is that it would be sensible to include the idea in a piece of legislation.

Chris Philp: Could I invite other witnesses to comment on that?

Richard Blyth: On the issue of whether it is necessary, the proposals to elevate a list of satisfactory kinds of conditions into law from policy have been around under successive Governments for a very long time, and the principle is well understood. It seems sensible to elevate that list into the status of law. I am not clear, however, on why the Government need to go further and empower the Secretary of State to add a whole series of secondary legislation to the list of what constitutes a reasonable condition. I do not see why that is necessary; we have not had that before. I would have thought that policy and guidance would be quite able to elaborate, if the Bill becomes law, on a satisfactory basis in principle for defining a reasonable condition.

Chris Philp: Are there any additional comments? Thank you.

Q113 Dr Blackman-Woods: Can I move on to look at some of the compulsory purchase order provisions in the Bill? To what extent do you think the proposals in the Bill will free up more land for development and lead to the delivery of more homes in a speedier and more streamlined way?

Richard Asher: I think that any improvements to the compulsory purchase process are to be welcomed. The provisions in the Bill for resolving the long-standing issues about temporary possession are very important. It has long been an area of great difficulty for practitioners to try to interpret how temporary possession should be dealt with. That is a key advantage of the Bill. Some of the detail needs further work, as the wording could lead to further legal disputes or litigation. However, the principle of providing for temporary possession on broadly the same terms as permanent acquisition is very important.

There is one area of difficulty: the danger that authorities may use powers to acquire land compulsorily when it is only required on a temporary basis. That interferes with long-term prospects for development by landowners, whose development plans are quite often disrupted by compulsory purchase on a temporary basis. That needs to be considered to ensure that authorities only acquire land on a temporary basis when it is required temporarily.

Colin Cottage: I agree with that, and the Compulsory Purchase Association welcomes a more codified approach to temporary acquisition. At the moment, the large number of compulsory purchase orders do not allow for temporary possession at all. Where there is potential to introduce it through development consent orders, Transport and Works Act orders and so on, each of those particular instruments is drawn separately, so a codified approach is to be welcomed.

As Richard said, there are practical issues with temporary possession that need to be dealt with, including the interrelationships between different tenures in land, how to deal with an occupier of land when that land is taken temporarily, and what to do if buildings have to be demolished and so on. Those issues can be overcome, but they need to be looked at carefully if the Bill is to come into law and to not cause, rather than solve, problems.

Another issue that we are quite conscious of is the ability to take both temporary and permanent possession. We are of the view that a decision should be taken at the outset as to whether possession will be temporary or permanent. When a business or individual homeowner is faced with compulsory acquisition, and possession is initially taken temporarily but may ultimately become permanent, huge amounts of uncertainty are created. The person or business does not know how long the land will be taken for, and whether it will be for a temporary period or whether it will be permanent, and that makes planning difficult.

When temporary possession is taken initially, compensation is paid on the temporary basis. At the moment, because the system is not codified, there is no strict ruling about when compensation is paid, so the introduction in the Bill of advanced payments should be encouraged. But, of course, even if compensation is paid, it is on a temporary basis. If permanent possession is then taken, it may cause a problem for relocation or for funding a business move.

Richard Blyth: The concern for us, as we set out in our briefing, is that we do not think it is reasonable for the owners of private land to benefit from public investment in infrastructure. I am not a lawyer so I cannot tell whether that is in the provisions of the Bill but, from a lay point of view, that is an important point.

I was in another building in the Palace of Westminster yesterday talking about the issue of land hoarding before the Select Committee on Communities and Local Government. The Royal Town Planning Institute is not really of the view that developers are necessarily guilty of as much land hoarding as is the case. There is a difficulty in situations where the most sustainable choice for the expansion of a town requires the conversion of greenfield land into housing land. That puts the owner of that land in an extremely powerful position. It would be regrettable in that situation if those owners were, as it were, to hold the city to ransom—to require very high prices for the sale of land for conversion to residential use—not only because of ideological concern but because finding money for schools, health centres, roads and other infrastructure is increasingly difficult.

What is vested in the increase in land value coming from the grant of planning permission is an extremely important possible source for trying to deal with the difficulties of the lack of infrastructure provision in relation to housing. It may assist with what Dr Blackman-Woods started with—the understandable resistance to large-scale housing development that communities feel when they find it means there is a longer queue for the doctor, it is harder to get a primary school place and there is more congestion on the roads and railways. In answer to that question, lower land prices would be useful. I would not advocate CPOs as a way of enforcing that, but they are a useful thing to have deep in the background.

Q114 Dr Blackman-Woods: Those were very interesting responses, but they did not actually address my question, which was, are the provisions in the Bill likely to bring more land forward for development and speed up the delivery of more homes, or are they too much at the margins to make any real difference? In which case, should we have a much bigger review of CPO to see whether we can get a better system?

Richard Asher: I believe, and the Royal Institution of Chartered Surveyors has always believed, that codification of the whole of the CPO rules, which go back to 1845 and are highly complex, would be a sensible way forward. I think the simplification of the rules for CPO would be a major step forward.

A CPO, at the end of the day, is a draconian measure. It is taking people's land without their consent in the public interest. That means there has to be a balanced approach. I think the complexity often deters people—particularly local authorities, in my experience—from using CPO powers. It also results in a number of CPOs being refused or rejected by the courts because of the complexity of the rules that surround them. There were two Law Commission reports in the early 2000s that went some way to making recommendations that, had they been implemented, would have speeded up the process.

There are also too many routes and different procedures. One of the most recent—the development consent order—is in its infancy, but it seems to be a way of delivering compulsory purchase quickly. That is to be commended. I think there should be a rationalisation of the process.

Richard Blyth: I think it is a very difficult balancing act. I commend the fact that the Government have taken on CPO as an issue to include in the Bill and the previous Act earlier this year. It is a tricky job and a long journey. One of the difficulties with this area is that if you were to propose some kind of utopian world, it might be that the perfect is the enemy of making improvements. We support the fact that the Government have made steps on a journey. Although it may not be completed now, they are very commendable steps for the time being.

Colin Cottage: My short answer to your question is no, possibly they will not. There are more underlying problems with the system. It is lengthy. It is uncertain for all parties—both for acquiring authorities and for the people affected by it. Acquiring authorities do not know how much it is going to cost them, because the process is uncertain in that regard, and people affected by compulsory acquisition do not know how much compensation they are going to get. That then causes conflict, and it does so from the outset.

The existing system is not helpful for reaching quick solutions. In fact, in many ways it encourages people to be fighting with each other from the outset. Ultimately, that increases the uncertainty, conflict and cost. That is really the issue that we have to look to address in order to give ourselves a more streamlined system. We need to try to bring dispute resolution to the forefront of the process, rather than it being very much at the back end, where it current is.

Once conflict has set in and disputes have got hard-grounded, there is the possibility of resolution through the tribunal. In itself that is an immensely costly process. Even a relatively cheap case will set a claimant client, who may be just a private individual, back a couple of hundred thousand pounds. There is an access-to-justice problem that needs to be overcome. Those costs are also a risk for acquiring authorities as they go through the process. Those are the kind of things we need to deal with to make the process more user friendly, both for acquiring authorities that are trying to bring forward housing development and for those whose land is acquired.

Tim Smith: The provisions are sensible so far as they go, but none of them tackle any single major obstacle to the delivery of land, so there is not going to be in the Bill a silver bullet for compulsory purchase to allow housing development to come forward. There is nothing in there that is hugely significant. What is on its face the most significant proposal—the statutory enactment of the no-scheme rule—is effectively what happens any way. That is the position that has been established by case law. It is fine so far as it goes, but it does not go very far.

Q115 John Mann: Should there be additional powers to encourage house building that allow planning authorities to more easily compulsorily purchase land from within the public sector?

Richard Asher: I do not think more powers are required; we need a more streamlined process that allows the authorities to have more certainty. As Colin was saying, it is the uncertainty that is preventing a lot of authorities from using compulsory powers where they might otherwise decide to use them.

There have recently been several high-profile cases in which compulsory purchase orders have been rejected by either the Secretary of State or the courts. That is because there is not the clarity about the process that there needs to be. As Colin said, the uncertainty applies to the property owners as well. The longer the process goes on—CPO is a very lengthy process—the more uncertainty it creates for the landowners as well.

There is no silver bullet, but if we had a more streamlined system with clear milestones, that would go some way to encouraging local authorities in particular, because it is quite often local authorities that do not have the experience or capacity to deal with compulsory purchase orders. For large-scale projects such as High Speed 2, there is clearly the ability and understanding to deliver that. For smaller-scale housing projects for local authorities, there is still a fear of using compulsory purchase powers.

Richard Blyth: I commend Birmingham City Council, which has developed high-level expertise in this area and puts it to good use, and it is available to other authorities to use. The contracting out and sharing of

excellence across the local authority sector makes sense, rather than a very small authority having to build up its own expertise on a specific matter, which it may not use very often.

Q116 Dr Blackman-Woods: That is interesting in terms of good practice. Are there any other countries that do CPO better than we do and that we could look at?

Colin Cottage: The American system has some merits. At the CPA, we are looking at that at the moment. It is not perfect in all regards—no system is—but in the States, for example, projects are funded up front in a way that they are not in this country. That means that there are no public inquiries; the scheme just goes ahead, so people know they will be affected by it. Then there is an independent assessment of value in advance. Value is independently assessed, and that then forms the basis of an offer to the landowner. The landowner can challenge that, but there are cost implications if they do.

We had a chap by the name of Douglas Hummel, who came over from the International Right of Way Association, the American body that oversees compulsory purchase best practice. The results there are that in the order of 81% of land value compensation assessments are agreed immediately, and another 4% settle after a short period of time. Only the remaining 15% are then contested for any lengthy period of time. That is a much higher strike rate than we have in this country.

I am not necessarily saying that the American system is exactly the way to go, but there are examples of early dispute resolution. That is what it is in form: an independent valuation. In the UK system, the claimant puts forward his claim, and that is then contested by an acquiring authority, and you have a creation of conflict. An independent third-party valuation up front should really be considered quite carefully, and could lead to a reduction in conflict.

Richard Blyth: We are not necessarily going to look for places that do CPO better, because I think everyone would agree that it is better never to have any, but Germany has a land reorganisation system, where all the private landowners party to an urban extension of a town are put into a readjustment system, and the local authority then provides the infrastructure out of the increase in land value. It is then reapportioned.

That is quite useful. From my experience when I was in practice, it is very difficult if you are the landowner who gets the bit of land that will be the public open space, or the balancing pond or something, in a wider scheme. It can seem very unfair, but this kind of approach not only makes sure that all the infrastructure gets put in, it evens out the benefits across a clutch of landowners more fairly, so the first one does not get all the benefit. That is certainly impressive, in terms of how to ensure that infrastructure is provided in advance, so house builders can just get on and build the houses within the plots that are then made available, and are often of very different sizes.

Q117 The Minister for Housing and Planning (Gavin Barwell): I want to probe a little bit more on the issue of temporary possession. You expressed a concern in relation to uncertainty about the length of time that temporary possession might last. In the Bill as drafted, acquiring authorities will have to specify the total period of time for which they are taking temporary possession, and owners—freeholders and leaseholders—can serve a countering notice placing limits on that. How are you suggesting the Bill needs to be developed further to give even greater certainty? We have tried to address that in the drafting.

Colin Cottage: There are two issues. The first is on our reading of the Bill. There is still the possibility of taking both temporary and permanent possession, and that will create uncertainty for people affected by it, because, even if there is a period of temporary possession, it may be converted at a future date to permanent possession and they will have no control over that.

Secondly, we feel that, for freehold owners, six years is too long. Three years as a maximum is better. Notwithstanding that, the ability to serve counter-notices is correct and encouraging to development. Six years is quite a long period. If a business is dispossessed of its property for six years, that is effectively almost as good as a permanent dispossession because if you are away from your premises for six years, you will have restarted and be trading somewhere else. With that restriction, we encourage and welcome the proposal on the table.

Q118 Gavin Barwell: Can I just clarify one further point? The concern about both temporary and permanent CPOs is that one might be used and then another, which could create uncertainty over time. You might have a site where an authority needed permanent possession of part of it because it wanted to put, say, a goods yard on the second section and wanted part-temporary and part-permanent. Is your point about starting with one and then converting to the other?

Colin Cottage: That is correct.

On the other point of clarification, we do not have an issue when there is temporary possession of land, but a permanent acquisition of rights. That can work perfectly well also, so it is not an issue. The point is just when the same piece of land may be subject to temporary and then permanent. We think it should be one or the other.

Gavin Barwell: Thank you.

The Chair: The point of the evidence sessions today is to inform Members better for when they go through the Bill clause by clause. Now is your opportunity to leave the Committee with one thought, which Members may like to deliberate on as they progress through the Bill.

Richard Blyth: On the issue of resources for local planning authorities, the Bill has provisions relating to the support of neighbourhood planning by local planning authorities. We have completed a survey of local planning authorities in north-west England that shows that between 2010 and 2015 there was a fall of 37% in planning policy staff. These are the staff who tend to get asked not only to provide the support for neighbourhood plans, but are under a deadline of completing a local plan by the end of March 2017.

I am a bit concerned that legislation is being used in a way that may not be possible to support in terms of the resources available to local planning authorities. Plan making is not supported by any fee income whatever. Planning applications have a certain element of cost

recovery, but plan making is entirely a charge on the central resources of the local authorities, which—particularly unitary authorities—are hugely stretched by requirements relating to education and social care. That is what I would like the Committee to bear in mind when considering neighbourhood plan resourcing.

Richard Asher: Clause 23 proposes to repeal part 4 of the Land Compensation Act 1961. We would oppose that repeal. Part 4 allows a claimant to make a further application up to 10 years after the land acquisition when the use of that land has changed and there has been alternative planning permission or use that was not contemplated when the land was acquired. The circumstances in which that occurs are usually when an acquiring authority has not used the land for the purpose for which it was compulsorily purchased and often there has been a change in planning policy that has allowed consent for alternative uses of the site. In those very specific circumstances, it seems appropriate for a claimant to make an application.

I think this has been brought forward because it has been used very rarely. I am not a lawyer, but the advice I have had from lawyers is that the way part 4 is worded makes it difficult for claimants to make a claim. My appeal would be for that not to be repealed but to be rewritten.

Colin Cottage: I am going to choose as my part of the Bill clause 22 and in particular proposed new section 6D(2) to (4). The concept of simplifying what is understood to be the scheme is absolutely the correct one. In a certain way, it has happened through the courts over recent years and what needs to be guarded against is complicating instead of simplifying the principle.

It is the CPA's view that proposed new section 6D(2) to (4) is not necessary at all. The reason for that is that everything within those sections could be achieved under proposed new section 6E, where an acquiring authority can advance evidence as to the nature of a larger scheme. All that 6D (2) to (4) does is make specific reference to exactly the kind of arguments that could be put forward in 6E. When you start looking at some of the wording—for example, 6C, about relevant transport projects—rather than simplifying, it all looks horribly complicated and possibly capable of misinterpretation. That could lead to unfairness and certainly could lead to conflict in the courts, so the thing I would like Members to go away with and think about is, is 6D(2) to (4) absolutely necessary? We do not think it is.

Tim Smith: May I offer the Committee a second vote in favour of more resources for local planning authorities, but perhaps with a slightly different point of emphasis that comes from the Bill itself? The advantage of that is that it is very much in accord with the interests of both the public and private sector lawyers that the Law Society represents.

Successive proposals to change legislation have all brought about additional burdens on local planning authorities without a consequent increase in the resourcing available to them. To draw that point to one of the proposals in the Bill that is about conditions, the assumption that underlies the legislative provisions, as explained by the consultation issued by the Department for Communities and Local Government, is that there is an ongoing dialogue between applicant and planning officer about the planning application, including the suite of conditions that will accompany it if the proposal is deemed to be capable of being improved. Very often, that is not the case.

The sheer burden on planning authorities and planning officers to discharge the number of applications they have to deal with means that very little dialogue goes on between applicant and planning authority. I hope it comes across that I say that not critically of planning officers. They have an awful lot to discharge, and to expect that the solution to this problem will be a discussion between applicant and planning officer to approve pre-commencement conditions before they are imposed is to assume that there is plenty of time available to planning officers to engage in that discussion. We simply do not believe that that is the case. I give a second vote in support of what Mr Blyth said, but maybe for a slightly different reason.

The Chair: Thank you very much indeed for your time and for being excellent witnesses. We will now move on to the next panel.

Examination of Witnesses

Gavin Barwell MP, Steve Evison and Tony Thompson gave evidence.

3.43 pm

The Chair: We will now hear oral evidence from the Department for Communities and Local Government. We have until 4.45 pm for this session, and we have been saving the best for last. Would the witness introduce himself, even though everyone knows who he is?

Gavin Barwell: It is not just me, Mr Bone. I am Gavin Barwell, the Minister for Housing and Planning.

Tony Thompson: I am Tony Thompson, DCLG planning.

Q119 The Chair: Shadow Minister, do you have any questions?

Gavin Barwell: Mr Bone, before we go into questions, may I make a short statement? It might be helpful for the Committee. With your permission, I would like to make some introductory remarks in relation to amendments on plan making that we will be tabling. As we heard from the Secretary of State on Second Reading, the Government agree with the central thrust of the local plans expert group recommendations. Most of those recommendations can be implemented via policy changes, but some require a change in the law. Where that is the case, we will bring forward amendments to the Bill to make those changes.

Specifically, the amendments will do four things. First, they will place beyond doubt the requirement for all local planning authorities to have a plan, but with greater freedom on the detail in those plans, providing that they address strategic priorities such as housing and infrastructure. We will do that by requiring every local planning authority to have a development plan document—the documents that collectively make up a local plan—that sets out policies to deliver the strategic priorities for the development and use of land in the area. Local planning authorities will have the flexibility to rely on the spatial development strategy, if they wish

to do so. Additionally, they will be required to review those documents at intervals determined by the Secretary of State.

Secondly, the amendments will see more collaboration to address issues that require solutions across geographical boundaries, keeping plan making at the lowest level of government possible. We will do that by enabling the Secretary of State to direct two or more authorities to work together to produce a joint development plan document where that would ensure effective local planning in an area, for example, to address housing needs.

Thirdly, the amendments will see plans made at the lowest level of government, keeping things local where possible, by enabling the Secretary of State to invite a county council in a two-tier area to prepare or advise on a local plan where a district council has not done so. Fourthly, the amendments will allow us to take the opportunity to improve the accessibility of plans to local communities and others. We will do that by enabling the Secretary of State to set data standards for certain planning documents.

It has been clear from our discussions today that there is a great deal of concern about speculative development around the country. Clearly, one of the key ways in which we can deal with that is getting plans in place throughout the country. That is what we are determined to do. I will write to all members of the Committee when we table the amendments, putting in writing what I have described briefly to you today. However, I wanted people to have the chance to ask me questions about those amendments, as well as what is in the Bill.

The Chair: Thank you, Minister. That sounds like rather a lot of amendments to the Bill. I have to say to the Government that it would have been far preferable to have had the amendments before the evidence session, so that our witnesses could have been questioned about them. I have had a word with the Clerk, and we will make them available as soon as possible to all Committee members. Perhaps the Opposition have something to say about this—I call the shadow Minister.

Q120 Dr Blackman-Woods: Thank you, Mr Bone. I accept absolutely what the Chair has said. Nevertheless, I am very impressed by the new Minister's reading of the Lyons report that Labour produced a couple of years ago, because it is gradually being rolled out.

I want to get a few points of clarification from the Minister about what he has just said. I totally agree about the requirement for local authorities to produce a plan. Will he put a particular time on that? Will plans have to be in place by a particular date? Furthermore, as the Minister knows, the duty to co-operate has simply not worked in practice, so the Opposition very much welcome having a direction to a council on producing a plan, because that is something that has slowed up development. However, I will stop there and get some immediate feedback from the Minister before my follow-up.

Gavin Barwell: If I may respond first to what you said, Mr Bone, I completely understand your sentiments. Obviously, we had a significant change of Ministers in July, so we wanted to take the opportunity to ensure that we could use the Bill as a vehicle for any other changes we might want to make to legislation. We are very conscious of the experience last year—or this year—with the Housing and Planning Act 2016, when a large number of Government amendments were tabled late on in the progress of the Bill. In this Bill, we wanted to ensure that any Government amendments were tabled before Committee consideration began. In an ideal world, obviously, they would have been part of the Bill by the time it was introduced, but I think people will understand why that was not possible. We have sought to ensure that people have as much time as possible to scrutinise the amendments.

In response to the question that the hon. Member for City of Durham asked, on the timing of intervention, the existing situation is slightly confused. There is no single place in statute where the duty to have a plan is clearly identified, but the Government have previously said that they will start to intervene early next year with those authorities that have not yet put planning documents in place.

In the Bill, partly we are providing a clear statutory requirement, but we are also broadening out the ways in which we intervene. At the moment, if we were to intervene next year under the existing framework, all we can do, in essence, is to intervene where a council has not met its own timetable for the process of producing a plan. Ultimately, the recourse is that we step in and produce the plan.

I do not think that is ideal, because I hope that we would all broadly agree that we are localists and want to see local plans driven from the bottom up. My ideal solution would be for every council to do that, but where they do not we must look at options where we could get a couple of councils to work together to produce one plan, or we could look at a county council potentially having a role; that might help.

There were a couple of intakes of breath, possibly from the direction of the Chair, when I mentioned county councils.

The Chair: No, no; I have no views on the matter.

Gavin Barwell: Clearly, these are powers that we do not want to use unless we absolutely have to, and hopefully the existence of the powers will help to focus minds and ensure that we get plans in place. In relation to the designation regime, in terms of the speed with which authorities are taking planning decisions, since the Government took those powers to designate I think we have only had to use them so far on three occasions. So, the existence of the powers has led to authorities raising their game and that is what we hope will be the case in this regard as well.

Dr Blackman-Woods: I suspect that we will come back to this issue in Committee, Mr Bone—

Q121 The Chair: Order. I assume, Minister, that these will be additional clauses at the end of the Bill.

Gavin Barwell: They will be additional clauses to the Bill, indeed.

Q122 The Chair: Because obviously where they come in the Bill will determine when we can debate them.

Steve Evison: I understand that they are scheduled to be taken after the clauses that are already in the Bill. So they will be taken then—

Q123 The Chair: Fine, because obviously we would like all Members to have as much time as possible to look at them before—

Gavin Barwell: Understood. I think we are hoping to table them tomorrow.

Q124 Dr Blackman-Woods: I want to ask the Minister two further questions. We have heard from a lot of the witnesses about the difficult situation we are in with regard to funding infrastructure now. Infrastructure was in the Bill—or at least bits of stuff about the National Infrastructure Commission were in the Bill and have been taken out. I would just be interested to know whether addressing all the infrastructure issues is on the Minister's agenda.

My second question is about the consolidation and review of CPO legislation, which also seems to be coming through from a number of witnesses as an issue that really needs to be addressed if we are serious about getting enough land into the system to deliver the homes that we need.

Gavin Barwell: I will take those two issues in turn, Mr Bone. Regarding the National Infrastructure Commission, obviously that already exists in shadow form and the Treasury has confirmed that we will make it an executive agency. A charter has been published, setting out how the commission will work. So, the Government still attach huge importance to the work that it is doing; we just came to the view that we did not need to create it as a statutory body. So that can be taken forward without the need for legislation. However, it has already produced a number of reports. Its work is ongoing. So, absolutely, our commitment to that organisation, but also to the wider piece of work on making sure this country has the infrastructure it needs to support the housing we desperately want to see, remains unchanged.

In relation to the second issue about CPO, I think in the sitting we just had it was really the latter evidence session that concentrated more on the CPO powers rather than the other issues. However, I think there was a general recognition that what is in the Bill is moving things in the right direction. There were some concerns about some points of detail.

We recognise that there is an appetite out there for a more comprehensive reform of CPO law, but our view was that at this point in time, when there is not a clear consensus about what form that comprehensive reform would take, we should concentrate on the elements that clearly are not working well at the moment and try to sort them out so the system is fairer and faster, and then look over time to see whether we can build a consensus about more radical reform.

Q125 The Chair: Just before we move on, I think Mr Evison ought to introduce himself, and Mr Thompson should also introduce himself, formally for the record.

Steve Evison: I am Steve Evison. I am deputy director for local plans and neighbourhood plans at the Department for Communities and Local Government.

Tony Thompson: Tony Thompson, DCLG planning, deputy head of development management division.

Q126 Jim McMahon: We have heard a lot—I think it was raised in almost every evidence session today—on the concern about resource in our planning teams. It is not only about the number of people to administer the process and existing applications but about the quality of expertise within teams as well, and reference was made to archaeological support and conservation specialities within those teams, too. This could be a significant new burden for local authorities at a time when they are struggling to keep their heads above water. What plans do the Government have to address that concern?

Gavin Barwell: I am not sure we would necessarily accept that there are huge new burdens in the Bill itself. There are obviously requirements to support councils with neighbourhood planning, and the new burdens doctrine certainly applied when they were introduced in the Localism Act 2011. More than £13 million has been paid out since 2012 to help with this. Under the current arrangements, a council gets £5,000 for each of the first five neighbourhood areas it designates, £5,000 for each of the first five neighbourhood forums it designates and £20,000 for plans when a referendum date has been set after the plan has been through the examination process, so there is financial support there.

Without getting into all that detail, I would very much accept the overall point that the hon. Gentleman is trying to make, which is that if we want to build the housing that we desperately need in this country, we need to make sure that our planning departments are adequately resourced. The Government have recently consulted on the level of planning fees, and we will be responding very shortly to the results of that consultation. Without pre-empting that response, I can say that in a lot of the meetings I have had in the first three months in my job, people from different bits of the housing world have said contradictory things to me, but I have had an almost unanimous message from local government and developers themselves on the need to get more resourcing into our planning departments. That is clearly an issue that I am looking at.

The evidence that we heard today identified one of the real challenges we have there: if we did allow fees to rise, how do we ensure that all of that money goes into added value in our planning departments, and is not used to allow local authorities to release funds elsewhere? I entirely understand the pressures local councils are under—I was a councillor myself for 12 years before becoming an MP—but I think, in my current job, if fees were to go up, we would want to make sure that every penny of the extra money raised was going into planning departments, increasing their capacity, both in terms of numbers of people and, as you say, expertise to deal with these issues.

There is also some interesting potential in the competition pilots that the Housing and Planning Act 2016 will provide for. There is now some interest in the local government world. There are councils that are potentially interested in looking at whether they can take their planning department and offer it as a service that would cover a wider area. In some of the evidence we had earlier today, people sometimes said, "You might have a small district council that would only deal with one application of a certain type every year," and if you were dealing at scale over a wider area, you might develop a greater expertise in some of those applications.

I think money is part of the problem, but we are also thinking, interestingly, about how we could restructure services and about how councils might work together on some of this agenda, which might also lead to some improvement.

Q127 Jim McMahon: A point was also raised about how the profession is perceived and whether it is really attracting talent and new people who want to come through. The suggestion was made that we should work with local universities to try to bring that through. Have the Government got any plans to raise the status of that? When it works well, it is developers that want to build a great product and planners that want to build great communities, and together they find a way of making it work, and everyone benefits from that.

Gavin Barwell: I am very interested in talking to the profession about that. You are obviously aware that we are publishing a White Paper later in the year. We are thinking about an overall strategy for how we get this country building the homes that the Prime Minister wants to see us building, and a key ingredient of that is ensuring we have enough people with the right skills, both within local councils' planning departments, more generally in the planning world and in the construction industry—making sure that we have got enough people out there to actually build these homes. The skills agenda—ensuring we have got the right people in the right places with the right skills—is absolutely a cornerstone of the strategy that we need to build.

Q128 John Mann: I have two questions. The first one is on neighbourhood plans. In my area, we have more than 20 under way. The vast majority of land proposed in them or agreed in them to be allocated for housing would be classified under the previous aborted local plan—the rules were changed by the coalition—as windfall sites. My estimate is that there will be approaching 1,000 units of windfall sites just in Bassetlaw, just from those neighbourhood plans. That is a huge number. Every single one of the urban neighbourhood plans that I would like to promote, for which there is a clear community interest and a definable community that, according to my subjective judgment, would be keen and easily engaged—and there are a lot of them—would also classify entirely as windfall sites, despite the fact that Bassetlaw is required to find around 5,000 housing plots in its local plan. That is a huge number in addition.

Bearing that in mind, first, what additional resource is going to be made available to allow the creation of new neighbourhoods and the required planning work where no existing infrastructure—such as parish councils—is in place? Secondly, you rather strangely suggested that you would have county councils taking over where district councils were failing to deliver. I am not exactly sure what the core competence in planning in county councils would be for that, but will that power also apply to city regions?

Gavin Barwell: I will deal with your second question first; I would like a little clarity on your first question before I answer it.

In terms of city regions, the answer is "definitely". Some of the devolution deals have already included an appetite to produce a strategic plan for the area. For example, in Greater Manchester—the hon. Member for Oldham West and Royton is nodding—rather than the 11 districts in the Greater Manchester area all producing their own local plans, they have made the decision to use the devolution deal to produce a strategic plan for Greater Manchester as a whole. From a Government point of view, that is extremely welcome, because it allows us to cover off all those areas with one plan.

It is not necessarily something that we would want to impose, but if, as part of the devolution process, areas have an appetite for looking at strategic planning across an area like that, there is a lot to commend it. I am looking forward to going to Greater Manchester soon to co-chair the Greater Manchester Land Commission and look at how that plan is progressing. It is potentially a very attractive idea.

Q129 John Mann: That is not quite the same as intervening powers.

Gavin Barwell: No. We are not taking it as an intervention power. It would be something we would look to negotiate on a case-by-case basis for each devolution deal. I stress that the county council power is not something I would anticipate using regularly, but if you look at the parts of the country in which there has been a struggle to produce local plans, it is often because you have two or three districts where land use is heavily constrained, because large amounts of the land are green belt or protected in some other shape or form. As the hon. Member for City of Durham was saying, the duty to co-operate is therefore not working and the housing need is not being reallocated around the area. Hypothetically, there may be cases in which having a county council look across the county and ask, "Where in the county could the housing need go?" might be a way to deal with it.

I say to the hon. Member for Bassetlaw: I see my job as the Minister very clearly. I do not want to be the person writing plans for local communities. As the Minister, my job is to say to local councils, "It's your job to produce the vision and aspiration for the area." I have one role in the process, which is to say, "I'm not going to let you duck the tough choices." We have, as a country, to meet the need for housing in our country. As the Minister, it is my job to say, "You have to find a way to do it in your local area." Whether that is several districts working together, county or individual local plans, or an agreement on a devo deal in Greater Manchester, I am open to different ways in which it can be done. I hope we all agree that we have not been building enough housing in this country for a long time, and that we have to find a way to make sure that we have that coverage throughout the country.

On your first question, were you asking about how we make sure we resource the groups that might produce the plans in urban areas of your constituency?

John Mann: Yes.

Gavin Barwell: Okay; understood. A £22.5 million support programme is available and has so far made more than 1,500 payments. All groups can apply for a grant of up to £9,000, but, as I represent an urban constituency, I absolutely recognise that it is more difficult to do this kind of work in more deprived areas—sometimes in more transient parts of the country as well—so additional funding and technical support is available to people in such priority areas. There is a national network of 132 neighbourhood planning champions who provide advocacy and peer-to-peer support. We recently launched an advertising campaign to promote the take-up of neighbourhood planning. That targeted a number of urban areas. I know that both you and Helen Hayes have spoken about this before, and are keen to push it. I am keen to listen to you and to think about whatever

else we can do to help. I do not want the policy just to work in rural parishes, although the contribution it makes in those areas is important. It should be something for the whole country.

Steve Evison: May I just add a further point? For instances where the individual local authority has not written its plan, the 2016 Act enabled us to invite a Mayor or the combined authority to write the plan in place of the individual local authority. At the moment, that power is not available to county councils. Through the change, we are ensuring that we have the same options in two-tier areas as we do in areas with Mayors and combined authorities.

Q130 Chris Philp: I am pleased by the comments you made earlier about the plans to consult on increasing planning fees to get resources into local authorities. Could you lay out, for the Committee's benefit, the proposed timetable for replying to the consultation? How will you go about enacting that when you have considered the results?

Gavin Barwell: That is a fairly simple one. The consultation has happened and we are waiting to respond to it. The realistic likelihood is that the response will come in the White Paper.

Q131 Chris Philp: When is the White Paper due?

Gavin Barwell: Later this year, so you will not be waiting long for an answer.

Q132 Chris Philp: Is your decision implemented by regulations, by a circular or by primary legislation?

Gavin Barwell: By regulations, I am told. That is something that we should be able to make progress on quickly, should we decide to.

Q133 Chris Philp: Okay. In the first session, we talked about giving planning authorities the ability to charge extra fees, which would be refundable if they failed to meet a certain level of service, such as the delivery of a decision by a certain time. Would that mitigate, in part at least, the concern you raised in your answer to Mr McMahon about money not seeping out through the back door?

Gavin Barwell: Clearly, that provides some protection for applicants. If they are paying more money and do not get a better service, they get a refund, but we are thinking about a wider issue, which is how to come up with a mechanism to ensure that all the money goes through to extra spending in planning departments.

For example, there might be a council department where 60% of the budget is funded through fees, and 40% comes through council tax. The council could take the extra fee income and just remove the money that was funded through council tax. Not a penny more would be spent on planning, but they would have released some money somewhere else for the local authority. Now, I can well understand their desire to do that but, in my job, I want to ensure that if more money comes in, it leads to more money being spent in total.

Q134 Chris Philp: The Minister is quite right to say that any extra money raised by way of fees should fund incremental extra levels of resourcing, and not simply replace money from general subsidy. To that point, do you agree that we might learn some lessons from the way in which business improvement district funding works? Extra money comes in by way of the business rate supplement but the local authority has to agree the existing level of service provision in writing in advance, and it cannot reduce that. The extra bid funding provides for incremental service levels. Could a similar approach be adopted in this situation? You would agree with the council, before they levied extra fees, that there are 30 people working in the council's planning department and that the extra fees must lead to incremental hires on a cost basis. Would that be a way of avoiding the problem?

Gavin Barwell: There are a number of mechanisms. I do not want to get into too much detail speculating about them now, but that would certainly be a possibility. A very good point was made in previous evidence sessions that we are partly interested in the speed with which decisions are made on applications, but that is by no means the sole arbiter of how effectively a planning department is doing its job. We also want section 106 agreements to be reached speedily, planning conditions to be discharged speedily and local plans in place. There are a number of strands of work.

Q135 Chris Philp: I am glad that the Minister mentioned section 106 agreements. As far as I can tell from the Bill, the pre-commencement conditions get folded into the planning application. If I have read correctly, section 106 agreements will still come after planning permission. Am I right about that?

Tony Thompson: They are normally negotiated as part of the process. The expectation is that they would be agreed before the final decision notice is issued.

Q136 Chris Philp: But sometimes you get section 106 agreements that are not agreed or signed until after planning is granted. Sometimes it can be sequential. It is better that it is simultaneous, as you described, but sometimes, currently, it does happen sequentially.

Tony Thompson: Sometimes we encourage completion of the section 106 before the final decision is issued.

Q137 Chris Philp: So in that case, might you go further than simply encouraging it, as you do now, and introduce a provision in this Bill to make it a requirement? Rather than simply encouraging, why not compel, if you think it is best practice?

Tony Thompson: The expectation is that you should complete them, but there are sometimes very exceptional circumstances—perhaps a very significant development—where it is exceptionally agreed that the section 106 can be done afterwards. But in those circumstances, the expectation is that when the committee takes the decision to approve and issues that decision, there is a clear understanding of precisely what the section 106 should comprise, even though it has not actually completed the process. As I said, those are the exceptions rather than the rule. We wanted that element of flexibility, rather than a clear point that could not be exceeded.

Q138 The Chair: Order. I am sorry to interrupt. Would it be possible for you to write to the Committee giving us the numbers of how many are exceptional and how many are not? That would be helpful to the Committee.

Gavin Barwell: I am sure we could do that, Mr Bone.

Q139 Chris Philp: The Bill provides for the Secretary of State or one of his or her Ministers to proscribe certain kinds of planning conditions—to ban them from being imposed. Can you explain for the Committee's benefit, Mr Barwell, what kinds of planning condition used currently you have it in mind to proscribe or ban using the new powers?

Gavin Barwell: My hon. Friend is quite right. Clause 7 tries to deal with two different issues. One is what we see as overuse of pre-commencement conditions; the second is taking a fairly wide-ranging power to proscribe certain types of planning conditions. I will give a brief answer and refer him somewhere where there is a lot more detail. Essentially, one thing that we want to stop is the use of conditions that essentially just replicate things that are either in the building regulations or other statements that legally oblige developers already. There are things that do not need to be restated as planning conditions because there is already a legal obligation on the developer, for example, to do them.

We published a consultation paper when we introduced the Bill that sets out in more detail how we would choose to use the regulations. The main point of reassurance that I would give the Committee is that it is clear on the face of the Bill that the power cannot be used in any way contrary to the NPPF. It cannot be used to water down protections clearly set out in the NPPF.

Q140 Chris Philp: But are there any specific planning conditions currently used that you have it in mind to outlaw, for illustrative purposes?

Tony Thompson: The consultation paper talks, for example, about something that requires the completion of the development. That is an issue about the certainty that could be achieved with that condition. In that particular instance, the expectation is that such a condition should not be imposed.

Q141 Chris Philp: Thank you. Can Mr Barwell comment on neighbourhood plans versus local plans? Are there any areas where you think it may be possible to give slightly higher weighting to neighbourhood plans than to local plans, provided that the neighbourhood plan is consistent with the overall level of housing supply predicted or required by the local plan, given that they are more local and have a bigger democratic mandate?

Gavin Barwell: It is really important that we do not see it as local plans versus neighbourhood plans. Neighbourhood plans should be consistent with the overall planning policy framework set out in the local plan. I think the issue we have at the moment—as some of our witnesses say, the Bill goes some way toward addressing it, but we also need to consider policy changes that could help—is that you either do not have a local plan, or you have one that does not have a five-year land supply. At that point, the presumption in favour of development in the NPPF applies, and that can sometimes, although not always, lead to neighbourhood plans being overridden.

That is where the issue is. I do not think it is so much about the conflict between the local plan and the neighbourhood plan; it is about when you either do not have a local plan, or you have one that has not met the five-year land supply test. There are some things in the Bill that will help a bit with this, but I think the main thing we need to look at is how that five-year land supply test is working and whether we can provide some protection to local councils where perhaps there is suddenly a problem with one site and that therefore drops off. Overnight you thought you had a five-year land supply plan but you do not. Can we provide some protection where councils think about other options available to get things back up to the required level? Can we also ensure that, at least for a period of time after neighbourhood plans are approved, they afford stronger protection so that where a parish or a community in an urban area has worked really hard to produce its neighbourhood plan and, through no fault of its own, its local council does not have a five-year land supply, it does not find that its neighbourhood plan is immediately undermined by speculative development?

Q142 Chris Philp: Where there is a large local authority—we were just talking about having a local plan that covers the whole of Manchester, which is a gigantic conurbation—or indeed a large London borough like our own, Croydon, a local community might have a different view on where housing can be built in their neighbourhood from that of the local authority or, in the case of Manchester, the entire metropolis. There might be a conflict between where the local plan thinks housing should be built and the local neighbourhood—the parish or whatever it might be. Provided that the neighbourhood plan has enough houses in total, would you not want to give priority to the views of the local community, particularly given that that is backed by a referendum?

Gavin Barwell: Yes. As long as the neighbourhood plan is consistent with the overall strategic planning for the area in the local plan, the neighbourhood plan can absolutely fill in that level of detail. If a local plan says a particular town within the district will take a certain this level of housing growth, the neighbourhood plan can fill in what the community feels are the right sites and the required mix of housing.

Q143 Chris Philp: I have a final question. One of the bugbears that people developing housing will have told you about are these wretched great crested newts, which apparently are endangered in Europe. The reason they are protected in the UK is due to European regulations, which of course will cease to apply relatively shortly. When the European regulations cease to apply to the United Kingdom, will you be minded as the UK or England and Wales planning Minister to remove or loosen the restrictions that the European Union has hitherto imposed on us?

Gavin Barwell: The first thing to say is that that moment is not yet upon us. We are still within the EU and at the moment all those European laws apply. Clearly, as the Prime Minister has set out, the decision we took as a country on 23 June will lead to some short-term challenges—it will change our role in the world and we are going to build a new future for the country around that—but it also offers some opportunities to look at the laws that we have and ask, "Are these the right laws for the UK?" I am sure that all Members of the House will want to ensure that we have proper environmental protections and proper protections for

endangered species, but if we look at a law and say, "Actually the way that law is working in this country is disproportionate or leading to some perverse outcomes", there will be an opportunity to review it.

The Chair: Order. I am sorry to interrupt you, Minister. I hate to say this, but we are talking a little bit too much about the European Union, which is slightly outside the scope of the Bill. We should not really be banging on about Europe.

Gavin Barwell: Having served as your Whip for nearly two years, Mr Bone, I know you have been waiting for the chance to say that to me.

Chris Philp: Those are words I never thought I would hear.

Q144 Kit Malthouse: Minister, you will have gathered from my line of questioning that I am concerned about protection for neighbourhood plans. I am pleased to see what is in the Bill, but part of the genesis of the Bill with the previous Minister was, I think, a case in Oakley in my constituency where an appeal was allowed five or six days before the referendum on the neighbourhood plan, notwithstanding that even at that late stage, under existing planning regulations, the plan was meant to have been taken into account. Why will this be any better?

Gavin Barwell: The honest answer is that this will not solve the problem in that very specific case, because as I understand it that appeal was determined days before the examination—

Kit Malthouse: No, before the referendum. It was post-examination.

Gavin Barwell: In that case it would help. This will make it clear in statute that some weight should be given to that emerging neighbourhood plan, because it had been through examination. So the inspector who was determining that particular appeal would be required by statute to give some weight to that emerging local plan.

What I cannot do—this is a complex area and it is important that I am entirely open with Members about the balance here—is give a guarantee. You will know that when any planning Committee or inspector—or indeed I as Minister—takes decisions on planning applications, they have to look at all the material considerations. What the local plan says is an important material consideration What the relevant emerging neighbourhood plan says is an important material consideration. The views of the people who live in the area are a relevant material consideration. The national planning policy framework is a relevant consideration, and there may be other ones in particular cases. All those things have to be weighed, and I know from the cases that cross my desk every week that sometimes they are weighed in a way that would support the neighbourhood plan. You cannot guarantee that that will always be the case, but this change in the law would help in that situation because it would give some weight to an emerging plan and would ensure that, immediately a referendum is held, the plan is in place, whereas at the moment there is a period of time that you have to wait for the council to make the plan.

Q145 Kit Malthouse: Once this is in place, and hopefully it will go through—I do not know whether anybody has ever done any work on the consistency of decisions. Talking to colleagues, it is apparent that decisions about whether neighbourhood plans are given weight are a bit random, which is part of the problem with the rather wide definition of "giving weight." It does not really mean anything and it seems to be at the whim of the individual inspector rather than a central policy. Once the planning inspector has had a look at the plan, it has been approved and gone through all the checking in Bristol, or wherever it goes, they should be broadly happy. That means it should be predictable that any appeal will not be allowed against the decision of what might be a different inspector, whereas in fact that is not the case. You get two different inspectors and they make different decisions.

Gavin Barwell: I would make a number of observations. I think this goes to the crux of the argument about this issue, and it is one on which we will no doubt spend a lot of time when we go through our line-by-line consideration and on Report.

Where there was a local plan that had a five-year land supply, with a neighbourhood plan beneath that, and a developer attempted a speculative application that was inconsistent with both, I would regard it as highly exceptional—you can never say "never" in planning—that such an application would be approved on appeal if it was turned down by the relevant local authority. Clearly, all the local planning policies would point against that application.

It might be useful for the hon. Gentleman to know—one of the difficulties of my job is that I never know which of my decisions have or have not been made public, so I will anonymise the place I am talking about—that I had three applications on my desk the other day, all in the same council area. The applications were affected by two different neighbourhood plans. The council concerned does not have a local plan with anything like a five-year land supply, so the presumption applies. In one case, I judged that not only was the neighbourhood plan an argument for turning down the appeal but that the application would also have eroded a key strategic gap between two settlements. There were two very strong arguments against, and in favour was the presumption for development, so I turned down the appeal.

In the other cases, although it was contrary to the neighbourhood plan, the land concerned was not greenbelt, prime agricultural land or anything else that you could give weight to, so I allowed the appeals on the basis of the presumption. That is what we mean when we talk about giving weight to different things. Although it is difficult for us, and I have also felt the frustration that the hon. Gentleman is expressing as a constituency MP and as a local councillor in the past—I know exactly where he is coming from—we have to recognise that the planning system is quasi-judicial. In the same way that you can take a case to a court of law and a judge will rule in a certain way and then you can appeal to the Appeal Court, which might take the same evidence and come to a different judgment, it can happen in the planning system as well. The judgment of different individuals looking at a particular case can be different.

Q146 Kit Malthouse: I understand that parallel, other than the fact that, obviously, in the judicial system each judgment is informed by the judgment before, whether

or not it is taken by a different judge. Part of the problem with the Planning Inspectorate is that that common law aspect does not seem to take place.

Gavin Barwell: The chief executive of the Planning Inspectorate is one of the people I work with. If she were sitting here, she would say to you that one of her key objectives is to try to improve the consistency of decision making. She understands the concern.

Q147 Kit Malthouse: Would it be possible to find out how many appeals have been allowed—I know it is early days—in areas where there are neighbourhood plans and local plans in place?

Gavin Barwell: Where there are both?

Kit Malthouse: Yes, so we can see whether, as you say, this is exceptional or whether it is happening on a fairly regular basis.

Gavin Barwell: I will try to see whether we can find that out without disproportionate effort.

Q148 Kit Malthouse: That would be great. The second thing I want to ask about is the local plans. You are absolutely right about them being key. I think it is encouraging that you are going to be pushing for that in local areas. We have heard a lot of evidence today about the local plan, and the critical thing is the certainty of devising and defending a five-year land supply. There are two methods of calculation. Often you get challenged on one if you have used the other, so it might be helpful to have a single definition. I did not hear you talk, in your four things, about making five-year land supplies post-approval more defensible from a highly paid QC. Are you planning on including anything on that in the Bill?

Gavin Barwell: Those are issues more for policy than for legislation, but my hon. Friend the Member for North West Hampshire has correctly put his finger on one of the problems. It is not about not just the five-year land supply but how to objectively assess need, by which I mean how we calculate how many homes we need to build in an area. One of my key jobs over the next few months is to see whether we can find ways of taking conflict out of these processes. Can we find an objective way of calculating that need figure and identifying five-year land supply that gets rid of costly legal battles—a lot of money is currently spent on them—arguing the point with the developer who is trying to overturn a local plan? We need to have a process that attracts much more confidence, so that people know clearly where they stand.

The second issue is the one I have already alluded to, which is that if there is a change in the status of a particular site and a council therefore dips below the five-year land supply, we want to give them a window of grace where they can adjust to that, rather than them literally coming into work one morning and finding that they are now open to speculative development, when they were not the day before.

Q149 Kit Malthouse: The final question from me is on whether you might consider including within the Bill a general anti-abuse clause on five-year land supply and the situation we outlined, where you can have a developer who gets permission on one site, fails to develop and challenges on another site on the basis that the five-year land supply has lapsed.

Gavin Barwell: We can certainly talk about those issues. There is a fundamental thing that we need to address in the White Paper. I am sure that one of the difficulties we will have as a Committee is that the Bill is going through Committee at the same time as we are developing some of the policy responses. I will do my best within the constraints I am under to try to keep Members informed about where we are going in policy terms and what we believe needs to be done through legislation and what can be done through changes in policy.

One of the fundamental questions that we have to apply ourselves to is that the changes that the Government have made to the planning system over the past six years have had a profound effect on the number of applications that have been granted. In the year to 30 June, our planning system in England granted permission for 277,000 homes. That is the highest figure since we started collecting the data in 2007, at the height of the boom before the great crash. The planning system in most parts of the country is granting lots of planning permissions, but there is an increasing gap—people cannot live in a planning permission—between the number of planning permissions that we are getting out of the system and the number of homes actually being built. We need to understand the cause of that gap.

My view, a few months into the job, is that there are a number of things here. Planning conditions are a factor, which is why we are trying to deal with them in the Bill, but I would not say to the Committee that they are the sole or even the dominant factor. There are issues around our utility companies and the time it takes them sometimes to put in the basic infrastructure on site that the developer needs before they start building. There are some real issues about developer behaviour, essentially.

I am interested in looking at policy vehicles that can ensure we speed up the rate at which applications get built out. One of the things that I am saying to the Home Builders Federation is, "You give me all the things that you say are slowing you up, and I will look into them. If I think there is a problem, I will deal with the problem, but once I have got through your list, I expect you to raise your game." I am definitely interested in looking into that area, and perhaps as the Bill goes on we can talk about what the vehicles might be.

Kit Malthouse: That is encouraging. It is certainly the case that it is possible to make more money holding land and trading it than it is developing it. The other area to look at, I suggest, is developer finance, because none of them have got any balance sheets that they can use to expand their operations beyond where they are. I am grateful for the answers, Minister.

Q150 Helen Hayes: I have two quick questions. Can you address the concerns that Carole Reilly raised about neighbourhood forums and their lack of accountability, lack of infrastructure and resources and lack of clear identifiability to local communities? There were also issues raised—I have raised them on a number of occasions—about the intensity of resource you need genuinely to engage a diverse community in a deprived area.

Gavin Barwell: This is a real challenge and I am very open to talk to the hon. Lady, to the hon. Member for Oldham West and Royton, and to others who have an interest in this matter about how we go about doing things. As I said, there is extra funding in deprived areas that a rural parish would not get. There are also people who have expertise in this area and who can engage with groups.

There is a democratic issue; I do not think we can get around that. Clearly, if someone is in a part of the country where there are parish councils, there is an automatic accountability and legitimacy that comes from that. Although we can now have parish councils in Greater London, I think there is only one in the whole of Greater London; we do not tend to have that kind of infrastructure. So there is a challenge in making sure that the plans that come forward have that legitimacy and are genuinely owned by the whole of the community, and not by a particular group of people who have a certain interest.

If we look at the average turnout in referendums on neighbourhood plans, it is running at about a third, which is actually not that different from the kind of turnout that we would see generally in local elections. That is quite an encouraging average figure in terms of trying to ensure that there is some legitimacy—I think the hon. Lady would regard her local council as legitimate on that kind of turnout—but there is certainly more that we can look to do and I am very happy to have a dialogue with her about that.

Q151 Helen Hayes: Thank you. I have a second question. The issue of permitted development rights continues to be a cause of concern. I appreciate that it is not within the scope of the Bill, but it has a direct bearing on neighbourhood planning, so it is essentially a way in which development can take place that is not allowed for in a local plan and that has not been discussed by the local community, who have not been consulted about it. It is under the radar, without anybody having any say about it at all. I wonder whether the Minister has any plans at all to address the concerns that have been raised about permitted development rights.

Gavin Barwell: I would say two things there. There is some limited scope for local say. The main one that the hon. Lady is probably talking about is the office to "ressy", or residential, permitted development. There you do have to give a prior approval application to the council. The council can only look at certain limited things such as flooding; there is a list of four or five things that can be looked at. It is not a full planning application, but there is at least a little bit there.

I tried to touch on this in my response to the Second Reading debate, so I understand some of the concerns that people have. You do not get the affordable housing contribution, for example, that you would get if there was a full planning application. However, I think it is demonstrably the case that permitted development has delivered additional homes that we desperately need.

I went on Friday night to see one in central Croydon. It is a building called Green Dragon House that was essentially an old office building with very low levels of occupancy and it has been converted into 119 homes. In my community, those homes are desperately needed and I am not sure—in fact, I am pretty confident that if we had left things as they were, many of the buildings that have been converted would not have come forward. Now, they are not all as good quality as Green Dragon House, so I am perfectly prepared to accept that there are challenges here.

I suppose the point I tried to make in response to Opposition Members on Second Reading is that if you genuinely believe that there is a really urgent need to get us building more housing, you have to look at some measures that you would not take if you did not feel that urgency was there. That is the argument about PD. However, the one thing that this Bill does on it is uncontroversial, I would have thought, which is to say, "Let's make sure we get good data." At the moment, all we know is the number of applications that have gone in, but not how many homes they are delivering. So, the one measure in this Bill on this issue is trying to ensure that we collect data on how many units the policy is delivering and then, as we debate our different opinions on this policy, we can at least be informed by what the output is.

Q152 Helen Hayes: So you do not have any further plans at the moment, either by way of additions or amendments to this Bill, or within the White Paper—?

Gavin Barwell: No. There is an issue that I think we have consulted on, which is around the office to "ressy" thing and whether you should be able to do it potentially through demolition rather than just refurb, but there are no plans to amend this Bill further to change the PD rules.

Q153 Jim McMahon: During your introduction, you said that part of the reason why the amendments were so late in coming was actually change of positions and looking at the Bill with a fresh pair of eyes, and that was the result. Given the tone of the contribution, I take that at face value, and I appreciate the comments that you have made.

When you were looking at the Bill and at opportunities to enhance it further, did you consider the roles of listed buildings in that? In my constituency, we have a very old mill—apparently one of the oldest mills with a concrete floor, if anyone is interested in those kinds of things—but it is a blight on the local community. Last year, there was the death of an 18-year-old, who fell through the floors, because the mill is so unsafe. The fire service, the council and the police have all put a notice on the building, because it is absolutely liable to cause another death very soon, but its heritage value for the experts in London, who do not have to live in its shadow, maintains that it should stay there. It is scuppering development on the site—a £248 million tram system runs alongside it, with a station there ready for development. Did you consider that the process is stifling the development of what should be attractive places to live?

Gavin Barwell: The simple answer to the hon. Gentleman's question is that that is not an issue that I have looked at in particular, but if he wants to write to me to set out his concerns, I would be very happy to take that forward. He knows his community and what the issues are, better than anyone who is adjudicating on such things from a distance. I am very happy to help him to get that issue resolved.

Q154 Craig Tracey (North Warwickshire) (Con): I want to pick up very quickly on something that Mr Thomson from the CPRE talked about, which was

about councils having to chip away at the green belt to deliver the provision. He mentioned that often they do not feel that they are getting the backing of the Secretary of State. I am aware that several local authorities in my area have jointly commissioned a report to grade areas of green belt, based on the extent to which they make all five functions in the NPPF. They are basically suggesting that some areas do not have as much value as others, and they are planning to use the report to recommend parcels that can be used to facilitate building. So there still seems to be a lot of confusion in local councils about how the green belt rules are applied. Is there any provision in the Bill to strengthen that? The former Housing Minister was great and came to my constituency to explain to one of the councils how things needed to be implemented, but it still does not seem to be filtering through, and I am guessing that that could be the case in a lot of councils.

Gavin Barwell: At the moment, there is nothing in the Bill that touches directly on the green belt. What I would say to my hon. Friend is that the national planning policy framework is very clear on this. Basically, there are two issues: one is how an authority deals with an application for development on the green belt. Essentially, with the exception of certain very limited uses, which are defined in the NPPF, development is inappropriate in the green belt. The second issue and the one to which he is alluding, I think, is when you want to change the boundaries of your green belt. The NPPF has a very clear presumption against doing that, too. It should only happen in exceptional circumstances, and one of the features of green belt should be its permanence.

What we asked local authorities to do—again, I think it is very important that these decisions should in most cases be made locally—is to assess objectively the need for housing in their area. When they have done that, they need to look at how they can meet that need. It is certainly possible that there are authorities for whom meeting that need without making use of prime agricultural land, green belt or some other kind of protected land is not possible. It is then a judgment for them about what they should do. They might decide, "We will release some land and make some changes to our local plan in order to meet the need." However, they might decide, "Actually, we don't believe that it will be possible to meet this level of need without having too detrimental an effect on these particular sites, therefore we will provide for less than our level of need," and when an authority does that—the hon. Member for City of Durham has now left the room—it should certainly be having conversations with neighbouring authorities about whether they are able, through the duty to co-operate, to take up some of the slack.

The inspector's job is to test whether authorities have applied that policy correctly. There are examples of local plans in which an inspector has accepted an authority's judgment that it is not able to meet the full level of need for those kinds of reasons, and for others the inspector has said, "Actually, no, there are other things that you could have looked at, but didn't look at. You need to go back and look at them." Some people think that there is an automatic presumption that the green belt can never be a justification for not meeting the full level of need, but that is not true; nor is it true that it automatically is either, if you see what I mean. The test is there in the NPPF, but the circumstances have to be exceptional.

Q155 Craig Tracey: As a quick follow-on question—where a constituency like mine comes under pressure, because we are a rural constituency surrounded by big areas we are having to co-operate with, what are the mechanisms for challenging their assessed need? That is where the calculation figures are often seen to be well away from what we would expect.

Gavin Barwell: One of the things I was alluding to for Mr Malthouse was whether we can look at a more objective method of saying what need is. The starting point, it seems to me, is the household projection figures. One of the concerns people raise with that is that we have taken the decision we took on 23 June, so migration levels may well be lower. It is worth saying that what the projection numbers do is look at past trends and roll forward, so they are already assuming a reduction in the level of migration over the time period and they are updated every few years.

The starting point, as I said, is those household projection figures. Then if I were running a council, I would be looking at what the market is telling me. In other words, what is the ratio of house prices to salaries in my area? If that ratio is very high, we have not been building enough houses; so we need to do a bit more than the household projects would suggest, if we are going to try to get that ratio down. To me, those are the two things you would be looking at, but if what is being said is that it would be helpful to have more certainty about what those numbers are, and to have more confidence in them, I agree with that and that is something we are looking to do.

Q156 Mrs Villiers: Obviously the key concern that has been raised by some of the campaign groups, such as the Campaign to Protect Rural England, is that local authorities are being driven to propose green belt development because they cannot meet their targets and they cannot make the duty to co-operate work. So in order to avoid the risk of having their local plan rejected altogether they are putting forward green belt or greenfield developments. What is the incentive on a local authority—on the other end of a duty to co-operate—to accept somebody else's housing targets? I do not see how the duty to co-operate can work effectively if you are saying that local authorities have to somehow persuade their neighbours to accept their housing needs. I would be grateful if you could explain how the duty to co-operate is supposed to work.

Gavin Barwell: There are some local authorities that genuinely want to go for growth, and therefore they are almost happy to take extra housing because they have made a strategic choice that that is what they want to do in their district. Those are probably not the kinds of authorities in the areas my right hon. Friend and I represent or the areas immediately around them, where land is very much at a premium. One of the things we need to look at in the White Paper is what more we can do to provide those kinds of incentives. To me, a lot of that is about much more explicit links between housing numbers and infrastructure. I actually want to get down to the level of having very bespoke conversations with individual authorities saying, "If you were going to take an extra x thousand in your area, what does it need to make it work? What would make it politically acceptable?" and then trying to have those kinds of bespoke deals.

There is also a real role for all of us to provide some political leadership here. What many people imagine is that if we do not build the homes, the people will not

come. Actually, evidence in London in recent years shows that that is not true; they do come, and you end up with people living in beds in sheds at the end of gardens and things like that. We do not want to live in a city like that, so Mr Tracey is absolutely right—we need to have confidence in the numbers and we need to believe that they are genuinely what is going to happen in a given area. But then there is a moral duty on us to make sure that we provide housing, once we have confidence in the figures, to meet that level of need.

Sometimes that is going to involve difficult choices. I have tried to avoid being parochial so far, but I will just give a Croydon example. In my constituency—it has been really interesting to see over the nearly 20 years that I have been involved in local politics—essentially an explicit choice has been made to build very high in the centre of Croydon in order to protect our green belt. If someone had come to Croydon 20 years ago and said, "We are going to have seven or eight buildings over 40 storeys in the town centre," they would have been laughed out of town. Confronted with either not meeting the housing need we have—people can see the housing need all around them—or building on our remaining parks or green belt, people have actually said that this is a better option. It is near where the infrastructure is—the East Croydon station route into London and all those kinds of things.

In some parts of the country there are no easy ways of doing this. It is a question of having an honest debate about what the options are. I certainly believe that in parts of London higher density is part of the solution. Even that is not an easy sell to people because it does change the character of an area, but we need to think—what are the alternatives?

The Chair: Order. I am afraid that time has beaten us in this session as well. I thank the Minister and his team for the full and frank engagement with the Committee, which is really appreciated.

Ordered, That further consideration be now adjourned. —*(Jackie Doyle-Price.)*

4.45 pm

Adjourned till Thursday 20 October at half-past Eleven o'clock.

Written evidence to be reported to the House

NPB 01 National Association of Local Councils (NALC)

NPB 02 Compulsory Purchase Association

NPB 03 Brethren's Gospel Trusts Planning Group

NPB 04 Royal Institute of British Architects

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NEIGHBOURHOOD PLANNING BILL

Third Sitting

Thursday 20 October 2016

(Morning)

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No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 24 October 2016

The Committee consisted of the following Members:

Chairs: Mr Peter Bone, † Steve McCabe

† Barwell, Gavin *(Minister for Housing and Planning)*
† Blackman-Woods, Dr Roberta *(City of Durham)* (Lab)
† Colvile, Oliver *(Plymouth, Sutton and Devonport)* (Con)
† Cummins, Judith *(Bradford South)* (Lab)
† Doyle-Price, Jackie *(Thurrock)* (Con)
Green, Chris *(Bolton West)* (Con)
Hayes, Helen *(Dulwich and West Norwood)* (Lab)
† Hollinrake, Kevin *(Thirsk and Malton)* (Con)
† Huq, Dr Rupa *(Ealing Central and Acton)* (Lab)
† McMahon, Jim *(Oldham West and Royton)* (Lab)
† Malthouse, Kit *(North West Hampshire)* (Con)
† Mann, John *(Bassetlaw)* (Lab)
† Philp, Chris *(Croydon South)* (Con)
Pow, Rebecca *(Taunton Deane)* (Con)
† Tracey, Craig *(North Warwickshire)* (Con)
Villiers, Mrs Theresa *(Chipping Barnet)* (Con)

Ben Williams, Glenn McKee, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 20 October 2016

(Morning)

[Steve McCabe *in the Chair*]

Neighbourhood Planning Bill

11.30 am

The Chair: We now begin line-by-line consideration of the Bill.

The selection list for today's sittings is available in the room. It shows how the selected amendments have been grouped together for debate. Amendments grouped together are generally on the same or a similar issue. The Member who has put his or her name to the leading amendment in a group is called to speak first; other Members are then free to catch my eye to speak on all or any of the amendments in that group. A Member may speak more than once in a single debate.

I will work on the assumption that the Minister wishes the Committee to reach a decision on all Government amendments. Please note that decisions on amendments do not take place in the order in which they are debated, but in the order in which they appear on the amendment paper. In other words, debate occurs according to the selection of groupings list, but decisions are taken when we come to the clause that the amendment affects. I hope that is helpful.

I will use my discretion to decide whether to allow a separate stand part debate on individual clauses and schedules following the debates on the relevant amendments.

Jim McMahon (Oldham West and Royton) (Lab): On a point of order, Mr McCabe. I hope you will bear with me when I ask some beginner's questions, but this is the first Committee in which I have been on the Front Bench. The technical consultation on the Bill finished yesterday, but the public consultation does not finish until 2 November. We are having our debates on the Bill in the absence of that feedback from the public, or from the professionals who took part in the technical consultation. Is that usual? If so, how do we ensure that the comments in the consultation are fed back into the process?

The Chair: The Minister will have easily heard your comments. It is normal for the usual channels to have agreed the scheduling of the Committee, but we note the point that has been made, and the Minister has heard it and will do what he can to assist.

Dr Roberta Blackman-Woods (City of Durham) (Lab): Further to that point of order, Mr McCabe. if there are any additional documents relevant to the deliberations of the Committee, will the Minister ensure that Committee members are aware of them, so that we do not have to go looking for them on the website of the Department for Communities and Local Government?

The Chair: The Minister will have heard those remarks, and he is nodding to indicate that he will do his best to assist.

Clause 1

Duty to have regard to post-examination neighbourhood development plan

Dr Blackman-Woods: I beg to move amendment 4, in clause 1, page 1, line 11, at end insert—

"and insofar as it is consistent with the relevant local plan."

This amendment ensures that neighbourhood plans are not considered if they are inconsistent with local plans.

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

Amendment 5, in clause 1, page 1, line 11, at end insert—

"and insofar as it is consistent with the National Planning Policy Framework and the National Planning Practice Guidance."

This amendment ensures that neighbourhood plans are not considered if they are incompatible with the National Planning Policy Framework or the National Planning Practice Guidance.

Amendment 3, in clause 1, page 1, line 22, at end insert—

"(c) if it has been examined by an independent examiner who is registered with the Royal Town Planning Institute."

This amendment ensures that the examination of a neighbourhood plan is conducted by an RTPI registered examiner.

New clause 1—*Approval of draft-neighbourhood development plans by referendum*—

(1) Schedule 4B of the Town and Country Planning Act is amended as follows—

(2) After paragraph (2) insert—

"(3) The outcome of such a referendum shall only be valid if the turnout is equal to or greater than 40%."

Dr Blackman-Woods: It is a pleasure to serve under your chairmanship, Mr McCabe.

As the Minister knows from our discussions on Tuesday, we do not see neighbourhood planning and the provisions relating to it as the most controversial aspect of the Bill. Nevertheless, we have a couple of questions embodied in the amendments on which we would like some clarification from the Minister.

Amendment 4 seeks to amend the clause to ensure that the local authority will only have to have regard to neighbourhood plans when they are found to be consistent with the local plan. I am sure that in his response the Minister will say that it is already enshrined in legislation that they have to pay attention to the local plan, but we are seeking clarity on at what stage that needs to happen.

Let me start by saying that we are very supportive of neighbourhood plans and the measures in the Bill to make them more efficient in delivering housing, delivering it where local people want it and having it underpinned by the relevant infrastructure. We feel that planning is always more successful when people feel a part of it, rather than planning being something that is done to them and imposed from above. This point was made powerfully on Tuesday by the National Association of Local Councils, which also reminded the Committee

that during the passage of the Bill we probably need to push for greater clarity on the exact role of neighbourhood plans and get some statements about the importance and significance attached to them and, in particular, their relationship to local plans.

The amendment would ensure that neighbourhood plans are only considered if they are in line with the overall strategic aims and visions within a local plan. As we are all no doubt aware, local plans set out a framework for the future development of an area, addressing needs and opportunities relating not only to housing, but to the local economy, community facilities and infrastructure. We are specifically asking the Minister to what extent neighbourhood plans are then being written to address not only the broader strategic aims of the local plan, but what it says about community facilities and infrastructure—that is, if it does. It might not, and if not, is the Minister clear that there is then a key role for the neighbourhood plan to ensure that those less strategic issues are addressed for the locality?

An underlying purpose of the amendment is to try and tease out from the Minister whether he thinks neighbourhood plans could, in fact, be a building block for local plans. There are distinct advantages for planning at a community level for housing supply, if that incorporates real local knowledge and that local knowledge is then put into a wider picture that is able to address local authority-wide needs. Hugh Ellis from the Town and Country Planning Association spoke on Tuesday about the real advantages that could have, saying:

"Neighbourhood plans are great at articulating community aspiration inside the local plan framework. When both work together very powerfully, that can be a very strong framework for a community."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 32, Q50.]

Ruth Reed from RIBA said it would be better for local and neighbourhood plans to be "in sync" to

"ensure coherence and strategy across a local authority to provide housing where it is needed."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 43, Q71.]

Local plans are also only adopted after public consultation and, in my experience, usually very lengthy—in fact, often more than one—public inquiries. As the Minister and all on this Committee will know, they do have considerable weight. It would be very helpful for communities to be able to feed in their vision for development at an early stage in that local plan-making project and process. We also do not want to find ourselves in a situation where strengthened neighbourhood plans are undermining local plans, leading to lots of competing visions of what an area could look like or deliver. Again, we feel that being very clear about the degree to which they have to follow a local plan might help to iron out some of those possible conflicts. As the Local Government Association has pointed out,

"It is important that any proposals do not have the unintended consequence of undermining the ability of a local planning authority to meet the wider strategic objectives set out in an emerging or adopted Local Plan".

According to the Department's own figures, about 200 neighbourhood plans that have progressed to the referendum stage have been approved by voters; I suspect the figure is a lot higher now. That shows a really positive reception for neighbourhood planning. I pay tribute to the Minister and his Department for bringing the whole concept forward. However, given the number of neighbourhood plans now being considered—I think it is a few thousand—and the way the Government rightly want to extend them, it seems likely they could end up competing with one another. We are trying to ensure, through the amendment, that that does not happen.

The guidance tells us that it is very important for a neighbourhood plan or order to follow a local plan, but they are not often tested against policies in an emerging plan. I will give an example from my constituency, where we are in precisely this situation, which is partly what prompted my question. A local plan went through a public inquiry and was thrown out by the inspector. The authority was directed to go back to first base in terms of drawing up the local plan, so it is out to consultation at the moment on some of the underpinning objectives, but a number of neighbourhood plans are about to go to referendums. Will those plans simply rely on saved local policies? Will they have to look at the local plan that was thrown out, or will they be tested against the underpinning objectives, which are quite wide-ranging at this stage? It would be interesting to hear from the Minister on that point. There is a need for further clarity, particularly with regard to the stage that the local plan is at.

These are very much probing amendments, as I am sure Committee members have determined. Amendment 5 would mean the local authority need not have regard to the local plan, unless it is consistent with the national planning policy framework and national planning policy guidance. This is a straightforward amendment. We should seek to put best practice at the forefront of neighbourhood planning by requiring that the plans are compatible with the NPPF and any relevant guidance.

Kevin Hollinrake (Thirsk and Malton) (Con): Is the hon. Lady aware that paragraph 16 of the NPPF states that neighbourhoods should

"develop plans that support the strategic development needs set out in Local Plans"?

Is that not quite clear?

Dr Blackman-Woods: I am trying to tease out the extent to which the Minister thinks it is important right at the outset for neighbourhood plans to tell us how they are addressing the basic thrust of the NPPF and any relevant policies in it and taking on board guidance that underpins some of those policies. I do not think the issue of guidance is quite so clear. Perhaps it is generally assumed that the NPPF would be followed but not to the degree that planning guidance would have to be taken on board.

11.45 am

We are not trying to load additional burdens on neighbourhood planning forums or parish councils; we are just trying to get a little more clarity on what is expected of them. Ruth Reed pointed out in the Committee on Tuesday that the plans are "generally prepared", or often prepared, by a lot of volunteers and amateurs, so perhaps it depends which way we look at this. A requirement to follow the NPPF and guidance could put additional burdens on them, but it could be really helpful in assisting groups in how they move forward. This is something that I know from my constituency, where we have neighbourhood plans being prepared by both parish councils and by neighbourhood planning forums.

We will come to this point in a later amendment, but one thing that I have noticed is that where a parish council is supporting a neighbourhood plan there is a basic structure of organisation that can get people together, making it slightly easier to put a neighbourhood plan together.

The neighbourhood planning forum is excellent, but certainly in its early days it did struggle with knowing how to undertake the process. It did eventually draw down money and get expertise that was able to help, and it is hoping to submit its plan quite soon. It really was a case of constituents wandering around with clipboards counting houses in an area, doing a character appraisal, meeting different groups, trying to decide what the priorities should be. A bit more guidance to them about how to act, particularly in those early stages, would be important.

That was a point made very properly by the British Property Federation in its briefing to us:

"Conformity with the NPPF and NPPG is particularly crucial as emerging/adopted neighbourhood plans are already material considerations when determining planning applications and, in certain situations, could be the key determining factor, particularly where a Local Plan is out of date or at an early stage in preparation".

That is exactly the set of the circumstances that I described when speaking to amendment 4.

We know that neighbourhood plans are often considered in the absence of local plans. That is why we think there probably is a need for them to be as rigorous as possible. I do not want to labour this point much more, but it is worth saying that the only paragraph in the NPPF that seems really relevant to the topic we are discussing is paragraph 16. The Minister may correct me if I am wrong. It says:

"The application of the presumption will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should: develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development; plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan; and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with their neighbourhood plan to proceed."

I think everyone will agree that that is quite broad. A lot of the measures in the NPPF are broad because they are simply trying to direct people in the wider policy framework. I thought that at least if it was clear that they had to do that and address the underpinning guidance, that might give further clarity to the whole process, which is what we are trying to achieve with this and the preceding amendment.

Amendment 3, like amendments 4 and 5, is about how to establish in the Bill best practice in neighbourhood planning. Amendment 5 seeks to do so by ensuring that examination of a neighbourhood plan is conducted by a Royal Town Planning Institute-registered examiner. Before I looked at the provisions in detail, I had not realised that the examiner could be anyone. They do not have to be RTPI-registered.

I am not suggesting that people who have examined neighbourhood plans to date have not been suitably qualified or not done a really good job, but I would like to hear from the Minister why he thinks the person who will examine the plan, particularly as many of them are being examined without a local plan in place, should not have to have an RTPI qualification. I cannot find any guidance on who the examiner should be and what qualifications they should have, but if I have missed it, I will be happy to be corrected by the Minister.

I just wondered whether public confidence in the neighbourhood planning process and the examination system would be enhanced if it was clear that the examiner had to have certain qualifications and, critically for public confidence, that they had undertaken inquiries or examinations before and knew how a neighbourhood plan fits into the overall planning process. The examination process may give communities unrealistic expectations if they do not understand the difference between a local plan being examined and a neighbourhood plan being examined.

The issue could swing either way. There could be too many expectations on the local community because the examiner has not experienced the difference between the local plan examination process and that of the neighbourhood plan; or there could be too few because they could say, "This is only a local plan and in the overall planning system it is not the most critical element." They could have fairly low expectations.

Jim McMahon: This is a very important point because the provision must not be seen as a way of paying lip service to local opinion. People spend a lot of time trying to work up neighbourhood plans, which go through a massive amount of consultation, and they go round the area with clipboards, but when it comes down to it they are not treated with seriousness in the process. Having this quality assurance would help that.

Dr Blackman-Woods: My hon. Friend makes an excellent point. Public confidence in the system is important.

Just to show that I looked, we found that national planning policy guidance includes guidance on the independent examiner's role, how a neighbourhood plan or order is examined, how the public can make their views known to the independent examiner, who can speak if a public hearing is held and whether the examiner considers the referendum area to be part of their report. However, there is nothing at all—not in that section anyway—about who the independent examiner should be or what qualifications they might be expected to have.

The reason the amendment specifies the RTPI is that it has a mark of quality attached to it, and has been clear about the principles to which examiners should work. There are five core principles. I think this might be helpful, and if the Minister does not want to include it on the face of the Bill, it might be put into regulations.

It is hard to disagree with any of the five core principles, or to suggest a reason why they should not apply to examiners. Those subject to them must act with competence, honesty and integrity; and they must use independent professional judgement. That is particularly important, because we want the examination to be seen as professional. After all, the plans are very important. They should probably have more importance in the planning system. We want to make sure that they will be professionally examined. Examiners must apply due care and diligence; they must act within principles of equality and respect; and obviously, they must exhibit professional behaviour at all times.

That set of core principles seems to me to be very helpful. The RTPI deals with professional planners all the time, and it has provided more detail about what the principles mean with respect to the role of an inspector. I shall not go through them all, because there are too many, but I thought it might be worth looking at a few that seem particularly important.

"Members must take all reasonable steps to maintain their professional competence".

That seems fairly obvious; we want people who are to examine neighbourhood plans to deal with the planning system as it currently is—not as it was when they trained, which could have been some time ago.

They must also

"take all reasonable steps to ensure that their private, personal, political and financial interests do not conflict with their professional duties."

Again, that is important. I wonder whether the current system pays attention to any financial, personal, political or other conflict of interest, particularly in relation to examiners. It may, and I hope that the Minister can reassure us on that point, but I think my constituents would want to know that people with a conflict of interest were screened out before the point at which they would get to examine a neighbourhood plan. It is not clear to me at what stage in the current process that happens, or what questions are asked during the appointment process, to ascertain whether there is a conflict of interest.

"Members must not offer or accept inducements, financial or otherwise, to influence a decision or professional point of view".

That is an issue that councillors are used to having to deal with; but again, it has not been made clear. I do not suggest for a minute that any examiner would have been subject to the taking of financial inducements, or anything of the kind. I just do not know, at this stage, what process there is in place to ensure that that does not happen, or what oversight there is of the examination process. Also, examiners should not disclose to employers or clients what is happening in the neighbourhood plan where it would be to their advantage.

12 noon

Independent professional judgment is another principle that I think is important. I hope the Minister will say, "The hon. Lady and her constituency need not be worried at all because these are the rigorous processes that we put examiners through," in which case, fine. We want to see that they do exercise professional judgment, and that there is due care and diligence. I know that in practice that can be quite difficult, but what effort will be made to ensure that whoever undertakes the examination does not discriminate on the grounds of race, nationality, gender, sexual orientation, religion, disability or age? That underpins the examination of local plans and should certainly underpin the examination of neighbourhood plans, and of course they must not seek to discriminate in favour or against particular groups in any way at all.

It seemed to me that the code the RTPI has put in place, and which has been adopted by its members, is a straightforward and helpful mechanism. I want to mention things in it in passing to the Minister and perhaps he will answer questions on it. I do not know how an examiner is removed from a neighbourhood plan examination process if they are found not to be doing the job correctly. If there is a serious breach, I am not sure whether disciplinary action can be taken against the examiner. The hon. Member for North West Hampshire is shaking his head at me. If he wants to intervene, I am happy to take an intervention.

Kit Malthouse (North West Hampshire) (Con): I was going to speak later.

Dr Blackman-Woods: I am not trying to suggest there has been a problem in the past, but we have neighbourhood planning provisions before us in a Bill that seeks to strengthen and streamline the process of neighbourhood planning. It is the Opposition's job to seek ways of improving the Bill and one way might be to give greater clarity and confidence to the public and all our constituents that neighbourhood plans are being effectively and efficiently examined. That provides more confidence in the process, which we are incredibly supportive of.

Jim McMahon: I actually think—I am sure my hon. Friend will agree—this is a gift for the Minister. Imagine a situation in which there is no quality assurance in place and no mechanism built into the membership organisation to deal with complaints. Where else would the complaints come but across our desks?

Dr Blackman-Woods: I am grateful to my hon. Friend for that intervention. It drives home the point we are making. We have tried to be incredibly helpful in tabling the amendment. The point has not been raised only by Opposition Members. As I pointed out earlier, it was raised by people who gave evidence to the Committee. It is important as a matter of public record that we are clear about how the plans will be examined and about the qualifications of the examiners. As my hon. Friend said, the RTPI has given a gift to the Minister by saying there is already a code of conduct and already professional guidance in place, so why does not the Minister simply adopt it and then we will all have better reassurances about the qualifications—*[Interruption.]* I am sure the hon. Member for North West Hampshire can intervene on me if he wishes to do so, and I will seek to answer his question.

If I may, I will move on to new clause 1. Although we have tabled it as a new clause, it is really just a further probing amendment to find out whether the Minister thinks there should be a threshold for the number of electors who will turn up to vote for a neighbourhood plan. Again, I am not trying to make the process of having a neighbourhood plan more difficult, because we are terribly supportive of neighbourhood plans and want as many of them in place as possible.

In fact, because the Minister is extremely good at reading the Lyons report, he will know that we had a whole section in that report about local plan-making and how we might marry up neighbourhood plans with the local plan-making system. That was not to take powers away from local neighbourhoods, but to have these as an initial building block for local plans so that local plans are not something that is seen to be imposed on a local community, but are something that develops organically from looking at a whole range of neighbourhood plans. He knows that the Lyons report

[Dr Blackman-Woods]

also talked about how we could fund that, because if we are going to adopt a system where neighbourhood plans are the building blocks of local plans, resource will clearly need to be put into neighbourhood plans.

If I may again use the example of my constituency, we are now back at the beginning, more or less, of our local plan-making process. I think I am right in saying that process started in 2007; if I was being really generous to the local authority I might say 2008, but really we had preliminary discussions in 2007. Here we are in 2016, I think 11 rounds of consultation later, and we still have no local plan in place. In fact, we would be lucky to get a local plan in place in the next couple of years.

John Mann (Bassetlaw) (Lab): I thank my hon. Friend for giving way. Does she agree with my research that shows that 95% of local plans had to be stopped and recreated after the absurdity of the coalition Government's decision of March 2013, when they required them all to have to consult adjoining authorities? Ninety-five per cent. have had to be recreated, creating a huge delay and uncertainty in house building and the provision of other amenities.

Dr Blackman-Woods: As always, my hon. Friend makes a very interesting point. We did have a brief exchange with the Minister on Tuesday about the fact that the duty to co-operate has not worked in practice, and the real need for a different set of provisions. I know the Minister is seeking to address that at a later stage in the Bill's passage, so we look forward to seeing the provisions that will address that aspect of local plan-making and how the duty to co-operate can be made to work more effectively in practice. My hon. Friend has raised a very valid point.

I think we are on our 11th round of consultation, and there will be further rounds before we actually get a local plan in place. Huge resource is then put into the consultation, which has gone on for many years. The huge amount of documentation that goes with each of those public consultations has a resource attached to it. I should have thought that it was possible to have a system of local plan-making that was very streamlined and did not require the huge amount of documentation that it currently does; that would free up resources. One of the things we argued in Lyons was that those resources could then be used to effectively support neighbourhoods and local authorities to use neighbourhood plans as the building block for their local plans.

I am coming to my argument about new clause 1. If these plans are to have considerable weight attached to them, and if they are going to be, as they currently are, part of the local plan once they go through a referendum and a material consideration, should there be a minimum level of buy-in from the local community, in terms of turning out to vote? I am sure the Minister will say that the votes for these neighbourhood plans are extraordinary, that 89% or 90% of the people who turn out regularly vote for the neighbourhood plan, that they understand why it is important to their community and that a lot of them will have turned up to consultation events.

It is heartening that so many of the plans get that percentage of people supporting them. It is actually quite rare for them to be turned down or to have fairly low percentages. At the moment we are at about a 32.4% turnout from the local community. I am sure all of us here think that is actually not bad when compared with the turnout for some local council elections, but if we are talking about a plan that will have a very strong influence on what happens in the neighbourhood area for perhaps 10 or 15 years or even longer, I suggest there might need to be a 40% threshold, but that could be lower or higher.

The Minister for Housing and Planning (Gavin Barwell): I am interested in the argument the hon. Lady is making. My local authority is going through the process of agreeing its local plan at the moment, so I share her pain. Do the Opposition think the same arguments should apply to local plans? Should the people of Croydon have the chance to vote in a referendum on the local plan that Croydon Council is proposing?

Dr Blackman-Woods: The Minister makes an interesting point. It is something I will mull over and think about. Does the Minister think it is important to have a particular threshold? Again, that point is not being put forward only by the Opposition. It was also put forward by the BPF, which said:

> "As neighbourhood plans affect large sectors of the community, a minimum turnout would ensure that what is to become a development plan document as part of the Local Development Framework is agreed and accepted by a sufficient majority—and would also help ensure the implementation of neighbourhood plans."

That is an important point.

John Mann: I am glad this is a probing new clause. The British Property Federation would say they, wouldn't they? Is there not a danger that a threshold will shift power to middle-class communities and away from working-class communities, where people work shifts and where there is a more transient population because of private rented accommodation? Turnouts have traditionally and historically been low in all elections in those communities through no fault of the local people. They have a desire to vote, as we saw in the EU referendum, but people are having to work ridiculously long hours to make a living. Indeed, turnover in property is hugely large. Are those not the dangers of having a threshold? Any system must not discriminate against working-class communities.

12.15 pm

Dr Blackman-Woods: I am sure my hon. Friend will be delighted to note that an amendment has been tabled for a later discussion in the Committee on how we ensure that disadvantaged communities are not discriminated against.

Oliver Colvile (Plymouth, Sutton and Devonport) (Con): Will the hon. Lady give way?

Dr Blackman-Woods: I will give way to the hon. Gentleman in just a moment, after I have dealt with the intervention by my hon. Friend the Member for Bassetlaw.

We should not abandon the idea of a threshold just because it might be more difficult for some people to attend a polling station or another building to register

a vote. We all want to ensure that as many people as possible are engaged in the neighbourhood planning process and, indeed, in voting more generally—but I will stick to neighbourhood plans, to avoid getting a direction from the Chair. Polling over a given period of time, and good use of postal votes or electronic voting are among the many different mechanisms that could be applied locally to ensure that the threshold is reached, and that people really are engaged in the neighbourhood planning process.

Jim McMahon: That is the crux of the issue. The gift of a neighbourhood plan is that it binds a local community together to agree collectively what is best for that community. The benefit of a threshold is that a bar is put in place to say, "You have to be able to demonstrate that the plan has the community support in place." If one of the arguments is that disadvantaged communities are disfranchised from such processes in a way that middle-class communities are not, a threshold would place a greater onus on ensuring that people are included in the process and in more active ways.

Dr Blackman-Woods: My hon. Friend makes an excellent point, and one that I was going to come to: a minimum threshold could ensure that additional work had to be put in to get a wider, more representative group coming forward and voting for a plan. I was going to draw the Minister's attention to the activities of Planning Aid England, which works a great deal with disadvantaged communities, trying to get them engaged in the planning process. If the Minister was keen to put a minimum threshold in place, he might want to think about how Planning Aid could be supported, in particular to work with disadvantaged communities to ensure not only that people turn up to vote for the neighbourhood plan, but that they are fully engaged in the plan-making process itself.

When we discuss the later amendment, we will see that analysis of the plans so far indicates that—this is the point that my hon. Friend the Member for Bassetlaw was making earlier—they have a bias towards more middle-class communities.

Oliver Colvile: Thank you, Mr McCabe, for allowing me to serve under your chairmanship. The point that I would make is that if we are going to be doing public consultation—which is incredibly important, and I have made that quite clear—we need to use Planning for Real weekends, so that members of the local community may have the opportunity to come in, physically, and say what they are expecting from the whole thing, although postal and proxy votes can be used, too, and a lot of people do so.

Dr Blackman-Woods: The hon. Gentleman makes an excellent point. As well as Planning Aid, I should have mentioned Planning for Real, which also does amazing work in communities getting people to engage with the neighbourhood planning process. Such work could be continued to encourage people to turn up and vote in the decision whether to adopt the neighbourhood plan.

As I said at the outset of our debate on this group of amendments, they are probing ones, intended to get greater clarity from the Minister about the whole range of issues that we have raised. I look forward to hearing what he has to say.

Kit Malthouse: I realise that the hon. Member for City of Durham is benignly motivated, but I had a horrible feeling that she might have been seized by Stockholm syndrome with regard to the planning industry. She referred quite a lot to what the planning industry had to say, but I think she misunderstands the great advantage of neighbourhood plans. They are organic community creations outside the accepted rules, shibboleths, morals and principles of the planning system. She seems in her amendments to be trying to put barriers and bureaucracy into neighbourhood plans, which they are specifically designed to overcome.

There are already safeguards in the neighbourhood planning process. When a neighbourhood plan is approved by referendum, it must go to the local council where there is democratic oversight; it must be adopted as part of the local plan before it is accepted completely; and it must be examined. By the way, I am not surprised the RTPI was willing selflessly to put itself forward as the monopoly examiners of plans for a fee, adding yet more cost to the process.

It strikes me that the hon. Lady is creating bureaucracy in the system—

Dr Blackman-Woods: May I say at the outset that I do not accept the hon. Gentleman's characterisation of what I was seeking to do? I was seeking to get further clarity in the Minister's legislation, not to put prescription in place. As far as I can recall, I did not mention fees for the RTPI.

Kit Malthouse: No, I accept what the hon. Lady says and I apologise. She said these are probing amendments and I was being slightly flippant, but I doubt very much whether a member of the RTPI would do the examination free. The point is that if you restrict it to just them, I imagine the fees might rise slightly. Basic economics is that the smaller the pool of people, the more fees will rise.

I acknowledged that the amendments were probing, but I am not sure what problem the hon. Lady is trying to solve. Thousands of neighbourhood plans have come forward and there are two major issues, which the Bill solves. The first is more assistance from local authorities, because obviously the plans have to conform with the local plan and they are often developed in parallel. Certainly mine were developed in parallel with the local plan. There is quite a lot of iterative process between the two and the Bill allows that. Secondly, if they are going to do this work, there should be protection in the planning system, which is also in the Bill.

Beyond that, I fear the hon. Lady is trying to create with the amendments—I accept they are probing—a sort of recreation of the whole planning system on a local scale, instead of realising that the process is organic and should be exactly that without as much restriction as the formal planning and plan development process has, notwithstanding the fact that there will be supervision by the local council.

Jim McMahon: I cannot understand why the hon. Gentleman would want to water down the integrity of this process. If it is to have any credibility in the system, it must be tested in the system. We do not want a neighbourhood plan that does not stand that test and is treated in a second-rate way.

[Jim McMahon]

I also cannot understand the point about levying a fee. People do not generally work for free in their profession. Someone will want to be paid as part of that process. All that my hon. Friend the Member for City of Durham is trying to do in the amendment, which is open to debate, is to make sure that a standard is applied and it provides that standard. If this is not accepted, what is the alternative to provide that surety?

Kit Malthouse: This may be a philosophical difference between us. I am naturally inclined to deregulation, whereas this is obviously an attempt to impose regulation on the neighbourhood planning process. In my experience, regulation generally gets in the way of speed and efficiency, and frankly of people even bothering to get involved.

In my neighbourhood there has been huge enthusiasm, wide acceptance and a recognition that there are two issues—first, more assistance from the local authority and secondly, more regard from the planning system as it is. It would be a mistake for us to try in the Bill to reproduce the same level of planning regulation that exists at local authority level for what is, frankly, often a group of volunteers who are trying to put together an imaginative plan for their neighbourhood. They should be left with as little restriction as possible to do that as far as they can, and when they realise their plan needs to be in conformity with the local plan and it has to go to democratic approval, to modify it accordingly. If we are to have acceptance, we must do it that way. Once we start putting rules and regulations and hurdles in their way, I am afraid the enthusiasm will drop away.

I would not support a 40% threshold. As the hon. Member for Bassetlaw said, there lots of reasons why not, but we do not apply that for any other election in this country, including referendums and elections for police and crime commissioners. There is no other election or exercise of the democratic process in this country where we do that and I do not think we should start now.

John Mann: It is always a pleasure—actually it is the first time, but it always will be a pleasure—to be given the opportunity by the Whips to serve under your chairing, Mr McCabe. I thank the Whips, although I am not sure that those on the Labour Front Bench will necessarily thank them, for putting me on this Bill Committee.

I will first deal with the question of thresholds. It is a good idea but I would suggest that the wrong threshold has been suggested, so I am glad that the new clause is a probing one. When I was first elected as a councillor, I got 86% of the vote on a 40% turnout. That means that I got a higher share of the electorate than the majority of MPs elected in the last general election. Given that, who would be the more statistically valid representative?

The interesting question is whether a threshold should be based on the vote. Should someone on a low turnout get through on 50% to 49%? That would suggest that there is quite a split in the community. There would be a coherent case for suggesting that the neighbourhood development plan needs to have a threshold of a majority for it to be seen to be coherent across a community. I am not aware of anywhere, certainly not in my area, where there is that sort of division, but such situations could exist.

The Secretary of State said that too many people

"object to houses being built next to us"

and that we are going to have to change that attitude. He was, rightly, very outspoken in Bentley in Redditch in 2015 against the proposals for 2,800 houses there, as he was in Hagley in 2012. He, like me, has supported the local people against the planning system and the way it works, but that does not coincide with his commentary at his party's conference.

In Croydon, one local Member of Parliament talked of the overwhelming opposition to housing in Shirley, with the Save Shirley campaign. He said that the proposals to build there were "a pile of nonsense." Clearly, there were divisions in Croydon between people who wanted to build in one place and those who wanted to build in another. Some people did not want the development in one place; others did not want it in another.

The Opposition have proposed a threshold but, in the Croydon example, a threshold of how many people vote for a neighbourhood development plan or, indeed, for a local plan would be a good idea. Otherwise, those supporting the residents of Shirley might lose out. They might be very angry at losing out and vent their anger against their local MP.

Chris Philp (Croydon South) (Con): If the hon. Gentleman is casting aspersions on my constituency neighbour for his Save Shirley campaign, may I point out his outstanding record of supporting building in the town centre?

What the hon. Member for Bassetlaw proposes by way of a threshold effectively gives weight to the opinions of people who do not bother to vote. Does he not agree that giving weight to the opinions of those who cannot even be bothered to vote in any election, including the one we are discussing, would not be appropriate?

John Mann: I am merely throwing into the mix for consideration the suggestion that the Government may wish to come back with an amendment, in the spirit proposed by Her Majesty's Opposition, involving a threshold determined not by the percentage of the electorate, but by a percentage threshold of the majority in the vote. That would help to avoid a conflict situation and lead to more local negotiation in places such as Shirley.

There are lots of places like Shirley. Ministers do intervene. They are intervening in Bradford, for example. The hon. Member for Shipley (Philip Davies) was delighted, when the Minister was intervening there, to object to house building. There will always be people who object to house building next to them, and there is nothing wrong with that. If there is a bad planning application, I can fill a public hall at any time. I get hundreds and hundreds of people there very regularly. Indeed, I have a meeting tomorrow.

The Chair: Mr Mann, may I gently suggest that you come a bit closer to the subject under discussion?

John Mann: I am suitably admonished, Mr McCabe, but this is a way of getting directly into the amendments. Having spoken to new clause 1 very precisely, I am now speaking to amendments 4 and 5 very precisely, because

these amendments explicitly probe the issue of conflict between the local plan and the neighbourhood plan. In other words, one set of people want to do one thing, but another set may want to do something else.

12.30 pm

The danger, as recognised by the Government but not solved sufficiently, even by clause 1, is this. Let us say that people have accepted that there should be more housing. That applies to all the neighbourhood development plans that have been voted through or are in the pipeline in my area, and virtually all the villages of Bassetlaw have them—I think we are in the lead in doing these plans, which are heavily promoted by myself. Each one has said, "We will have more housing. Here is the kind of housing that is needed in our communities." Hardly surprisingly, they have suggested that there should be affordable housing for young couples and that there should be more housing to allow elderly people, not least single elderly people, to remain in their villages. That is vital to the coherence of our villages. They see living in them far too many people like me—people whose kids are no longer there and who are living there but working elsewhere and not contributing sufficiently to the health of the village. Well, they will always want people like me, but not too many as a proportion of the village. We want some mix in a village.

The Minister knows the rationale and the motivations there, but people go through the whole process and then, as the people of Ranskill are finding, hence their meeting with me tomorrow—the people of Sturton have a meeting on Saturday morning—they are being turned over. That creates a democratic deficit, which is why I put it to the Minister that he needs to consider the amendments. Even with clause 1, the law will not be strong enough. There needs to be some certainty.

Where a neighbourhood plan is not agreeing new housing, clearly a conflict might emerge with the local plan. I am not quite in that consensus that we must build everywhere, but there is certainly a cross-party consensus in Parliament for mass house building and 1 million new homes, so that is what will be there; that is what is there. And that is the opportunity, where people accept new housing appropriately, to say, "We are not going to break from that and we are going to provide more powers in order to give that certainty. If you want to build, build in the spaces that have been agreed locally. If you don't, go build somewhere else."

That has transformed the attitude in the rural community in Bassetlaw. At the time of previous local plan discussions, zero new housing was being proposed in most of the villages. However, in every single neighbourhood plan that has been voted on, and in all those in the pipeline, people are actually coming forward with more housing proposals than the planners could come up with, because they know the little problems that could be addressed and the little areas where one or two houses could be fitted in very sensibly. They know about the barn that could and should have been converted. They can see, because they live there, more than the distant planner, whose time is divided across entire districts and bigger areas in larger metropolitan boroughs.

Dr Blackman-Woods: My hon. Friend is making a powerful case in support of neighbourhood planning. Does he agree that the success of neighbourhood planning, which Labour Members welcome and applaud, is precisely what makes it such a good building block for local plans?

John Mann: It is absolutely a building block. We will come at a later stage to how we deal with less affluent communities, which is important, but when it comes to all neighbourhood plans, there is a great opportunity here for the Minister. He will need to come back with a bit more, otherwise the certainty is not there. One likes certainty in life. We know where we stand with a local plan. We would know where we stand with a neighbourhood plan. So a neighbourhood plan voted through where there is house building built in ought to be the certainty for the foreseeable future, which, in planning terms, seems to be 15 years. Such certainty seems reasonable enough to me. If the Minister could deliver on that, when I go back to my local communities he will find that there is even more enthusiasm. I will be able to get the urban communities saying, "This is a great idea, and by the way we will have more housing. We will change this and we will change that. We will create more open spaces. We will want space for our community facilities."

Large numbers will participate in the planning debate and decision making, given the chance. The Minister has the proof already. Let us unleash more of this local empowerment. He will then be a very popular Minister.

Jim McMahon: This has been a fascinating debate. We are all localists. We all come from our communities—that is why we are here in the first place—and the spirit of the Bill embraces that. We are fine tuning the Bill to ensure it works in practice. We do not want to set people up to be disappointed. We do not want them to be given this power, to be told that after years of having things done to them they are suddenly empowered, and then to go through the process of having an application submitted only for it to be completely against what they want. That is really important. In the local context of Greater Manchester, we have got the spatial framework. Within that process there is a call for sites, so developers and landowners put sites forward as part of the mix.

A member of the public has the local plan that has been agreed, but now they also have in consultation a strategic plan with sites that have been put forward by developers and landowners, and not necessarily with the agreement of the local authority. However, that causes a lot of tension because some of the sites are controversial. Landowners do not always take into account local opinion before they submit sites to get the development value that could be achieved afterwards. In an odd way, that could be the thing that inspires the local community to come together. Instead of having something done to us, let us get together and design what we want our community to be. We could think further about design quality, open space provision and how a community works more generally.

I will certainly be a champion for this type of planning in my local community. Let us be honest: in deprived, working-class communities, people have for decades and generations been told, "This is what you are getting, whether you like it or not." I see this legislation as a route for empowering people to have far more control over their lives and communities, so it is welcome. However, let us not lose an opportunity to make sure

[Jim McMahon]

that this is a really decent piece of legislation and a really decent process that people can feel empowered by. When a planning application goes through the system and is tested—when it is submitted and goes for approval—it is important that it has enough weight to ensure that the professional planners, and those sitting on the planning committee if it goes for determination, treat it with the respect it deserves. That is in the spirit of today's amendment and the amendments we will discuss at a later date.

I want to return to the point I made earlier about the consultation process. If we say that we want to put the community at the heart of the process and have a community voice to make people feel more empowered, it seems odd that the public consultation on this issue does not close until 2 November, because here we are determining the legislation that will by and large have been debated before that date. Can the Minister tell us why that has not been sequenced in the right way? How can we ensure that the responses to the consultation are fed in? If significant issues come up in that process, what mechanism does Parliament have to make sure that those are picked up at the appropriate time?

Gavin Barwell: It is a pleasure to serve for the first time under your chairmanship, Mr McCabe. With your permission, I will start by responding briefly to the point of order raised by the hon. Member for Oldham West and Royton so that I can provide some reassurance. I have worked very hard to try to ensure that Parliament has as much of the material relating to the Bill as possible, and as early as possible in the process. There was an earlier consultation on neighbourhood planning this year, our response to which was published at the same time as the Bill. This is a technical consultation about how we are going to implement some of these provisions.

The assurance we have given the House, and the business managers more widely, is that when the Bill gets to the Lords stages we intend to have the draft regulations or policy statements published. I agree with the hon. Member for Oldham West and Royton that in an ideal world all this would be ready when a Bill first comes to Parliament, but if we look historically we see that is the case for virtually no Bills. I am keen to learn the lessons of the Housing and Planning Act, which received Royal Assent earlier this year, and get the material out as early as possible and give people as much opportunity as possible to scrutinise the measures.

Jim McMahon: Just to clarify, there are two separate consultations. There is a technical consultation that closed on 19 October, and there is a wider public consultation on the pre-condition element that closes in November. I would not necessarily consider the second one to be just a technical consultation. I would not want it to be lost in the mix and not treated with importance, because residents and community organisations will respond to it expecting it to be treated appropriately.

Gavin Barwell: The intention behind that consultation paper was to be helpful to Parliament and wider stakeholders interested in these issues. When we announced the Bill in the Queen's Speech and set out the broad measures that were going to be in it, there was concern about what the impact of these reforms to planning conditions might have. Our feeling was that publishing a consultation paper setting out exactly how the Secretary of State might use these powers, if the Bill receives Royal Assent, would be helpful. The intention was to try to assist.

I am grateful to all hon. Members who have contributed to the debate, which has raised important areas about neighbourhood plans, their relationship with local plans and national planning policy, the examination process and the extent of the democratic mandate they receive through a referendum. Before addressing each amendment, I would like to make a few general comments.

As the Committee will know, the role that communities play in planning has been revolutionised, at least in certain parts of the country, by the neighbourhood planning process. More than 200 communities have recognised the opportunity to shape the development of their area. The numbers speak for themselves. Nearly 2,000 communities have started the process, as the hon. Member for City of Durham said, in areas that cover nearly 10 million people in England, and 240 referendums have been held, all of which have been successful. The Government are hugely proud of neighbourhood planning and of the communities that have taken up the opportunities we have provided for them. We have been clear that we want an effective system that will inspire communities, as the hon. Member for Bassetlaw said, and give them confidence that their views matter, while delivering the growth and additional housing we need.

Clause 1 helps to achieve that. I accept the point made by the hon. Member for Bassetlaw that it is not a solution on its own and that more action will be needed. The White Paper will set out some accompanying policy changes that will try to address the issue. The clause inserts a new paragraph and new subsections (3B) and (3C) into section 70 of the Town and Country Planning Act 1990. It will require decision makers to have regard to post-examination neighbourhood plans where the decision has been made by the local planning authority, or in certain cases the Secretary of the State, that the plan should go to a referendum. We might call that the Malthouse clause, because it originates from an issue with the neighbourhood plan in Oakley and Deane, in the constituency of my hon. Friend the Member for North West Hampshire. Essentially, an appeal was granted just before the referendum was going to be held.

Kit Malthouse: Seven days before.

Gavin Barwell: The plan had therefore been through the examination. My hon. Friend's lobbying for his community led the Government to reflect and then bring forward this clause.

The key point is the one made by the hon. Member for Bassetlaw: in communities that produce neighbourhood plans, people give a lot of time and effort to produce them, and therefore we need to ensure that work is recognised in the system at the earliest possible opportunity. We are making it clear in legislation—not just through planning guidance—that regard should be given to advanced neighbourhood plans, so communities can have confidence that their plans will get proper consideration in planning decisions, where the plan is material to the application.

Turning to the amendments tabled by the hon. Member for City of Durham, I hope that I can reassure all hon. Members that the Bill—this includes the Government amendments on local plans, which I have written to Committee members about this morning—does not alter the local plan-led system, which I am sure we all support. We have been clear from the start that the neighbourhood's ambition should be aligned with the strategic needs and priorities of the wider local area, but that outside those strategic elements neighbourhood plans are able to shape and direct sustainable development in their area.

One of the tests that an advanced plan will have met, once it has gone through its examination, is whether its policies are in general conformity with the strategic policies of the relevant local plan. That will have been tested both by the independent person appointed to examine the plan and by the local planning authority. That is set out in schedule 4B to the Town and Country Planning Act 1990.

12.45 pm

Perhaps I can also reassure the hon. Member for City of Durham by reading from the national planning policy framework. Paragraph 184 states:

"Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies."

The crucial paragraph—this is the reason I am asking the hon. Lady to withdraw the amendment—states:

"Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area. Once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict."

That is very clear, and I want to explain why the amendment would be a mistake. It would add the words

"and insofar as it is consistent with the relevant local plan".

It misses out the crucial reference to strategic policies.

Since the hon. Member for Bassetlaw took Croydon as an example, let me provide an example. He talked about Shirley, where there is a big row because the Labour council wants to allow housing to be built on what is currently metropolitan open land. For those who do not represent London constituencies, that is basically equivalent to the green belt. The law as currently drafted provides that if the people of Shirley want to produce a neighbourhood plan—I suspect they may well want to now—they cannot try to reduce the number of homes that councillors say need to be built in Shirley. However, they can say, "Well, the council's view was that the homes should be built on these plots of metropolitan open land, but we don't like that and think these alternative sites would be better."

The danger with the amendment is that its wording in the Bill would mean that neighbourhood plans had to be consistent with all the policies in the local plan. At that point, what would be the point of making one? That is the key argument on amendment 4. I am sure that it was not what the hon. Lady intended, because she said that she agreed very much that people should be part of planning, and not have planning done to them. However, if the Committee were to accept the amendment, the effect would be the opposite of what she wanted.

Similar arguments apply to amendment 5. Schedule 4B to the Town and Country Planning Act 1990 states that at examination plans must have regard to national policies, including the national planning policy framework and advice contained in guidance issued by the Secretary of State. There is already a requirement.

There is also some reference to the issue in paragraph 151 of the national planning policy framework:

"Local Plans must be prepared with the objective of contributing to the achievement of sustainable development. To this end, they should be consistent with the principles and policies set out in this Framework".

So for local plans the position is clear in the NPPF. It is not in legislation; it is set out in policy.

The first thing that I would say about the amendment is that it seeks to do for neighbourhood plans something that we do not do for local ones: write the requirement into legislation instead of the NPPF. Also, the schedule already sets out that the test in question is one that the examiner must apply.

Furthermore, because a neighbourhood plan must be consistent with the strategic policies of the local plan, and the local plan itself must be consistent with the NPPF, there should never be a situation where a neighbourhood plan is wholly inconsistent with national policy. I hope that that point will reassure the hon. Lady.

Amendment 3 is about trying to ensure that the people doing the important work of examining plans are suitably qualified. The hon. Member for Oldham West and Royton, who I should have welcomed to his position on the Front Bench—I look forward to working with him—kindly said that he wanted to ensure that such problems do not end up on my desk. Well, my experience in the first three months of this job is that lots of things do end up on my desk, sometimes through my own decisions and sometimes not. I hope that I can provide some reassurance on that point.

We are in agreement that those examining a neighbourhood plan must be suitably qualified and experienced. I have no argument with that at all. It is an important point for the Opposition to probe. However, there are already clear requirements. I refer back to my good friend schedule 4B to the Town and Country Planning Act 1990, which states that the person appointed must be appropriately qualified and experienced, must be independent of the qualifying body—the parish council or neighbourhood forum that has produced the plan—and, importantly, must not have any interest in any land that may be affected by the plan.

Dr Blackman-Woods: The clarity that the Minister provided is helpful. Can he tell us where the provisions for examiners have been applied in legislation to those examining a neighbourhood plan, as opposed to a local plan?

Gavin Barwell: I am sorry; I did not make myself clear enough. Those provisions are in relation to people examining a neighbourhood plan.

The hon. Lady raised a couple of points that are worthy of clarification, including the important point on equalities, which she was quite right to mention. The public sector equality duty does not sit on the examiner. It sits on the council appointing the examiner to ensure that it is confident that it appoints someone who will fulfil that duty.

I recognise that the amendment is purely a probing one, but I want to deal with the point picked up on by my hon. Friend the Member for North West Hampshire about the particular group of people that the hon. Member for City of Durham suggested should do the work. The Government's understanding is that many local planning authorities have used the Royal Institution of Chartered Surveyors' neighbourhood planning independent examiner referral service to source an examiner. That seems to be standard practice. That service offers examiners that it has assessed as suitably qualified to carry out examinations. The RICS maintains that members of the panel are continually monitored to ensure that they maintain performance and standards.

Although I am a huge fan of the RTPI, the amendment is neither necessary nor sufficient. In other words, there are some experienced planners who would do a perfectly good job and are not registered with the RTPI. There might also be a newly qualified planner who is registered but may not have particular experience in neighbourhood planning and, therefore, might not be the ideal person. I completely understand the thrust of what she seeks reassurance on, and I share her view, but the relevant safeguards are in schedule 4B to the Town and Country Planning Act 1990.

To a degree, we should trust councils. They have a clear interest in ensuring that the neighbourhood plan is properly examined, because they share the hon. Lady's concern that it should be in conformity with the strategic policies of their local plan. Therefore, I do not think that we, sitting here, need overly to pre-judge that councils are not capable of ensuring that we get the right people to do what I accept is important work.

I turn to new clause 1. As I said earlier in the week, neighbourhood planning referendums have an average turnout of 33%, which is not too dissimilar to the average turnout in local elections. At the moment, support needs to be gained purely from 50% of those who vote in the referendum. That is a fairly consistent principle that we apply across our democratic system. Although new clause 1 was tabled to probe, it may be useful for the Committee to know what its effect would be. Of the approximately 240 referendums that have taken place to date, about 170 would not have passed the test proposed by the hon. Member for City of Durham. I want to make three more quick points.

Jim McMahon: Will the Minister give way?

Gavin Barwell: I am slightly conscious of the time. It might be helpful to the Committee if we finished consideration of these amendments before 1 o'clock.

The hon. Member for Bassetlaw made an important point about the effect of a threshold on more deprived communities, where turnout tends to be lower. I think there was a consensus in the oral evidence sessions that neighbourhood planning has been too concentrated in certain parts of the country. We must be wary of that because we went to ensure that everyone is benefiting.

It is also important to note that for local plans, which arguably have a much bigger impact on communities, there is no requirement to hold a referendum. I think the people of Croydon would be delighted if they had a chance to have a referendum on the Croydon local plan. In questioning the exact wording of the new clause, the hon. Member for Bassetlaw said that we should look at having a threshold for how many people vote in favour—the proportion of the electorate that had voted yes. I am wary of that for the reasons mentioned by my hon. Friend the Member for North West Hampshire, but it might reassure the hon. Gentleman a little to hear that the average yes vote in the 240-odd referendums that have taken place so far is 89%. That shows what is happening where people are proposing referendums. Nevertheless, he is quite right to say that there could be, theoretically, a situation in which that is not the case.

John Mann: This is an important point. So far, the referendums have been for clearly defined communities. In urban areas, where communities are less defined, there is more opportunity for the creation of communities that might not totally work and that might not be fully accepted. The issues we are discussing could become more significant in an urban area where, by definition, the community is not defined. One could see how that might work out, particularly for those trying to protect areas against development. I am sure that there are already lots of examples in London.

Gavin Barwell: The hon. Gentleman makes a perfectly legitimate point. In relation to the first three amendments, I hope I have given clear reassurances that the necessary protection is there. In relation to new clause 1, the arguments about thresholds for elections will go on for all kinds of different elections. On balance, I do not see any reason to apply a test that is different from elsewhere in relation to the particular referendums we are discussing. In practice, thus far, the issue has not arisen, but we can certainly keep matters under review.

Chris Philp: Given what the Minister just said about referendums for local plans, will he consider amending the Bill to make provision for such referendums? That would certainly have my support.

Gavin Barwell: Given my personal circumstances, I wonder whether I have too much of a personal interest in such matters. There is an issue, in that we would probably argue that in relation to most local council policies, councils have a democratic mandate from their elections. The same could be argued of parish councils with regard to neighbourhood plans, but neighbourhood plans can also be proposed by neighbourhood forums, which do not have that democratic mandate. That is probably why referendums are needed. I was trying to tease out the shadow Minister on why the Opposition were making such a suggestion here but not for local plans.

I hope I have provided reassurance on the first three amendments. On new clause 1, I do not see the need to treat the referendums we are discussing differently from others. With that, I hope that the hon. Lady will withdraw the amendment.

Dr Blackman-Woods: I have listened carefully to what the Minister had to say. Our probing amendments 4 and 5 were helpful in getting clarity about the degree to which local plans and their provisions should be taken on board and what scope there is for neighbourhood plans to put their mark on the plan-making process. We also got additional information from the Minister about the degree to which the plans have to follow the national planning policy framework, but perhaps not about the attached guidance. I shall leave the Minister to ponder that; we may return to it later in proceedings.

The point of amendment 3 was that, in addition to what is in schedule 4B to the Town and Country Planning Act 1990, it might be helpful to think about applying a code of conduct for examiners. That could be a Royal Town Planning Institute code or a Royal Institution of Chartered Surveyors code. If the Minister does not like that amendment, I am quite happy for him to come back with another of his own. I shall go away and look again at schedule 4B to see whether it does what we think is absolutely necessary in maintaining public confidence, but I shall leave it for the time being.

Finally, the Opposition are seeking to raise the Government's ambitions for the percentage of people who will get actively involved in neighbourhood plans. If the Minister wants to come back with other measures that demonstrate that he does in fact have high ambitions for the number of people involved, that would be a good thing. With that, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned. *—(Jackie Doyle-Price.)*

1 pm

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NEIGHBOURHOOD PLANNING BILL

Fourth Sitting

Thursday 20 October 2016

(Afternoon)

CONTENTS

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 24 October 2016

The Committee consisted of the following Members:

Chairs: Mr Peter Bone, † Steve McCabe

† Barwell, Gavin *(Minister for Housing and Planning)*
† Blackman-Woods, Dr Roberta *(City of Durham)* (Lab)
† Colvile, Oliver *(Plymouth, Sutton and Devonport)* (Con)
† Cummins, Judith *(Bradford South)* (Lab)
† Doyle-Price, Jackie *(Thurrock)* (Con)
Green, Chris *(Bolton West)* (Con)
Hayes, Helen *(Dulwich and West Norwood)* (Lab)
† Hollinrake, Kevin *(Thirsk and Malton)* (Con)
† Huq, Dr Rupa *(Ealing Central and Acton)* (Lab)
McMahon, Jim *(Oldham West and Royton)* (Lab)
† Malthouse, Kit *(North West Hampshire)* (Con)
† Mann, John *(Bassetlaw)* (Lab)
Philp, Chris *(Croydon South)* (Con)
Pow, Rebecca *(Taunton Deane)* (Con)
† Tracey, Craig *(North Warwickshire)* (Con)
Villiers, Mrs Theresa *(Chipping Barnet)* (Con)

Ben Williams, Glenn McKee, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 20 October 2016

(Afternoon)

[Steve McCabe *in the Chair*]

Neighbourhood Planning Bill

2 pm

Clause 1 ordered to stand part of the Bill.

Clause 2

Status of approved neighbourhood development plan

Dr Roberta Blackman-Woods (City of Durham) (Lab): I beg to move amendment 11, in clause 2, page 2, line 16, at the end insert—

"(3A) To support Neighbourhood Plans, the Secretary of State should set out the weight that should be given to approved development plans at key stages in the planning process."

This amendment gives weight to Neighbourhood Plans at key stages along the process and not just at the post-referendum stage.

I stress at the outset that this is very much a probing amendment to try to determine whether we need greater clarity, either in the Bill or somewhere else, about what weight, if any, should be given to a neighbourhood plan before a referendum has been held, and before the plan is adopted by the local authority and becomes part of its local plan documents. Given the number of witnesses who mentioned the lack of clarity, it is important that we get additional clarity from the Minister.

The Minister will know that various stakeholders said on Tuesday that this is a key concern. The Local Government Association has previously said:

"It is important that any proposals do not have the unintended consequence of undermining the ability of a local planning authority to meet the wider strategic objectives".

I suppose the LGA was trying to clarify at what stage attention needs to be paid to the neighbourhood plan. If the neighbourhood plan does something outwith the local plan objectives, when does the local planning authority need to intervene to point that out to the neighbourhood planning forum or parish council?

Similarly, the British Property Federation said:

"Clarity must be provided about the level of weight attributed to neighbourhood plans at every stage of their preparation (for example, whether a draft plan's general 'direction of travel' would be considered in the determination of a planning application)… The relationship between the statutory development plan-making framework and such material considerations must be clear for all stakeholders, in order to allow greater certainty in the development decision-taking process".

Matt Thomson from the Campaign to Protect Rural England put it well when he said:

"The question reflects one of the key problems that we have been facing with the operation of the planning system for decades. That is…where you have tiers of nested planning policy documents, there is always a question of which has precedence over the other. It should not necessarily be just a question of the one that is produced most recently holding the most weight in a planning application environment."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 51, Q92.]

A number of our witnesses were dealing with a situation—I am sure that it will be well known to a number of members of the Committee—in which there is a controversial planning application that would not be allowed by a neighbourhood plan. When other sites for development have been designated but the plan has not yet been adopted, what weight should the local planning authority give to the general direction of travel in that neighbourhood plan?

I have met many parish councils and neighbourhood planning forums over the years who find that to be a frustrating aspect of the neighbourhood planning system. They might have been through extensive work locally. They might have done all the preliminary stages, including looking at the economy and the wider social environment, and doing character and neighbourhood assessments. I have seen many forums identify bits of land that nobody else knows about but that they believe are important to bring forward for development. They put a huge amount of work into the plan. Just before they have a draft plan but after they have identified sites, they find that their whole direction of travel is knocked aside because a significant site that they do not want to be developed, or that they do not want to be developed in the way described in a particular application, is not only considered but approved. That causes major headaches.

In some cases, the forums or parish councils almost have to start again with land use allocation or in the identification of sites. Furthermore, that situation undermines faith in the process. People say, "We did all this work, identified all the sites and did what the Government wanted us to do. We have put the plan in, but it has not been voted on. Nobody, particularly the local authority, seems to be paying any attention to it."

It is about certainty not only for the people who put the plan together, but for developers. If a developer knows that a plan that is about to be submitted for a referendum has a lot of weight attached to it, they might not seek planning permission for a site that is not in the neighbourhood plan, or for an inappropriate use of the site. It is about the Government giving certainty not only to communities, but to developers, so that everybody is clearer at an earlier stage in the process what weight should be attached to the neighbourhood plan.

The Minister for Housing and Planning (Gavin Barwell): Clause 2 builds on clause 1 to ensure that neighbourhood plans come into force sooner as part of the development plan for their area. It inserts a new subsection 3A into section 38 of the Planning and Compulsory Purchase Act 2004 to provide for a neighbourhood plan to become part of the development plan for that area when it is approved in the relevant referendum.

Without that change, there is a risk that neighbourhood plans might not be given sufficient consideration by decision makers in the period between the community expressing its support for the relevant plan at a referendum and the formal decision by the local planning authority to make the plan. When the neighbourhood plan provision was originally introduced, there was no fixed time period between those events. The Housing and Planning Act 2016 established an eight-week limit. The clause essentially

says that the relevant neighbourhood plan will be part of the development plan for the area immediately after a successful referendum.

The hon. Lady made two or three points and it is important to disentangle them. For some of the time she spoke about precedence, which was raised repeatedly in the evidence we received. I hope I satisfied the Committee on that point earlier when I quoted paragraph 185 of the national planning policy framework, which states:

"Once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan".

I do not think I can make it any clearer than that. Neighbourhood plans must be consistent with the relevant local plan's, in terms of the strategic framework, but once they come into force they take precedence over the relevant local plan on detailed non-strategic issues.

The hon. Lady raised, and the hon. Member for Bassetlaw expressed powerfully, the wider concern that people can put a lot of work into producing a neighbourhood plan and then find that decisions about applications in their area that are contrary to their neighbourhood plan are being approved, either by their council or by the Planning Inspectorate on appeal. Clearly that is enormously frustrating. I am not sure whether I can guarantee that it will never happen, but we should certainly seek to minimise it. I argued in response to the hon. Gentleman that clause 1 will help—I think he accepted that—but I accepted that it is not a complete answer. I promised that in the White Paper coming later this year there will be further policy measures that will go a long way towards satisfying him.

The amendment would introduce a third term—this is where my problem comes—that is about weight. I will try to clarify the position, because this is a complex area. First, let me say to the hon. Lady by way of reassurance that the Government's policy is clear that decision takers may give weight to relevant policies in emerging plans. The national planning policy framework sets out with some clarity the matters they should consider. I will read an excerpt from it, because it will help the Committee:

"From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to: the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given); the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."

In relation to a neighbourhood plan, that would imply that the greater the consistency with the strategic policies of the relevant local plan, the greater the weight that could be given.

We need to remember that the essence of our planning system, particularly when considering individual applications for development, requires choices to be made. We should not seek to alter the long-established principle that it is for the decision maker in each case to determine precisely what weight should be attributed to different material considerations. Let us take the concerns expressed by the hon. Member for Bassetlaw and imagine a hypothetical situation in which a local planning authority does not have a local plan with a five-year land supply and is well below that. There is a neighbourhood plan in place that sets out where the community thinks appropriate development should go. A decision maker would then have to look at this.

The presumption in favour of sustainable development would apply because the five-year land supply is not there, so that would be one material consideration. The neighbourhood plan would be a material consideration pointing in the opposite direction, presuming the application was for a site that was not identified in the neighbourhood plan. There may be other material considerations—the views of local people will clearly be one. The site in question may be green belt or prime agricultural land, and there may be policies in the NPPF that would be material considerations. We have to accept that, in the way our planning system works, it is for the decision maker—whether that is a council planning officer, the planning committee of the relevant council, a planning inspector or, in some of the largest applications, a Minister—to look at the different weights to be applied to those material considerations.

2.15 pm

Without referencing specific applications, which would not be appropriate, I can tell the Committee that in the three months I have been doing this job, I have had applications where a recommendation has come to me from one of my inspectors saying, "The decision should be x," and I have taken the contrary view, because the weight that the inspector has given to a particular issue is not the weight that I would give to it. It is important to say that that does not mean that the inspector made a mistake. It is for the different decision makers to weigh the evidence before them, in the same way a judge does in a court of law.

My fear about the amendment is that changing the Bill to require the Secretary of State to set out precisely the weight that should be given to neighbourhood plans in all circumstances would take away some of the vital flexibility that decision makers have. The factors that I have talked about, including how far down the road the plan has gone, and whether there is unanimity that it is a great plan and there are no objections to it—as the hon. Member for Bassetlaw said, real contention can sometimes arise about the policies in a particular plan—have to be judged on a case-by-case basis.

I hope that the hon. Member for City of Durham will withdraw the amendment. The NPPF is very clear that weight can be given to emerging plans, but I do not think that we should be setting out in detail what weight should be attached to each part of the process, with the sole exception of what we have done in clause 1. We know that when a plan has gone through an examination process, those issues have been resolved and somebody has tested conformity with national planning policy and the relevant local plan. There is therefore a much higher degree of confidence at that point in the process.

Dr Blackman-Woods: I have listened to what the Minister has to say, and I am not sure that his comments really addressed the very real concerns expressed both by those putting together neighbourhood plans and by those who might have to abide by them, in terms of the planning applications they wish to make. We can have a discussion about the degree of exactitude we might put into guidance about the weight at different stages of the neighbourhood planning process, but I would have

[Dr Blackman-Woods]

thought that it is perfectly possible for some rough idea to be put into guidance or subsequent regulations so people sitting on a planning committee understand the sort of weight they should attach in certain conditions and how the neighbourhood plan should be weighed against other considerations.

It is clear—there are lots of examples of this from across the country—that many planning committee are unsure how to give weight to a neighbourhood plan if it has not gone through a referendum and been adopted. In fact—I am sure the Minister has heard of many groups that have had this experience—neighbourhood plans are often completely ignored by planning committees, which might not even be aware that a plan has been undertaken in a particular area.

If the Minister does not want to put guidance in place, I urge him to think about how local planning authorities can be a bit clearer about what they can and cannot do with a neighbourhood plan at different stages in the process. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 2 ordered to stand part of the Bill.

Clause 3

Modification of neighbourhood development order or plan

Dr Blackman-Woods: I beg to move amendment 6, in clause 3, page 2, line 25, at end insert

"after consultation with the local area involved."

This amendment ensures that any changes to a neighbourhood development order or plan are first subject to consultation with the local area involved.

The amendment seeks to amend proposed new subsection 4A, which states:

"A local planning authority may at any time by order modify a neighbourhood development order they have made if they consider that the modification does not materially affect any planning permission granted by the order."

The Minister might say that a modification to a neighbourhood development order or plan would not in any circumstances be made without the local community that put the plan or order in place being aware of it. Again, I seek clarity from the Minister. It would help our understanding of what the clause is trying to achieve if he would explain the circumstances in which he thinks a modification would be undertaken by a local planning authority. Does he see any circumstances in which it would wish to make such a modification without having a period of consultation with the local community or at least checking whether they were not unhappy with the proposed modification?

That is an important test of the Government's commitment to localism, of which there will be a number this afternoon. As we have already mentioned, a lot of people put a great deal of effort and work into producing neighbourhood plans and, indeed, applying for and getting neighbourhood development orders. They would be really concerned if, at some whim of the local authority, their plan or development order could be modified, and indeed they might not know anything about that modification. I have sat in meetings in which people spend an afternoon on a neighbourhood planning forum arguing over the content of one paragraph in the neighbourhood plan to ensure that they get it absolutely right and that it reflects what they think is the consensus of opinion. People could spend a great deal of time putting together an evidence base and then, for some reason that the clause is not entirely clear about, seemingly the plan could be modified without them knowing anything at all about the modification or the reasons underpinning it.

It could be that we are quite wrong about that and that somewhere else it is clear that the local authority must consult and ensure that the local community is on board. While I am talking about the amount of effort that local communities put into getting the plans and orders together, they are also often done at considerable cost in time and resources. Locality makes it clear in its "Neighbourhood Plans Roadmap Guide" that

"There will be costs associated with preparing a neighbourhood plan. Estimates vary widely; from less than ten thousand pounds to several times this amount".

I certainly know that some have cost in excess of £50,000.

The point is that that is a considerable resource for local communities. Clearly, they will get some of that from the Government's support for neighbourhood planning forums and neighbourhood plans, but in a number of circumstances they will have had to raise additional sums of money. They would not want go through the whole process of raising the money and getting their plan in place only to find that, five modifications down the line, some central tenets of the plan no longer hold.

We also know that putting a neighbourhood plan together can take a long time. The average time communities appear to spend is somewhere between 18 and 24 months. I know that the Government are seeking to reduce that time with a process that is much easier and quicker and that this legislation is part of that. Nevertheless, even after the Bill is enacted it is still likely to take communities a considerable amount of time—easily a year—to get all the documentation together and go through the various stages of the process. It will also take a lot of person hours because, as I said earlier, the groups get together and have to do substantial amounts of work in order to get their various assessments and policies together.

We are all committed to neighbourhood planning and to making neighbourhood plans work, and we would not want the clause to worry neighbourhood planning forums or parish councils that, having done all of that work on their plans, carrying out the referendum and getting the plan adopted, it could simply be modified out of existence by the local planning authority. That could perhaps happen because the direction of the local plan changes, or because the authority is thinking about changing it and it does not like what is in the neighbourhood plan.

I am not entirely certain about the circumstances in which the clause would be used, so it would be helpful to hear about that from the Minister. Will he outline the circumstances in which he thinks the provisions in clause 3 will be used, and how extensive he thinks the use of those provisions will be? What assurances can he give to neighbourhood planning forums and parish councils that their neighbourhood plans will not be modified out of existence without them knowing anything about it?

Oliver Colvile (Plymouth, Sutton and Devonport) (Con): I declare an interest: I am a shareholder in a small communications company that I set up, coincidentally, with a partner who was a Labour councillor in the London Borough of Enfield. We worked very closely together on a number of planning applications and gave advice to developers on how they could get planning permission, which I have always felt very strongly is about good community consultation. That is listed in my entry in the Register of Members' Financial Interests.

I have spent about 15 or 20 years working on these kinds of issues. I am going to give some examples of where I think, with good community consultation and by involving the local community, we achieved an awful lot. The first is Sainsbury's in Nine Elms, which is now being developed. We did an enormous amount of public consultation. We were advised by the leader of the Labour-controlled council to talk to the local community, which we did. We had public exhibitions, Planning for Real weekends and everything like that. I am delighted to say that we would have got the application through within six weeks of when it was needed. The only problem was that my client failed to talk to the retailers about their planning application, so it was a story of the property department at Sainsbury's not talking to the retailers; that was an issue.

The second example, which I was very much involved in, is what is currently known as "Tesco tower", which is down on Cromwell Road near the M4 out of London. We looked with our client at developing a block of flats on top of it. It got very close at one stage. We even got to the stage of being minded to approve, but the leadership of the local authority decided that they were not happy with it because they had received a lot of concerns from local communities, which ended up stopping it. What then happened was that the director of planning in the Royal Borough, who is now working in my hon. Friend the Minister's Department, decided that he was going to do a masterplan, in which the local community was going to be very much involved.

In all those issues, the really big story was the massing and the height of developments that were taking place. On the Hoe, which is a conservation area in my constituency of Plymouth, Sutton and Devonport, an application was recently agreed for Pearson House. It did not have the support of the local community at all. It was thought to be too high, the massing was not right and it did not have any land around the outside either. Unfortunately, the council approved it. I argue that it might have ended up setting a precedent for other activities within the conservation area, so this is very important.

My concern about the amendment, if I am honest, is that it might cut across the strategic interest in the rest of the local authority, and I think that needs to be looked at.

2.30 pm

Dr Blackman-Woods: The amendment would not prevent the local planning authority from making a modification; it merely suggests that it should consult the community before doing so.

Oliver Colvile: I shall be interested to hear what the Minister has to say about that. The point I am making is that it is vital that a neighbourhood plan, with all the hard work that people do, reflects what the height and the massing should be.

Gavin Barwell: As the neighbourhood planning system matures, we need to ensure that it will be suitably flexible to respond to changes in community aspirations. It is now almost five years since the first neighbourhood plans were prepared. As we have heard, well over 200 are now in force and more than 240 have been approved in referendums. We are aware that some of the early pioneers of the system want to update their plans.

Currently, the process for updating a neighbourhood plan is the same as the process for preparing a brand new one, regardless of the scale or significance of the changes proposed. The clause on changing the area that a plan covers, and the clauses that we shall come on to, are designed to address that fundamental problem. The hon. Member for Bassetlaw is nodding. He has lots of plans in his area, so clearly he has some experience of this.

The Government therefore believe that it is important to introduce a more proportionate way of revising plans to ensure that they remain up to date. Clause 3 will achieve that by introducing two new modification processes. I think that the confusion may have arisen—it is possible, at any rate; I cannot read the mind of the hon. Member for City of Durham—because there are two different processes. I will explain them, in the hope that that will provide some reassurance.

First, a process is being introduced to allow a local authority to make minor modifications to a neighbourhood plan or an order at any time, in the same way as an authority can currently correct errors. Clause 3 does that by amending section 61M of the Town and Country Planning Act 1990. On the key point that the hon. Member for City of Durham raised, I can absolutely reassure her that a local planning authority will need the consent of the relevant neighbourhood planning group to make the modification. That is clearly an important point. Her concern was that people would put a lot of work into producing their neighbourhood plans and then councils could modify them in some way without proper consultation. I can reassure her that that would require the consent of the relevant neighbourhood planning group, whether a parish council or a neighbourhood forum.

Secondly, any proposed modification that uses that minor change procedure cannot materially affect any of the policies in the neighbourhood plan or, if we are talking about a neighbourhood development order, the planning permission granted. Although there is no consultation requirement, the local planning authority must publicise what it has done, so people will be aware that the decision has been taken.

That is an important change, because currently even the most minor modifications, such as amending the wording of supporting text to clarify what a policy means, cannot be made without going through the same process to produce a new plan, including holding a referendum, which clearly involves a significant cost at a time when I think we are all aware of the pressures on local authorities. We strongly believe that that is overly burdensome.

However, the clause also provides a means by which more significant modifications may be made to a neighbourhood plan, through a streamlined procedure. It does that by inserting new subsections into sections 38A and 38C of the Planning and Compulsory Purchase Act 2004, along with a new schedule A2. The new

[Gavin Barwell]

schedule sets out in more detail the process to be followed in bringing forward draft proposals to modify a plan.

The streamlined procedure has a stronger expectation that the independent examination of the revised proposals, which we have been discussing, will be paper-based, with hearings only in exceptional circumstances. Additionally, there is no referendum. So the examiners' recommendations will in most cases be binding. We have the minor modification procedure, the completely new plan procedure and an intermediate one, which may be used where the proposed modifications are not so significant or substantial as to change the fundamental nature of the plan but none the less are more than simple, minor modifications.

Crucially, with regard to safeguards, the local planning authority and the independent examiner will need to agree that that is the case in order for a draft plan to proceed through the streamlined procedure. In this case, we are taking powers to regulate the process. We are consulting on that, but I can say to the hon. Member for City of Durham that in the intermediate procedure our intention is that the local authority must publicise what it is doing and consult in the same way that it would for a new neighbourhood plan.

To sum up, in the case of the most minor modifications, it is the Government's contention that a full consultation of the kind we would have for the streamlined or new plan procedure is not necessary, but there is the safeguard that the relevant body that drew up the plan must give its consent to what is being done. However, if we are looking for more significant changes, although not those that would trigger a new referendum, it is important that there is some consultation.

I hope that I have provided the reassurance that the hon. Lady's probing amendment was looking for, and that my explanation has been useful in helping Members understand the two procedures and when they would be used.

Dr Blackman-Woods: Having listened to the Minister, I think that the probing amendment did its job effectively. There is now much greater clarity on exactly what the provisions of the clause mean. On the minor modification process, I take the Minister's point about a simple drafting error that can be corrected easily and perhaps without going out to full consultation, but I would still expect a process for notifying the neighbourhood planning forum or the parish council that the modification has been made or is about to be made.

Gavin Barwell: It goes further than that. The relevant neighbourhood planning body has to give its consent even for the most minor modifications, and then the wider public are notified.

Dr Blackman-Woods: That is a helpful clarification. In the second set of circumstances, I take the Minister's point that this is perhaps an intermediate measure in order to allow modifications that are a bit larger to take place and that the community would clearly be involved in that. Given the Minister's helpful clarifications, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 3 ordered to stand part of the Bill.

Schedule 1

New Schedule A2 to the Planning and Compulsory Purchase Act 2004

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

Gavin Barwell: I will not detain the Committee on the schedule, which sets out in detail the process to be followed when proposing to modify a plan. In order to respond to the amendment tabled by the hon. Member for City of Durham, I have described that process already, so I commend the schedule to the Committee.

Dr Blackman-Woods: I fully accept what the Minister says.

Question put and agreed to.

Schedule 1 accordingly agreed to.

Clause 4

Changes to neighbourhood areas etc

Dr Blackman-Woods: I beg to move amendment 7, in clause 4, page 4, line 3, at end insert

"providing the subsequent area is not smaller than a parish or town council area or local authority ward."

This amendment ensures that the size of a neighbourhood area is not smaller than a parish or town council area or local authority ward.

The Chair: With this it will be convenient to discuss amendment 8, in clause 4, page 4, line 11, at end insert—

"(6E) Modifications made to a neighbourhood area must be subject to consultation with local people."

This amendment ensures that neighbourhood areas are only changed after the consultation with local community and that changes are driven by what the community wants.

Dr Blackman-Woods: This is a probing amendment, to test the Government's thinking, if indeed there is any, on the appropriate size of a neighbourhood area— *[Laughter.]* Sorry, I did not quite mean that. The clause allows a change to be made to a neighbourhood area and outlines the process for doing that.

Some developers who are concerned about this clause have brought to our attention the question of whether there is a minimum size for a neighbourhood area. The concern raised is about a situation where three streets in a particular area have their own neighbourhood plan, while another three streets next to them have a different neighbourhood plan. Those two plans might not speak to each other or be travelling in the same direction with regard to some of the detail, yet they will both be given sufficient weight.

This is an attempt to tease out from the Minister whether he thinks there is any value in setting a limit, such as a given number of electors. The amendment says that a neighbourhood area should not be smaller than a parish or town council area or local authority ward. I am not particularly tied to the exact wording of the amendment, but we want to find out: if it is not a local authority ward or a parish area, what is it?

Gavin Barwell: I understand that this is a probing amendment, but are there any examples of existing neighbourhood plans that the Opposition feel cover too small an area?

Dr Blackman-Woods: I am not aware of any. We are trying to ensure that the provisions in this legislation will not lead to neighbourhood areas that are very, very small indeed. Of course the Minister will say, "Well, it's up to the local authority to decide whether it is an appropriate area," but the authority might come under particular pressure to agree a specific area or think it is in its interest to promote a very small area, because it will not have so many people to deal with in terms of neighbourhood planning.

We know that the whole of neighbourhood planning legislation leaves it very much up to the community to set the boundaries and to say what brings that neighbourhood together, why they think it is important that the boundaries are set where they are and what the spatial dimension is to the plan. Usually it is very obvious, because they are using village boundaries or some sort of settlement boundary, or there is something that binds that particular community together. They also have to talk, and are usually very good at looking at the community networks and informal networks that might underpin those. The physical characteristics of the neighbourhood will also come into play.

The community will decide whether it is a business area. They will talk about the natural features. There is a huge list of things that the community will look at when putting the initial application together, in terms of determining why the boundaries are really important and what binds the neighbourhood together. That is a very good thing, and I know it has led to some really interesting discussions in communities—I am sure the Minister has seen this—about what is important to them in their neighbourhood and what binds them together. That can facilitate the next stage of development: what they want their community to look like in 15 years and what they need to put into the neighbourhood plan to achieve that.

2.45 pm

It seems to us that there is nothing beyond those general characteristics to indicate to a community or neighbourhood that the area should be of a certain size. It may be that we have been lucky to date and no one has brought forward a very small area. I cannot see anything in the Bill that would prevent that from happening. That is why we tabled amendment 7. It is pretty much the same as the others in asking for greater clarity and some reassurance for people who have to deal with neighbour plans and neighbourhood planning forums.

Amendment 8 continues our discussion about modifications and changes not being made without community consultation. In clause 4, the modification is a change to the neighbourhood area. The amendment seeks to ensure that neighbourhood areas are changed only after consultation with the local community and that changes are driven only by what the community, not the local planning authority, wants.

I will not rehearse our earlier arguments about modifications to a neighbourhood plan or a neighbourhood development order, but they apply, and we want a positive and constructive dialogue with the local community should there be a boundary change. We absolutely understand the need for boundary changes. Areas may change and parish council boundaries may be redesignated; there may be a new development resulting in too many people, or there may be lots of new developments requiring a new parish area to be created. All sorts of things may happen that require initial boundaries to be changed.

We are not saying that boundaries have be set in stone and cannot be changed. That would be ridiculous. However, we want an assurance that any boundary changes will be made with the agreement of the community and, critically, that they make sense to the community and all the things that bind them together. We do not want communities to find one day that, having thought they were living in one neighbourhood plan area, the boundary has been changed.

John Mann (Bassetlaw) (Lab): Mr McCabe, I trust it is in order to make comments appropriate to clause stand part, as well as to the amendment.

The Chair *indicated assent.*

John Mann: Thank you, Mr McCabe. That is helpful, because the amendment probes the critical issue—this is not a criticism of the Government—of the real potential for inventiveness for neighbourhood planning in urban areas and occasionally in rural areas. I will give some illustrations. So far, the model has been community orientated and based on existing structures. In my area, we have 22 plans under way. Only two parishes do not have one and I am going to those parishes to encourage them to move down this path quickly.

Parish councils and villages have been beneficiaries from successive Governments. They get more lottery money for village halls and village sports facilities because they are defined areas and it is much easier to make an argument. There is a danger that neighbourhood planning and neighbourhood development plans will reinforce that further. One could argue that the inventive parish councils will, for example, build in areas for future recreational development that might not already exist. That would be a smart move. In other words, the parish council might say, "This piece of land will be for a future playground for children we don't yet have."

Without doubt, having got that through, bids for money would be more successful, as one would be part-way through the planning process, even for larger structures that might require detailed planning consent—of course, it could also apply to change of use of land—such as village halls and that kind of facility. We have precisely that situation in Ranskill, a parish in my area, where the community is expanding. It is quite a big village—I am meeting people from there in the next 48 hours—but it does not have a village hall. The people of Ranskill are more than happy to have more housing, if it is in the right place, and to use planning gain to fund what they have long wanted and not managed to achieve. They would see this as rather assisting them, if it goes the right way. Other issues, which we dealt with previously, are clouding that, with developers jumping the gun.

Oliver Colvile: Will the hon. Gentleman give way?

John Mann: I will, but it might be more helpful if I make a little progress first—the hon. Gentleman could make an even more succinct point later. I will come back to him, but I will first expand on what I am saying about opportunities with two examples.

[John Mann]

I will start with a rural example—not an abstract example, but the example of a mountain: Blencathra in the lake district. Plenty of effort is being made to save Blencathra mountain for the nation. There are many byways, roads and properties around Blencathra. In my view, it would make perfect sense, should local people wish it, to designate the mountain and its surrounds as the neighbourhood.

Given the size and nature of mountains, that neighbourhood would probably cross constituency, council and parish boundaries—parishes do not go around mountains, but take segments of them. However, for housing, the amenity, facilities, walking routes and highways, the key determining factor is their relationship to the mountain. That would be the case for many other examples in the lake district. Neighbourhood planning on Blencathra would do something fairly revolutionary, because it would take the whole of the amenity under the democratic control of the people living there, because they are the ones defining things. That would be very powerful indeed.

Secondly, at the priory church in Worksop, working with the Prince's Foundation for Building Community, I have proposed that the area defined historically by the priory church as its immediate parish—not the current parish boundaries, which are all over the place, because churches like to increase their congregations, but the original boundary—should be the boundary of the neighbourhood plan. That is how we are proceeding. Even better, part of that boundary has been created in more modern times—300 years ago—by the canal, so it is a natural boundary. We have a grand, huge church, once the largest in the world, which defined the buildings around the community, and we now have the ability to reset the church building for the community, the surrounding housing and future housing development. We are also taking the worst bit of the Chesterfield canal and reopening it.

What should be done is fairly obvious. The Prince's Foundation has done the masterplan, which has been created, and the community is engaged—what the community is interested in are things such as antisocial behaviour, but from a planning point of view that means where pubs are, their opening hours, or where people walk, drive and park. They are very happy for housing to go on brownfield sites—blighted spaces—of which there are two. They would be very happy to have a car park on one of those, which is a former gasworks site, where housing probably could not go. These are all great opportunities.

There is no controversy about that with the population; they are after other things. That is a community of 200 or 300 houses. It is tiny, but its impact on the centre of Worksop and the amenity for tens of thousands of people is huge, because the other part of the community is bounded by what one would describe as the park, although that is not the term we use in Worksop. I would like to turn it into a park and give it more space; indeed, one of the conclusions of the neighbourhood planning might be that we define a proper park boundary.

This is hugely exciting stuff for the residents, who are both tenants and home occupiers. If they are occupiers, their property values will go up, so they will be quite happy. Antisocial behaviour undoubtedly will go down because their quality of life will go up. New housing will be at a premium, because it will be near a canal and a park in a beautiful, well-designed area. Everybody is a winner. It is a classic case of where neighbourhood planning would open up an area in which the local authority has never once proposed housing, because of land ownership and because there has been no minor master planning.

Oliver Colvile: I am a rather unique Conservative Member, in that I represent a totally inner-city seat outside London, as the hon. Gentleman may know. I only have the Ponderosa pony sanctuary—a rather muddy meadow—in my constituency. Does he not think there is an argument for urban conurbations such as mine to also have their own parish councils? It should not just be left to rural communities.

John Mann: There is such an argument, but in a small community with 200 or 300 houses, a parish council may be too grandiose. In that example, I would like to see the church managing and leading the development and consultation process, because that is the fixed community entity. I could give other examples in my area where the church building can be redefined as the church at the core of the community, precisely because the building was built as a community venue. Of the great cathedrals, Lincoln would be a great example, but the best of all is St Paul's. If this was available 30 or 40 years ago, one could imagine that the buildings around the great St Paul's cathedral would be more in tune with it, as opposed to what has been built haphazardly and chaotically around it. That is where smaller areas could be very empowered. I will give another example *[Interruption.]* The Whips are always keen to put Members on Committees and then try to restrict important debate.

This is fundamental to the Minister's thinking and to his civil servants' thinking. Planning is being seen in terms of housing and structures, with an additional side of highways, which have a major and fundamental role. The Prince's Foundation work was done by Ben Bolgar, the top person there, and Fred Taggart, who are two brilliant planners—real planners, not just planners for real. They looked at where people historically moved and walked, which is what defines a community.

The walkways and jitties that are a problem could be closed off. That could be specified in a very localised plan: "We don't want a walkway here. Close that off and get rid of it, because there's antisocial behaviour. We want people to walk this way, drive that way and park here rather than there." One gets into real localism, which never in a local plan would be possible. One could not in a local plan specify, "This little jitty will be closed down and we'll create a walkway here. This bit should be grassed to allow more access to the canal." That is far too much minutiae.

3 pm

However, local people are hugely engaged in how that would operate. Those precise, minor details are actually the major details for them because they define their communities. If the price of that is to have to spend time saying, "Also, here's the kind of housing we would like in the spare spaces that are available; here's where we don't want them and here's where we do," local people are more than happy to do it. Indeed, they propose more housing than would ever have been proposed

before because they can work out the geometry and geography of the local area and the blights that should be resolved.

That is why I appeal to the Minister, in the context of amendment 7, to go more and more small scale and to actually think through how, even with a neighbourhood plan in place in a larger conurbation, it should be logical to take that plan as a basis for micro-ising it for things like walkways and adding further detail, so that people have some control over their communities. When there is planning gain, they can then say to developers, "No, your cycleway will go here because it fits the community," or, "There will be a cycleway because the community needs it, and you will have a footpath because it suits pensioners and young people and the kids going on their route to school."

School routes—this is the final thing I will say—ought to be part of the local planning process and could be built in. There is nothing to stop it being built into the neighbourhood planning process. That really would be powerful, and I hope the Minister will be able to demonstrate that he is more than open to that, and that he is fully engaged in thinking, through with his brilliant officials, how this could be best and most quickly done.

Gavin Barwell: Let me start by saying the hon. Gentleman knows how to push his agenda effectively with officials and with the Minister. I thank the hon. Member for City of Durham for tabling these probing amendments to clause 4. Before I address the amendments I will make some general remarks about clause 4, which aims to ensure that neighbourhood planning is suitably flexible to respond to changes in community aspirations.

Currently, there is complete agreement that it is not possible to modify a neighbourhood area if that would result in a neighbourhood plan or an order covering more than one neighbourhood area or more than one plan in one area. The practical effect of that is that, once a neighbourhood plan is in place, it may not be possible to make a new neighbourhood plan for an amended area without first entirely revoking the existing plan. That would leave that community without the plan it had worked so hard to produce until the new one came into force. Clause 4 amends sections 61F, 61G and 61J of the Town and Country Planning Act 1990, and sections 38A, 38B and 38C of the Planning and Compulsory Purchase Act 2004 to change the procedure for modifying the boundary of a neighbourhood area.

Clause 4 will, for example, allow parish councils that had previously worked together to produce a multi-parish neighbourhood plan to apply for the neighbourhood area to be amended so that they can prepare a plan just for their individual parishes in the future. Equally, it would allow neighbouring forums that had previously prepared their own plans to apply for the area to be amended, so that they could come together to write a plan for both of those areas.

I reassure the hon. Member for City of Durham that I fully understand her concern in relation to both amendments. The Government have considered whether a designated neighbourhood area should follow ward boundaries. We sought views and consulted on that question as part of a technical consultation on our planning reforms in July 2014. The answer to that consultation was, almost unanimously, no, they should not. We, and nearly everybody who responded, believe that it is necessary, first that there is flexibility for communities to ensure that the area plan reflects the aspirations of that community, and secondly that the local planning authority has a positive and constructive dialogue, in order to arrive at a final decision for the area.

I represent a constituency within a London borough. Mr McCabe, you are probably the best example of this: you represent a constituency in the City of Birmingham. I think I am right in saying that your authority has the largest wards of any local authority in England, and some of those wards will cover more than one community. I can certainly think of examples from my own constituency. The hon. Member for Bassetlaw earlier mentioned the Shirley ward. Most of that ward includes an area in which most people would think of themselves as living in Spring Park, but there is also a separate development that used to be a large children's home run by Lambeth Council—where, sadly, some shocking abuse took place—called Shirley Oaks. That is a separate and distinct community. If the people of Shirley Oaks wanted to produce a neighbourhood plan for their area, we should not be legislating to say that they cannot do that.

The hon. Member for Bassetlaw made his case powerfully from his own experience. So far in this Committee, I find myself agreeing with him on a number of points. If his objective was to stop being appointed to future Bill Committees, he is probably doing very well, but we can tell from the passion with which he speaks that he really believes in what he says. It is great to hear about the number of neighbourhood plans in his area. He has put it on the record that he is on his way to the two remaining parishes that do not have one, and nothing could do more to drive progress than the prospect of his imminent arrival to push the case. He raises a powerful point.

John Mann: Just a flippant point: the way that we got residents to come to the priory church initial meeting was with a letter from the MP, using parliamentary envelopes and headed paper. That got far more people than a letter from a council would have done.

Gavin Barwell: I was gently teasing the hon. Gentleman. I wish more Members of this House had done what he has. He has clearly put in a huge amount of work in his constituency to encourage people to take up the reform from the Localism Act 2011. It is fantastic that he has done so and it is great to have him on the Committee as such a powerful champion of the process.

There is a really gritty issue here, which is that when asked, "Where do you live? What community are you part of?" people do not necessarily say what the local council might expect them to. In some cases—for example, if people are part of a village with a distinct identity—the village will be the right unit of identity. However, in urban areas—the hon. Member for Bassetlaw has given some interesting examples of rural areas—there may be other creative ways of thinking and bringing people together.

I very much share the hon. Gentleman's view, which is that we should not prescribe in legislation the maximum or minimum size of the unit. We should let a thousand flowers bloom and see what people think of the appropriate units. Earlier, I asked the hon. Member for City of Durham for examples of neighbourhood areas that cover too small an area, and I do not think there is any evidence that things are happening at such a micro level

[Gavin Barwell]

as to cause a problem. She is quite rightly probing and asking the questions, but it is clear that the view of the Committee is that we should allow for the current flexibility.

On amendment 8, which is on the consultation arrangements required when a neighbourhood area is changed, I am sure we can all agree that consultation with the wider community is crucial. I assure hon. Members that there is already provision for that to happen where a designated neighbourhood area is amended and a neighbourhood plan is already in force. It is currently the case that where all or part of a neighbourhood area has already been designated, the local planning authority must publish and consult on any modifications to that area for at least six weeks. If the hon. Member for City of Durham would like to add to her reading list, that is in regulation 6(c) of the Neighbourhood Planning (General) Regulations 2012. That should keep her busy this evening. Exactly the same regulations will apply to the new provisions.

The clause will ensure that, as neighbourhood planning continues to mature, the system is suitably flexible to respond to changes in people's aspirations when it comes to the nature of the geographic area covered by the plan. It will also ensure—the hon. Member for City of Durham was quite right to raise the point—that any proposed changes are properly consulted on, and that the public have the chance to feed into the process. I ask the hon. Lady to withdraw the amendment, and I hope that clause 4 stands part of the Bill.

Dr Blackman-Woods: I have listened carefully to the Minister, and he has given us the reassurances we sought. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 4 ordered to stand part of the Bill.

Clause 5

Assistance in connection with neighbourhood planning

Dr Blackman-Woods: I beg to move amendment 1, in clause 5, page 4, line 40, leave out "as follows" and insert

"in accordance with subsections (2) to (4)".

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

Amendment 9, in clause 5, page 5, line 9, at end insert—

"(c) reasonable payments made by local authorities for the purpose set out in paragraph (a) and (b) shall be recovered from the Secretary of State's department."

This amendment allows for the full recovery of costs of assisting with the development of a neighbourhood plan to be recovered to the local authority.

Amendment 2, in clause 5, page 5, line 19, after subsection (3) insert—

"(4) Section 120 of the Localism Act 2011 (Financial assistance in relation to neighbourhood planning) is amended as follows—

(a) at the end of subsection (2)(a) leave out ', and' and insert 'subject to the condition that such assistance is prioritised for bodies or persons in deprived communities, and',

(b) after subsection (3)(b), insert—

'(ba) a deprived community is defined as being any area which is among the 20 per cent most deprived Lower Layer Super Output Areas according to the most recently published English Indices of Deprivation,

(bb) prioritised financial assistance is defined to mean that no less than 50 per cent of the total value of the financial assistance provided under this section is provided to deprived communities.'"

Amendment 10, in clause 5, page 5, line 19, at the end insert—

"(4) To support Neighbourhood Plans, all councils should have a Local Development Plan in place by December 2017."

This amendment ensures that Local Plans are in place so Neighbourhood Plans can be made in line with the strategic aims of Local Plans.

New clause 2—*Incentives to create neighbourhood development plans*—

(1) Areas with an adopted neighbourhood development plan in place should benefit from a locally agreed share in the New Homes Bonus.

(2) Areas with an adopted neighbourhood development plan should have access to enhanced Community Infrastructure Levy payments, and all councils shall have a Community Infrastructure Levy scheme in place by 2017.

This new clause would create incentives to encourage communities to produce neighbourhood development plans.

Dr Blackman-Woods: I want to speak to amendments 1 and 2 and the other amendments in the group. I will start with amendment 9, which seeks to ensure that there is full recovery of costs for assisting with the development of the neighbourhood plan, with the costs recovered by the local authority. One thing came through clearly from the evidence the Committee received on Tuesday: many voices were all saying—indeed the Minister acknowledged this—that planning departments are massively under-resourced.

I was keen to table the amendment because we are anxious that neighbourhood planning is properly resourced. That is really important. However, we are mindful of the huge demands placed on our local authorities at the moment, especially at a time of cuts. I hope the Minister feels able to adopt the amendment, or at least that he will make it clear to the Committee how the additional cost of supporting neighbourhood planning forums and parish councils in drawing up their neighbourhood plans will be met.

The Minister will have heard the Royal Town Planning Institute, Local Government Association, Town and Country Planning Association and British Property Federation all point to the fact that, because of the success of neighbourhood plans, there are now greater expectations in our local communities that they will not only be able to draw up neighbourhood plans but have the resources to do so in a meaningful way that allows them to include much of the community and produce a quality document that really reflects what the community wants to achieve. They therefore want it to reflect the high aspirations of the community.

We do not want to see any area being held back because it does not get the resources it needs. The local authority is only able to give a small amount of money

to support the exercise, so we want to hear from the Minister a reiteration of what he said in Committee on Tuesday—recognition that resourcing of planning departments is an issue. What can he do to assist local authorities in meeting their obligations under the clause to support neighbourhood plans?

The Minister will know that the situation for planning departments has got so much worse since 2010. More than half think that under-resourcing will present a significant challenge to their ability to undertake their functions in the next year. On Tuesday, Richard Blyth from RTPI told the Committee:

"We have completed a survey of local planning authorities in north-west England that shows that between 2010 and 2015 there was a fall of 37% in planning policy staff. These are the staff who tend to get asked not only to provide the support for neighbourhood plans, but are under a deadline of completing a local plan by the end of March 2017."

He went on to say:

"I am a bit concerned that legislation is being used in a way that may not be possible to support in terms of the resources available to local planning authorities."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 66, Q118.]

We know the reason for that: it is because many of our councils are facing huge cuts. We heard from Locality, again on Tuesday, that,

"local planning authorities have been stripped of funding and they have reduced huge amounts"—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 51, Q92.]

of their very highly skilled staff—often losing them to the private sector, which is able to provide them with not only higher salaries but, in the current environment, more secure jobs.

3.15 pm

Spending on planning by local authorities has almost halved from £2.2 billion in 2010 to £1.2 billion last year. Given the huge under-resourcing of local planning departments, where does the Minister think planning departments will find the resources to support neighbourhood planning groups and parish councils in drawing up neighbourhood plans? As we have heard, about 200 plans have been approved, but about 2,000 are in process, and I think there will be more. This issue is not just affecting a handful of authorities; it is affecting most local authorities and it is incredibly serious. I hope the Minister can say something this afternoon to give some reassurance, not only to local government that it will get resources from central Government to support neighbourhood planning, but critically, for the communities themselves, so that they will know that they will be properly resourced to draw up neighbourhood plans.

I am going to move on swiftly to amendment 2. We touched on this very important amendment in the Committee's deliberations this morning. It is about how we ensure that neighbourhood areas, neighbourhood forums and parish councils that are in more disadvantaged areas of the country are able to have the necessary resources to draw up a neighbourhood plan. The amendment seeks to ensure that they are prioritised for financial assistance, so that,

"no less than 50 per cent of the total value of the financial assistance provided under this"

clause

"is provided to deprived"

neighbourhoods.

I did not hear anything in what the Minister said on Tuesday, or indeed this morning, that demonstrated that the Government recognise that, in a time of limited resources, some prioritisation might need to be given to certain areas, in particular where they would find it difficult to raise money themselves. We know from work that has been undertaken so far in evaluating neighbourhood planning—I quote a study carried out by the Centre for Urban Development and Environmental Management at Leeds Met University—that neighbourhood planning appears to be for

"those with most resources and to increase their privileged access to decision-making while excluding still further those groups already marginalised by the uneven development".

It said that there is an

"uneven spread of plans, and the unequal distribution of the resources needed to help neighbourhoods draw them up".

This is a really serious issue. If the Government want all areas of the country to have the ability to draw up a neighbourhood plan and have a say in what happens to their areas, we need to see some prioritisation in the system of allocating resources, so that it recognises disadvantaged areas. If the Minister does not wish to go down that route, I suggest that he does need to ensure that there are enough resources available for all areas.

Amendment 10 seeks to tease out whether the Minister thinks local councils will have a development plan in place by next year, and what he thinks he can do, perhaps using this legislation, to require a plan to be put in place. We thought that a reasonable date might be December 2017. I know that the Government have talked about March 2017, but does he have a proposal in mind? Especially given the conversation this morning about the importance of local councils having local plans in place, what is he intending to do? Some Government amendments on local plan-making have been tabled, and it will be interesting to hear whether the Minister thinks that a date is necessary, whether in the Bill or the supporting legislation, so that we can all be confident that those authorities that are being slow in producing a neighbourhood plan get on with the task.

New clause 2 is intended to make some suggestions, if the Minister will allow me, of how he might move some money to neighbourhood planning forums or parish councils: he could give them a share of the new homes bonus or a higher share of the community infrastructure levy. I look forward to hearing what he has to say.

John Mann: It is not just middle-class areas that have created such plans. The biggest one in my area is for Harworth, which until fairly recently was one of the last working collieries in the country. It has a huge working-class community. Its neighbourhood plan has been adopted by referendum and agreed by the district council, and it involves 1,500 new allocated housing spaces and vast amounts of new land allocated for employment. The community, knowing and demanding what it wants, has got on with it. So it is feasible to do that, and to do it quickly and in all communities.

I have two questions for the Minister. First, the reason why Harworth has been able to create a plan is that it has a part-time town clerk, so it had a bureaucratic system in place. In other areas in my constituency and in neighbouring constituencies, lots of places do not need to be creating bureaucratic structures. The last

[John Mann]

thing that most of my communities want is more paid public servants who do not live in the area , but would be going in and telling them what to do. All they want is power, so how will we stop bureaucracies building up on the back of neighbourhood planning?

Secondly, and complementary to the first question, instead of simply doling out money, which would suggest employment and other contracts, requiring institutions to deal with that, what are the prospects for the secondment of expertise? I have suggested that the Canal and River Trust could second a planner to assist the process in my area. The ability to second people in with the technical expertise to assist communities, with no pretence that those people are living or staying in the community, would empower neighbourhoods and have a dramatic positive impact, allowing other former mining communities in my area to repeat what Harworth has done.

Oliver Colvile: May I make one small point to the hon. Gentleman? I have a university in my constituency that has a planning school. Perhaps something to encourage is co-opting some of those students to help people seeking to develop neighbourhood plans.

John Mann: We would be more than happy to have students and professors from Plymouth, although I suspect Sheffield might be a more realistic scenario, but on exactly the same logic—the hon. Gentleman makes a good point.

I put it to the Minister that secondment rather than cash could rapidly lead to positive results. Those communities are far more likely to say, "We want employment land. We want more housing. We want the petrol stations and supermarkets we do not have." In my experience, working-class communities are far less nimby than middle-class communities. They want what middle-class communities have taken for granted—albeit they prefer to drive a little distance to get to them—and they will demand them on their doorstep. This is great untapped potential for the country and empowerment is the issue. Does the Minister agree, and how will he help?

Gavin Barwell: I thank hon. Members for tabling the amendments, which provide an opportunity to discuss the important matters of the advice, assistance and resources available to communities and local planning authorities in supporting their take-up of neighbourhood planning. Before I respond to individual amendments and if you agree, Mr McCabe, I will say a few words about why we are introducing the measures in clause 5.

We believe that the clause will ensure that when communities consider whether to prepare a neighbourhood plan or order, they can make the decision with a full range of advice and assistance available to them. We believe that will assist in building the positive and constructive relationship between a local planning authority and the relevant local authority that is necessary to make neighbourhood planning work.

Amendment 1 simply facilitates amendment 2, which I will consider shortly. I will start with amendment 9, as the hon. Member for City of Durham did. I appreciate the desire to ensure that adequate resources are available to the relevant local council. We believe the amendment is unnecessary because local planning authorities can already claim funding for their duties in relation to neighbourhood planning. We will obviously continue to review the costs incurred by councils in delivering neighbourhood plans and these will change as the take-up of neighbourhood planning increases and local authorities, local communities and others become more familiar with the process.

It is probably worth putting on the record what the current arrangements are. Local authorities receive £5,000 for each of the first five neighbourhood areas they designate and £5,000 for each of the first five neighbourhood forums they designate. They then receive £20,000 for every single neighbourhood plan when a referendum date has been set. The idea is that there is some initial pump-priming for the first five to 10 times they deal with the process, but also a set amount of money because of the costs involved in examination and then in holding a referendum.

The hon. Lady made a wider point about resourcing planning departments and was keen that I reiterate what I said in the evidence session. I am happy to do that. I recognise absolutely that there is an issue. Reflecting back on the evidence that was given to us, I respectfully suggest to her that I did not hear a lot of evidence that the Government were not properly funding the specific burden of organising neighbourhood planning. I heard a lot of evidence that in more general terms planning departments are underfunded and the Government need to look at the level of planning fees being charged.

Dr Blackman-Woods: The Minister is absolutely right, but people made the point about resourcing because of the specific obligation in the Bill for local authorities to support neighbourhood plans.

Gavin Barwell: I respectfully argue that the sums of money that local councils are having to spend on neighbourhood planning constitute a very small share of their overall planning departments. The fundamental issue, which I absolutely take on board, is the level of fees that planning departments are able to charge to cover their costs. I said during the evidence session—I am happy to repeat it now—that it has struck me during the three months I have been doing this job that whereas on many issues conflicting opinions are expressed to me by different people in the housing and planning world, on this issue there is unanimity. Developers and council planning departments alike say that there is an issue.

John Mann: There is not unanimity everywhere because land prices and build prices are dramatically different in different parts of the country. We see that even more starkly with prefabricated housing. The proportionate cost for someone who sells a house for £600,000 in London, which would be a tiny one, or £600,000 in an area like mine, which would be rather a large house, is very different. There is a danger that if the planning fees for cheap, affordable housing are too high, that will discourage self-build and small developers.

3.30 pm

Gavin Barwell: We can always rely on the hon. Gentleman to shatter unanimity when it is in danger of breaking out. He makes a fair point. The cost of building, say, five new homes in his constituency will be lower than the cost of building five new homes in the City of

Westminster. He is quite right to sound the alarm that we should not allow fees to go too high, but I suspect that if I spoke even to developers and the planning department in his own patch, they would say there is still an issue in terms of financing.

The hon. Gentleman did not say this, but the point is relevant. We tend to hear from developers, and we have to bear in mind that these fees are also paid by householders when they make applications to extend their properties or something like that. The voices we tend to hear are those of the large developers, but these fees are paid by others. None the less, the hon. Lady asked me to reiterate that I accept there is a problem, and I absolutely do. The Government have consulted on this issue, and the White Paper will contain our response. I think I have given a pretty good steer as to where I want to go.

I want to make a slightly partisan but important point. While I entirely accept the pressures that planning departments and, indeed, councils in general are under, it is important to note that despite the difficult period they have been through, they have had huge successes in driving up performance. I will give the Committee some figures. When the coalition Government came to power, 17% of councils had a local plan. As of this September, the figure was 72%. In the second quarter of this year, in the most recent figures available, 83% of major planning applications were decided within the time limit, which is the highest ever performance on record. In the year up to 30 June, our planning system gave planning permission for 277,000 homes. That is the highest ever figure on record.

I pay tribute to local authority planning departments. Despite the financial restrictions they have been under, they have raised their game significantly. I gently tease the Labour leader of my local council about this, because he flip-flops between press releases saying that the Government have financially crippled him and ones that boast about how well the council is performing. While I do not in any way underestimate the difficulties local councils have had, when this period is looked back on, it will be seen as one where public services have raised their game, despite the restrictions on resources.

John Mann *rose—*

Gavin Barwell: I have goaded the hon. Gentleman, so I have to allow him to intervene.

John Mann: The Minister cannot get away with that, because we all know that technology and the Planning Portal have totally transformed the speed of planning, very effectively. It is technology and the portal that have done this, not the Government. We do not care, but they should not take credit for things that they have not done.

Gavin Barwell: It is a range of things. Technology certainly plays a part. I also observe that the designation regime introduced by the coalition Government has played a part. I do not want to go on too long, because this is not directly relevant to the point we are considering. However, I genuinely believe that when we look back on this period—this is not all down to the Government, if that makes it easier for the hon. Gentleman to accept—we will say that despite the financial restrictions public services were under, public servants have done an amazing job of improving the services they provide. That is the point I wanted to make.

I welcome the intent of amendment 2, but I cannot agree that it is necessary. I hope I can reassure Committee members that even in these times of tight public finances, we are supporting neighbourhood planning groups. We have made £22.5 million available to do that. More than 1,500 payments have been made to date. Since 1 April this year, all groups can apply for a grant of up to £9,000. We are providing additional support to priority areas, which include more deprived areas and those with the highest housing growth. Communities that fall within those priority groups can apply for up to £15,000 and can also access technical planning support.

I agree with the hon. Member for Bassetlaw—this is becoming a worrying trend for both of us—that this is not just about money. It is also about having good advice and assistance. We have a national network at the moment of 132 neighbourhood planning champions, who are there to provide exactly that kind of advice and assistance. While I understand what the amendment is trying to do, which is quite rightly to say that thus far neighbourhood planning has been adopted mainly in more rural parts of the country and that we need to ensure that it is also well used in urban and more deprived and more transient communities—there is no argument there—I am not sure whether saying 50% of the money has to go to such areas is right, because by definition it is a demand-led budget.

I want to encourage people from all around the country to set up groups and ensure that funding is there to support them. If it helps the hon. Member for City of Durham, I assure her that if we ever get to a point where the budget is running out because there are so many applications, I will be the first person knocking on the Treasury's door to ensure that there is extra support. However, I think if we passed a law to say that 50% must go to these places and 50% to those, we could run the risk that some people would run out of money when the other pot had not been used. That does not seem to be a logical way to deal with the issue.

I completely understand the aspiration behind amendment 10. We agree that in order to provide clarity to neighbourhood planning groups about the context within which they prepare their plans all areas should have a local plan. In the evidence session and on numerous other occasions I have spoken strongly about the importance I attach to having local plans in place. If the Committee will permit me for a minute, let me reiterate the main point. The planning applications that tend to come across my desk are nearly all speculative applications where essentially the local planning authority has not had a local plan in place with a five-year land supply. Developers have then come in and picked the sites that they want to build on—those are not the aspirations of the local community but where the developers want to see development go—and things escalate and end up on my desk. I want to remove all that unnecessary conflict from our planning system and the way to do that is to ensure that we have complete coverage in place.

I appreciate that again this is a probing amendment so I will not be too critical, but, rather than accepting an amendment that asserts that something should happen by this timescale, we have tabled a series of amendments that seek to advance that agenda. I also want to make plan making much quicker and make it much easier for planning authorities to update their plans.

[Gavin Barwell]

The hon. Member for Bassetlaw has previously spoken about—he mentioned it today—his frustration at the delay when the coalition Government changed the national planning framework. Actually, I think we were quite right to do that because we needed to ensure that when one council does not meet its housing need, those houses do not disappear from the system but are spread out in surrounding authorities. He is, however, quite right to say that because the process is so slow at the moment, that imposes a big delay when that happens. Therefore it is important both to make sure that we have plans in place and try to make the process quicker so that when they need updating—because either Government policy changes or the facts on the ground change—that can be done much more quickly.

I do not want to labour the point, because I know the amendment is a probing one, but its wording mentions just having a plan in place. We would all probably agree that we actually need an up-to-date plan that takes account of the latest household projections and an accurate assessment of housing needs. A lot of authorities currently have a plan, but not a plan that is based in any way on the latest information about what the area requires. I hope that I have reassured the hon. Member for City of Durham on the underlying issue, even if we disagree on the amendment.

Finally, I turn to the interesting issue in new clause 2, which I am grateful to the hon. Lady for raising. We are looking at the matter in general terms at the moment. We have always been clear that we would like to see the new homes bonus benefiting communities that support development, such as those that produce neighbourhood plans, and we strongly encourage local authorities to allocate funding from the new homes bonus in that way. Indeed, it is already possible for councils and areas where a neighbourhood plan is in place to reach agreement in exactly the way she suggests in her new clause.

With regard to the second part of the new clause and the community infrastructure levy, communities where a neighbourhood plan or order is in force receive 25% of the CIL arising from development in their area, whereas the figure for communities without a neighbourhood plan is only 15%, so there is already a key incentive. Three questions are posed by the new clause. First, should we actually legislate to require something similar in relation to the new homes bonus? Secondly, should we raise those percentages in relation to CIL? Thirdly, should we force everybody to have a CIL? I will take those in turn.

On the first question, that is an interesting idea. I hope that the hon. Lady will allow me to reflect on that some more in the White Paper. The Prime Minister is very interested in ensuring that communities that go for growth are properly rewarded, so that people feel that if their community accepts more housing, their quality of life improves, rather than them finding it harder to get a GP appointment or to get a child into the local school, or finding their train more overcrowded. I am not sure that we should legislate in the way she suggests, but I am very interested in the underlying grain of the idea.

On CIL percentages, there is a balance that we need to be wary of. We can take Bassetlaw as an example of a particular area with a local plan and think about what we want to do with the money that the state captures out of land uplift. We certainly want to do things in that local community, but we might also need to make sure that major bits of infrastructure across the district happen. If we put too much into one local area, we will lose the money that might pay for the new junction on the dual carriageway, or a spur off the main roundabout, or whatever the right project is. There is a tension that we need to recognise.

We probably also need to recognise that it is not necessarily in the interests of every single local authority to have a community infrastructure levy. One could at least think of circumstances in which land values were sufficiently low and development therefore marginal in terms of viability. Introducing a CIL might then push crucial regeneration projects, which would otherwise have been viable, and make them non-viable. I am not sure that forcing every local council to introduce a CIL, if they judge that to do so would not be in the best interests of their area, is the right thing to do.

In summary, the hon. Lady is quite right to raise all those questions. They are at the heart of the debate about what we need to do to ensure that communities are incentivised to go for growth, but I hope that I have pointed out some of the points of detail as to why we do not want to accept the amendment.

Dr Blackman-Woods: I have heard what the Minister has said, and we obviously look forward to seeing what he has to say in the White Paper about resourcing planning departments. We will closely monitor the budget for neighbourhood planning to ensure that it goes to all areas that need it. I look forward to seeing what he comes back with regarding the new homes bonus and CIL. It is important that he keeps what is happening with deprived areas on his agenda, so that everything is done to support their bringing forward a neighbourhood plan. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Blackman-Woods: I beg to move amendment 13, in clause 5, page 5, line 6, at end insert—

"(2BA) Such statements of community involvement must include a right for members of the community to be heard."

This amendment would give local people and communities a statutory right to be heard.

The Chair: With this it will be convenient to discuss amendment 14, in clause 5, page 5, line 6, at end insert—

'(2BA) Such statements of community involvement shall include measures to enable local parish councils to be set up in a streamlined and speedy manner."

This amendment would make it easier for new parish and town councils to be formed.

Dr Blackman-Woods: The amendment is straightforward. We all know that the National Association of Local Councils has been calling for this for some time. It said in evidence:

"We are calling for a right to be heard, or a right of appeal, so that where decisions are taken contrary to a neighbourhood plan and a local plan, people may have some reference to the Secretary of State or Minister to take a final view".—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 44, Q73.]

That, in essence, is what the amendment asks for. I will be interested to hear what the Minister has to say.

Amendment 14 seeks to make it easier for a community to set up a local parish council. We know that areas that have a parish council are much more likely to bring forward a neighbourhood plan. One way of facilitating neighbourhood plans is to ensure that it is easier to bring forward parish councils. I look forward to hearing what the Minister has to say.

Gavin Barwell: Amendment 13 raises some interesting questions. Communities already have a right to be heard in the planning system in lots of ways. I can run through some of them. Local people have the chance to have their say as local plans and neighbourhood plans are developed, when individual planning applications come forward and if a planning application is turned down and there is an appeal, and they can call for applications to be called in by Ministers. I think that the amendment is probing, because its wording is generic and does not define what the right to be heard is, although I guess that is essentially what the hon. Lady was referring to.

The Government's view is that there is no need to change the law in this regard. Most of the concerns of the NALC and others—the hon. Member for Bassetlaw has expressed them powerfully—are partially addressed by clause 1, and the policy changes in the White Paper that we want to make will also help significantly in that regard. The other powers talked about here—for example, the power to ask me to call applications in—already exist. I am reluctant to use those powers too frequently, because my starting point is that the planning system should be locally driven. However, if there are planning applications that I think raise issues of national importance about the way national policy is playing out on the ground, I am happy to call them in. In the three months that I have been doing this job, I have called in a couple of applications where I felt a decision had been taken that was contrary to a neighbourhood plan and I wanted to look at the issues myself. I think that the fundamental issues that the amendment probes are already in the system or will be addressed by the policy changes in the White Paper.

Amendment 14 was the amendment that most interested me. I do not agree with putting it into law, but I agree with the fundamental idea behind it. I think that the hon. Member for City of Durham is saying that we may want to tell people in a statement of community involvement how to go about setting up a parish council, because that is clearly one of the ways in which they could drive a neighbourhood plan. If I was writing a statement of community involvement, I would absolutely think it appropriate to put that in it, but I am not sure that we want to get into the business of writing into statute what the content of statements of community involvement should be. Indeed, when we come to clause 6, I will address why the Government do not want to get into the business of saying what is a good or bad statement of community involvement. We have to trust local councils to set that information out. If the hon. Lady is reassured by me saying that that is the kind of information that I would expect to see in such statements, I am happy to put that on the record.

Dr Blackman-Woods: Yes, I did find that reassuring. With amendment 14, we were seeking to ensure that communities knew how to set up a parish council and that that process was made as easy as possible. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 5 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Jackie Doyle-Price.)*

3.47 pm

Adjourned till Tuesday 25 October at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

NPB 05 Henry Peterson OBE, Chair of St Quintin and Woodlands Neighbourhood Forum

NPB 06 Mike Shields

NPB 07 DCLG (letter from the Minister)

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NEIGHBOURHOOD PLANNING BILL

Fifth Sitting

Tuesday 25 October 2016

(Morning)

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No proofs can be supplied. Corrections that Members suggest for the final version of the report 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 29 October 2016

The Committee consisted of the following Members:

Chairs: † Mr Peter Bone, Steve McCabe

† Barwell, Gavin *(Minister for Housing and Planning)*
† Blackman-Woods, Dr Roberta *(City of Durham)* (Lab)
Colvile, Oliver *(Plymouth, Sutton and Devonport)* (Con)
† Cummins, Judith *(Bradford South)* (Lab)
† Doyle-Price, Jackie *(Thurrock)* (Con)
† Green, Chris *(Bolton West)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
† Hollinrake, Kevin *(Thirsk and Malton)* (Con)
Huq, Dr Rupa *(Ealing Central and Acton)* (Lab)
† McMahon, Jim *(Oldham West and Royton)* (Lab)
† Malthouse, Kit *(North West Hampshire)* (Con)
Mann, John *(Bassetlaw)* (Lab)
† Philp, Chris *(Croydon South)* (Con)
† Pow, Rebecca *(Taunton Deane)* (Con)
† Tracey, Craig *(North Warwickshire)* (Con)
† Villiers, Mrs Theresa *(Chipping Barnet)* (Con)

Ben Williams, Glenn McKee, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 25 October 2016

(Morning)

[Mr Peter Bone *in the Chair*]

Neighbourhood Planning Bill

Clause 6

Further provision about statement of community involvement

9.25 am

Dr Roberta Blackman-Woods (City of Durham) (Lab): I beg to move amendment 12, in clause 6, page 5, line 27, at end insert

"in cases where the local authorities' statement of community involvement was regarded as inadequate."

This amendment allows the Secretary of State only to require planning authorities to review their statement of community involvement if they have failed to produce one.

It is a pleasure to serve under your chairmanship, Mr Bone. Clause 6 will enable the Secretary of State to make regulations to prescribe how and when a statement of community involvement is reviewed by a local authority. Amendment 12 would mean that the regulations only apply where there is some evidence that what a local authority is currently doing with regard to its statement of community involvement is inadequate. We want to do that for two reasons.

First, we are not sure what problem the Government are trying to fix with the clause. It would be helpful if the Minister outlined whether there is widespread evidence of local authorities not doing a statement of community involvement or not doing it properly. Secondly, and perhaps more importantly, we have some concerns about the Bill being a continuation of previous Bills on housing and planning that contain lots of centralising measures, giving the Secretary of State lots more power to get directly involved in what local authorities are doing. Of course, if I wanted to, I could say that this is part of what is actually an anti-localist strategy, not a localist one.

This might seem an innocuous little clause, but it sanctions a major interference from the Secretary of State in the everyday affairs of local authorities. However, if there is good reason for that—for example, if local authorities simply are not doing the job properly—we would want to look at it. We would need to look at why local authorities are not producing their statements of community involvement or why those statements are in some way inadequate.

From our discussions in this Committee and the evidence we have taken, we know that local authority planning departments are incredibly under-resourced. The British Property Federation's annual planning survey last year had 300 responses from planning departments. Some 86% of local planning authority respondents believed that under-resourcing of their departments was their most significant challenge and was really impeding them achieving the aims they had set themselves.

I will outline a scenario for the Minister. A local authority might have great ambitions in its statement of community involvement to be as inclusive as possible and to ensure that there is a regular review process in which local people feel they can be directly involved. However, if the local authority does not have the resources within its planning budget to achieve those aims and that great vision of local community involvement in planning, what is the statement there to do? These are the really stark choices that a lot of local authorities are having to face. Do they take money from the social care budget? Do they take money from their gritting budget, as we are about to go into winter? Where are they to get the additional resources from in order to have an up-to-date statement of community involvement and to make it really inclusive?

9.30 am

I am sure that is what the Minister wants the clause to achieve. He may correct me if I am wrong, but my reading of it is that rather than just having a statement of community involvement that sits there on the shelf with a tick box, as he will know, on the local plan documents—"We have done our statement of community involvement and been out there and talked to some community groups; that is done and we do not need to revisit it until we are doing some major revision to the plan or a new plan"—I am sure that the Minister wants this to be a much more living document with direct involvement from local people, and that he wants people to know how they can get directly involved and what the timetable is for reviewing it. That is the sort of engagement and involvement that we all want from our planning system, but that will not be achieved simply by putting a clause in the Bill. In particular, that will not be achieved by putting a clause in the Bill that simply puts more burdens on local authority planning departments, without ensuring that there is adequate resourcing for whatever the additional burden is.

It would also be helpful to hear whether the Minister has any idea what the Secretary of State is likely to prescribe in terms of the statement of community involvement and the timings of when it has to be subject to review. We have not yet heard from the Minister on this point and it would be useful to know how much of a burden is being placed on local authorities. I say "a burden" because at the moment I cannot see any way that they will be able to fund this.

That is not to suggest for a minute that Opposition members of the Committee do not think statements of community involvement are important. I am sure the Minister heard me say on Thursday that in drawing up a local plan, local authorities should start with the neighbourhood. They should start with the community and find out what people want. My experience is that, generally speaking, people are very good at knowing what their communities should look like for 20 or 25 years going forward, and if they are included in some of the Planning for Real exercises, or with Planning Aid, that can be a very helpful exercise for the local authority.

It is really important that communities are directly involved in drawing up their local plans. In fact, the Opposition are arguing that that should really be where local planning starts. We want local authorities to be able to have a very strong community involvement plan, but we also want to ensure that they have the resources

to do a really good piece of work and for it to be very meaningful, not only for the community but for the local authority as well. I look forward to hearing what the Minister has to say.

The Minister for Housing and Planning (Gavin Barwell): Mr Bone, it is a pleasure to serve under your chairmanship again. If this meets with your approval, I would be happy to talk to both the amendment and clause stand part.

The Chair: I am happy with that.

Gavin Barwell: The clause will ensure that no community can be left in any doubt about the ways in which they can participate in wider plan-making in their area. It will do that in two ways. First, it will introduce a requirement for local planning authorities to set out, in their statements of community involvement, their policies for involving communities and other interested parties in the exercise of their functions. Secondly, it will enable the Secretary of State to require authorities to review those statements. It will then be at an authority's discretion as to whether it is necessary to update it; if an authority is content that its statement does not need updating, it will need to publicise its reasons for not doing so.

Let me now try to address the points that the hon. Member for City of Durham raised about amendment 12. I hope we can all agree that in order for statements of community involvement to be effective, it is essential that they are reviewed and kept up to date. The hon. Lady asked for evidence that there is a problem, which is a perfectly reasonable question. During the summer, my Department undertook a review of local planning authorities' statements of community involvement, and found that a third were last updated before 2012—shortly after the introduction of the Localism Act 2011 and neighbourhood planning—and that 10% were 10 or more years old.

Clearly, a number of councils have not reviewed the statements since the entire world of neighbourhood planning came into being. I hope we can all agree on the importance of the communities that we have the privilege to represent having up-to-date information on how their local planning authority will support their ambitions. That is why it is necessary to legislate in this way.

The Bill will enable the Secretary of State to introduce regulations that require local planning authorities to review their statements at prescribed times. On 7 September, we issued a consultation in which we proposed that statements be updated every five years. We chose that figure because, as members of the Committee are aware, that is the existing expectation for local plans. Therefore, it makes sense to align those two things. The consultation closed on 19 October. It also sought views on proposals for an initial deadline of 12 months following Royal Assent for an initial review. The consultation provided an opportunity for authorities to comment on the implications for resourcing. I hope that reassures the hon. Lady in that regard.

There is consensus in the Committee that the issue needs to be addressed, but I felt that the hon. Lady overdid the case a little bit. I entirely accept that there is pressure on local authority planning departments and I went a long way to try to show what the Government's thinking might be on that. However—this goes to the point I made to the hon. Member for Bassetlaw in the previous sitting—despite the difficult period that local government has gone through over the past five or six years, local authority planning departments have generally done an amazing job in raising their performance in updating local plans and dealing with major applications on time. Perhaps I have more confidence than the hon. Member for City of Durham in local authority planning departments' ability to review a statement of community involvement in their existing budgets.

Dr Blackman-Woods: I would not want anyone to get the impression that we think that local planning authorities are not doing a very good job with limited resources. Nevertheless, my point was that statements of community involvement put particular expectations into the community because they see what involvement they are supposed to have. In some instances, that has a huge resourcing implication. Does the Minister accept that?

Gavin Barwell: I do accept that in so far as our constituents' heavy involvement in the planning system—in the preparation of local plans and the consideration of planning applications—can, in instances, create more work for planning officers dealing with particular situations. However, it might also save money in the long run because if a local plan enjoys broad support among a local community, a lot of the contention that can creep into our planning system down the line should be removed. I certainly regard—as I hope all Members of the House do—putting an effort into engaging our constituents in how the planning process works as a worthwhile investment that will pay dividends in the long run.

Let me explain one concern I have about the amendment. Whereas the Bill currently says that the statements should be reviewed—potentially on a five-yearly basis, if we proceed with what we have set out in the consultation—and does not seek to make judgments about the quality or otherwise of the plans, the amendment would ask the Government to make a judgment on whether they are happy with the plans put forward by an authority. That seems to be a more centralist measure than the Government's one. The Government are merely saying, "Councils can come up with their own statements. All we ask is that they are updated regularly." However, the amendment would ask us to make a judgment on the quality or otherwise of the statements.

In response to other points made by the hon. Lady, if I may say so—I do not want to start the proceedings on an off note after Thursday's consensual sitting—I thought it was something of an exaggeration to suggest that the power is a major interference in local government. It is simply asking councils to check that this important statement of how communities can get involved in the planning system is kept up to date. I do not think most people would regard that as a draconian, centralist measure.

I thought we had reached a consensus on this. We have a new shadow housing Minister and I have spent time reading some of the things he has said in recent months and years. One thing that really interested me in an interview he gave was that he acknowledged that the planning system had become far too centralised under the previous Labour Government, and he recognised

[Gavin Barwell]

that as a mistake. That may even be seen as welcoming the move towards the more locally, plan-driven system that we have seen under this Government.

Those who know me will know that my natural inclination is not to seek division. I quite like the fact that on several of the statutory instruments we have discussed, the Opposition have supported some of the things that the Government are doing. It is good if we can build consensus around these things.

Let me reassure the Committee that my starting point is that we should have a planning system that is locally driven through the development of neighbourhood and local plans. I see my role as purely intervening on occasion to ensure that things are kept up to date or compliant with the overall strategic national policy.

Dr Blackman-Woods: I have not had the opportunity to see the responses to the consultation paper, so it is not clear to us why 10% of councils have not updated their statement of community involvement for such a long time. That is a fairly low percentage but it would be useful to know what reasons were given in the responses to the consultation and when we might see the responses.

Gavin Barwell: I confess that I have not had the chance to read every single one of the consultation responses yet, either. I will certainly ensure that we publish a summary of those consultation responses as quickly as possible. The intention regarding the regulations is certainly to make them available as the Bill goes through its parliamentary process, so there will be plenty of opportunity for Parliament to scrutinise those regulations.

The hon. Lady focused on the 10% that are significantly out of date. I will check, but I think I said about a third since 2012. That is when the provisions from the Localism Act began to come into force. It is quite a substantial minority whose statements are not sufficiently up to date.

Jim McMahon (Oldham West and Royton) (Lab): I do not think it is right for us to assume the reason that those could be delayed, because planning authorities may have their own reasons for that. It is probably more likely that this is just a very pragmatic sequencing decision that has been made, where land supply and local plan reviews are taking place. It would be reasonable for a local authority to say in that context that neighbourhood plans would be sequenced in order to meet that timetable. It is far less likely that they just decided it was not important.

Gavin Barwell: I do not make any assumptions. I am sure it is not deliberate malice, if the hon. Gentleman would like that reassurance. None the less, given that there appears to be a strong consensus across the House that neighbourhood planning is a good thing, I hope we can all agree that it is disappointing if there is a significant minority of councils whose statements of community involvement do not explain to residents how they go about setting up a neighbourhood plan.

The hon. Member for City of Durham asked for evidence as to why we might want to require people to update regularly: that is the evidence. Whether the hon. Gentleman finds that compelling is up to him.

I will make one final point, very gently tweaking the hon. Lady's hair. She talked of the need not to put pressure on local authorities' resources and all those issues. I remind her of an amendment we considered earlier, where the Opposition sought to put more specific detail into the statements of community involvement, saying exactly how to set up a parish council.

To a degree, the two amendments point in different directions. On Thursday, the argument was that we should be more prescriptive about what goes into these statements. I think I said there was a strong case that such information should be covered but I was not convinced that we should include it in statute. Today it is argued, in support of an amendment, that it is a terrible major centralising measure that they should be reviewed every five years.

I would gently say to the hon. Lady that there is good evidence that these statements have not all been kept up to date, and that is reasonable to require them to be reviewed, ideally every five years. However, as a national Government we should not get into the business of prescribing exactly what is in them or assessing whether we think they are good or bad statements. We should simply ask councils to keep them up to date. For that reason, I urge the hon. Lady to withdraw the amendment.

The Chair: Order. To be clear, we are now debating not only the amendment but clause stand part—we are doing both at the same time. I also remind Members that they are not restricted to speaking once; they may speak as many times as they like, if they catch my eye.

9.45 am

Dr Blackman-Woods: Thank you, Mr Bone.

The Minister made a point about consistency. The amendments that were tabled on Thursday—along with, indeed, amendment 12, although perhaps not so much the latter—are clearly probing amendments. It is the Opposition's job in Committee to test the Government's thinking. It is not what we are doing that is the subject of the Committee's scrutiny, but what the Minister is doing. Our amendments are merely about trying to get on the record further information from the Minister about what underpins some of the clauses in the Bill.

I was going to say that our discussion of clause 6 had been very helpful in getting on to the public record the Minister's thinking and the limits of the Secretary of State's involvement. I am sure that once the Minister has the chance to catch sight of the responses to the consultation, he will want to shape the regulations that will underpin the clause in the light of what has been said throughout the consultation process. Again, that was a useful exchange to have and it gave us a useful bit of information.

The Minister is welcome to go on discussing whether every single amendment we table in the Committee is mutually consistent, but I remind him that that is not the point of the amendments. Their point is to elicit from him further information. Because of the extra information I got from him this morning, I—along with, I am sure, my Opposition colleagues—would like to look at the outcome of the consultation and see whether the Government's response is indeed proportionate to the problem. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 6 ordered to stand part of the Bill.

Clause 7

RESTRICTIONS ON POWER TO IMPOSE PLANNING CONDITIONS

Dr Blackman-Woods: I beg to move amendment 15, in clause 7, page 6, line 7, at end insert—

"(1A) Regulations made under subsection (1) must make provisions for local planning authorities to make exceptions to conditions relating to matters set out in paragraphs (a), (b) and (c) of subsection (1)."

This amendment would ensure that there is a local voice and judgement taking into account local circumstances and impact.

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

Amendment 18, in clause 7, page 6, line 12, leave out subsection (2)(a).

This amendment would ensure that "acceptable in planning terms" does not mean that conditions can be overlooked because they are unacceptable for other reasons.

Amendment 16, in clause 7, page 6, line 20, at end insert

"which must include consultation with local authorities."

This amendment would ensure that local authorities are consulted on the draft regulations.

Dr Blackman-Woods: Amendment 15 speaks for itself, and relates to the conditions set by the Secretary of State under proposed section 100ZA(1), which states that,

"(a) conditions of a prescribed description may not be imposed in any circumstances on a grant of planning permission for the development of land in England,

(b) conditions of a prescribed description may be imposed on any such grant only in circumstances of a prescribed description, or

(c) no conditions may be imposed on any such grant in circumstances of a prescribed description."

Those powers are given to the Secretary of State so that he or she will be able to add or take away conditions that are set by a local authority for a specific planning application.

I stress at the outset that this is very much a probing amendment. It seeks to elicit from the Minister whether there are any circumstances in which it might be necessary for local authorities to have an exception from a direction made by the Secretary of State requiring them to add or remove a particular condition. It would give councils flexibility to apply conditions that have been restricted by the Secretary of State, where they deem that necessary to address local circumstances.

The Local Government Association and councils have raised concerns that the imposition of certain conditions by the Secretary of State could reduce the ability of local planning authorities to include conditions necessary to address issues specific to a local area or an individual development that might not be clear to the Secretary of State.

Friends of the Earth has said that the provisions in subsection (1)(a), (b) and (c) of proposed section 100ZA are probably a step too far. It comes back to the point raised in amendment 12: the provisions give the Secretary of State substantial additional powers to interfere directly in conditions that might be set or deemed appropriate by the local authority.

I hope that the Minister can take us through some examples, because the Opposition are struggling to come up with a set of circumstances in which a Secretary of State would want to interfere in such a way, and to take the risk of something going badly wrong with the development because a condition that the local authority thought was important, but that the Secretary of State did not, turns out to have been very much necessary. I will discuss a couple of examples to see whether the Minister has thought about whether any exceptions should be made.

Let us imagine that a local authority wants a flood mitigation scheme in an area that traditionally has not flooded. Due to other developments elsewhere in the area, the local authority thinks that such a scheme might be needed for the longer term benefit of the site and its occupants. There might not be a good evidence base for such a scheme but, because the other developments are about to take place, there could be an impact on the site in future. The local authority might therefore take a cautious approach because it does not want future occupants to be flooded, or even to be at a higher risk of flooding. However, because there is no evidence base, that need might not be immediately apparent to the Secretary of State, who might water down or diminish the local authority's ambitions.

The Chair: Order. I am sorry to interrupt the hon. Lady in mid flow. Minister, you well know that you are not supposed to pass documents to officials.

Dr Blackman-Woods: Similarly, there might not be a particularly strong evidence base for additional traffic management works, but they might need to be undertaken if there are a number of developments in the area. Again, I suspect that would have to be carefully explained to the Secretary of State so that he did not remove a condition that developers could reasonably argue is not entirely relevant to their site, because it would be relevant when the other sites are added. The amendment probes whether there might be exceptions, because the clause does not specify.

I am also curious—the Minister will need to enlighten me on this—because we know that local authorities must set their conditions in line with what is already in the national planning policy framework. I am sure that the Minister will be pleased to know that I have looked at every clause in the NPPF that mentions conditions, whether planning conditions or other sorts of conditions. Actually, the provisions in clause 7(2) are already clearly outlined in the NPPF, and tight guidance is given to local authorities—we might look at this later—on the evidence they need in order to adhere to planning guidance. The NPPF tells local authorities clearly what they have to do in terms of planning conditions, and the planning guidance gives even more information, very helpful, on what they should do, but somehow the Secretary of State will decide whether they are abiding by the guidance—if that is the process he or she will go through—or abiding by the NPPF.

I am just not completely confident that by giving the Secretary of State the exact same guidance and policy, somehow everything will become okay with the application of conditions, particularly because local authorities work within a local context, whereas the Secretary of State does not. What reassurances can the Minister give

[Dr Blackman-Woods]

us that that will work in practice? I think he will agree that this time significant additional powers are going to the Secretary of State. When will they be triggered and in what way?

I ask that because in our evidence sessions I asked both the Home Builders Federation and the British Property Federation what evidence they had that conditions were being applied in an unnecessary and whimsical fashion, or that local authorities were routinely setting conditions, particularly pre-commencement conditions. I have to say that they did not break it down into pre-commencement conditions and conditions that relate to the ongoing development itself. Nevertheless, let us look at what they said and assume that it was at least partly about pre-commencement conditions. They said that they had evidence that builders were experiencing problems with pre-commencement conditions but could not give any examples. That is what I find worrying about the premise underpinning the clause, particularly the additional powers given to the Secretary of State in proposed section 100ZA(1).

10 am

It is not apparent to us what problem the clause is intended to fix. There is very little evidence to support the view that developments are being held up because of the application of pre-commencement conditions. The BPF at least helpfully referred to a survey; the HBF admitted that it was relying more or less on anecdotes from builders, particularly some of the larger builders, who said that pre-commencement conditions were unnecessary, put undue burdens on large house builders and were holding up developments, so the Government must do something. When I questioned them in our oral evidence sessions, what I got back were the opinions of certain developers, not those of any experts.

Kevin Hollinrake (Thirsk and Malton) (Con): Has the hon. Lady spoken to some of the small developers in her constituency? I have certainly spoken to some in mine, and they, too, cite pre-commencement conditions as critical to their ability to get a speedy resolution to planning applications.

Dr Blackman-Woods: I was just about to come to the Federation of Master Builders, which looks after smaller builders; I was dealing with the HBF first because it tends to deal with the volume builders. We heard in oral evidence the opinion of some of the volume house builders, although we did not get from the HBF any examples of what types of conditions were proving problematic.

Kevin Hollinrake *rose—*

Dr Blackman-Woods: May I finish responding to the previous intervention? To answer the hon. Gentleman's second point, I talk to the small home builders—in fact, builders generally—in my constituency a lot. When we are looking at evidence, we have to look at it really carefully. Builders will often say to me, "We have to do a bat survey"—it is usually a bat survey, but occasionally a newt survey. Sometimes I ask them how long it takes and they say, "Well, it depends on the time of year, so it can be a bit problematic." Generally, though, something has been done locally that they can tap into. Bats are usually the worst, but if we can find a way to deal with that without it being too onerous, perhaps such a drastic clause would not be necessary.

Kevin Hollinrake: The hon. Lady mentions bat surveys. In September, one of my constituents was required to carry out a bat survey on a building that was due to be demolished. When it came to granting planning permission in December, the planning officer decided that there were no bats around in September so they would have to wait until May to do the survey again. Having carried it out once, they had to wait until the bats came back to see whether any bats were there in the first place. The hon. Lady asked for specific examples. A small developer was asked for a landscaping scheme before he was allowed to start building the houses, and that was not in a conservation area. These things clearly are an issue. We cannot just reject out of hand the fact that they are causing problems.

Dr Blackman-Woods: I would like to reassure the hon. Gentleman that we are not dismissing those examples out of hand. My first point is that we are struggling to find examples. My second point is that, when we find examples, we have to decide whether they should be dealt with under a particular clause, such as clause 7, or whether we should find some other way of minimising the impact on the conditions set by the local authority.

The only example that the FMB was able to give us was of landscaping. However, landscaping is often what makes what might be a non-acceptable development acceptable to the local community. Communities want to know at the outset what a development will look like in the end, as the hon. Member for Thirsk and Malton must know from his constituents—I know it from mine. If a building has an unsightly façade or a high wall, or if there is something that people are unhappy with, they will ask at the earliest stage, "What sort of screening will there be so that we don't have to look at that ugly edifice?" Far from landscaping being a good example for the hon. Gentleman, it actually helps our case. He and builders might think that pre-commencement conditions are unnecessary, but our constituents think that they are really important.

Gavin Barwell: It is undoubtedly the case that our constituents are interested in what schemes will look like. Does the hon. Lady at least accept that requiring a developer to set out all that detail before a single shovel goes into the ground slows down house building? She might think that that is a price worth paying, but does she accept that point?

Dr Blackman-Woods: The Minister will have to bring forward evidence to show that it will slow down house building. If landscaping makes acceptable to a local community a development that it would otherwise find unacceptable, it might no longer object to an application, in which case the condition could speed up development, rather than slowing it down.

Jim McMahon: I refer the Committee to my entry in the Register of Members' Financial Interests—I should have mentioned earlier that I am a member of Oldham Council.

I struggle with the idea that asking developers to produce a landscaping plan is onerous. We are not talking about amateurs. When developers employ an architect to design a scheme, it is not that difficult to overlay it with a landscaping plan. The point has been made that, for a lot of people, that plan is the difference between whether a development is acceptable or not. That is not just because it can provide good screening but, importantly, because it forms part of the character of the locality.

We should all be trying to promote good development and good design in good context. Removing the conditions would not really help towards that. I can think of loads of planning schemes where really good landscaping design has added value. It has been good for the community, for the developer—which was able to get a premium on those properties—and for the people who live in the development, and it does not actually take that much time.

I struggle because—I wonder whether my hon. Friend agrees with me—we are just talking about planning. If developers are professionals, they will get their ducks lined up—or their bats—and ensure that they have the surveys in place. If they are refurbishing an old barn or building, they know that those things are needed and should just crack on and get them done.

Dr Blackman-Woods: My hon. Friend makes an excellent point that is pertinent to our discussion.

Chris Philp (Croydon South) (Con): The hon. Lady is very kind to give way, and it is a pleasure to serve under your chairmanship, Mr Bone. In response to the suggestion made by the hon. Member for Oldham West and Royton, if one requires developers to do all the surveys before the application, and the application is then declined by the local authority, the developer will incur significant costs to no purpose. That may prove prohibitive, particularly for smaller developers. What is her view on that?

Dr Blackman-Woods: I am sure the hon. Gentleman knows that local authorities approve nine out of 10 planning applications. It would be a rare event for such a detailed plan to come forward to a local authority without the developer knowing that it was breaching local planning policy. That is what must be happening if the application is rejected. That is not a very usual occurrence these days.

If the hon. Member for Thirsk and Malton and the Minister are serious about speeding up development, they might want to look at the outcome of the FMB's house builders survey 2016. One would assume, from reading the Bill, that the major problem in bringing forward development was pre-commencement planning conditions. However, when the small house builders were asked what was the biggest problem, they said it was the lack of available and viable land. That was the most commonly cited barrier to increasing output. We have to look right at the back of the survey, to a few specific questions on planning, to find any mention of planning conditions, and even then they were not the biggest problem; the biggest problem was the inadequate resourcing of planning departments. I hate to say that again and reinforce the message, but we are not the ones saying it; it is the small house builders.

Land is the biggest problem by far, and pre-commencement conditions do not come anywhere near that. Within planning itself, the biggest problem is the resourcing of planning departments—and that comment came only after prompting. They do not mention the setting of planning conditions at all; what they mention is sign-off of planning conditions. That seems to be a very different issue that they are raising. They are not raising an issue about the nature of pre-commencement planning conditions, or whether those conditions are appropriate. What they say in the text is that they could be signed off more quickly and that might help. Why are they not signed off more quickly? It is because of a lack of resourcing for local authority planning departments.

That was the only survey brought to our attention. I searched and found no other evidence, apart from the opinions of some of the larger volume builders. Giving such additional powers to the Secretary of State with no solid evidence base does not seem a very sensible way forward.

Some clauses in the Bill do not have the worrying aspects attached to them that this one does. If the effect of clause 7 is to restrict conditions that are set on developers, that could have a real impact on the community—not only on those who will ultimately occupy that development but on the neighbourhood. That is why we are so concerned about clause 7. We do not think it is necessary; we have not seen the evidence base. If the Bill is to contain such drastic measures, which could have real impacts on the areas that we all serve and represent, we need to hear something from the Minister.

Amendment 18 seeks to amend clause 7 so that if a condition cannot be enforced by the Secretary of State to make the development acceptable in planning terms, it makes the development unacceptable in other ways. Proposed section 100ZA(2) states:

> "Regulations under subsection (1) may make provision only if (and in so far as) the Secretary of State is satisfied that the provision is appropriate for the purposes of ensuring that any condition imposed on a grant of planning permission for the development of land in England is...necessary to make the development acceptable in planning terms".

10.15 am

What if the restriction makes the development acceptable in planning terms, but makes it unacceptable in social, economic or environmental terms? The Minister might say he cannot envisage the circumstances in which that would be the case. However, the flood alleviation measures that I mentioned earlier could be restricted because a development might be acceptable in planning terms but unacceptable in terms of environmental issues or concerns that the local population might have.

Gavin Barwell: Many of the things that might be covered by social, economic or environmental concerns are absolutely central to the planning system. I want to check that the hon. Lady is not suggesting that councils should be able to consider things that are not material planning considerations when dealing with planning applications.

Dr Blackman-Woods: I am happy to answer the Minister's question, but I am trying to find out what the Minister thinks about this particular subsection. Has he thought through a set of circumstances in which adding or removing a restriction or adding or removing a condition would make something acceptable in planning terms, but might have unforeseen consequences somewhere else? I am just giving the Minister an example because there could be environmental concerns. I suppose there are a lot of examples when we think about it. The removal of trees might be allowed under this clause, because that would be acceptable in planning terms, although I am not sure why it would be acceptable. There might be ongoing environmental or even social issues arising from that.

If we come back to the traffic measures, there is the issue of the roundabout. Traffic measures could be applied to make a development acceptable, and there could be absolutely dreadful issues for the local community in terms of air quality because of the requirement to make the development acceptable in planning terms. So the amendment is very much probing like amendment 15. We are trying to find out what this is all about in actuality. How will it work in practice? What sort of conditions might be set or removed by the Secretary of State? What is the impact of the decisions made by the Secretary of State and how will proposed section 100ZA(2)(a), (b) and (c) work in practice?

I will now move on to discuss amendment 16, which is innocuous and quite helpful. It simply asks for some consultation with local authorities when regulations are being drawn up. I actually thought this might be a helpful amendment for the Minister because, as we have already explained, we clearly have some difficulty understanding and finding an evidence base to support what is in clause 7.

If these regulations are to do the job that the Government want them to do—transfer powers to the Secretary of State, so that he or she can apply conditions or take conditions away—presumably they want the regulations to work in practice. These regulations really impact on the work of local authority planning departments, and local authority planning officers will be the people to know whether this clause is going to produce anything helpful or not in practice. It seems entirely reasonable that there would be a particular role for local authorities to contribute to the drawing up of the regulations, so that they are proportionate, and that the way in which the Secretary of State can interfere should be proportionate to the problem that the Government have identified.

I say that because nobody else seems to have identified pre-commencement conditions as a problem, but clearly the Minister thinks they are and some of his colleagues seem to think they are. All that we ask is that a very sensible approach is taken to local authorities, and that rather than simply having a set of regulations imposed upon them, which may or may not work in practice, they are involved in the process. Then, hopefully, we will get something commensurate to the problem and not a whole-scale transference of powers to the Secretary of State. I look forward to hearing what the Minister has to say.

Helen Hayes (Dulwich and West Norwood) (Lab): It is a pleasure to serve under your chairmanship, Mr Bone. I have listened to evidence from both the development industry and local authorities both as a member of this Committee and as a member of the Communities and Local Government Committee. Although there are some examples, which have been much quoted, of the excessive use of pre-commencement planning conditions, the evidence is really not very strong. There are many reasons why the measures proposed in clause 7 are, in fact, an attempt to treat the symptom of a problem rather than the cause of that problem itself.

When asked, and when I have questioned them, all the witnesses—pretty much without exception—who have spoken about pre-commencement planning conditions have acknowledged, and in some cases spoken extensively about, the constraints on local authority planning departments. As we know, planning is the second most cut area of local authority services since 2010. It is an area that has, for good reason, lost out in the competition for local authority resources between it and statutory services such as children and adult social services, which affect some of the most vulnerable in our communities. To my mind, that is because the funding of planning, and in particular development management, is not on an appropriate footing.

I was very disappointed and frustrated that the previous Housing and Planning Minister simply ignored this issue during the debate on the Housing and Planning Act 2016, and did not acknowledge that we needed well-functioning, properly resourced planning departments to facilitate the building of the new homes that we need. It is absolutely not right that planning should be competing with services that are needed by the most vulnerable in our communities, and therefore we need a different way of funding planning departments.

Kevin Hollinrake: How will extensive pre-commencement conditions that are difficult to discharge help with that process? Local authorities will choose where to resource their departments. The pre-commencement conditions simply increase the burden on planning officers.

Helen Hayes: If the hon. Gentleman bears with me, I will explain exactly how that part of the argument hangs together.

There is evidence that officers are currently using pre-commencement conditions because they are simply unable to resolve every aspect of the planning application before the deadline for making a decision. In some cases, they are unable to look in detail at all the documents submitted as part of a planning application. In some cases, they are unable to spend the time negotiating and discussing with the applicant the type of detail that might be necessary. There is no question but that that is clearly not acceptable practice. Some have referred to that as lazy conditioning, but I would argue that it is, in fact, more commonly a symptom of the problem of under-resourcing, rather than deliberately poor practice.

When faced with the threat of appeal on the grounds of non-determination, local authorities and individual officers will look to use conditions as a way of making a timely decision to avoid losing control of every aspect of that planning application to the Planning Inspectorate. That is an entirely rational way for authorities to behave, rather than taking the risk of losing an appeal on the grounds of non-determination.

Gavin Barwell: I very much welcome the hon. Lady's speech, because she is admitting that there is a problem and that the pre-commencement conditions are being abused. She believes that the reason for that abuse is that local authorities are under-resourced. That is exactly what she just said. Would not the right solution be to stop that abuse? That will do one of two things. It will show either that it is all about resourcing—the proportion of applications approved in time will drop dramatically—or that there is a problem. Either way, it will stop the abuse and reveal the true problem.

Helen Hayes: I am arguing, first, that the scale of the problem is not nearly as great as the Government say, and secondly, that where there is a problem it is a symptom of the lack of resourcing in planning departments—the primary cause of that problem—not a problem in its own right. Therefore, the Government should be directing their energy towards the resourcing of local planning departments. I have argued many times that local authorities should be able to recover the full cost of resourcing and development management services through the fees they charge for those services. That proposal has broad support from the development industry, local planning departments and the organisations that represent local government in London and across the country. It would be a far better place to start the debate than clause 7.

As we have heard from many witnesses, there are circumstances where pre-commencement conditions are welcomed by developers, and where there is flexibility to agree some details when finance has been secured on the basis of a planning application, or when more is known about the site due to site investigations that take place in the earlier stages of a scheme. Last week, I sat down with several representatives of the local community and a developer who is bringing forward a very sensitive scheme in my constituency. The planning permission for the site in question was a detailed consent secured by a previous landowner who used that consent to sell the site on; that was a controversial issue in its own right.

Last week we met the developer, which did not take part in the planning application process for the site that it has now inherited. In that case, there are pre-commencement conditions on materials and archaeology. It is entirely right and proper that the developer has the opportunity to consider those conditions and make proposals to the local authority for those conditions to be discharged before development commences.

Chris Philp: In the hon. Lady's example, did not the new owner have ample opportunity to consider those pre-commencement conditions before the purchase of the site? If they did not like the conditions, they could simply have not purchased the site.

Helen Hayes: That is a rather blunt and not nuanced enough understanding of how such things work in practice. Last week, the developer met with the community —a vociferous community who feel very strongly about the site. That conversation will enable the developer to inform the discussions and plans for some important detailed aspects of the scheme. That is entirely the right order of things. It would not have been appropriate for the developer to speak to the community ahead of securing the purchase of the site; the developer would not have had a relationship with the community that allowed such a conversation. The way that things are progressing is entirely right and timely; it is not leading to any delay in bringing forward the site in question.

10.30 am

The clause simply does not reflect my experience of the planning system. The ability to agree conditions and attach them to a consent is often critical to addressing public opposition to aspects of a scheme, giving reassurance to a community that its concerns have been heard, listened to in detail and addressed through the planning system, and therefore enabling a timely decision to be made.

Dr Blackman-Woods: My hon. Friend is making a series of important points, which are helping us to understand pre-commencement conditions more thoroughly. Does she agree that the provisions in the clause will in fact make communities much more anxious about possible development in their area? The local authority may set conditions that will make a particular planning application acceptable and then find some way down the line that those conditions have been removed by the Secretary of State.

Helen Hayes: My hon. Friend is exactly right. It is so important that the voices of local communities are heard, particularly given the volume of development that is needed to deliver the new homes that we need in this country. Conditions are one way that a local authority can broker and establish a relationship between applicant and community and the genuine and material concerns that our constituents all have about development can be taken into account and addressed. Communities will find ways for their voices to be heard. If the planning system excludes those voices and makes those negotiations much more difficult, those voices will be heard in other ways: there will be an increase in applications for judicial review of planning applications and much more in the way of petitions, protests and attempts to frustrate development. It is right that the concerns of local communities are heard and addressed through the planning system.

I further take issue with the clause and support the amendments in the name of my hon. Friend the Member for City of Durham because it simply does not reflect or encourage good practice. It is widely acknowledged—the Committee has heard evidence from experts across the sector about this—that best practice involves applicants and planning authorities, having undertaken appropriate public engagement and consultation, coming together to agree what is necessary for an application to meet policy requirements in relation to a given site.

Members on the Government side of the Committee have made the point that there is cost and risk for applicants in taking applications through the planning process. That risk is mitigated and minimised when applicants fully understand and take into account the policy context and do everything possible to ensure that their applications are policy-compliant. To suggest that local authorities are in the business of refusing planning applications on a whim in a policy vacuum misrepresents what actually happens. In the case that a local authority makes a flawed decision, it is open to the applicant to appeal, and such appeals will succeed.

Kevin Hollinrake: Is the hon. Lady not arguing for the clause? She talks about best practice and engaging with the applicant and the planning authority to agree the way forward rather than unilaterally sticking in some pre-commencement conditions without discussing those with the applicant. Is that not exactly what the clause will do?

Helen Hayes: It is my view that a clause that requires an exchange of letters and makes agreement to the principle of pre-commencement conditions the preserve of the applicant rather than the local authority does the opposite. It does not encourage best practice; it encourages a much more litigious and formalised approach to negotiation, which does not allow for genuine engagement between applicant and planning authority. It would be far better to resource planning authorities properly to undertake those detailed discussions with applicants, so that they can agree and discuss the issues that are important to local communities and ensure they are properly addressed, with as many as possible being within the planning permission itself rather than within pre-commencement conditions. However, there is a role for pre-commencement conditions and it is a very important one.

Finally, we should remind ourselves of what pre-commencement conditions seek to achieve and why they are important. Conditions cover many aspects of application, such as the choice of materials, which is sometimes belittled as a trivial matter but is in fact so important in determining the impact that a new development will have on a community in the long term. Once something is built, it is there certainly for the rest of our lifetimes and perhaps those of future generations. What a development looks like, the impact it has and how sensitively considered the materials are plays a really important role in how acceptable it is to the local community.

Conditions also cover issues such as sewerage capacity, which influences whether residents will have serious problems, sometimes in their own homes, in the long term. They are a key means by which local authorities can safeguard the interests of local communities and ensure the quality of new development. Of course, they should not be overused or misused, but where that occurs it is a symptom of the lack of resources rather than wilful misuse or poor practice.

I argue that the setting of conditions should be the preserve of democratically elected local authorities, not contingent on the agreement of the applicant. Local authorities must be properly resourced to undertake pre-planning discussions, to review properly the content of applications and to agree as much as possible within the framework of the planning permission itself, in order to minimise the use of conditions. The clause is simply misdirected. It is trying to treat the symptom of a problem, rather than the cause. I hope the Government will therefore reconsider it.

Mrs Theresa Villiers (Chipping Barnet) (Con): It is a pleasure to take part in this Committee under your chairmanship, Mr Bone. I have what amounts more to an intervention than a full speech. I spoke about this clause on Second Reading and received some useful reassurance from the Minister, but now we have the more relaxed circumstances and timings of a Committee, I would like to reiterate broadly the importance that many of my constituents place on matters relating to the protection of habitats—that includes bats and newts—and landscape and flooding.

It would be helpful if the Minister expanded on his remarks on Second Reading to explain how it will still be legitimate for the planning process to consider such matters and how there will still be opportunities for local authorities to require research to be done into them, so that planning permission can be granted on the basis of full awareness of the facts. While the clause as drafted will help streamline the planning process, it must leave planning authorities with the ability to not only take matters such as habitats into account but also to require developers to provide the appropriate surveys and research. Will the Minister explain at what stage that is still open to the planning authorities? I am sure my constituents would be very grateful for that.

Gavin Barwell: I should say at the outset that the three amendments we are debating do not deal with the pre-commencement and application issue. We have rather drifted into a clause stand part debate, but I will try to respond to all the points colleagues have made.

This is probably the moment in the Bill when there is the strongest disagreement between the two sides of the Committee. Let me start on a consensual note. The hon. Member for City of Durham asked me to accept that this was a wide-ranging power, compared with the one in the previous clause, and I do accept that. The Government have sought, in drafting the legislation and in some of the other things we have done, to provide as much reassurance as possible.

We have put two provisions in the Bill that it might be helpful to clarify at the outset. The clause does two things: it gives the Secretary of State the power to prescribe certain types of planning condition, and separately it requires that pre-commencement planning conditions may only be made with the agreement of the applicant. So there are two different issues, and the amendments we are considering deal with the first part of the clause. We will come to the amendments that deal with pre-commencement later. It might be helpful to the Committee to put that on the record.

On the Secretary of State taking the power to prescribe certain types of conditions, I can offer three pieces of reassurance to the Committee. First, the Bill makes it very clear that the Secretary of State may use that power only to back up what is in the NPPF—the basic tests are written into proposed section 100ZA(2), which is inserted in the Town and Country Planning Act 1990 by the clause. One of the amendments deals with those four tests, which I will come to later. Secondly, proposed section 100ZA(3) makes it clear that the Secretary of State, before making any regulations, will have to carry out a specific consultation on them, so each time the Secretary of State seeks to use the powers under proposed section 100ZA(1), there will have to be a public consultation. That is written into the Bill to provide reassurance about how the power is to be used. Thirdly, when we published the Bill, we also published a consultation paper setting out how we believed that we would want to use the powers, were Parliament to grant them to the Secretary of State. I will refer to that consultation paper later on in what I have to say.

The point of principle is the point of difference, so let us start with evidence. I would argue that there is a lot of evidence to show that there is a problem, but first I point out that the Opposition have fallen into one of the traps that has bedevilled the housing debate in this country for 30 or 40 years—a trap into which many of the people who have come into my office over the past three months have also fallen—and that is to set out an either/or choice.

For the first two months that I was doing this job, I asked everyone, "Why do we not build enough houses in this country?" People would reply, "It's all the planning system's fault," or, "It's all down to the major developers, who are banking huge chunks of land. If they released those, we wouldn't have a problem." Some people came into my office and said, "Do you know what? It is impossible for people nowadays to own their own home. We should just give up on home ownership and put all the focus of housing policy on renting," but others say, "There has been too much focus on renting. People want to own their own home. Everything should be about helping people to own their own home." I believe such choices to be completely false.

Dr Blackman-Woods *rose—*

Gavin Barwell: If the hon. Lady allows me to expand the argument, I will be happy to allow her to intervene.

The reasons why we do not build enough homes in this country are complicated. Lots of things work, but if the answer were simple my predecessors would have solved the problem. There is no silver bullet and no one thing that will solve the problem, which instead will require a complex web of policy interventions.

Helen Hayes: Will the Minister give way?

Gavin Barwell: To say that there is a problem with local authority resourcing of planning departments, which I think everyone on the Committee has accepted, and that therefore that is the sole problem and we do not need to worry about anything else, is to miss the point completely. There are a lot of reasons why there are problems in our system. We need to take action to deal with all those things, not simply say, "This is the main problem, so we should solely deal with that and forget about the rest." I will now happily take the interventions.

Dr Blackman-Woods: I want to challenge the Minister's characterisation of what the Opposition think about why in this country we are not building as many houses as we should. I know the Minister knows that that characterisation is not fair, because he has read the Lyons review; I know that because he and his predecessor have been cherry-picking bits out of it and bringing them forward in Government policy. It was a wide-ranging review, which looked at a whole set of different reasons why we do not build enough houses—everything from land availability to the failure of the duty to co-operate, to the inadequacy of the local plan-making system, and so on. I hope he and the rest of the Committee will understand that the Opposition do indeed know that the problem is multifaceted. This morning, however, we are simply arguing about this group of amendments, and saying that we do not think that pre-commencement planning conditions are the major issue that he sets them out to be.

Helen Hayes *rose—*

10.45 am

Gavin Barwell: If it is helpful and the interventions are on the same subject, I will take both before responding.

Helen Hayes: I want to make two quick points in response to the Minister's remarks. There might be multiple causes of the issue that the clause seeks to address in relation to the use of pre-commencement planning conditions, but as my hon. Friend has argued, we do not believe there is evidence that this is a primary cause of the problem. We believe the primary cause is the under-resourcing of planning departments, and Government Members acknowledge the extent of that problem. Will the Minister explain why there is nothing in the Bill that addresses that problem?

My second point relates to the remarks made by the Minister about housing. I welcome his acknowledgment that renting and the affordability of housing are part of the problem. His predecessor took an entirely binary approach to housing: he put all of the Government's resource into home ownership and did not recognise that nuance at all. If the Minister is thinking of changing direction, that would be welcome.

Gavin Barwell: On the latter point, if the hon. Lady were to look back at some of the things I have said over the period that I have been Housing Minister, she would find that those signals have been loud and clear. A White Paper is coming shortly. I do not want to add any more on that point, but on the resourcing point, other members of the Committee will say that I was pretty clear about where I stood last Thursday. On the question about why there is nothing in the Bill, some things do not need legislation to fix them. There is a White Paper coming out. I have to be careful, but the Government have consulted on the issue of whether we need to get more resourcing into local authority planning departments. The results of the consultation were clear, and the Government will reflect on them.

I was glad to hear the comments of the hon. Member for City of Durham. I will come to the evidence on this point, which is where we should concentrate our debate, but I would observe that the modern Labour party, which is a rather different creature from the one in the late 1990s when I was getting involved in politics, seems to find it easier to recognise problems when the private sector is involved and is more reluctant to recognise problems when the public sector is responsible.

Let us turn to the question of evidence. Knight Frank's house building report 2016 refers to

"the need to address the increasingly onerous levels of pre-commencement conditions applied in some planning permissions and the length of time taken to sign them off."

Crest Nicholson's half-yearly report 2016 states:

"Speeding up the clearance of pre-start planning conditions and securing sufficient labour resources to deliver growth plans"

remain the two challenges to delivery.

The Persimmon annual report states:

"Whilst planning-related pre-start conditions continue to increase the time taken to bring new outlets to market, we are pleased to have...opened 60 of the 120 new outlets planned".

[Gavin Barwell]

I referred on Second Reading to a survey done by the National House-Building Council in 2014, which showed that a third of small and medium-sized builders identified planning conditions as the largest constraint to delivery. Specifically, the two questions were about the time taken to clear conditions and the extent of the conditions.

Helen Hayes *rose—*

Gavin Barwell: The hon. Lady asked for evidence; I am giving it. The time to clear conditions was mentioned by 34% of respondents and the extent of conditions was mentioned by 29%.

The District Councils Network—local government, not developers—stated, in its submission to the Committee:

"The DCN has acknowledged that the discharge of planning conditions can be a factor in slow decision making and supports the government in seeking to address conditions."

The hon. Member for City of Durham referred to a survey, but did not give the issue the prominence that it has in the survey. The planning system was identified as the second biggest challenge to small builders—tied with finance and behind the availability of land. The Government will be addressing all three issues. Among those commenting on planning difficulties, the signing of conditions was the second most cited challenge, behind the resourcing of planning departments, and the Government will be addressing both of those things.

The speech by the hon. Member for Dulwich and West Norwood was commendable. She acknowledged the abuse of pre-commencement conditions. Her explanation for it was not that local authorities were being lazy, but that there was a resourcing issue. I think the words she used were that people just did not have time to read planning applications, so they slapped pre-commencement conditions down. That clearly is not right, so the Government are absolutely justified in taking action in that area as well as looking to address the resourcing issues that she rightly identified.

Helen Hayes: The example I referred to was one that we heard in evidence to the Committee. It was an example of a landscape strategy having conditions despite having been submitted with the planning application. That practice is of course completely unacceptable, but it is, along with many other things, a symptom of the lack of resourcing.

More than half of the evidence that the Minister has just provided related to concerns about the signing off and discharge of pre-commencement planning conditions, not the setting of conditions themselves. If that is, indeed, a problem, as it would seem to be from the Minister's evidence, I ask once again why the Bill is dealing with the symptom of a problem rather than the cause. Why does it contain nothing to deal with the issue of the discharging of planning conditions, and instead deal only with the setting of pre-commencement planning conditions?

Gavin Barwell: I have tried to answer that question already. Some of those things do not require legislation. There are problems in our house building system that require policy changes, and others that require legislative changes. We want to pursue a range of solutions encompassing both those options.

I want to pick up on three specific examples that we were given of pre-commencement conditions, one of which may help to provide my right hon. Friend the Member for Chipping Barnet with the reassurance she sought. I thought that the three examples delineated very well the difference between the two sides of the Committee on this issue. One example related to archaeological concerns. Clearly it is entirely appropriate to address those through a pre-commencement condition. If there are concerns that the moment someone gets on site and starts to do ground works they will destroy a key archaeological site, the issue has to be dealt with by a pre-commencement procedure.

The other examples concerned the use of materials and landscaping. I, and I am sure all members of the Committee, would accept that those issues are legitimate ones that communities would want to address through the planning process. However, I do not accept that they must be dealt with before a single thing can be done on site, as the development begins to get under way. There is no reason why they cannot be dealt with during the process.

The hon. Member for Oldham West and Royton made an interesting intervention in which he said that it is all very simple if—I will take care not to use unparliamentary language—one gets one's ducks lined up. He said that people need to do all the work at the outset, come to the planning committee with everything sorted out, and then away they go. However, not only does that expose applicants to extra expense before they get planning permission, as my neighbour, my hon. Friend the Member for Croydon South, said, but it delays the process. The point that I am trying to get the hon. Member for City of Durham to accept is that, particularly with a large application, a huge amount of work must be done to get to the point where the applicant has satisfied all the legitimate concerns a community might have about it.

If, as I passionately feel, there is a desperate need to get us building more houses as quickly as possible in this country, surely anyone who has ever had any experience of managing a large project will think it is better to deal up front with the things that must be dealt with up front and then, while work is beginning on site, deal with some of the other issues that need to be dealt with. If we want housing to be built more quickly, we must allow developers to proceed in that way and not say that they must get every single thing sorted out before they can even turn up on site and begin vital work.

Dr Blackman-Woods: The Minister is in danger of presenting a bit of a caricature. It is not a question of absolutely everything being presented up front; it is a question of what is needed to be able to assure a planning committee and the community that a development is acceptable. If the Minister is serious about speeding up development, we know that the major problem with pre-commencement conditions is signing them off, so if he wants to address that it must be by further resourcing of planning departments, not by the removal of conditions.

Gavin Barwell: Again, the hon. Lady falls into the either/or trap. Both those things are problems. It is a problem both that the conditions are overused and that when they are legitimately used it can often take too long to sign them off. We are going to deal with both problems.

Chris Philp: Will my hon. Friend give way?

Gavin Barwell: I will give way once more; then I want to look at the specific example of flooding, talk about the consultation document and discuss the amendments.

Chris Philp: I have a genuine question on which I should be grateful for the Minister's thoughts. If we proceed as per the clause as drafted, and the applicant has to agree in writing to the pre-commencement conditions, what if the applicant—the developer—unreasonably refuses to agree to any of the pre-commencement conditions, in order to frustrate them? What would happen in that circumstance?

Gavin Barwell: I am sure that my hon. Friend never asks anything but genuine questions. The answer is very clear. In those circumstances, the local authority would be able to refuse permission for the development. If the pre-commencement condition that the applicant sought to resist was an entirely legitimate one of the kind we have already discussed, and if the applicant appealed, the Planning Inspectorate would turn down their appeal.

Chris Philp: Just to be clear, any condition that a local authority feels strongly about has to be imposed as part of the main planning condition. It has to accept that anything that it does not put into the main planning condition, it cannot subsequently impose.

Gavin Barwell: Pre-commencement conditions must be agreed with the applicant. If the applicant is not willing to agree to a legitimate condition, without which the authority does not feel the application would be acceptable, the application should be refused. The authority absolutely has the right to refuse such an application. I put it on record that I expect the Planning Inspectorate to back up the decisions of local councils when it judges that such a condition is perfectly reasonable to make a development acceptable. I hope that any developer silly enough to play those games will quickly learn that lesson through the appeals process.

What we want is good practice; my hon. Friend the Member for Thirsk and Malton made that point powerfully. We want applicants and councils to sit down together and work out what legitimate pre-commencement issues are. We have no problem at all with such issues being used for pre-commencement conditions, but we want to stop them being abused.

The hon. Member for City of Durham used the instructive example of flooding. The test seems to me to be one of reasonableness. She used the phrase "There may not be evidence". Local authorities are in difficult circumstances if there is no evidence to back up what they seek to do. However, if there is evidence of genuine concerns, that is clearly a legitimate and material planning consideration.

Dr Blackman-Woods: My point was not that there would be no evidence; it was that there might not be evidence about that specific site at that time, but that a wider reading of what a local authority was doing would produce evidence of the need to put in flood allevation some way down the line.

Gavin Barwell: I cannot sit in judgment on how a particular case might be considered, but I refer the hon. Lady to page 12 of the consultation paper, which sets out some examples from current planning guidance, which the Act will put into secondary legislation, of conditions that should not be used. It might be helpful to the Committee if I run through those examples. The first is:

"Conditions which unreasonably impact on the deliverability of a development",

such as those

"which place…disproportionate financial burdens".

The test is one of reasonableness. An inspector would look at whether the evidence that the local authority had presented was reasonable with respect to the use of those conditions. If the hon. Lady is asking me to make it clear that we would not rule out any consideration of flooding matters in planning considerations, I confirm that we absolutely would not. There are often applications in which it is entirely legitimate to do what she suggests.

The second example given in the guidance is:

"Conditions reserving outline application details"—

in other words, where an authority tries to specify things for an outline planning application that could very well be dealt with in a full application further down the line. The third example is:

"Conditions requiring the development to be carried out in its entirety".

The fourth example is conditions that duplicate a requirement for

"compliance with other regulatory requirements",

such as by just repeating something that is already in the building regulations and is therefore covered. The fifth example is:

"Conditions requiring land to be given up".

The sixth is:

"Positively worded conditions requiring payment of money",

as opposed to a section 106 agreement, which says that an application could become viable if a developer deals with certain issues. Those are the clear examples that we have tried to give in the consultation paper of the kinds of things we have in mind.

Having tried to address some wider remarks from Committee members, I turn to the three amendments tabled by the hon. Member for City of Durham. We believe that amendment 15 runs contrary to the purposes of the Bill, as it would clearly allow local authorities to get around regulations approved by this House to prohibit certain kinds of planning conditions. I hope my earlier remarks about reassurances in the Bill to limit the way in which the Secretary of State can use the power, and the requirement on each occasion for a public consultation, have reassured the hon. Lady about how the powers will be used.

11 am

I accept that amendment 18 is a probing amendment to encourage debate. However, it would have the opposite effect to the one the Opposition seek. I guess from the language the Opposition have used in this debate that they want to constrain as much as possible the circumstances in which the Secretary of State could use the power to make regulations banning certain conditions. The amendment would remove one of the safeguards in the

Bill, which is that conditions that make a development acceptable in planning terms are legitimate. I hope the hon. Lady will not press it, because it runs counter to what she has been trying to achieve according to her speech.

On amendment 16, the Government have no argument with the principle expressed by the Opposition; we simply do not think it is necessary to write it into statute. Of course, when the Government consult on the regulations, first and foremost we will wish to consult local authorities, given their crucial role in the planning system. There are examples of requirements to consult in all sorts of statutes, without the need to specify in a Bill the exact nature of who has to be consulted. I hope the Opposition will take us on trust and take my words on the record as a clear statement of intent that any time the Secretary of State sought to use these powers, we would want to take full account of the views of local planning authorities about the said use. On that basis, I ask the hon. Lady not to press the amendments.

Dr Blackman-Woods: That was a very helpful and, in some ways, enlightening response from the Minister. Unfortunately, we ended up having evidence presented to us that was not evidence and examples that are were examples, but instead a typology of circumstances in which the clause may or may not be applied. That is in a consultation document that sits outwith the Bill at this point.

Kevin Hollinrake: What does the hon. Lady regard as evidence? The submissions of developers, district councils, small and large builders—are they not evidence? Does she not recognise them as such?

Dr Blackman-Woods: The only example that has been given to us in the Committee, apart from the ones I speculated on myself, was landscaping. I think we dealt with why landscaping is so vital to know about at an early stage in the process.

Jim McMahon: A lot of examples have been used—we have had this debate often, and we have gone around the houses on bats and newts and, at one point, hedgehogs. That is all fine and well, but we really wanted to get to facts and numbers. How many planning applications have been frustrated or delayed significantly because of these conditions? We do not have those facts. We have people giving evidence of their experience and opinion, which is important, but is not the same as the hard numbers we have asked for.

Dr Blackman-Woods: My hon. Friend makes an excellent point about the various surveys that the Minister mentioned, which I was about to come to.

Chris Philp: I was about to draw the hon. Lady's attention to the extensive list of submissions that the Minister read out in his speech a few minutes ago. Perhaps I might add my own experience. As I mentioned in my declaration of interests, prior to being elected I ran a business that provided finance for construction projects. The whole array of pre-commencement conditions are often very detailed. For example, they frequently stipulate precisely what kind of brick must be used and it often takes a very long time to get discharged. The pre-commencement conditions are often more detailed than one would reasonably expect.

With respect to the shadow Minister, I do think there is an issue here and that the Minister is trying to address it in a balanced and reasonable way.

Dr Blackman-Woods: In which case, what I would say is that we need the evidence in front of us. What examples are there? In how many sets of circumstances? How and why are the conditions inappropriate? In a conservation area, for example, the type of brick would be an important pre-commencement condition.

The evidence from Knight Frank was an assertion that there was a problem because we had no details and no number of applications—nothing. The Crest Nicholson example was a problem with signing off pre-commencement conditions and we on the Labour Benches have already said we recognise that is a problem. The signing off of pre-commencement conditions is a very different issue from the setting of conditions, and the clause is about the setting of planning conditions.

In the NHBC survey, the primary problem identified was again the time taken to discharge the conditions, not the conditions themselves. That was also the primary concern in the District Councils Network survey. We are not saying there is no evidence out there of problems signing off pre-commencement conditions—

Gavin Barwell: It is becoming increasingly frustrating that the Opposition do not seem to want to listen to evidence presented to them. Let me repeat two points so that the hon. Lady cannot skip over them. In the NHBC survey 34% referred to the time to clear conditions—she is quite right about that—and 29% referred to the extent of those conditions. She skipped over the quote from Persimmon that,

"planning-related pre-start conditions continue to increase the time taken to bring new outlets"—

not a word I like, so new homes—

"to market".

What does she have to say about the very clear evidence?

Dr Blackman-Woods: I think the Minister and I have a really different understanding of what evidence means. I was coming to the District Councils Network and Persimmon because they mentioned, as did other people who gave evidence to the Committee, that there is an assertion that there is a problem, but we do not have hard and fast evidence of it. That is the point we have been trying to make to the Minister. He has not brought forward the hard evidence and we have not had good examples. We have been struggling to come up with examples and the Minister has certainly not presented any. We are not convinced that the clause is necessary.

For some of the reasons given by the Minister, I will not press the amendment to a vote, particularly as I take at face value his assurance about amendment 16 and that there will be consultation with local authorities. I am surprised that he did not take the opportunity in proposed section 100ZA(3) to add, "including local authorities". If he is going to include "public consultation" in the Bill, he may as well include "consultation with local authorities." Not doing so seems rather odd, especially

as he has acknowledged so strongly that he wishes to consult local authorities in drawing up the regulations. Why not take the opportunity to amendment that subsection and put "local authorities" in the Bill? I am not sure why he does not want to do that, but at least something has been read into the record that perhaps will give some reassurance to local authorities that these regulations will not be as drastic or unworkable as they may be if local authorities were not involved in drawing them up. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Blackman-Woods: I beg to move amendment 19, in clause 7, page 6, line 18, at end insert—

"including in terms of sustainable development and public interest."

This amendment would ensure that there is a sustainable development test in conditions and that they are acceptable to local people.

The Minister often takes our probing amendments in a way that seeks to shine light on the Opposition's view, but I stress that we have tabled those amendments to test the Government's view, because, alas, the Government are putting forward the Bill, not the Opposition.

Amendment 19 would ensure that where regulations are brought forward by the Secretary of State, he would have to comply with an additional measure to those set out in proposed section 100ZA(2), to get around the problem that amendment 18 in some senses addressed. We understand that the list of measures in that subsection follows what is in the NPPF and the planning guidance, but it may be missing some important aspects of a development and the pre-conditions that apply to it.

The subsection says that when the Secretary of State is making regulations, he has to consider things such as whether whatever he is asking local authorities to do or not to do will

"make the development acceptable in planning terms",

and whether it is

"relevant…to planning considerations"

and

"reasonable in all other respects."

Given the way in which sustainable development apparently underpins the NPPF, the amendment would require the Secretary of State also to look at whether the regulations would make the development more acceptable in terms of sustainable development and the public interest.

I am sure the Minister will want to know that several bodies—not just the Opposition—are concerned that something could accidentally slip through the provisions in proposed section 100ZA(2) that may be unhelpful to wider sustainable development considerations, and in particular contrary to the wider placemaking objectives that a local authority may want to pursue. The amendment seeks to ensure that in setting or removing any conditions, the Secretary of State ensures that they contribute to the sustainable economic development of the community, protect and enhance the natural and historical environment, and contribute—the Minister has covered this to a degree, but we will test him again—to mitigation of and adaptation to climate change, in line with the objectives of the Climate Change Act 2008, which I will come to.

The amendment is important because the NPPF makes it clear that development should be sustainable. Paragraph 5 says:

"International and national bodies have set out broad principles of sustainable development. Resolution 42/187 of the United Nations General Assembly defined sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs. The UK Sustainable Development Strategy *Securing the Future* set out five 'guiding principles' of sustainable development: living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly."

11.15 am

The NPPF also makes it clear that:

"The purpose of the planning system is to contribute to the achievement of sustainable development."

I am sure hon. Members will want to know that the NPPF then goes on to describe in more detail what is meant by "sustainable development" in the planning system. It looks at three dimensions: economic, social and environmental. If the Minister wants to understand why we outlined those three particular areas in response to amendment 18, it is because the NPPF makes it clear that those specific aspects of sustainable should be considered.

The NPPF describes the economic role as,

"contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure".

The Minister knows that, on Second Reading, the Opposition were concerned about the way in which the infrastructure provisions of the Bill were removed. In fact, the quite minor addition to the clause that the amendment would make would put some requirement on the Secretary of State and others to think about how infrastructure-supporting development would be considered. That is the economic role.

The social role is described as:

"supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being".

Again, we think the amendment gives some reassurance to the local communities we were talking about earlier this morning. It would require the Secretary of State to think about whether the conditions are creating a high-quality built environment with accessible local services that—this is the key phrase—"reflect the community's needs".

As the Committee knows from earlier discussions, our concern is that something being imposed or taken out by the Secretary of State could mean that something that is vital to the local community is lost. This addition to proposed section 100ZA(2) might give those communities further reassurance that conditions that are important to the needs they have identified, possibly through the community involvement statement undertaken by the local authority, will not be removed.

Lastly, the NPPF outlines the environmental role that also needs to be taken on board—looking at sustainable development. It describes the environmental role as,

"contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy."

That is something I think we would all agree is absolutely necessary. If Members on the Government side of the Committee want to know why there are planning regulations about protecting the natural environment and some of our wildlife, they need look no further than their own Government's national planning policy framework, which outlines that all development should be underpinned by these principles.

Even more importantly, the NPPF says very clearly that these roles

"should not be undertaken in isolation,"

that they are

"mutually dependent",

and that:

"Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities."

But they can only do that if a development is carried out in line with sustainable development principles and the presumption that those will work in practice, rather than simply being part of the NPPF, put on a shelf in a planning department, not being used or applied. We certainly do not want a situation where a local authority has been diligent and checked that the conditions are in line with the NPPF and the guidance, and then the Secretary of State comes along and removes those conditions, rendering a development outside the sustainable development principles. We want to help the Minister by ensuring that that will not happen.

The amendment would mean that the Secretary of State could only impose or remove a condition that had no bearing on sustainable development, including whether it is socially, economically or environmentally in line with sustainable development as outlined in the NPPF. Paragraph 14 of the NPPF is very clear that the presumption in favour of sustainable development,

"should be seen as a golden thread running through both plan-making and decision-taking".

It is the decision-taking part of the clause that I want to reinforce through the amendment.

The NPPF says that for plan-making, we must ensure that local planning authorities

"positively seek opportunities to meet the development needs of their area".

It is absolutely right that they do so, but the NPPF also says that they must consider any adverse impacts of doing so. How that is taken on board by authorities and how they seek to apply it is what we are discussing this morning, and that is the source of our particular concerns. They must look at the adverse impacts. A lot of the conditions and preconditions are applied in order to make developments acceptable. Authorities must take into consideration what sustainable development means in plan-making, but as I said, they also must take it into account in decision taking, where we have the same statement:

"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted."

That seems to give a very clear direction to local authorities about how they should put their conditions together. What might make an application acceptable or unacceptable is set out in the NPPF. We want to reinforce that by putting it on the face of the Bill, so that a future Secretary of State, who will perhaps not have been party to the discussions we are having on this Bill today—

11.25 am

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

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NEIGHBOURHOOD PLANNING BILL

Sixth Sitting

Tuesday 25 October 2016

(Afternoon)

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No proofs can be supplied. Corrections that Members suggest for the final version of the report 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 29 October 2016

The Committee consisted of the following Members:

Chairs: Mr Peter Bone, † Steve McCabe

† Barwell, Gavin *(Minister for Housing and Planning)*
† Blackman-Woods, Dr Roberta *(City of Durham)* (Lab)
† Colvile, Oliver *(Plymouth, Sutton and Devonport)* (Con)
† Cummins, Judith *(Bradford South)* (Lab)
† Doyle-Price, Jackie *(Thurrock)* (Con)
† Green, Chris *(Bolton West)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
† Hollinrake, Kevin *(Thirsk and Malton)* (Con)
Huq, Dr Rupa *(Ealing Central and Acton)* (Lab)
† McMahon, Jim *(Oldham West and Royton)* (Lab)
† Malthouse, Kit *(North West Hampshire)* (Con)
Mann, John *(Bassetlaw)* (Lab)
† Philp, Chris *(Croydon South)* (Con)
† Pow, Rebecca *(Taunton Deane)* (Con)
† Tracey, Craig *(North Warwickshire)* (Con)
† Villiers, Mrs Theresa *(Chipping Barnet)* (Con)

Ben Williams, Glenn McKee, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 25 October 2016

(Afternoon)

[Steve McCabe *in the Chair*]

Neighbourhood Planning Bill

Clause 7

Restrictions on power to impose planning conditions

Amendment moved (this day): 19, in clause 7, page 6, line 18, at end insert—

"including in terms of sustainable development and public interest."—*(Dr Blackman-Woods.)*

This amendment would ensure that there is a sustainable development test in conditions and that they are acceptable to local people.

2 pm

Dr Roberta Blackman-Woods (City of Durham) (Lab): It is a pleasure to serve under your chairmanship, Mr McCabe. The Minister will be relieved to know that I was not quite in the middle but towards the end of moving amendment 19. I was extolling the virtues of adding to clause 7 a provision that would ensure that the Secretary of State had to take account of the need to promote development that is both sustainable and in the public interest.

To recap, I went through the provisions in the national planning policy framework and in planning guidance relating to sustainable development. Of course, we are also asked to look at the key provisions of the Climate Change Act 2008, which I will only do in a cursory way. Those provisions rely heavily on reducing carbon and on further adaptation measures that help with addressing climate change issues. I am sure the Minister is very familiar with the provisions of that Act and the need to ensure that, where possible, all development addresses those provisions and therefore helps us to combat climate change.

That deals with the first part of the amendment, which is about sustainable development. The amendment also asks that the Secretary of State have some consideration of the public interest, which is much more difficult to deal with than sustainable development, in terms of having a straightforward definition of exactly what we are talking about. For sustainable development we have the NPPF, the guidance and the Climate Change Act. The definition of "public interest" is much harder to agree on.

"Public interest" is a term with a long history. It says something about transforming the interests of many people into some notion of a common good. I am sure that we all think that is a central task of the whole political process. Thomas Aquinas maintained the common good to be the end of government and law, which is interesting—we might want to ponder that for a moment or two, as a bit of light relief. We also know that John Locke put

"peace, safety, and public good of the people"

as the ends of the political system. That is quite a nice thing for us to reflect on as well. One says that the public interest is central to our task this afternoon, and the other says that it should be nothing to do with us at all. I use that only to show that there is probably no absolute and complete understanding of what public interest is.

Rousseau, as always, has come up with something that helps us. He took the common good to be the object of the general will and purpose of government. That might help the Secretary of State in this regard, because it says clearly that the common good should be an outcome of legislation and of what we are all doing in this room. I therefore take it as read that there will be no problem putting those words on the face of the Bill.

Of course, it is not quite that straightforward. In practice, the public interest is often subject to differing views. People can decide that a public or common good can be met in a variety of ways. It is therefore not always exactly clear in practice what is meant by the public interest, but we are happy to leave it to the Secretary of State to come forward with a clear definition, if he so wishes.

Standard dictionaries manage to come up with a generally held view of the public interest as

"the welfare or well-being of the general public"

and of

"appeal or relevance to the general populace".

That Random House dictionary definition is incredibly helpful, because that is what we would want planning developments to be. We would want them to promote the welfare or wellbeing of the general public, and we would want them to have an appeal to, and be considered relevant to, the general populace. We would like that sort of consideration, particularly the relevance of a development's appeal to the local population, to be quite high up on the Secretary of State's list of issues and interests when determining which conditions he will or will not allow.

We have had a wide-ranging look at the amendment, so I really look forward to hearing what the Minister has to say.

The Minister for Housing and Planning (Gavin Barwell): It is a pleasure to serve under your chairmanship, Mr McCabe.

I thank the hon. Member for City of Durham for tabling amendment 19, which brings us back to less divisive territory and raises the important issue of having to take planning decisions both in the public interest and with the aim of achieving sustainable development. As she explained, it would add to the list of constraints on the Secretary of State's regulation-making power in proposed section 100ZA(2) by explicitly requiring the Secretary of State to take account of sustainable development and the public interest when deciding whether it is appropriate to prohibit certain classes of planning conditions. Although the matters that the hon. Lady has raised are of the greatest importance in the planning system, I shall argue that the amendment is not necessary, in much the same way as amendment 16 was not necessary.

Subsection (2)(a) and (b) of proposed section 100ZA already provide assurance that the Secretary of State will be able to prohibit conditions only in so far as it is necessary to ensure that conditions will

"make the development acceptable in planning terms"

and are

"relevant to…planning considerations generally".

That includes the need to consider the presumption in favour of sustainable development, which is at the heart of planning policy, plan making and decision taking. Local views are also already central to the planning system.

I thought that the hon. Lady made my point for me quite powerfully by quoting voluminously from the NPPF. Nevertheless, I shall briefly pick out a couple of other quotes. The then Secretary of State's forward to the NPPF starts with the words:

"The purpose of planning is to help achieve sustainable development."

Further on in the document, at paragraph 14, it states:

"At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking."

I do not think that anybody who has spent even a moment reading the document could doubt the extent to which it is based on the principle of sustainable development.

I assure Members that clause 7 will in no shape or form restrict the ability of local planning authorities to seek to impose planning conditions that are necessary to achieving sustainable development, in line with national policy. The proposals will not change the way that conditions can be used to maintain existing protections for important matters such as heritage, the natural environment and measures to mitigate flood risk.

On taking account of the public interest—I greatly enjoyed the quotes that the hon. Lady read out—and ensuring that planning decisions and conditions are acceptable to local people, the Government continue to ensure that the planning system is built on the principle of community involvement. The system gives communities statutory rights to become involved in the preparation of the local plan for their area, bring forward proposals for neighbourhood plans, make representations on individual planning applications and make comments on planning appeals should applicants object to decisions made by local planning authorities. Account is also taken of the views of local people if an application comes to my desk, as happens infrequently.

I have no problem with the language in the hon. Lady's amendment; the principles of public interest and sustainable development sit at the heart of the planning system. I simply say that it is not necessary to add that language to subsection (2)(d), because that language goes much wider than that one subsection; it runs right through the NPPF, which is referred to elsewhere.

Dr Blackman-Woods: I have listened carefully to what the Minister has said. We are probably all just a little disappointed that we are not going to hear the outcome of the Secretary of State's deliberations on what exactly is meant by the public interest and that that will not be put in the Bill. The purpose of the amendment was really to elicit from the Minister how important he felt upholding the principle of sustainable development was, and to get that read into the record.

The national planning policy framework document is widely accepted as a very good piece of work, but that does not mean that it will always be there. In the future there may be a significantly amended NPPF in which sustainable development is not so obvious. I quoted from it today to show that it is there at the moment. We want to ensure that decisions made under the provisions in the Bill are made with sustainable development and the public interest in mind. Given the Minister's reassurances, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Blackman-Woods: I beg to move amendment 17, in clause 7, page 6, line 20, at end insert—

"(1A) Regulations made under subsection (1) must make provision for an appeal process."

This amendment would ensure that provision is made for an appeals process.

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

Amendment 20, in clause 7, page 6, line 24, at end insert—

"where agreement cannot be reached a mediation system should be prescribed."

This amendment would allow for there to be a mechanism to resolve disputes.

Amendment 21, in clause 7, page 6, line 26, at end insert—

"(5A) The Secretary of State should provide guidance for appeal routes where an agreement cannot be reached on pre-commencement conditions, along with guidance on pre-completion and pre-occupation conditions."

This amendment would ensure that there is clarity on appeal routes, pre-completion and pre-occupation conditions.

Dr Blackman-Woods: The amendments in this group deal with the need that may arise from clause 7 for appeal systems or mediation arrangements. The Minister did not like our amendment 15, which sought to provide a series of exceptions whereby local authorities may not have to follow the conditions directed by the Secretary of State. Amendment 17 seeks to put in place an appeals process for local authorities so that if they strongly disagree with regulations that the Secretary of State is trying to introduce through conditions that he or she has already applied, they can appeal against that decision. I understand that that puts us in a constitutionally difficult situation, because it is of course the Secretary of State who ultimately adjudicates on appeals, but I am sure it is not beyond the wit of all of us here to come up with an independent arbitration system whereby local authorities at least feel that they can put their case to an independent body or an individual and have them adjudicate on whether the Secretary of State has acted properly and reasonably.

2.15 pm

The Opposition are quite relaxed about what the appeals system might be like. We understand that the amendment might cause some problems, but we are happy for the Government to come back with another amendment to ensure that at least there is no straightforward imposition of regulations by the Secretary of State—we understand that there will be some public consultation on those. There is nothing in the Bill that says the Secretary of State must abide by what the public say; it just says that there must be public consultation. It could

totally agree with the local authority and the Secretary of State could say, "Sorry, public; I don't agree with you. I think this development needs to proceed without such and such a condition being applied to it." Both the public and the local authority would simply have to put up with that, whether they agreed or not.

It seems to us that, as we described this morning, that is quite a strong transfer of power to the Secretary of State with regard to setting pre-commencement planning conditions. We would like some process in the system to allow a stop if the local authority thought it necessary for an independent body to see whether the conditions were really needed. Both parties would then have to accept the decision. That body could be an existing tribunal. The Lands Tribunal already sits, so there may be a body already able to perform this task. Will the Minister consider that?

Amendment 20 tries to put a system in place—again, I hope the Minister finds this helpful—to deal with proposed section 100ZA(5), whereby there must be a written agreement between the developers and the local authority. Our proposal is about when an agreement cannot be reached and whether the Minister is really serious about speeding up development, as he said this morning. We understand that if agreement cannot be reached, the local authority will simply refuse the development and the process will have to start again. Our proposal seems to be a helpful way of speeding up development.

We are wondering whether, in putting a system in place where there has to be written agreement between the local authority and the developer, the Minister has given any consideration to a mediation system so that someone could talk to both sides to see whether there is a compromise that might enable the development to proceed without having to go down the line of refusal, with all the bitterness that could arise, not to mention slowing down the development. Our suggestion is sensible, but perhaps the Minister does not want a mediation system, in which case perhaps he will tell us whether his Department considered it and rejected it and, if so, for what reasons.

Amendment 21 takes that argument a little further: if the Government, for whatever reason, do not think that a mediation system would work, perhaps the Secretary of State should provide guidance on appeal routes. Cases might go to an appeal on the setting of a condition anyway, but we are trying to tease out whether the Minister has thought of a faster-track process for when the two parties cannot come together to agree a way forward with conditions.

As I am sure the Minister knows, that is what the British Property Federation asked for in a briefing sent to all Committee members. It asked that the Minister should set out

> "a clear appeal route for cases when agreement cannot be reached: If a planning permission is refused or has to be appealed solely because of a failure to reach agreement on a precommencement condition, it should be possible to appeal that condition alone under s.73—that is to say, only the issues relevant to the condition in question should fall to be considered on appeal. It could be worth considering the introduction of a fast-track written representations process for these appeals that, if sufficiently quick, could be carried out without the possibility of costs. But if a hearing is required, then costs should sit fully with the party that has failed."

That is another helpful suggestion for the Minister to take on board, so that we do not end up with costly and sometimes lengthy appeals, and so that when agreement cannot be reached, a fast-track system is in place. I look forward to hearing what the Minister has to say.

Jim McMahon (Oldham West and Royton) (Lab): It is a pleasure to serve under your chairmanship, Mr McCabe. May I refer you to my declaration of interest as a member of Oldham Council?

Clearly, I agree entirely with my hon. Friend the Member for City of Durham, who added real weight to what the Secretary of State and the Minister are trying to achieve. The Bill allows the Secretary of State to make regulations that prescribe the circumstances in which certain conditions may or may not be imposed, but we believe that it is important for the planning authorities to be consulted.

There has been some conflict in the discussion that has taken place about the spirit in which the guidance has been written so far, because a lot relates to how matters of heritage, the natural environment, green spaces and flood mitigation will be accommodated. A lot of the pre-planning conditions that have been raised to date have dismissed such issues—we have talked about bat surveys, newts, drainage conditions and landscaping, all exactly the types of issues that fall into those categories. It is important that we are absolutely clear, not just for us, but for the public who will have to navigate what is already a very complex system for people not used to it, so that they know what to expect.

An appeals process makes complete sense. Any idea of natural justice allows people who are unhappy with a decision to go somewhere—where can be up for debate—and to have their argument heard again. That is right, and why worry about it? In this whole debate, in all our sittings, we have seemed to talk down what are quite small matters—to be honest, when we talk about them in Parliament they can be very small issues. The colour, type or texture of bricks are perhaps not issues that we should be discussing in this House, but they are very important for someone in a sensitive area with deep history and heritage when there is a development taking place next door.

If something is not agreed pre-commencement and then goes to appeal, is it right that someone who lives hundreds of miles away from the development should be able to express a very different view about the importance of that feature of the application? Local people want to know that, in the spirit of the neighbourhood plans, which we all welcome because they empower people to have more say over their communities, we will not snatch that control away from them unintentionally because we have not made accommodation further down here.

I will leave it there, but in the spirit of trying to make this work—nobody wants Bills that do not work in practice—let me add that the art of consensus is not waiting for people to come to our point of view, but accepting that we all have a responsibility to add to this process and take on board others' views. If a good suggestion has been made, it should be taken on board.

Gavin Barwell: Addressing that last point directly, it is certainly my intention to achieve consensus where possible, but sometimes we have to accept that we disagree on issues. Let us look at the three amendments in detail and with a positive spirit.

Amendment 17 introduces a rather radical constitutional concept. The hon. Member for City of Durham went even further, suggesting that Governments always follow the results of every consultation they have, but I will not be drawn into that territory. In the current planning system, if an application for planning permission is refused by the local planning authority or granted with conditions, an appeal can be made to the Secretary of State under section 78 of the Town and Country Planning Act 1990. It is also possible for the applicant to apply to the local planning authority for the removal or variation of a condition attached to planning permission. If such an application is turned down, it is also possible to appeal to the Secretary of State in relation to that decision. As Opposition Members have recognised, in the unlikely event that an applicant refuses to accept a necessary condition proposed by a local planning authority, the authority can refuse planning permission for the application as a whole.

Amendment 17 would do a much more radical thing, which is to give an individual local authority the right of appeal against regulations passed by Parliament. There are some rather interesting constitutional questions about who would hear that appeal and what the result would be if it was upheld. Whoever was hearing the appeal would essentially be telling Parliament that the regulations were wrong and should be abandoned. The hon. Lady is always keen to stress that these are probing amendments and that she is merely inquiring into the Government's thinking. I understand that, but this amendment raises some rather complex questions.

I will repeat the reassurances I have already given. Safeguards are in place under subsections (2) and (3) of proposed section 100ZA of the 1990 Act, inserted by the clause, which constrain the Secretary of State's power to prohibit conditions imposed so that he or she can only prevent the use of conditions that clearly fail to meet the well-established policy tests in the national planning policy framework. It was very nice to hear the hon. Lady be so complimentary about the NPPF document. I share her admiration for it and, like her, cannot envisage a future Government wanting to unpick its key principles. Subsection (2) will ensure that conditions we all agree are necessary and appropriate to the development in question—for example, as my right hon. Friend the Member for Chipping Barnet mentioned, to protect important matters such as heritage or the natural environment—are not prohibited through use of this power.

The second safeguard, in subsection (3), states that before making any regulations on how the Secretary of State might use this power, the Secretary of State must carry out a public consultation. As I have told the Committee, we are currently consulting on the detail of how we might wish to use those powers. Ultimately, we want local authorities and developers to work together from the earliest stage in the development process, including holding discussions about what conditions may be necessary and reasonable. That is the approach advocated in the NPPF and the planning guidance.

I understand what the hon. Lady is trying to achieve with amendment 20. Of course, we have to ensure that where agreements cannot be reached, a sensible solution can be found. However, I am not convinced that a formal mediation system would speed things up, which is the test that the hon. Lady set for it. Clause 7 builds on best practice, as set out in our planning guidance, which states that applicants and local authorities should engage at the earliest possible stage to come to an agreement about these matters. That is what we all want. The question is how best to frame the law and policy to make that happen.

My concern is that if agreement was not possible and there was then a mediation process, and then a possible appeal, that would effectively add another possible stage to the process, which I fear would delay things further. I repeat the assurance that I gave to my neighbour, my hon. Friend the Member for Croydon South, that it is clear in the Bill that if a planning authority felt that an applicant was being unreasonable in not being prepared to accept a well warranted pre-commencement condition, the application could be turned down and the council should be confident that that judgment would be backed up by the Planning Inspectorate.

2.30 pm

Dr Blackman-Woods: I wonder whether the Minister has thought about circumstances in which a local authority could not get the developer's agreement and may feel pressured into lifting a condition that it would otherwise think was necessary because the developer tried to suggest it was unreasonable by making the local authority go to appeal. We are not sure—I would like some assurances from the Minister on this—that that would not trigger the Secretary of State getting involved to impose restrictions on conditions. It seems to me that if the Secretary of State will be able to do that in such circumstances, local authorities will be placed in a difficult situation.

Gavin Barwell: I think I can provide the hon. Lady with quite a lot of reassurance on that front. I think she is envisaging a situation in which a particular application is the cause of conflict and the applicant goes to the Secretary of State and says, "Council A is being unreasonable and you should exercise your power under these regulations to resolve the problem." I think that this House would want to see a more substantive body of evidence for the use of these regulations than one particular case, and in any event there would clearly be a significant time delay in drafting the regulations and bringing them before the House. I think I am also right in saying that there is a general presumption that there are two dates during a given year on which most regulations are brought in. Practically, it is highly unlikely that an applicant will be able to run off to Marsham Street and say, "We need help with this; deal with this." Speaking for myself, I would not want to take decisions based on such one-off cases.

More generally, the hon. Lady raised the question of the balance of power in the planning system. I can speak only for myself, but my approach—it was when I was a councillor and it is now I am a Minister—is to listen to the evidence that people give me when they make complaints about things that they think are unreasonable about the planning system. If I am convinced

[Gavin Barwell]

that they have a case, I think the right thing to do is to shift public policy, as I am doing in relation to pre-commencement conditions.

People complain to me about other matters. For example, developers often complain about how local planning committees work. Local democratic representation has an important role in our planning system, and when developers fall foul of planning committees, it is often because they have not engaged with the relevant local political representatives early enough in the process—or they have engaged, they have been given clear feedback about the likely concerns, and they have not reflected or responded to those concerns.

The point that I have slowly been trying to work my way around to is that my advice to local authorities is to listen, and if a developer is saying, "This condition is unreasonable, for the following reasons," to consider that argument fairly. But if, having reflected on it, they think that the argument has no merit and they are doing the right thing for their community, they should stick to their guns and not be afraid to stick up for the position they believe in.

Dr Blackman-Woods: I have heard the Minister's reassurances on specific individual cases, but what about the generality? For example, a lot of developers may come to Marsham Street and say, "We're absolutely fed up with having to do bat surveys and think about newts"—or even, as the hon. Member for Plymouth, Sutton and Devonport may say, hedgehogs—"and therefore we want these regulations to have much clearer guidance for local authorities in terms of restricting the conditions that they can apply to protect wildlife." Is that a real danger of the clause? Would it not help to have an appeal or mediation system to deal with that?

Gavin Barwell: I can give the hon. Lady strong reassurance on that front. First, she has my hon. Friend the Member for Plymouth, Sutton and Devonport completely wrong; far from wanting to further persecute hedgehogs, he is first to the barricades to protect and defend them.

Let us take the hypothetical example that the hon. Lady gave, where at some point in the future more and more developers are coming to the Secretary of State and saying, "There's a real problem about the way in which the protection of bats is working and the onerous conditions that are being put on us." If the Secretary of State was persuaded by those arguments, we would need to look at planning policy and whether we wished to shift it.

Broadly speaking, the test with all these things is one of proportionality. I think all of us would place significant weight on the protection of our wildlife and fauna. The test is always one of reasonableness, in terms of the costs incurred by the developer to do that. If a future Secretary of State decided that in his or her judgment that balance was wrong, that would involve a shift in policy. It would not be possible to outlaw a type of condition that is consistent with what current policy says. I hope that reassures the hon. Lady.

Oliver Colvile (Plymouth, Sutton and Devonport) (Con): It is not only a case of trying to talk to politicians at an early stage; it is also about engaging with the local community, so that it feels it has a say and has been involved in the decision-making process.

Gavin Barwell: My hon. Friend makes a good point. Clearly, councillors and Members of Parliament are representatives of those communities, and engagement with them is important, but he is quite right that developers should also be talking directly to local people in the relevant area. They should be talking and listening. In my experience of the planning system, that kind of positive engagement is very good for the developer because it avoids problems later on when things come to a planning committee.

The broad point I was making to the hon. Lady is that my approach, were I on a local planning committee, would be to listen to concerns that developers expressed about planning conditions and judge whether the evidence backed up those concerns. If it did, I would adjust my policy, but if it did not, I would stick to my guns and do what I thought was the right thing for my local community.

On amendment 21, the hon. Lady made an important point about providing clarity for the applicant during the process. The amendment seeks to ensure that associated guidance is made accessible to inform parties of the appeals procedure, should an agreement not be reached on the application of conditions. I agree that we need to ensure that applicants are fully aware of the options available to them and how they can pursue that action. However, I would like to assure hon. Members that that information can already be found online as part of our planning guidance, and I believe it provides the right support to those looking to appeal against the imposition of certain conditions. On that basis, I hope the hon. Lady will accept that the necessary protections are there.

Dr Blackman-Woods: I thank the Minister for his helpful additional information on how this process might work in practice, particularly with regard to instances that might provoke the Secretary of State to develop and put out to consultation regulations to affect the conditions being applied by local planning authorities. I heard what he said about giving clarity to applicants about the appeals process and the circumstances in which the Secretary of State might get involved. I would like some time to consider that further. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: We now come to amendment 22 to clause 7. Before I call the shadow Minister, it might be helpful to advise the Committee that, in the light of the wide debate we have had on the amendments tabled to the clause, we are not planning to have a separate debate on clause stand part. If hon. Members wish to make any further comments about clause 7, I suggest they do so after the shadow Minister's speech on amendment 22.

Dr Blackman-Woods: I beg to move amendment 22, in clause 7, page 6, line 23, leave out subsection (5).

This amendment would ensure that local authorities are still able to make necessary pre-commencement conditions on developers.

Thank you for that direction, Mr McCabe. I will address my comments not only to amendment 22, but to some of our wider concerns about clause 7.

The Minister knows, because he heard the evidence, as we did, that clause 7 was the one bit of this relatively short Bill that concerned people who gave evidence to the Committee. In fact, a number of people thought that the clause was just as likely to slow down development as it was to speed it up. Councillor Newman, who represented the LGA, said:

"The whole perspective of what I am seeing in the Bill looks very much like a sledgehammer to crack a nut approach—another layer of red tape."

Kevin Hollinrake (Thirsk and Malton) (Con): It is a pleasure, Mr McCabe, to serve under your chairmanship. Is not that exactly the opposite of what has been said? We are trying to get rid of the complexity of the system. Clause 7 creates conditions of good practice, where people sit down together and make an agreement. If a council is being reasonable and a developer is reasonable, there will be no issue. There will be written agreement and things will move forward. If either party is being unreasonable, an inspector will be able to look at that and judge for the other party. It is in everybody's interests to sit down and get a sensible agreement on the conditions. Is not that a sensible piece of legislation?

Dr Blackman-Woods: The hon. Gentleman has described the situation that exists at the moment, not the position in which we will all be in after the Bill is enacted. The Bill puts in writing the agreement between the local authority and the developer. Significantly, as we have all been discussing, it gives powers to the Secretary of State to intervene in the process by producing regulations that will say something about the conditions that can be attached.

I agree with the hon. Gentleman that the system is working well at the moment because, as Councillor Newman reminded the Committee,

"nine out of 10 permissions are given, and 470,000 permissions are already granted for homes up and down the land that await development for various reasons."

All those reasons are not pre-commencement planning conditions.

Hugh Ellis said:

"From our point of view, the concern about conditions is that they are fairly crucial in delivering quality outcomes."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 23, Q31.]

He also said that he had no evidence whatever that conditions result in delay. Duncan Wilson from Historic England said that local authorities are usually reasonable already. He did not feel that unnecessary conditions were being imposed, and he believed that that particular assertion could be challenged. That is what we have been attempting to do thus far today.

It is not just Her Majesty's Opposition saying that all this is unnecessary; it is the Town and Country Planning Association, the LGA, Historic England and the British Property Federation, which said that it saw an issue with the discharge of conditions, but could not give us much detail on pre-commencement conditions.

I want to outline the evidence we have been given on why the clause is unnecessary. Various people who gave evidence said that they felt that if an application was turned down because an agreement could not be reached with the developer, it could take longer to argue about the condition and determine it than under the current set of arrangements. I point out to the hon. Member for Thirsk and Malton that that point has been made not only by me but by lots of other people.

2.45 pm

Amendment 22 seeks to remove subsection (5) from proposed section 100ZA. Local authorities could still make necessary pre-commencement conditions and still insist in certain circumstances, where they can reach an agreement with a developer, that those conditions stand. It would ensure that local authorities are not restricted from applying conditions that they think are necessary either by the Secretary of State or by not getting the written agreement and then the applicant going to appeal.

As we said earlier, it is quite difficult to envisage a set of circumstances in which the Secretary of State would step in and apply conditions, especially as the provisions of the framework that cover setting conditions are already heavily prescribed. Simply repeating them here for the Secretary of State to somehow come in and make a different decision under those same sets of restrictions and prescriptions seems a rather strange thing for the Government to do.

As I pointed out earlier, the NPPF has lots of paragraphs that deal with planning conditions, but I will not read them all out; we do not have time this afternoon. Some of the most pertinent to today's discussions are paragraphs 203 to 206. Paragraph 203 is important because it makes the case that we have been making today about why we want local authorities to be able to have the same planning conditions. It states:

"Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

I want to labour that point because the Minister's national planning policy framework sets out for local authorities that conditions should be the primary vehicle that is used or put in place to try to make unacceptable developments acceptable. That is his direction to local authorities. He then comes along a few years down the line and says, "We might have given you that direction, but we now think you are overdoing it a bit", which is presumably what the Government say, "so we are now going to take that power away from you. If you are using this power too much, we will have it limited by the Secretary of State." However, that is not in paragraph 204, which states:

"Planning obligations should only be sought where they meet all of the following tests...necessary to make the development acceptable in planning terms"—

that is in clause 7—and where they are

"directly related to the development; and fairly and reasonably related in scale and kind to the development."

My point is that local authorities already have to ensure that their conditions follow the principles set out in clause 7 for the Secretary of State. So they should be doing all that anyway.

The NPPF states:

"Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."

All that the Minister had to do to ensure that conditions were being properly applied was to give local authorities

a direction saying, "By the way, local authorities, when you are putting these conditions on things, can you please make sure that they follow the national planning policy framework?"

However, the Minister had other levers that he could use in addition to directing local authorities to abide by the NPPF. There is a section of planning practice guidance on the Government's website explaining exactly how to apply conditions. There are six tests. Conditions must be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

The web page goes on to tell local authorities how to apply the tests, in case they are not aware of that—although as they assess applications all the time I imagine they would be aware; but nevertheless I accept that it is helpful. The guidance that local authorities get about setting conditions that are necessary is:

"A condition must not be imposed unless there is a definite planning reason for it".

So it must be

"needed to make the development acceptable in planning terms.

If a condition is wider in scope than is necessary to achieve the desired objective it will fail the test of necessity."

The test of whether conditions are relevant to planning asks:

"Does the condition relate to planning objectives and is it within the scope of the permission to which it is to be attached?

A condition must not be used to control matters that are subject to specific control elsewhere in planning legislation (for example, advertisement control, listed building consents, or tree preservation).

Specific controls outside planning legislation may provide an alternative means of managing certain matters".

The examples given are public highways and highways consent. The guidance is clear about what "relevant to planning" means, and that sometimes it might mean having to rely on something immediately outside the planning system.

On whether a condition is relevant to the development to be permitted, the guidance states:

"It is not sufficient that a condition is related to planning objectives: it must also be justified by the nature or impact of the development permitted.

A condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development."

That is, again, very helpful and precise.

The next test is whether it would be practicably possible to enforce the condition:

"Unenforceable conditions include those for which it would, in practice, be impossible to detect a contravention or remedy any breach of the condition, or those concerned with matters over which the applicant has no control."

What is meant by "enforceable" is also thus pretty clear. As to the requirement to be precise:

"Poorly worded conditions are those that do not clearly state what is required and when must not be used."

So local authorities are even given guidance on how to word a condition—never mind its content.

The condition must also be reasonable in all other respects, and the guidance refers to conditions

"which place unjustifiable and disproportionate burdens on an applicant".

What a pity it is that the hon. Member for Thirsk and Malton is not in his place, as he was talking about unreasonable burdens. He said that we could be placing burdens on developers. Actually, the Government's own guidance states:

"Conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness...Unreasonable conditions cannot be used to make development that is unacceptable in planning terms acceptable."

There are lots and lots of pages of guidance about various circumstances in which conditions should and should not be used. There is the NPPF and the guidance, and there is further information from the Planning Advisory Service. If local authorities are in any doubt whatsoever about how they should be putting conditions together and the logic they should follow, and if they do not get everything they need from the guidance and the framework, the PAS document laying out the "Ten best practice principles" is very helpful. Principle 1 states:

"The number of conditions imposed through a planning permission should be kept to the minimum necessary to ensure good quality sustainable development."

I ask the Minister to note that that actually mentions sustainable development.

The second principle is that applicants should provide "better detail" because that is likely to lead to fewer conditions.

Principle 3 states:

"Positive dialogue between applicant/planning authority/statutory consultees/community is likely to result in fewer conditions being imposed".

The PAS document sets out a different way of achieving fewer conditions from the Government's way of referring the matter to the Secretary of State. The Government's own advisory service is suggesting that instead of taking the Government's route, we take a route of dialogue, and try to use the dialogue between all the interested parties to come to an agreement about a condition or a lack of it.

Principle 4 states:

"If a matter is controlled under other regulatory regimes then it should not be the subject of a planning condition."

Principle 5 states:

"A prescriptive condition setting out what would make the detail of a scheme acceptable is often a better option than an approval of detail condition."

The document states that other considerations should include: whether the condition is deliverable; whether it is inappropriate in terms of timing or lack of clarity; whether phasing can increase risk and cost; and whether a planning obligation would be better than a condition. It also advises looking at notices, and thinking about whether conditions are enforceable or whether they can be done with some other notice, rather than a condition. It also states:

"If an approval of detail application involves consulting with the community/parish/neighbourhood planning forum, this should be flagged and explained in the reason for the condition."

With all that information and guidance, it is extraordinary that the Government's position seems to be, "We have set the framework, the guidance and detailed information for local authorities through the Planning Advisory Service. Yet you are still managing to come up with, on a fairly regular basis, a whole list of pre-commencement planning conditions that somehow manage to breach

these particular requirements." It is quite extraordinary for the Government to say that. As we have said already today, if they are going to make that claim, it has to be backed up with evidence, and so far the Committee has simply not seen that evidence.

3 pm

Helen Hayes (Dulwich and West Norwood) (Lab): My hon. Friend is setting out her case powerfully. It has been suggested that the proposal set out in clause 7 is a sledgehammer to crack a nut. Does she agree that it is a sledgehammer to crack the wrong nut, because what really needs to be addressed is the resourcing of local authority planning departments, so that they can apply the existing guidance thoroughly and rigorously, give each application the time it needs and properly negotiate with applicants to ensure that applications are policy compliant?

Dr Blackman-Woods: My hon. Friend, as ever, hits the nail on the head. It is the wrong target, which is exactly our point. A lot of information is available to local authorities, never mind their experience of applying conditions. The problem is not setting conditions, but the lack of resourcing for planning departments. As we rehearsed this morning, most people's problem with pre-commencement planning conditions is not the conditions themselves but the time it takes to discharge them because of the lack of resources in planning departments. A lot of information is available to local authorities, so in general one would not expect them to set unnecessary conditions, because that would clearly be in breach of all the documents I have discussed.

I picked up, at random, a list of pre-commencement planning conditions from my constituency. The developer has just written to me about them, to ask me to ensure that the local authority discharges them, and I thought, "Here's a helpful bit of information that has just dropped into my inbox at a very appropriate time." To give the Committee some context, the development is taking place in a conservation area—a rather large student accommodation block—so one would expect the local authority to take some care and use some diligence over the pre-commencement planning conditions, and indeed it has. I want to go through the list—I will do so as quickly as possible—because Government Members are saying that these pre-commencement planning conditions are often unnecessary, yet when I went through the list I could not find a single one that was unnecessary. The list states:

"No development shall take place until samples of the materials to be used in the construction of the building hereby permitted have been submitted to and approved in writing by the local planning authority."

Gavin Barwell: Is that necessary?

Dr Blackman-Woods: It is absolutely necessary; it is in a conservation area.

Gavin Barwell: Not pre-commencement.

Dr Blackman-Woods: Well, we will have to disagree. I think that if somebody is asking for planning permission—not just outline planning permission—for a major development in a conservation area that abuts a world heritage site, it is vital that the materials to be used are included as a pre-commencement condition.

Government Members will love the next part:

"No development shall take place until full details of the location of the proposed bat loft and a scheme for the provision of 10 house sparrow terraces have been submitted to and agreed in writing by the local planning authority."

We all agreed earlier that protecting wildlife is really important. As the Minister knows, sparrows need to be protected if they are to survive and thrive. Such mitigation and compensation are necessary within the breeding bird assessment regulations.

Kit Malthouse (North West Hampshire) (Con): I hope that the hon. Lady is not going to go through too extensive a list. One of the points that we have been trying to make is that quite a lot of the conditions that have been mentioned could be carried out during, say, the demolition phase; they do not have to take place or be agreed before the contractor starts at the site.

On the particular condition that the hon. Lady just raised, although it might be possible for the developer to agree a location for the bat and sparrow accommodation, there is no guarantee that the inmates will transfer willingly. Anybody who knows anything about bats—I happen to, strangely—will know that one can put up a bat loft to accommodate displaced bats but they might not use it for years, and they might never use it. They are capricious creatures that might decide to go elsewhere, perhaps because of the noise of the development.

The same is true of colonies of sparrows. Sparrows are strange birds, in that they do not travel very much. They tend to live in one place—as the hon. Lady said, they colonise particular areas—and they might even pick a particular tree that they never leave, but they are unlikely to move simply because someone decides to put up accommodation. All these things are iterative and could be done during the demolition phase. There is no reason to wait months and to have an argument about where the sparrow accommodation should go, because even the sparrows might not agree on where is decided.

Dr Blackman-Woods: The hon. Gentleman might have had a point had there been a demolition phase. As there is not, it is important that all these things are known up front. A further condition was noise mitigation. The developers were asked for details of proposed foul and surface water drainage; for an archaeological investigation; to refrain from site clearance, preparatory work or development; for a tree-protection strategy; and for a site map.

Oliver Colvile: Will the hon. Lady give way?

Dr Blackman-Woods: I shall take the hon. Gentleman's intervention and then explain why, given the circumstances, those preconditions were necessary.

Oliver Colvile: I thank the hon. Lady very much. I should have declared an interest: I have a shareholding in a communications company. Does she agree that we need to ensure that we have hedgehog super-highways so that hedgehogs can get from one garden to another?

Dr Blackman-Woods: Absolutely. The hon. Gentleman makes an excellent point. In the development in Durham that I am describing, because it abuts a wooded area in the centre of the city called Flass Vale, several local residents were concerned that there was no particular order in the pre-commencement conditions about the

[Dr Blackman-Woods]

protection of hedgehogs. We are all terribly concerned about hedgehogs and I am grateful to the hon. Gentleman for raising their profile in Parliament—it is very much needed.

The point I wanted to make by going through that list—I have not gone through it all, but I have highlighted the most important conditions—is that it is an extremely contentious development in a very sensitive area of the city. Because the developers were made to provide all that information to the local community, the development is going ahead and the community is engaged with the developer in ensuring that the pre-commencement conditions are discharged. That seems to me to be a sensible way forward.

Had the developers been able to not agree, and to hope that six months down the line the Secretary of State would intervene and overrule the local authority, they might not have worked so hard to meet the conditions, and the local community might have been very upset with them indeed. As it is, as the local MP I have been able to ensure that everyone is speaking to each other about the trees and the sparrows, and about the hours during which work will take place on the site, as it abuts residential properties. The conditions have been carefully thought through by the local authority and were applied for a reason. I would like to hear why the Minister thinks—this is the important point—that those conditions do not comply with the requirements set out in the NPPF, because that is what the Government would have to show in order to have a provision in the clause to take away from local government the power to set the conditions, and give it to the Secretary of State.

The LGA and London Councils both made exactly that point to the Committee, so it is not just the Opposition who are saying that there is no evidence. The LGA said:

"The NPPF, and the associated national planning practice guidance, already clearly sets out expectations on use of planning conditions and the new primary legislation is unnecessary…There is little evidence to suggest development is being delayed by planning conditions. Planning conditions provide a vital role by enabling planning permissions to go ahead which would otherwise be refused or delayed while the details are worked out. They can also save developers time and money as they do not need to invest in detailed submissions until after the principle of the development is granted…Joint working between councils and developers is the most effective way of dealing with any concerns about planning conditions and the LGA strongly advocates the use of early, collaborative discussions ahead of planning applications being submitted for consideration."

I do not think it could be clearer.

To rub the point in, London Councils said that there was little robust evidence to suggest that the current system of planning conditions was the reason for the under-supply of housing generally or for the slow build-out rates of residential developments. It also questioned the need for the Bill to prohibit certain conditions in defined circumstances, where they do not meet the national policy test. It said that adequate tests on conditions were already set out in national policy, and that there is already a system in place that allows applicants to appeal against conditions that they consider fail those tests.

London Councils, the LGA and lots of other people who gave evidence to the Committee appear to back up what the Opposition are saying, which is that there is already a huge amount of information, advice and guidance that local authorities have to apply in setting pre-commencement planning conditions—and, indeed, conditions per se. The provisions in clause 7 are unnecessary and are further evidence that the Government are anti-localist and are taking powers back to the centre.

Gavin Barwell: We had some of this debate this morning when we considered the first group of amendments, while Mr Bone was in the Chair. Let me rehearse some of the arguments. There are four points that I want to make.

First, it is pretty undeniable that we have had a very partial presentation of the evidence we received, so I want to put on the record again what the evidence we received is. I acknowledge that it is mixed. Certainly, people came to us and said, "I don't see a problem here," but there were also plenty of people who said that there is a problem, so let me counterbalance what the hon. Lady said. The district councils network said that it supports the Government in seeking to address conditions. It was interesting that when I put it to Councillor Newman, who was speaking on behalf of the LGA, that that was the view of district councils, which make up the vast majority of local planning authorities, it seemed to be news to him.

I quoted a number of major developers earlier. Persimmon said in its annual report that,

"planning-related pre-start conditions continue to increase the time taken to bring new outlets"—

new homes—

"to market".

Knight Frank stated that we

"need to address the increasingly onerous levels of pre-commencement conditions".

The NHBC survey that I quoted provided clear evidence of small and medium-sized enterprises being concerned about, yes, the speed of discharge of planning conditions, but also the extent of those conditions.

3.15 pm

I have not yet referred to some of the things said to us in the evidence sessions. For example, Mr Andrew Dixon, the head of policy at the Federation of Master Builders, told us that

"our members…consistently tell us that the number of planning conditions…has increased…significantly".—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 6, Q1.]

From the Home Builders Federation, Mr Andrew Whitaker said that pre-commencement conditions had almost become "the default". I suppose the Opposition will say, "We expect developers to say that", but Mr Tim Smith, representing the Law Society, said:

"Do you really need to approve the details of your roof tiles before you start to demolish and clear the site?"—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 58, Q107.]

We have had plenty of evidence, therefore, in both what was sent to us and what was said to us in the evidence sessions, to back up the fact that there is an issue, which has also been acknowledged, I gently point out to the hon. Member for City of Durham, by two of our own Committee members. The hon. Member for Dulwich and West Norwood gives a different explanation for this, but she acknowledged that some planning

officers were imposing pre-commencement conditions simply because they did not have time to read the full papers submitted to them—that is a clear acknowledgement of a problem. The hon. Member for Bassetlaw is not in Committee today to defend himself, but I am sure that if, when he is, he feels that I have misrepresented him, he will point that out in very voluble terms. On Second Reading, he gave a personal example of his local authority applying an unnecessary pre-commencement condition. The evidence is there, therefore, that people are concerned about the issue.

On my second point, I should declare an interest. I have known Councillor Newman since I was knee-high to a grasshopper and have been arguing with him for a long time. He is a great one for metaphors; but said that the measure was

"a sledgehammer to crack a nut"—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 23, Q31.]

First, I am not sure whether the measure is a sledgehammer and, secondly, the evidence would suggest that the issue is not a nut. I asked him, in fact, how large a nut it was, but he had no evidence that he wished to present on that front.

The quotes that the hon. Member for City of Durham has just given us from the LGA and London Councils, which I acknowledge, were basically saying that the provision is unnecessary—although I dispute that—but they were certainly not saying that it will be harmful. I think that they were accepting that Government planning guidance and the NPPF are in place, and that the correct tests are there, in terms of conditions, but they were saying that all those things are being met already, so there is no need to put them in legislation. They were certainly not saying, "It's wrong." They were arguing about whether it was necessary to put something in legislation.

I want to end on two final points. We have had a long debate on the clause, which I suspect will prove the most controversial of all those in the Bill. The hon. Member for City of Durham quoted from the NPPF, and seemed to be trying to suggest that the fact that the Government were proposing the clause was somehow evidence that they were moving away from what the NPPF says about conditions. Let me quote again paragraph 206:

"Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."

That is the key paragraph on conditions. She also quoted a passage relating to planning obligations, but that is section 106.

The language of the NPPF therefore clearly acknowledges that, on occasion, the best way to address an otherwise unacceptable impact of a development is to impose a planning condition. I want to make it very clear in Committee that that remains the Government's view, that there will still be plenty of occasions on which local authorities wish to impose conditions, and sometimes pre-commencement conditions, and that we have no argument with that at all. All that we are seeking to do is to ensure that what is in guidance now will be reflected in statute, so that we can make sure that we deal properly with the issue.

The hon. Lady sort of suggested, "You've been saying it's okay, but now you are saying not to do too much of it." However, Government do that all the time. If a local authority came to me and asked, "How shall we fund our local services?", I would reply, "Use council tax to fund your services", but the Government would also say, "Don't do too much of that, though; do not increase taxes by a wholly disproportionate amount, because that has a damaging impact on residents." Government do that often; it is a question of striking the right balance.

I end on a slightly partisan note, because this is the main area of the Bill on which the Government and Opposition differ. I made the point on Second Reading—and I will reinforce it now—that there is developing consensus in the House that the country needs to raise its game when it comes to the number of homes built. The difficulty with the position taken by the official Opposition is that, on too many issues, they will the ends, but not the means.

There were three examples on Second Reading. The first was on dealing with the conditions that too often slow up the build-out of schemes. The second was on permitted development, which we are about to come to. Thirdly, the hon. Member for Bassetlaw objected to the duty to co-operate, which is critical to ensuring that if one authority cannot meet its housing need, those homes do not disappear, but are shared out among its neighbours. Those issues involve tough choices.

For me, the key moment in the debate was when I asked the hon. Member for City of Durham whether she accepted—regardless of whether she thought it was justified—that imposing a significant number of pre-commencement conditions on an applicant was bound to delay the point at which spades went into the ground. She did not answer that question. It is undeniable that imposing onerous conditions on an applicant will delay the process from the point of planning permission being granted.

Dr Blackman-Woods: Actually, I am pretty certain that I did answer the Minister's question. I simply do not accept its premise, because we do not believe that pre-commencement planning conditions slow down development. In fact, much of the point that I have been making is that the system that the Government are about to put in place could slow down development, because more developers may now have to use an appeal route. We do not think that pre-commencement conditions slow down development; that is the Government's case. It is not me who has to address that point; it is the Minister.

Gavin Barwell: I will try to address it now—

Kit Malthouse *rose—*

Gavin Barwell—and my hon. Friend the Member for North West Hampshire is going to help me.

Kit Malthouse: I am grateful to the Minister for giving way, because I could not intervene on an intervention. Would the Minister care to ask the hon. Member for City of Durham how long the period was between the granting of the application of which she spoke, and a spade going into the ground, while materials, sparrows, bats and all those sorts of things were dealt with? How long did the process take?

Gavin Barwell: The hon. Member for City of Durham may intervene, but I suspect that the answer is that it has not happened yet. I was going to come to that, but the hon. Lady gave a clear response to my point, so let me deal with her two points in turn.

[Gavin Barwell]

The hon. Lady's first argument is that there is a danger that the process will lead to more appeals, and will therefore slow things down, not speed them up. I do not agree, and I will make it clear why. If, at the moment, an applicant does not like the pre-commencement conditions imposed on them, they already have the right to appeal. It seems that there is no evidence that they are any more likely to appeal as a result of the fact that the local authority will now not be able to impose those conditions on them than they would have been otherwise.

The second argument, which is irrefutable, is that if an applicant is asked to do a large number of things before they can start any work on site, that is bound to delay the start of work on site. On most things, my hon. Friend the Member for North West Hampshire is beyond reproach, but on this issue, I blame him, because the hon. Member for City of Durham was in the midst of giving us a long and detailed list, and he rather hurried her up, so we did not get the full list. I managed to scribble down at least six of the conditions she mentioned. One condition was details of the materials to be used. That does not necessarily have to be a pre-commencement issue, but I accept that it is not that onerous. However, the designs of new homes for bats and birds will clearly take some time, as will the noise mitigation scheme, a drainage scheme, and tree protection schemes. Archaeological work is necessary and will always have to be pre-commencement, but it clearly takes time. All those things take time to design, work up, go to the local authority with, and get discharged.

It is difficult to comment with certainty, not knowing the site in question, and I would not want, without knowing the site, to express strong opinions, because the hon. Lady will have pictures of me printed and shown at local protests or something. None the less, some of those things, all of which it is important to deal with, can arguably be dealt with later in the process. It seems unarguable that the hon. Lady's council requires of the developer a significant chunk of work that will take time and will delay the point at which the developer can get on site. The question of how many of those conditions are a necessary delay to the development is a legitimate source of public debate. The legislation tries to weed out those that are not necessary and focus on those that are.

Jim McMahon *rose—*

Gavin Barwell: I will take one final intervention and then conclude my remarks.

Jim McMahon: I fear that the Minister has chosen the wrong application to pick on, because it is a very particular one—for anyone without knowledge of it to say what should or should not be allowed is embarrassing, to say the least. In a local context, those issues could well be extremely important. If you, Mr McCabe, lived next door to that development, you would want to know that the noise mitigation element would be dealt with before it was approved. If it could not be dealt with, we would all want to have a say on whether it was appropriate for the development to go ahead at all. With all due respect, I am not convinced that this was the right battle for the Minister to choose.

Gavin Barwell: I thought that I had been careful, but perhaps I was not careful enough; I think I said that I did not know the site in question and could not comment on the detail.

Let me comment instead on a generic application in which these issues arose. My view, generally speaking, is that materials are important, particularly in a conservation area, but their colour does not necessarily need to be agreed before a spade can go into the ground. The situation of bats, birds or other species that inhabit a site clearly needs to be dealt with before their habitats are disturbed. However, on a large site, of which a part was existing buildings and another part was a wooded area where those species had their homes, work could be done on the buildings before touching the habitat. Noise mitigation needs to be dealt with at the outset, because clearly initial works can be noisy. On drainage, a clear commitment would be needed at the outset that the drainage solution would be sustainable, but the detail would not be needed until the detailed works were to be done. Archaeology clearly needs to be considered.

On a generic site, some of those points are clearly pre-commencement, but I argue that some are not. It cannot be denied, however, that the more a developer is asked to do before a spade goes into the ground, the longer the wait until that happens. The Government are therefore quite right to focus on this issue, alongside lots of other issues such as raising the performance of our utility companies, resourcing our planning departments better so that they can take decisions more quickly, and getting section 106 agreements more quickly.

The hon. Member for City of Durham cited a statistic that gets to the core of the issue. The coalition Government's planning reforms have done an amazing job of increasing the number of homes given consent through our planning system. In the year to 30 June, a record number of homes were given consent. However, we have seen a growing gap between consents and homes being started, because the number of homes being started has also gone up but not by anything like as much. A strategy to get the country building the homes we desperately need therefore needs to address bridging that gap. My contention is that these pre-commencement conditions and other abuses of planning conditions are one issue, albeit not the only one, that we need to address in order to do that.

Dr Blackman-Woods: I will start by addressing the specific question asked by the hon. Member for North West Hampshire: when did the scheme I mentioned start on site? Planning permission came through in April and the developer was hoping to start on site in August. Actually, I got a phone call to say that there was a delay in the system. Hon. Members are right that there was a delay in the system, but it had nothing whatsoever to do with the pre-commencement planning conditions, which were not mentioned at all; it was because the Brexit vote meant that the developer lost its funding and had to go out to the market again to get support for the development. It was therefore unable to start on site until October—and start in October it did. We have had the first meeting with residents, and they all agree that the pre-commencement conditions were essential.

3.30 pm

We do not accept that pre-commencement planning conditions are the reason for the slowness of build-out; we think that that has something to do with the general market conditions in this country. The Minister will know that volume house builders hold on to land and build out at a particular rate to protect the value of their product. We need major interventions in that system. But even though he believes that pre-commencement conditions produce delays in the planning system, he does not need the clause. He does not need the Secretary of State's intervention and all the things that go with it. The Minister simply needs to tell local authorities that they have to abide by the national planning policy framework and not deviate from it in the setting of pre-commencement conditions. Unnecessary conditions and all the problems that he seems to have identified will then not emerge, because they will not be possible. We profoundly disagree with him and his colleagues on this point, and on that basis I would like to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 4, Noes 10.

Division No. 1]

AYES

Blackman-Woods, Dr Roberta	Hayes, Helen
Cummins, Judith	McMahon, Jim

NOES

Barwell, Gavin	Malthouse, Kit
Colvile, Oliver	Philp, Chris
Doyle-Price, Jackie	Pow, Rebecca
Green, Chris	Tracey, Craig
Hollinrake, Kevin	Villiers, rh Mrs Theresa

Question accordingly negatived.

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

The Committee divided: Ayes 10, Noes 4.

Division No. 2]

AYES

Barwell, Gavin	Malthouse, Kit
Colvile, Oliver	Philp, Chris
Doyle-Price, Jackie	Pow, Rebecca
Green, Chris	Tracey, Craig
Hollinrake, Kevin	Villiers, rh Mrs Theresa

NOES

Blackman-Woods, Dr Roberta	Hayes, Helen
Cummins, Judith	McMahon, Jim

Question accordingly agreed to.

Clause 7 ordered to stand part of the Bill.

Schedule 2

PLANNING CONDITIONS: CONSEQUENTIAL AMENDMENTS

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

Gavin Barwell: I will not delay the Committee for long. Schedule 2 sets out the amendments that need to be made to the Town and Country Planning Act 1990 as a consequence of clause 7(1), which will allow the Secretary of State to make regulations that prohibit local authorities from imposing certain planning conditions in circumstances to be prescribed when they grant planning permission.

The amendments in schedule 2 seek to ensure that any such regulations the Secretary of State may make under clause 7(1) would also apply to conditions that are imposed via the ways in which it is possible to gain planning permission other than by application to the local planning authority. That includes planning permission granted by: development order; local development order; mayoral development order; neighbourhood development order; applications to develop without compliance with conditions previously attached; simplified planning zones; development in enterprise zones; orders requiring the discontinuance of use or alteration or removal of building works; and appeals against enforcement notices. We have already debated the principles.

Question put and agreed to.

Schedule 2 accordingly agreed to.

Clause 8

REGISTER OF PLANNING APPLICATIONS ETC

Jim McMahon: I beg to move amendment 28, in clause 8, page 7, line 21, at end insert—

"(e) information on the number of permitted demolition of offices for residential use to a similar scale including—

(a) the impact on a local plan;

(b) an estimate as to how many homes the development will deliver and

(c) a consultation with the local authority regarding the effect of the change of use on any urban regeneration plans."

This amendment would ensure monitoring of the impact of permitted right of demolition on offices, on urban regeneration that requires office space and on the provision of housing.

The Chair: With this it will be convenient to discuss amendment 29, in clause 8, page 8, line 10, at end insert—

"(9) The cost of compiling a register and gathering the information to underpin it should be met by the Secretary of State."

Jim McMahon: I have been brought off the subs bench to do this. I am quite excited about the debate we have had and the evidence we have heard, because I am a localist; I believe that communities should have a say and be able to direct their futures in the most appropriate way. Neighbourhood planning gives them the ability to do that, framed in the context of a national plan and the land supply. That means national Government can achieve what they want to achieve, local authorities can take a view of the wider area and, integral to that, the community has a strong voice. That is why I am slightly at odds with permitted development.

A number of representations have been made over the years that are at odds with the "community first" approach that we have been talking about. The Local Government Association's evidence frames that quite well. In the survey it carried out of its members, to which 93 local authorities responded, 82% were making a loss on maintaining that process. It is important we

[Jim McMahon]

get some comfort from the Minister today and accept that local authorities are taking on an additional burden that they should be compensated for.

Moreover, that flies in the face of what we might assume would happen. Let us take light industrial and office accommodation as an example. The view surely is, "Well, there's all this accommodation that isn't being taken because the market demand for it isn't there, so it's far better to put that to good use as residential accommodation." However, that is not what we have seen. Areas often have low office demand and low residential demand going hand in hand. I could take Members to Oldham town centre and show them empty office blocks, and alongside those is an empty potential residential conversion that, because demand has not taken hold, is commercially unviable.

We have seen a displacement in areas where there is significant high demand. In some London boroughs, for example, we have not seen empty office blocks being converted into solely residential accommodation; we have seen profitable businesses and charities that are there for the community benefit and value being displaced by landlords, who recognise that it is more financially beneficial to get rid of a tenant who is not paying anywhere near enough. They convert the building for residential use and displace the local business or charity in favour of greater profits.

Don't take my word for it. We have examples in Barnet, where 100 small businesses and charities were displaced with just four to six weeks' notice. We have a situation in Islington where 71 office buildings have been converted to residential accommodation. More than 40,000 square feet of office accommodation has been taken in that one borough, where there is demand for that facility.

Chris Philp: Is not Islington, along with many other London boroughs, now subject to an article 4 direction, which will prevent the conversions that the hon. Gentleman describes from taking place in future?

Jim McMahon: That is a fair point about where things are today, but the damage has been done and we cannot change things back to what they were. The phrase "a sledgehammer to crack a nut" has been used probably once too often today, but article 4 is a good example of a very big sledgehammer being used to crack a very particular nut. Article 4 affects everybody in the vicinity or within the boundary and obliges them to comply with the directive. I am talking about a particular problem that has been brought about by the extension of permitted development.

Dr Blackman-Woods: My hon. Friend is making a powerful case. Does he agree that in policy-making terms it is nonsense to set up a scheme to relax permitted development rights, recognise that it causes a huge problem and then introduce another system to try to counteract the adverse consequences of the original policy? All the Government had to do was allow local authorities to grant planning permission in the first place, rather than introducing a relaxation of permitted development rights.

Jim McMahon: My hon. Friend is absolutely right. A lot of people are of the view that permitted developments of this type mean that an empty office is simply converted—from the outside there is very little difference, but it is what happens inside that changes, and that is surely up to the person who owns the building—but the rules actually allow for a building to be completely demolished and then rebuilt to a similar scale. That can change the street scene significantly, so it does go further.

Let us also consider the location of some of the buildings. Take an everyday town centre. It is easy to imagine two restaurants or bars operating with an office block in between. If the office block is converted under permitted development, the tenants who move in are forced to live with the noise nuisance of a pre-existing use in an acceptable location. What is not taken into consideration is how to create a vibrant community that has the requisite facilities, amenities and, importantly, quality of life. For a lot of people, permitted development as it stands does not have that balance in place.

The LGA, which is the voice of local government, has said that. It consults its members, who have been clear in numbers that the problems with permitted development should be looked at. It is odd that a Government who say that they are all about community voice and control—about people being empowered, for once, to have some control over what their communities look and feel like—are not tackling permitted development in the right way.

If we take ourselves out of the town centre, we could go to an industrial estate where small industrial units can be converted for residential use. It is perhaps okay if a unit is converted, but what about the existing users who suddenly have a barrage of complaints from the local authority about the noise nuisance from their pre-existing use, which might have been going on for decades? There might be early-morning or late-night deliveries at what is a predominantly industrial location that has suddenly changed into a residential neighbourhood, without the required facilities or amenities. It is a really big issue.

We have talked a lot about bricks and how important their colour and texture are. We have discussed whether they are important in pre-commencement or could be dealt with later. At least we are talking about them. If someone goes for a change of use under permitted development, very little attention is given to the quality of finish, design and detail. An entire shopfront has been removed in my town. Imagine how a shopfront block looks: there is a hole on the ground floor where a full shopfront used to be, with a sign on top. I know of several examples where the shopfront has been taken away, leaving an exposed girder where the sign used to be, and a completely inappropriate insert has been added that has no relationship to the wider street scene. In a normal planning application, such issues would be negotiated with a developer to ensure that they were dealt with appropriately.

We must recognise that permitted development flies in the face of the community voice and empowerment that we have been talking about.

Chris Philp: On the question of shopfronts, class A1 retail use, to which the hon. Gentleman is referring, is not subject to permitted development rights, which apply only to class B1 office use.

3.45 pm

Jim McMahon: Of course, what I am talking about is the physical appearance of a shopfront, not necessarily the fact that a building was previously a shop. A building may be in use as an office but have the external appearance of a shop. It is that conversion that I am talking about. I am thinking in particular of professional services businesses that are based in accommodation with a shopfront façade but where there is office-type use behind that. That is the point that I was getting to.

Whatever our view about the finish, we need to accept that when we are talking about a policy of empowering communities and giving them a voice and a say, it is important to manage expectations to ensure that they are not let down after the fact. Permitted development flies in the face of that empowerment, because it takes power and control away from them. If nothing else, we should at least accept that permitted development rights are a significant burden for local authorities, and when we talk about capacity being an issue, we should at least ensure that local authorities are given the finances to administer that policy in the right way.

Helen Hayes: It is a pleasure to serve under your chairmanship, Mr McCabe. The gathering of data on homes delivered through permitted development rights is a small beneficial step. It is long overdue; it should have been introduced when permitted development rights were extended. It remains a significant problem that although the negative impacts of the extension of permitted development rights are widely reported, there are no consistent data to monitor those impacts, and we therefore cannot have the debate that we need in the House and elsewhere about this significant problem.

Concerns have been raised with me consistently, ever since the permitted development rights policy was introduced, about the size and type of new homes that are being delivered under those rights; the quality of those homes; the lack of section 106 contributions to provide properly for the physical facilities and public services that an expanding residential population needs; the lack of affordable homes; and, particularly in London, the loss of much-valued employment space for small and medium-sized businesses. We cannot quantify the scale of the problem, because the policy was flawed from the start.

Although the small measure in the clause will help with the monitoring of data, I am concerned by the fact that the Government are extending permitted development rights to include the demolition and rebuilding of office accommodation for residential purposes. That brings with it exactly the same concerns that I have about the previous extension of permitted development rights—but more than that, it will result in local authorities' total loss of control over the quality and aesthetics of new development. As we debated earlier, those are often among the issues that matter most to local communities and make the difference between something being acceptable and not being acceptable.

The Minister argued on Second Reading that permitted development rights are helping to accelerate the delivery of new homes. The delivery of new homes at speed and at scale is of course of utmost importance, but the housing crisis is more complicated than that.

Kevin Hollinrake: The hon. Lady refers to the Minister's comments about speeding up delivery. Does she accept that permitted development rights have in many cases done exactly that? She talks about the negative consequences of that policy but has not spoken about the positive consequences. Does she accept that there have been positive consequences, including the delivery of more residential units?

Helen Hayes: I was just about to say that in addition to the numbers, which I do not dispute are important, the size and type of homes that we are delivering matters. It matters whether we are delivering homes that families can live in and have a good quality of life in, or only homes that are too small even to fit adequate furniture into. Minimum space standards matter, and the Government have failed to address that issue. The provision of amenities matters. It matters whether there is a local park that is properly funded through the planning process. It matters whether the roads and pavements are of an appropriate standard, whether there is lighting and whether our neighbourhoods are attractive to live in. It matters whether there are places in schools and GP practices for an expanding population to access.

Above all else, affordability matters to my constituents. It is simply not fair and not appropriate that new homes are allowed to be delivered with no contribution at all to the affordable housing that we need more than any other type of housing in London. As a Member of Parliament for a London constituency, the Minister should, quite frankly, know that.

The extension of permitted development rights is a disaster for the delivery of the high-quality neighbourhoods with good facilities and services that we all want to see. We want to see the right numbers of homes being delivered, but we also want to build attractive and successful communities for the future, not tomorrow's regeneration projects. I am deeply disappointed that, through the Bill, the Government are trying to patch up a broken policy, rather than accepting that it is not working in the way it needs to and reforming it to make it more fit for purpose, so that we can deliver not only the number, but the type and quality, of new homes needed within the successful neighbourhoods that we all want to see.

Dr Blackman-Woods: My hon. Friends the Members for Oldham West and Royton and for Dulwich and West Norwood have done an effective demolition job on the Government's case for promoting permitted development. The Opposition are on record, on a number of occasions, as being totally against the relaxation of permitted development rights for all the reasons that my hon. Friends outlined, including the very poor-quality development that often ensues from developers taking a permitted development route.

It is not that we are against a change of use from offices or agricultural buildings to residential; we just think that it is critical that local people have a say on whether those changes of use take place. The process should take place through the planning system, not through permitted development. We are living with some of the huge consequences, such as poorly planned developments and neighbourhoods, emerging from too much permitted development.

[Dr Blackman-Woods]

On amendment 28, we are not in favour or permitted development, but if the Government are in favour of it, it makes some sense that they might actually want to know what is going on with it. To date, they are probably not that aware. The compilation of the planning register would elicit further information from local authorities about what is happening with regard to permitted development. The circumstances set out in clause 8 are too restrictive and will not capture some of the information that local authorities have told all members of the Committee is very important to them.

How many additional homes have been created through permitted development? What is the impact on any local council regeneration plans, and on the local plan? Those questions are important. Let us begin with the local plan. If a lot of windfall sites have emerged through permitted development, and a lot of homes—even of relatively poor quality—have been created that contribute towards meeting the housing need, there might be an impact on local plan provisions. The local authority might like an opportunity to tell the Minister and everyone else about the impact of permitted development on the local plan. It will also want to be able to give information not only on the type of housing delivered but on the number of homes, who they are for, whether they are affordable, their quality and a whole lot of other issues.

My most significant point about the amendment is what it would mean for regeneration, and I am really interested to hear what the Minister says about that. As my hon. Friend the Member for Oldham West and Royton touched on earlier, a number of cities and towns have areas with empty shops, pubs or offices, but they are empty for a reason: the local authority has or is developing a plan to regenerate the area. Local authorities have told us that a developer will now be able to come along, get the office block and say, "I can make a quick buck here by converting this block into housing through the prior approval route"—and bang goes the council's ability to regenerate the whole area in line with a local plan that has emerged through the neighbourhood planning system or consultations with the community. That does not seem a very sensible way forward.

If I were the Minister, I would want to know whether a policy of mine was actually impeding local authorities from regenerating their areas because permitted development was getting in the way. I would want to do something to put that right and to help the local authority with that process. The Minister will know that the prior approval system in place for permitted development simply does not give a local authority the tools to turn down a permitted development, either for regeneration reasons or because it severely, or even mildly, affects the authority's local plan.

Indeed, the prior approval system is very complicated. The Government make much of the fact that they have simplified the planning system; I could not help but smile when I saw the statutory instrument that they passed last year, the Town and Country Planning (General Permitted Development) (England) Order 2015, which is 162 pages long—such have been their extensions to permitted development. Each class of permitted development has different prior approval conditions, but none of them allows consideration of the issues addressed by our amendment. For instance, for a change from offices to dwelling houses, the local planning authority has to consider

"whether the prior approval of the authority will be required as to…transport and highways impacts…contamination risks…and…flooding risks",

but it cannot take account of anything else. If the development will impede a regeneration scheme, the authority cannot even consider that. If there are huge energy conservation issues because the office block has poor energy efficiency, the authority cannot do anything about that either. If it thinks the materials are wrong, it cannot do anything about that. If it absolutely needs affordable housing in the area, it cannot do anything about that. There is really a very small list of things that it can do anything about, and that list certainly does not cover the issues in the amendment.

4 pm

So what about the change of storage or distribution centres to dwelling houses? Given where storage or distribution centres are likely to be based—they could be on an industrial estate or at the edge of it, or on the edge of town—one would think there might a slightly longer list, because of the need to protect future residents and occupants. A few more prior approval criteria are listed, which is good. Air quality is included, because the development could be located within a business area; that is good to see. The list also includes transport and highways, contamination risks, flooding risks, noise impact and cases in which the authority thinks that the mix is not appropriate. That list is good but does not include any of the issues we have raised in the amendment.

We then have changes from agricultural buildings to dwelling houses. That is interesting, because in that case we have a slightly longer list that includes transport and highways, noise impact, contamination risks, flooding risks, whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a class C use, and the "design or external appearance" of the building. It is interesting we have that for an agricultural building but not for any of the other categories of change of use. One can only ponder why the Government think external appearance is important if the development is in a rural area, but in an urban or suburban area the appearance of what materialises at the end of the permitted development process is of no interest at all.

I hope the Minister will be able to enlighten us as to why such a limited set of circumstances can be taken into account by local authorities when deciding whether to grant permission or whether an application needs to go through a prior approval process. I for one would like the Minister to look at that. We know—we will talk about this in a moment—that the quality of what is delivered through permitted development is often very poor indeed. A lot of properties quickly end up not being fit for purpose, and there are huge conflicts of interest. The Minister will know that, because his predecessor had to look at a lot of complaints from residents who perhaps unknowingly had a music venue next door to them that had a licence to 2 am, 3 am or 4 am. Once the office was converted into residential accommodation, residents wanted the music venue to be closed down. Understandably, the people who used the music venue said, "Excuse me, we were here first."

The music venue might have been going for 30, 40 or 50 years. Should those people be denied their music venue simply because the Minister's scheme for prior approval did not think about noise?

The list we have given in the amendment is not a comprehensive or exhaustive one. I am sure we could add lots of other things to the information that local authorities might be required to give that would help the permitted development system work better. I hope the Minister will be grateful for that, but he might not want that information added to what is, again, a new burden. He will say, "Ah, the hon. Lady is being inconsistent again because she is adding to the considerable additional burden by asking local authorities to give information in a whole variety of circumstances that are not on the Government's list." However, I have a way of dealing with that—amendment 29.

Amendment 29 accepts that, with the register, the clause is putting additional burdens on local authorities, but it also recognises that there is a whole lot of other information that the Minister should gather if his Department really wants to understand what is going on. Amendment 29 therefore says that if the Minister thinks that local authorities should compile the register, then he ought to pay for it and not—once again—put an additional financial burden on to local authorities.

This morning, I was worried that the Minister was back-tracking a bit on his understanding of the huge resource problems being experienced by local authorities, so I thought that I would bolster the case that the Opposition are making about what a huge issue the lack of resourcing of local planning departments is and refer to the National Audit Office report produced at the end of 2014. For planning departments, it makes sobering reading, because 46% of their budget was cut between 2010 and 2014. Just when the Government are asking local authorities to step up to the mark, to get more planning permissions, to do more and to get the planning system moving, the budgets are being cut by half.

From the report, it is clear that the largest spending reductions in councils have been in planning and development services, in both single-tier and county councils. The average reduction, as I said, is 46%. That is a huge amount of money for planning departments, and extremely difficult for them to make up, whether in the short or the long term.

Jim McMahon: The resources of local government are a critical issue. Many are looking at the next three to four years and wondering how on earth they will make ends meet or cover the costs of adult social care and children's services. When faced with such choices, clearly the councils go to the back office—or what people consider the back office until they are an applicant who needs to use the planning system when, all of a sudden, it becomes a front-line service. If the Minister is determined to make everything work, it is important that the proper resource is given. We have been given some hint about a White Paper that is due and about conversations that might or might not be taking place, and we are intrigued, but a bit more certainty would go a long way.

Dr Blackman-Woods: My hon. Friend makes an excellent point. He more than any of us in Committee understands the day-to-day, lived experience of people in local authorities and just how difficult it is to keep managing, in particular, the huge portfolios that some of our local planning officers have to on such limited resources and—this is pertinent—with no end in sight. We do not know what is to come in the Minister's White Paper, but there is no clarity at all about when the contraction of budgets in local planning departments will stop. At the moment, we have contraction figures right up to 2020. If the Minister is to reverse that and put in additional resources, that would be a good thing, but at this point in time we do not know whether that is the case.

We do not know whether there will be any means by which local authorities can fund the putting together of the register. Several people who gave evidence to the Committee were at pains to stress to the Minister that responsibility for an operation of this type will fall on planning policy officers. Some district councils have only one planning policy officer to do all their local plan-making work, to support all neighbourhood planning and to do all the work required for a register. That just does not seem possible, or possible to deliver.

We have made the case that the planning register as proposed under clause 8 is wholly inadequate. If the Government did not rely so heavily on permitted development, it would not be necessary anyway. If the Minister wants to stick to his thoroughly discredited permitted development scheme and ask local authorities to produce a register, he should also pay for it. I look forward to hearing what he has to say.

Gavin Barwell: It is a pleasure to welcome the hon. Member for Oldham West and Royton to the Front Bench as a substitute, as he described himself. I am a keen fan of the beautiful game, and I observe that substitutions happen in one of two circumstances: either a team are winning and coasting, so give some fresh talent a chance, or they are struggling and bring on someone different. I shall leave it to Committee members to decide which of those sets of circumstances applies now.

I thank Opposition Members for tabling amendments 28 and 29 on changes to the planning register. Before I address them specifically, perhaps I can say a few general words about clause 8, which, as we have heard, aims to ensure that both local and central Government further understand the contribution that permitted development rights make to increasing the housing supply, while also increasing transparency about development proposals in an area.

The Government have introduced a series of permitted development rights for change of use to residential use since January 2013, and they are playing an important role in supporting the delivery of the homes that our country so desperately needs. We do not know exactly how many homes they have delivered, which is part of the purpose of the clause, but we have two bits of data that I shall share with the Committee.

First, since April 2014 there have been more than 6,500 applications for prior approval for changing from office to residential. We do not know how many housing units have been created, but we do know that. Secondly, the *Estates Gazette* reported that more than 5,300 new homes have been started in London as a result of permitted development, although I cannot tell the Committee the source of the data. I shall return to the

[Gavin Barwell]

remarks made by the hon. Member for City of Durham later in my speech, but it is worth putting clearly on the record now that 5,300 families in London have had the opportunity of a home as a result of the policy. Whatever other critiques may be made of it, that important fact should not be lost in the balance.

Clause 8 enables the Secretary of State to require local planning authorities to place information about prior approval applications or notifications for permitted development rights on the planning register. For the first time there will be consistent public-access data on the number of homes being created through permitted development rights in England. Details of which prior approval applications or notifications should be placed on the register, and specific information relating to them, will be provided in subsequent regulations, which we expect to be made available during the passage of the Bill.

Before I discuss the amendments in detail, I make a general observation: good-quality data are important in assessing public policy. My officials know me well enough by now to understand that I am interested in data and in understanding figures properly, so that Ministers can take good decisions based on clear evidence. The data collected under the clause will be important with respect to the main way we measure the success of the Government's housing policies—the net additions measure of housing supply. I shall not detain the Committee too long on one of my pet subjects, but Members might be aware that data on starts and completions are published quarterly, and we then get annual data on net additions, which takes in not only starts but changes of use and permitted developments. That way, we get a total picture in terms of the net change in the number of homes.

Interestingly, even the starts figure in the net additions data is not consistent. If one adds up the net starts for the previous four quarters, one will not get the same total because they are measured differently. That often creates room for people to have political fun by using different figures. Even for those who oppose permitted development, clause 8 is good because it will provide data on the effect of the policy, which can inform our political discussions of it.

4.15 pm

Amendment 28 seeks the inclusion on the register of specified information relating to applications under a permitted development right for the demolition of offices and replacement build as residential use. The Government announced in October 2015 that we would introduce such a right. In shaping it, we will consider what matters should be included in a prior approval application. Clause 8 will not require local planning authorities to collect or record any additional information beyond what is already submitted by the developer with their prior approval application or notification, such as information relating to flooding where that is a matter for prior approval.

We agree that it is important to know how many homes are being delivered through permitted development rights. The hon. Member for City of Durham has already referred to the Town and Country Planning (General Permitted Development) (England) Order 2015. That order, as amended, already requires that applications for change of use to residential provide information on the number of homes to be delivered. The same will be true of the permitted development right for demolition and replacement as residential use when it is introduced. Clause 8 will require that information to be placed on the register. However, the hon. Lady's amendment would go much further. As she correctly predicted, it would add an unnecessary burden and costs to local planning authorities because it would require additional information beyond what is required by the right, and it would require local planning authorities to undertake much wider assessments relating to matters not covered by the prior approval application.

With regard to amendment 29, there is already a requirement, imposed by section 69 of the Town and Country Planning Act 1990, for local authorities to collect and place on the register information on planning applications. Let me be clear that we are not proposing that local authorities compile or create a new register. We know that many local planning authorities—including Durham and Oldham, which are in the constituencies of the hon. Members who tabled the amendment, as well as my own borough of Croydon—already voluntarily capture some types of prior approval applications for the change of use on their register.

We do not anticipate that clause 8 will impose a burden on local planning authorities, because it relates only to information that they will already have received as part of the prior approval application. It will help the Government and communities to further understand the contribution that these rights are making to delivering new homes. I hope that hon. Members agree that recording information, in particular on housing numbers, is a good thing.

Dr Blackman-Woods: I want to return to the Minister's point about planning permissions being put on the register. Planning permissions do not completely cover the cost of determining a planning application, but more money certainly goes to the local authority than under the prior approval system. Although there might be a case for additional resources to allow local authorities to put planning permissions on the register, does he accept that requiring them to put prior approvals on the register when they receive so little money from them is really a burden of a different order?

Gavin Barwell: I tried to answer that question in my remarks: we do not believe that there is any additional cost in requiring local authorities to place these applications on the register. The register is not new; it already exists and holds information on individual planning applications. We do not think that the requirement will place a new burden on planning authorities. However, the Department will carry out an assessment to confirm that before introducing regulations. I hope that reassures the hon. Lady.

Let me turn to some more generic points about permitted development. The hon. Member for Oldham West and Royton spoke passionately about his views as a localist and suggested that this area of policy points in the opposite direction. I understand his point, but I think it all depends on how we look at things. Our planning system is built on the understanding that people do not have the right to do whatever they want with their land; they need to seek permission from the

state because what they do might affect the amenity of adjoining landowners or people who live on adjoining sites.

However, there has always been an understanding that, for certain kinds of applications that fall below a particular de minimis threshold, it is possible to proceed without having to make a planning application. A good example is that some of the smallest, single-storey extensions to domestic properties can proceed as permitted developments. That has been in our planning system for a long time. As the Government wish to drive up supply, they have extended that right to others.

There is no denying that permitted development removes from councils the right to consider a full planning application. It limits the freedom they have to the matters specified in any prior approval. However, it also gives the owner of a building the freedom to do what they will with their land because we have judged that the issue is unlikely to have a significant impact on adjoining owners.

Jim McMahon: Does the Minister accept, in this context, that the council is a community? The elected members of the council derive from the local community and are elected by it to represent it and sit on planning committees that make decisions based on the community interest.

Gavin Barwell: I would not accept that a council is a community, but I certainly accept that it comprises the elected representatives of that community and speaks with the authority of the community, if that is helpful to the hon. Gentleman.

Stepping aside from the controversial topic of office-to-residential conversion, the question that we should ask ourselves when deciding whether something should be a permitted development right or require a full planning application is whether the change being made to a property is sufficiently significant that it is likely to have implications for adjoining owners. If it does have implications, there are clearly arguments that it should go through the planning application process. I was trying to make the point that the Government did not invent permitted development—it has existed for a period of time—but have chosen to extend it to particular classes of conversion.

The hon. Member for Dulwich and West Norwood, who represents a constituency not too far from mine, spoke passionately, as she did on Second Reading, of her concerns about the permitted development process. It is entirely legitimate to say that, compared with the full planning application, the authority does not receive a section 106 contribution for local infrastructure or for affordable housing, and neither do the space standard rules apply. She raises legitimate concerns.

Weighed against that, we must look at the contribution of the policy to housing supply. I believe that in Croydon—my constituency neighbour, my hon. Friend the Member for Croydon South, also sits on this Committee—the policy has certainly brought back into use buildings that would otherwise not have come back into use. Therefore, it has contributed to supply. The debate on space standards is particularly interesting. We certainly need to ensure that at least a proportion of our housing stock is sufficiently large, providing the space to accommodate families with particular needs. There is a much more difficult balance to strike on whether we should say that all homes must meet a minimum standard, or whether we should allow flexibility. Strong arguments can be made both ways.

I visited a site just south of Nottingham at the end of last week, where I saw a good mixed tenure development with some owner-occupied housing. The housing association also provided some shared ownership properties and some affordable rent. When the Homes and Communities Agency master-planned that site before selling it on to the developer, it insisted that all the homes built on it meet the national space standard. Perhaps predictably, the developer argued to me that it would have preferred to have that requirement only for some properties, because it would have been able to build more homes, which is clearly in its commercial interests.

Interestingly, the housing association made the same argument. It needed some stock with sufficient space to accommodate families who perhaps needed a carer, or included somebody in a wheelchair. However, the association believed that housing need in the area was sufficiently acute that it would rather have had a compromise whereby some of the homes had that space standard but it could got a larger number of homes overall out of the site. I am not expressing a view one way or the other; I am simply saying that there is a choice to be made between overall supply and space standards.

Helen Hayes: I simply do not accept that, in seeking to meet the need for new homes, we aspire to rabbit-hutch Britain. There are of course families who have exceptional needs for space, but every family deserves a home into which they can fit the right amount of furniture and within which their waste and recycling storage commitments can be met and there is appropriate storage for cycling equipment and all the other stuff that people accumulate in the course of family life. We should not accept that families being asked to live in homes that are too mean in space terms so they can afford an adequate and appropriate standard of life is a fair compromise anywhere in the country.

Gavin Barwell: The hon. Lady makes her point passionately. Let me be clear that I do not think anyone wants people to live in rabbit hutches. Her own local authority—her constituency crosses local authority boundaries, so I should be clear that I am talking about the London Borough of Lambeth—has given planning permission to a scheme in the north of the borough by Pocket Living, which I had the opportunity to visit. As part of a deal with the GLA, that developer has been given the flexibility to develop homes below the minimum space standard, and those homes have proved popular with young professional people.

A journalist gave a rather slanted representation of a presentation I gave at party conference in which I talked about housing for young people. I ran through a whole load of things that we could consider as part of that, and I referenced that Pocket Living scheme. The journalist wrote an article saying that I wanted people to live in rabbit hutches. Interestingly, that night I was speaking to students at a university and one of them had read the article in question and said, "I'd just like to say that, given the choice of being able to buy a small home of my own or there being bigger homes that I can't afford, I'd be interested in looking at that flexibility." Every single student in the audience agreed.

Helen Hayes: To be clear, developments of the type produced by Pocket Living are a specific type of housing—they are a niche in the market. There is certainly a place for that type of accommodation in the market, and Pocket balances space standards and quality particularly well for that niche, but we are talking about the much broader issue of national space standards for all types of homes, and particularly family homes. I have too often seen examples of schemes up and down the country that are not built to the national space standard, whose quality is too mean and that do not provide the best possible basis for successful communities or places that people want to live in.

Gavin Barwell: Well, it may be that the hon. Lady and I are not as far apart as I thought we were, because I agree with that. People have different requirements at different ages, and it is certainly important that adequate space is provided for family housing. She may agree with the point that I am going to make. I was going to close by giving an example of a permitted development conversion that I had the opportunity to see in Croydon. She may want to go and have a look at it herself.

Kevin Hollinrake: I quite agree with the hon. Member for Dulwich and West Norwood about family homes, but where the opportunity exists to innovate and create homes for young people and first-time buyers, particularly in areas of high house prices, should we discourage that purely on the basis of space standards?

Gavin Barwell: I suppose the story I told that prompted the hon. Lady's intervention interested me because one might to a degree expect private developers to look to maximise the units that they can build on a site and their commercial return, but what was striking about that conversation was that the chief executive of a housing association also wanted that flexibility. He saw clearly that there was a trade-off between having homes that were fully accessible and fulfilled the space standard and maximising the number of homes for vulnerable people that he could have on the site. There is a debate to be had, but I do not think that the hon. Lady and I are as far apart on this as I thought we were.

Let me give an example. There is a building in Croydon called Green Dragon House, which was a fairly old office building that was not wholly vacant but had very limited use. It has been converted into 119 homes—a mixture of one and two-bed homes. It is a little like the Pocket housing schemes. It is very high-spec—the quality of the finish is very good—but the rooms are smaller than the national space standard. Interestingly, what is not taken into account is that there is a huge amount of communal space. Virtually the whole of the first floor of the building is given over to a high-standard communal lounge, and the whole of the roof is a terrace, which is communal space for residents. In a way, it is a different vision of how people might live, and it is targeted very much at young professional people.

Helen Hayes: The Minister is being generous with his time. I will simply say that the scheme he describes sounds commendable. It also sounds like exactly the kind of scheme that a local authority would have given planning permission for. The point about permitted development rights is that we cannot leave to chance whether the development industry will deliver to that high standard. We have to secure that high standard through the planning system.

4.30 pm

Gavin Barwell: Clearly, part of the issue is that these schemes were not coming forward before. The cost of the conversion, if it goes through the full planning process, meant the schemes were often not viable, and permitted development rights have allowed some of these schemes to come forward that would not otherwise have done so.

I have had an interesting exchange of views with the hon. Lady. As I said, I understand her point of view, but these things have to be balanced against the urgent need to drive up supply of housing. She will know that there is no part of this country with a greater gap between what we are currently building and what we need to build than the city she and I represent. There are different views in the House about permitted development, but whatever one's views on the issue, this is a good clause because it will give not only the Government but Members of the House and the wider world that is interested access to data, which we can then use as we debate this policy.

Jim McMahon: I thank the Minister for that response. Like him, I am a geek when it comes to data. I love nothing more than spending time in the library on the Office for National Statistics website—that counts as entertainment for me. However, I am also aware that data can often be used as a crutch for a weak argument. Data have been thrown out in bucket loads, but the substance of this argument has not been deployed in quite the same way. We talked a lot about numbers, which is great. We have not talked anywhere near enough about affordability, quality or even if these units are occupied. We know that in many towns and cities foreign investors are coming in and buying up units that local people could live in, ensuring that no one lives there.

When we talk about data collection and how councils have enough to do—that is a fair point—we must also accept that development control teams will be in those buildings, making sure they comply with development control rules. They will be signing those buildings off for occupation. At that point the buildings will come on to the council tax register, and any council worth its salt will then make applications for the new homes bonus. So councils are reporting units anyway, but via a different route. One thing that councils would appreciate is a single point of reporting. Rather than all these Government Departments coming to councils from all over the place asking for individual pieces of data, the Government should say with one voice, "This is what we need to know." Collating the data in one place would helpfully save time and energy.

There is quite a lot of agreement on the principles we have been talking about. The combination being mooted here is of quite small living spaces with a lot of communal areas. A development is being built today in Oldham on that model, where the flats are quite small but there is a gym facility, communal areas and quality space that will attract a niche market of commuters who no doubt work or study in Manchester city centre. There is a place for that, but that is where the local authority has made a conscious decision that that would add value to

the overall mix of accommodation within the town. It is not a free-for-all. Unfortunately, the permitted development route at the moment is a free-for-all for far too many people, without the right checks and balances in place.

I suspect that we will not be able to come much closer than agreeing that permitted development seems to have worked quite well in one or two locations. The evidence, in particular when we hear representations from local government, says that it is fraught with difficulties and removes the local control we know is very important. Perhaps we cannot get any closer than that. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Dr Blackman-Woods: I will not detain the Committee for long, because we have had quite a wide-ranging discussion. The Minister started his comments on amendment 28 by referring to Opposition Members' subbing policy. I want to tell him exactly what our policy is, then perhaps he will explain his. The Opposition recognise the talents of all our Members, including my hon. Friend the Member for Bassetlaw, who is not currently present. We have an incredibly inclusive policy because we want to ensure that everybody participates and is able to use their talents to the full. I am not sure that that is the policy the Minister is employing with regard to Government Members, but I will let him answer for himself.

We will return to permitted development when we discuss new clause 14, but I should say to the Minister quickly that a number of people who gave evidence to the Committee pointed out that permitted development was weakening the planning system. In particular, his own councillor, Councillor Newman from the Local Government Association, pointed out the nonsense of what had happened in Croydon where they had to get an article 4 direction. Although we are not going to vote against the clause, permitted development is not working as well in practice as the Minister suggests, for all the reasons given by my hon. Friend the Member for Oldham West and Royton. I hope the Minister will consider whether the register is really necessary. If he got rid of all the permitted development, it would be unnecessary.

Gavin Barwell: I will keep my remarks brief because I think I already covered clause stand part in my earlier comments on the amendments. To rehearse those arguments, if we got rid of permitted development rights, we would be giving up the thousands of homes—we will find out exactly how many—that the policy has contributed in the nine quarters since it came into place. I repeat the point that I made earlier: if Opposition Members share our view that there is a desperate need to get this country building more homes, it seems strange to oppose a policy that is making a significant contribution to that aim. I commend the clause to the Committee.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Clause 9

POWER TO TAKE TEMPORARY POSSESSION OF LAND

Dr Blackman-Woods: I beg to move amendment 30, in clause 9, page 8, line 23, at end insert—

"(2A) The power of temporary possession of leasehold interests is not available if an interest would terminate within one year of the date on which the authority intends to hand back possession to the occupier."

This amendment would establish a limitation on the temporary possession of leasehold interests.

Having been at the dizzy heights of permitted development, we turn to the really exciting bit of the Bill—the changes that the Government wish to make to the compulsory purchase order system. This is where we get particularly excited about the Government's reading of the Lyons report, which recommended a major look at this country's CPO system, with the particular intention of simplifying it and making it much easier for local government to operate.

Several of the people who gave evidence to the Committee seemed to suggest that the proposed changes to the compulsory purchase system were okay as far as they went, but that the Government could have used the opportunity provided by the Bill to do something much more substantial. However, people did express some concern about how the Government were taking simplification and rationalisation forward with regard to the power to take temporary possession in clause 9. Amendments 30 and 31 relate to temporary compulsory purchase, to which we do not object per se, but nevertheless we wonder whether, in pursuing the changes, the Minister should put in place further safeguards.

Some general concerns were expressed in the evidence received by the Committee about the interaction between temporary and permanent possessions. Witnesses just did not think that that had been suitably clarified. Richard Asher of the Royal Institute of Chartered Surveyors told us:

"There is one area of difficulty: the danger that authorities may use powers to acquire land compulsorily when it is only required on a temporary basis. That interferes with long-term prospects for development by landowners, whose development plans are quite often disrupted by compulsory purchase on a temporary basis. That needs to be considered to ensure that authorities only acquire land on a temporary basis when it is required temporarily."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 61-62, Q113.]

Similarly, Colin Cottage from the Compulsory Purchase Association said:

"There is still the possibility of taking both temporary and permanent possession, and that will create uncertainty for people affected by it, because, even if there is a period of temporary possession, it may be converted at a future date to permanent possession and they will have no control over that."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 66, Q117.]

Amendment 30 is a probing amendment that seeks to gain some clarification on whether the Minister thinks there should be a limitation on the temporary possession of leasehold interests so that there may be a greater degree of certainty in this area for the landowner, for the local authority and, indeed, for any possible future developer.

Some specific problems seemed to emerge on the temporary possession of leasehold land. The CPA pointed to those concerns in its written evidence:

"We are concerned that there should be limitations on the power to acquire short leasehold or other subordinate interests because the Bill does not deal with the situation where a leaseholder remains responsible to the landlord for the use, repair and payment of rent under the lease but is not in control of the property whilst it is under temporary use. The area is complex

[Dr Blackman-Woods]

and clarity of the relative parties' obligations to each other must be clarified in a leasehold situation where temporary possession powers are exercised."

That was reiterated by Colin Cottage of the CPA when he said that,

"there are practical issues with temporary possession that need to be dealt with, including the interrelationships between different tenures in land, how to deal with an occupier of land when that land is taken temporarily, and what to do if buildings have to be demolished and so on. Those issues can be overcome, but they need to be looked at carefully if the Bill is to come into law and to not cause, rather than solve, problems."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 62, Q113.]

Those problems might be experienced by either the landowners or the local authority.

I hope the Minister will be able to answer some of the questions about the nature of temporary possessions, particularly with regard to leaseholds, and whether there might be some limitation on the timeframe. More generally, it is clear from some of the evidence we received that CPO legislation needs serious reform. The witness from the RICS said:

"I believe, and the Royal Institution of Chartered Surveyors has always believed, that codification of the whole of the CPO rules, which go back to 1845 and are highly complex, would be a sensible way forward. I think the simplification of the rules for CPO would be a major step forward…I think the complexity often deters people—particularly local authorities, in my experience—from using CPO powers. It also results in a number of CPOs being refused or rejected by the courts because of the complexity of the rules that surround them."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 63, Q114.]

4.45 pm

That was echoed, again, by Colin Cottage of the CPA in answer to my question about whether the Bill was likely to result in more land for development. Given that the Government are meant to be coming up with ways to get more housing delivered, and assuming that the reform of CPOs might be one of the measures that the Government are trying to use to get more land into the development system, Colin Cottage's answer to my question would probably have been of some concern to the Minister. When I asked whether the changes in the Bill were likely to bring forward more land for development through the CPO process, he said:

"My short answer to your question is no",

continuing,

"possibly they will not. There are more underlying problems with the system. It is lengthy. It is uncertain for all parties—both for acquiring authorities and for the people affected by it…The existing system is not helpful for reaching quick solutions. In fact, in many ways it encourages people to be fighting with each other from the outset. Ultimately, that increases the uncertainty, conflict and cost."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 63-64, Q114.]

In Labour's Lyons review, which the Government are already familiar with, we outlined the need to update legislation on compulsory purchase orders to make them a more effective tool to drive regeneration and to unlock planned development. I will not go through the Lyons review for this particular amendment—I will come to it later in our deliberations—but, for the purposes of what the Government are seeking to achieve through the clause, they might have wanted to look at ways of simply speeding up and clarifying the CPO system for local authorities and others.

Temporary possession of land might be helpful, very much at the margins, but what we seemed to hear from people giving evidence to the Committee was that it was just as likely to cause other problems or simply not be clear enough to enable local authorities and the people whose land was affected to have assurances about the nature of the temporary possession. Furthermore, they thought that the lack of particular timeframes could bring additional problems and leave, in particular, people who have liabilities for a site in a very unfortunate situation. They might have liabilities based on the current use of the site, but its temporary acquisition might mean that they still had to discharge some of those liabilities without being in control of the property.

The purpose of amendment 30, therefore, is to tease out from the Minister whether the Government thought about such a set of circumstances and what they wish to do about them.

Gavin Barwell: We have now moved on to the CPO section of the Bill. A number of clauses relate to those provisions. Let me address a couple of the points that the hon. Lady made right at the outset.

The hon. Lady is right to say that several witnesses said that they would be interested to see a more fundamental reform of the CPO system, and I am certainly interested in talking to people about that, but I do not think that that should preclude some sensible reforms to simplify the system now, to make it clearer, fairer and faster. We can then have a longer-term debate about a more radical reform.

On whether more homes will be delivered, I do not think that anyone claims this particular reform to be a game changer. However, I believe that simplifying the system will make it easier for local authorities to make use of those powers. I speak from some experience because my own local authority recently embarked on a significant compulsory purchase order in relation to the redevelopment of the Whitgift Centre in the centre of Croydon.

Amendment 30 would amend clause 9, "Power to take temporary possession of land", so it might help if I briefly explain the purpose of the clause. All acquiring authorities may need to enter and use land for a temporary period to help to deliver development for which they have made a compulsory purchase order; for example, they may require land to store construction materials for the scheme or to provide access to the construction site. At present, however, only certain acquiring authorities—such as those authorised under special Acts for very large schemes, such as the Crossrail Act 2008—have the compulsory power to occupy and use land on a temporary basis. Crucially, compulsory purchase orders cannot authorise temporary possession.

Clauses 9 to 21 will give all acquiring authorities the power to take temporary possession of land needed to deliver their scheme. At the same time, they will ensure that those whose land is taken are fairly compensated, and that appropriate safeguards are in place to protect their interests. The hon. Member for City of Durham quoted a witness who said that we needed to ensure that when land is required only temporarily, only a temporary occupation is taken. That is precisely why the clauses are in the Bill: to ensure that all acquiring authorities can take both permanent and temporary possession. Clause 9 sets out who may exercise the new power; essentially, everyone with the power to acquire land,

either by compulsion or agreement, will have the power to take temporary possession of land for purposes associated with the development scheme for which they need compulsory acquisition.

I agree with the hon. Member for City of Durham that we need to ensure that the interests of leaseholders are adequately protected in introducing this power. However, I believe that amendment 30 is unnecessary, because we have already built in a safeguard that will deliver the outcome she is looking for but in a more flexible way. Her amendment would restrict the temporary possession power so that it could never be used if a leasehold interest had less than a year to run after the land was handed back. It is completely understandable why she wishes to do that, but her amendment would mean—this is quite complicated, so I hope Members will bear with me—that if the land was essential to the delivery of the scheme, the acquiring authority would have to seek to acquire the leasehold interest by compulsion. At the same time, given that there would still be a need to occupy the land on a temporary basis to implement the scheme, the authority would have to seek temporary possession of the freehold interest and any other longer leasehold interests in the same land. That would be contrary to the established principle that the authorising instrument deals with the need for the land, while the interests in the land are dealt with afterwards. It would make the authorising instrument more complicated, because it would have to deal with different interests in different ways for that plot of land. It would also restrict the leaseholder's options, because they might be content for temporary possession to go ahead.

There is a problem and the hon. Lady has rightly put her finger on it, but we have tried to build in a safeguard that I believe will achieve the outcome she seeks in a different way. That safeguard is clause 12(3), which allows leaseholders who are not content with the situation to

"give the acquiring authority a counter-notice which provides that the authority may not take temporary possession of the land."

On receipt of that counter-notice, if the land is essential to the delivery of the scheme, the acquiring authority will have to look into taking it permanently. That is a neater solution. because it will give leaseholders the flexibility to decide whether they are content with what the acquiring authority sought to do or whether they have concerns and want to serve a counter-notice. I therefore ask the hon. Lady to withdraw her amendment.

Before I take my seat, it might help if I briefly respond on a couple of wider issues that the hon. Lady raised in relation to clause 9 and to temporary possession in general. She is right to say that some witnesses questioned whether being able to take both temporary and compulsory acquisition over the same piece of land would work. The Government believe that there may be circumstances in which that is required. It would be for an acquiring authority to make the case to the confirming authority that it was necessary. For example, temporary possession of a large field might be needed for a working compound for construction of a pipeline, but compulsory acquisition of a small part of the field might be required on a permanent basis to install and then maintain the pipeline. Actually, there are some good historical examples. Compulsory purchase and temporary possession powers are often sought in relation to the same land in development consent orders. To give two examples, the docklands light railway extension and the Nottingham tram system both involved a mixture of those powers.

There was one other point that the hon. Lady referred to that I probably need to respond to. Her amendment deals with the issue of a minimum time—what happens to a leaseholder when they reacquire their land and there is less than a year left on the lease—but she was also probing about whether there should be a maximum period of time for which somebody could take temporary possession of land.

No maximum period is set in the legislation, because circumstances can vary a great deal from case to case; however, acquiring authorities must specify the total period of time for which they need temporary possession at the outset of the authorising instrument. The confirming authority will then consider whether the acquiring authority's justification for the length of temporary possession is strong enough before deciding whether to authorise it. There are some safeguards built in. Both freeholders and leaseholders can serve a counter-notice on an acquiring authority, requiring them to limit the temporary possession period to 12 months when the land is part of a dwelling, or to six years in any other situation. Again, leaseholders have the ability to serve a counter-notice provided that the acquiring authority cannot take temporary possession of the land at all, in which case the acquiring authority would have to look at taking permanent possession.

This is a complicated area, but I hope I have been clear—maybe not.

Jim McMahon: I am not usually a suspicious person, but during that contribution there was a voice at the back of my head saying, "Is this all about fracking?" Is this about the Government's newfound commitment to fracking and about trying to remove landowners' rights, trying to create temporary compounds and trying to create opportunities to drill without going through the full and proper procedure? That may not be for today, but I would certainly appreciate the position on that in writing.

Gavin Barwell: I am happy to write to the hon. Gentleman and provide him with a full response to that question. I can reassure him that these provisions do not come from that particular policy area. It was before my time—I am looking for inspiration—but I think I am right in saying that there were compulsory purchase provisions in the Housing and Planning Act 2016. It was in the discussion and debate around those provisions that these issues got raised, and that is why the Government are seeking to clarify the law in that regard. I will happily write to the hon. Gentleman and hope that I have now addressed the points that the hon. Lady raised, so I ask her to withdraw the amendment and hope the clause can stand part of the Bill.

Dr Blackman-Woods: I listened carefully to what the Minister had to say. I did emphasise that this is very much a probing amendment, testing whether the Minister and his Department had thought through some of the possible complexities that could arise with a temporary possession and a more permanent possession going through at the same time, and also some of the difficulties that might arise for landowners when a temporary possession is granted but they still have liabilities.

[Dr Blackman-Woods]

In the main, the Minister's comments were quite reassuring. I am still not sure whether there is a need to have an overall time limit on temporary possession, to make sure that local authorities do not use it as a way of letting things run forward without having to put a full application for a CPO in place. I want to think about that; I will do so and will consult the Compulsory Purchase Association. For the moment, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 9 ordered to stand part of the Bill.

Clause 10

PROCEDURE FOR AUTHORISING TEMPORARY POSSESSION ETC

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

5 pm

Gavin Barwell: It is clearly important that where an acquiring authority wishes to exercise the temporary possession power, it is subject to proper scrutiny, and that those with an interest in the land that will be affected have the opportunity to put forward their views. The clause achieves that by requiring the case for temporary possession to be set out in the same type of authorising instrument as the associated compulsory purchase—for example, in a compulsory purchase order or in a development consent order. It will then be subject to the same procedures for authorising and challenging it as the compulsory acquisition. That means that if, for example, a planning inspector holds a public inquiry to consider the CPO before it is decided whether the order should be confirmed, the public inquiry will also need to consider whether the temporary possession power should be authorised.

The clause sets out which information must be included in the authorising instrument—for example, the purpose for which the acquiring authority needs temporary possession of the land and, as I have previously mentioned, the total period of time for which temporary possession is required.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clause 11

NOTICE REQUIREMENTS

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

Gavin Barwell: The clause requires acquiring authorities to give at least three months' notice of their intention to enter and take temporary possession of the land. It will ensure that those affected have sufficient time to put in place any necessary arrangements—for example, to move livestock. The measure is a minimum requirement, and acquiring authorities will be able to give more notice where they consider it appropriate. The notice must specify how long the temporary possession will last, and a separate notice must be served for each period of temporary possession.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Jackie Doyle-Price.)*

5.2 pm

Adjourned till Thursday 27 October at half-past Eleven o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NEIGHBOURHOOD PLANNING BILL

Seventh Sitting

Thursday 27 October 2016

(Morning)

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No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 31 October 2016

The Committee consisted of the following Members:

Chairs: † Mr Peter Bone, Steve McCabe

† Barwell, Gavin *(Minister for Housing and Planning)*
† Blackman-Woods, Dr Roberta *(City of Durham)* (Lab)
Colvile, Oliver *(Plymouth, Sutton and Devonport)* (Con)
† Cummins, Judith *(Bradford South)* (Lab)
† Doyle-Price, Jackie *(Thurrock)* (Con)
† Green, Chris *(Bolton West)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
Hollinrake, Kevin *(Thirsk and Malton)* (Con)
† Huq, Dr Rupa *(Ealing Central and Acton)* (Lab)
† McMahon, Jim *(Oldham West and Royton)* (Lab)
† Malthouse, Kit *(North West Hampshire)* (Con)
Mann, John *(Bassetlaw)* (Lab)
† Philp, Chris *(Croydon South)* (Con)
† Pow, Rebecca *(Taunton Deane)* (Con)
Tracey, Craig *(North Warwickshire)* (Con)
† Villiers, Mrs Theresa *(Chipping Barnet)* (Con)

Ben Williams, Glenn McKee, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 27 October 2016

(Morning)

[Mr Peter Bone *in the Chair*]

Neighbourhood Planning Bill

Clause 12

Counter-notice

11.30 am

Dr Roberta Blackman-Woods (City of Durham) (Lab): I beg to move amendment 31, in clause 12, page 10, line 10, leave out "6" and insert "3"

This amendment would reduce the length of time that an acquiring authority can take temporary possession of land.

It is a pleasure to serve under your chairmanship, Mr Bone. Amendment 31 would reduce the length of time that an acquiring authority can take temporary possession of land for. It is very similar to amendment 30, in that it aims to provide a degree more certainty for owners about what temporary possession means. At present, the Bill states that the amount of time that an owner—defined as having either a freehold or leasehold interest in the land—can limit temporary possession to by means of a counter-notice is 12 months where the land is or is part of a dwelling and six years in any other case, or else the acquiring authority must take further action.

The amendment would allow owners to limit the amount of time that land can be temporarily possessed, where it is not a dwelling, to three rather than six years. Our position reflects that of the Compulsory Purchase Association, which said in evidence,

"we feel that, for freehold owners, six years is too long. Three years as a maximum is better. Notwithstanding that, the ability to serve counter-notices is correct and encouraging to development."

I want to stress that point to the Minister. It is not the counter-notice period as such that we have a problem with, but the length of it. The CPA went on:

"Six years is quite a long period. If a business is dispossessed of its property for six years, that is effectively almost as good as a permanent dispossession".—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 66, Q117.]

If a business is away from its premises for six years, it will essentially have to completely restart the business somewhere else. One would assume that it will feel much more like a permanent relocation if it is away in excess of five years.

The IPD UK lease events review 2015, which was sponsored by Strutt and Parker and the British Property Federation, pointed to short-term leases of five years or less being particularly desirable for smaller commercial leases, stating:

"Flexibility remains key for many tenants, despite the lengthening of commercial leases, with 73% of total leases signed so far in 2015 for a term of between one and five years."

Allowing counter-notices to be served that limit temporary possession to three years, rather than six, relates more directly to the reality of a lease's lifespan, particularly for a small business. The whole point here is that if a lot of leases are five years in length and businesses are required to move for six years, it is very likely that a substantial number of those businesses will have lost the lease on the original premises and had to take out a lease on wherever they relocate to, for five years or even longer.

We are trying to find out why the length of time is being set at six years. What research did the Government do to come up with that period? Have they any plans to meet the CPA or representatives of small businesses who may be particularly affected by the measures in clause 12? Do they have any plans to review how the clause is operating in practice, and particularly whether it is producing problems for small businesses?

The Minister will probably say that only a small number of businesses would be affected by the relevant type of compulsory purchase, that the balance is right and that the provision should therefore remain. I am sure he is right that the clause will not be used in many instances. Nevertheless it is a critical matter for the businesses that are affected. We would not want the clause to result in businesses moving from a high street or an important position in the community and not being able to come back, so that there would be blight further down the line. I hope that the Minister has got the drift of our argument.

The Minister for Housing and Planning (Gavin Barwell): It is a pleasure to serve under your chairmanship again, Mr Bone.

The amendment is entirely legitimate as a way of probing why the Government have arrived at the figure in question. It may help if I explain the purpose of clause 12 before I discuss the amendment, because some of the provisions will, I think, help to reassure members of the Committee.

The Government recognise that in certain circumstances taking temporary possession of land may be at least as disruptive as permanent acquisition. Clause 12 therefore provides an important additional safeguard to protect the interests of those whose land is subject to temporary possession. I say "additional" because any proposal for temporary possession of land must be authorised in the same way as compulsory purchase.

Clause 12(2) allows the owner of a freehold, or a leaseholder with the right to occupation, to serve a counter-notice requiring the authority to limit the period of possession to 12 months for a dwelling or six years for other land. That ability to serve a counter-notice on implementation of temporary possession is a further check and balance, in addition to scrutiny during the confirmation process.

Under clause 12(3) leaseholders—who are, I think, the people in whom the hon. Member for City of Durham was particularly interested—will also have the option to serve a counter-notice providing that the acquiring authority may not take temporary possession of their interest in the land at all. In those circumstances the acquiring authority must either do without the land or acquire the leasehold interest permanently.

Where a counter-notice is served under clause 12(2) the acquiring authority will have to decide whether the limited possession period sought by the landowner is workable for the acquiring authority at that time, or whether permanent possession is necessary. Alternatively,

the acquiring authority may conclude that it does not need to take temporary possession of the land in question; for example, it might alter its construction plans.

Where the acquiring authority opts for acquisition of the land, subsection (9) provides for the standard material detriment provisions to apply. That means that if only part of a person's land is acquired, but the retained land would be less useful or valuable as a result of part of the land being acquired, a further counter-notice may be served requiring the authority to purchase all the land.

I hope that the Committee can see that there are a number of safeguards, including time limits that can be placed on periods of temporary possession of a leasehold interest; I think that that is the issue about which the Opposition are particularly concerned. It is possible to say, in that case, "If it is going to be for that length of time we do not want temporary possession at all, and you either need to take permanent possession or do nothing at all." Also, if possession is taken of part of a site and that will have an impact on the rest of the site, there are provisions to require the whole site to be taken.

The amendment, as the hon. Lady explained, would limit the period of temporary possession of land not occupied by dwellings to three years, rather than the six specified in the Bill. I entirely appreciate why she tabled the amendment; it was, I think, out of a determination, which I share, to ensure that those whose land is subject to temporary possession are properly protected.

The limit of six years is designed to give those affected greater certainty about the total period that non-dwelling land can be subject to temporary possession. Restricting the temporary possession period to three years would limit the usefulness of this new power and may drive acquiring authorities down the route of compulsory purchase in certain circumstances where that would be unnecessary. There are some schemes—one example not too far from us here is the Thames Tideway tunnel—where the temporary possession of land has been required for longer periods than the three years in the amendment.

There needs to be a balance between giving acquiring authorities the power they need to deliver their schemes and ensuring that the interests of those whose land is taken on a temporary basis are protected. The Government believe that six years strikes the right balance. In many cases the temporary possession will be for far less than six years. In the case of the Thames Tideway tunnel, the maximum length of temporary possession is eight years, so the acquiring authority would have to decide to permanently acquire the land.

As the Bill continues its progress through Parliament, I am happy to consider any evidence that Opposition Members or interested parties are able to provide that suggests the six-year figure does not achieve the correct balance. I can also reassure the hon. Member for City of Durham that even if the legislation is passed in its current form, the Government will keep the time limit under review as the new power begins to take effect, because the regulation-making power in clause 19 would allow us to make changes to the time limit without having to come back to the House with further primary legislation.

I hope I have given significant reassurance. On that basis, I ask the hon. Lady to withdraw her amendment.

The Chair: The Minister has kindly set out what clause 12 is all about, so there will be no separate stand part debate. If anyone wants to speak on stand part, now is the time to do it.

Dr Blackman-Woods: I thank the Minister for his largely helpful response. It is useful to point out that a counter-notice can try to remove possession being taken at all. It is quite a drastic measure to ask local businesses to enter into a lengthy and difficult process. However, it is worth stressing that that option is open to them, as is trying to suggest that possession should be for only a part of the site. Again, that could be helpful.

I listened carefully to what the Minister said about reducing the total period of temporary possession to three years. I am very pleased that the Minister said he would keep that under review. He did not address the fact that a lot of leases for businesses are five years, and that requiring them to move for six years is effectively a permanent removal to a new location for them. However, I heard what the Minister said about keeping the matter under review and seeking evidence from people who have a specific interest in this area. It was a very helpful response. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 12 ordered to stand part of the Bill.

Clause 13

Refusal to give up possession

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

The Chair: With this it will be convenient to discuss clauses 14 to 21 stand part.

Gavin Barwell: The clauses deal with compensation and other matters related to the temporary possession power. Clause 13 is relatively straightforward. It ensures that where someone refuses to give up possession of the land, the acquiring authority can take steps to gain possession by ensuring that the existing enforcement provisions for compulsory acquisition cases, which enable an acquiring authority to use a sheriff or officer of the court to enforce possession by a warrant, also apply to temporary possession cases.

Clauses 14 to 16 set out how the compensation provisions will work to ensure that those whose land is subject to temporary possession are fairly compensated for the disruption caused. Clause 14 provides that the claimants will be entitled to compensation for any loss or injury that they sustain as a result of the temporary possession. The compensation payable will reflect the rental value of the leasehold interest in the land. Where the claimant is operating a trade or business on the land, they will be entitled to compensation for disturbance of that trade or business.

11.45 am

Subsection (7) provides that the start of the statutory six-year time limit for submitting a compensation claim runs from the end of the temporary possession period, rather than the start. That is a safeguard to ensure that

claimants do not run out of time to submit a claim for compensation if the temporary possession is for a lengthy period. Claimants will be entitled to interest on any compensation outstanding after the end of the temporary possession period. As with compulsory purchase more generally, if any disputes about compensation arise, they will be dealt with by the Upper Tribunal.

Clause 15 ensures that those affected are entitled to request and received advance payments of compensation. Provisions are modelled on those that are already in place for compulsory purchase, but I will briefly summarise the key elements. After receiving a notice of intended entry under clause 11, an owner or occupier may submit a written request for an advance payment. The request should explain the basis for the claim and contain sufficient information for the acquiring authority to make an estimate. Further information may be requested, if necessary. The advance payment will be 90% of the compensation amount agreed by the acquiring authority and the claimant, or 90% of the authority's estimate if the amount is not agreed by both parties. It must be made on the day of entry to the land or, if later, two months from the date on which the request was received or any additional information was provided.

Clause 15(7) to (9) make provision for further payments by the acquiring authority or a repayment by the claimant. That is where the initial estimate is either subsequently found to have been too low, or where it is later found when the compensation is agreed that the acquiring authority's estimate was too high so the claimant has been overpaid.

Clause 16 provides that interest is payable on any outstanding amounts of advance payments of compensation that are due after the due date. Subsection (3) provides that if the advance payment made is subsequently found to be in excess of the entitlement, the person must repay any interest paid. Under clause 15(8), the person must also repay any excess compensation paid in advance. I hope those arrangements will encourage acquiring authorities to put in place effective procedures to deal with requests for advance payments.

Clause 17 confirms that an acquiring authority may only use the land for the purposes for which the temporary possession was authorised. Subsection (2) makes it clear that that can include the removal or erection of buildings or other works, and the removal of vegetation, to the extent that the acquiring authority would have been able to do, had it acquired all the interest in the land instead of just taking temporary possession.

Clause 18 makes some consequential amendments to the Town and Country Planning Act 1990. The planning system enables owner-occupiers of properties or businesses that are affected by statutory blight from proposed development to require the acquiring authority to purchase their property on compulsory purchase terms. There are currently about 20 different forms of statutory blight, one of which is inclusion in a compulsory purchase order. Clause 18 adds land subject to temporary possession to the categories of blighted land. It also ensure that the acquiring authority has the right to enter and survey land in connection with taking temporary possession of it.

Clauses 19 to 21 set out the broad framework within which the temporary possession power will work, and they establish protections for those whose land may be affected. However, there may be cases where there is a need to make different provision in different circumstances. For example, it may be necessary to limit what the land may be used for during the temporary possession in certain cases. Clause 19 therefore gives the Secretary of State the power to make regulations as to the authorisation and exercise of the temporary possession power where that is necessary.

Dr Blackman-Woods: How will the Secretary of State know that he has to give a direction, in a particular case, about what temporary possession can be used for?

Gavin Barwell: I imagine—although I will happily write to the hon. Lady if inspiration arises subsequently suggesting that I have got this wrong—that it would be a situation in which a dispute had arisen about the use that the land was put to and where there was a question of whether that would have an effect on the long-term interests of someone on the land. The casework would end up on the Secretary of State's desk and give him the power to make a ruling to that effect. If there are other points that I have not mentioned, I will write to the hon. Lady and members of the Committee to clarify.

Clause 20 simply provides meanings for some of the words used in the earlier temporary possession clauses. Finally, clause 21 provides that the temporary possession power can be exercised in relation to Crown land, subject to the acquiring authority obtaining the consent of the appropriate authority.

Jim McMahon (Oldham West and Royton) (Lab): It is a pleasure to serve under your chairmanship, Mr Bone. I repeat my declaration of interest as a member of Oldham Council, as on the Register of Members' Financial Interests.

I am asking for clarity, because the measure states that compensation will be made for the period of occupation or possession of the land, and that subsequent compensatory payments will be made for any loss or injury suffered. In one possible scenario, however, if farmland was taken possession of, unforeseen costs might be incurred. For example, if the planting season occurred before occupation, a poor harvest might be the result of occupation, so how would the compensation payment work in such circumstances?

Gavin Barwell: Again, it is better that I write to the hon. Gentleman, rather than giving an answer on the spot. I guess he is asking about when some detriment has been done to the long-term interest in the land by the period of temporary occupation and how that is catered for.

Jim McMahon: If that is discovered after occupation.

Gavin Barwell: Exactly; if it is discovered afterwards. I will write to the hon. Gentleman to answer his point, rather than speculating now.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clauses 14 to 21 ordered to stand part of the Bill.

Clause 22

NO-SCHEME PRINCIPLE

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

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

Clauses 23 to 30 stand part.

New clause 13—*Review of compulsory purchase—*

(1) Before exercising his powers under section 35(1) the Secretary of State must carry out a review of the entire compulsory purchase order process.

This new clause would require the Secretary of State to review the entire compulsory purchase order process.

Gavin Barwell: I will now run through the remaining compulsory purchase measures in the Bill. Clause 22 is the key measure of all the CPO measures in the Bill. It wipes the slate clean of more than 100 years of sometimes conflicting statute and case law about how compensation should be assessed, and it establishes a clear, new statutory framework for doing so.

The core principle of compulsory purchase compensation, which is not altered by the Bill, is that the land should be acquired at market value in the absence of the scheme underlying the compulsory purchase. Any increase or decrease in land values arising from the scheme is therefore disregarded for the purposes of assessing compensation.

The problem is that since the "no-scheme world" principle was first established, it has been interpreted in a number of complex and sometimes contradictory ways. That lack of clarity can make negotiations over the level of compensation difficult, resulting in unnecessary delays. The clause will therefore clarify the position by creating a statutory no-scheme principle and setting out a series of clear rules to establish the methodology of valuation in the no-scheme world.

The clause will also extend the definition of the scheme to include relevant transport projects where they have made the regeneration or redevelopment scheme that is the subject of the compulsory purchase possible. I will say more about that later. The Committee will be delighted to hear that I will not go through the clause line by line, but focus on a few key points.

Subsection (3) will replace sections 6 to 9 of the Land Compensation Act 1961, which set out how the scheme is to be disregarded when assessing compensation. Proposed section 6A in the Land Compensation Act will maintain the fundamental principle that any increases or decreases in value caused by the scheme, or the prospect of the scheme, should be disregarded, and lists the assumptions to be made. If there is a dispute about compensation and the parties have to go to the Upper Tribunal to resolve it, proposed new section 6D clarifies how to identify the scheme that must be disregarded.

The default position is set out in proposed section 6D(1): that the scheme to be disregarded means the scheme of development underlying the compulsory acquisition—usually the current compulsory purchase order. If an acquiring authority wants to assert to the Tribunal that a scheme to be disregarded covers a larger area than the underlying scheme of development, it can do so only if that was identified at the outset in the authorising instrument or associated documents, when the acquiring authority started the compulsory purchase process. I hope that is clear.

In proposed section 6D(2) we have replicated the current special provisions for new towns and urban development areas. This special status means that all development within these designated areas forms part of the scheme to be disregarded, so the value of later acquisitions within a new town area will not be influenced by earlier developments within that area. We have extended this special provision to mayoral development areas as well.

We have also made special provision where regeneration or redevelopment schemes have been made possible only by relevant transport projects. I said I would say a few more words about this. New transport projects will often raise land values around nodes or hubs—HS2 is a good example. Where that makes regeneration or redevelopment attractive, but the private sector is unable to bring a scheme forward, public authorities might have to step in by using their compulsory purchase powers to help bring forward the regeneration.

In those circumstances, when assessing the compensation that people might receive if their property is acquired through compulsion by a public authority, the regeneration or redevelopment scheme will be able to include the relevant transport projects as part of the scheme to be disregarded in the no-scheme world. This is a complicated area of law, so let me try to make it as clear as possible. What that means is that the land will be valued without the uplift caused by the public investment in the transport project. This is one of only two bits in the Bill that change the compensation people might get if some of their property is subject to compulsory purchase.

The provision is subject to some very important safeguards to ensure that it is proportionate and fair to all. They are as follows. The prospect of regeneration or redevelopment must have been included in the initial published justification for the relevant transport project. In other words, an acquiring authority could not come along to a piece of land that had been improved by a transport project 20 or 30 years ago, when no mention of this redevelopment happened, and use this legislation to try to drive down the price of compensation. The instrument authorising the compulsory acquisition must have been made or prepared in draft on, or after, the day on which this provision comes into force. The regeneration or redevelopment scheme must be in the vicinity of the relevant transport project. The relevant transport project must be open for use no earlier than five years after this provision comes into force—they must not be existing schemes. Any compulsory purchase for regeneration or redevelopment must be authorised within five years of the relevant transport project first coming into use.

Importantly, if the owner acquired the land after plans for the relevant transport project were announced, but before 8 September 2016—the date on which we announced we were going to do this—the underlying scheme will not be treated as though it included the relevant transport project. In other words, the provision should not be retrospective for people who acquired the land before they might have known the Government were going to change the law in this way.

I recognise that extending the definition of the scheme in this way will mean that some claimants receive less compensation than might otherwise have been the case.

[Gavin Barwell]

However, I hope that the Committee shares my view that it is right that the public, rather than private interests, benefit from public investment into major transport projects. Having increased neighbouring land values by providing new or improved transport links, the public sector should not then have to pay more when acquiring land for subsequent development that was envisaged when that transport project was announced, and would not otherwise have been possible. The provision will ensure that the public purse does not have to pay the landowner land values inflated by previous investment that the public sector has already made.

12 noon

I turn now to clause 23. Part 4 of the Land Compensation Act 1961 provides that in certain circumstances a person whose land has been acquired by compulsion may be entitled to claim additional compensation. That additional compensation entitlement arises if, within 10 years, planning permission is granted for development on the land that causes an increase in its value which was not taken into account in the original assessment of compensation.

Part 4 therefore introduces an element of uncertainty and unknown risk about compensation liability for the acquiring authority, leading inevitably to increased costs, which are often dealt with by paying insurance premiums. In the Government's view it also provides an opportunity for an unearned windfall for claimants. Compensation under the ordinary rules already reflects the full market of the land at the valuation date, with all its present and future potential, including any hope value for future development. Under part 4 a claimant is treated as though they have retained their investment and interest in the acquired land and so can benefit from any increase in value generated by subsequent planning permission. No such expectation would arise on any ordinary sale in the private market. Therefore, although it is little used, I believe that for the reasons I have set out the provision is unfair. Its repeal will reduce the risk and uncertainty for acquiring authorities, while maintaining the principle of fair compensation for claimants.

Clause 24 introduces a statutory timeframe—there is none at present—for the acquiring authority to serve a confirmation notice on all interested parties, attach a confirmation notice on or near the land, and publish a copy of it in the local press. Although most acquiring authorities are keen to push ahead with their scheme and publish the confirmation notice quickly, for a variety of reasons some delay. Those delays prolong the uncertainty facing those with an interest in the land. Depending on their length, delays can also result in delays to much needed new housing, which is what the Bill is ultimately about.

Clause 25 ensures that the entitlement to compensation for disturbance of a business operating from a property that is acquired by compulsion is fair to all tenants and licensees. This is an area where we are changing the law to make compensation more generous. At present there is an anomaly that means that licensees who have no interest in the land that is being taken are entitled to more generous compensation for the disturbance of their business than those with a minor or unprotected tenancy with an interest in the property. That is because where property occupied by a licensee is acquired, the law on disturbance compensation allows account to be taken of the period for which the land they occupied might reasonably have been expected to be available for the purpose of their trade or business, and of the availability of other land suitable to the purpose.

However, for those with a minor or unprotected tenancy with a break clause or a short unexpired term, case law has held that for the relevant purposes it must be assumed that the landlord would terminate their interest at the earliest opportunity, whether or not that would actually have happened in reality. Clause 25 removes that anomaly and brings the compensation entitlement for businesses with minor or unprotected tenancies into line with the more generous compensation payable to licensees.

Clause 26 enables either the Greater London Authority or Transport for London, or both, to acquire all the land needed for a joint transport and regeneration or housing scheme on behalf of the other. My hon. Friend the Member for North West Hampshire may be aware of the problem that exists. At the present time, to bring forward a comprehensive redevelopment scheme in London, two compulsory purchase orders are needed—one promoted by the Greater London Authority for the regeneration or housing elements; and the other promoted by Transport for London for the transport scheme. That clearly makes no sense at all. It adds complexity and delay to the process and causes confusion among those affected. Clause 26 will remove the artificial division and allow the Greater London Authority and Transport for London to use their existing powers more effectively by enabling them to promote joint compulsory purchase orders, or allowing one to acquire land on behalf of the other. In so doing, it will speed up the process and make it clearer for everyone.

Finally, clauses 27 to 30 contain amendments to a small number of provisions on compulsory purchase in the Housing and Planning Act 2016, to ensure that the technical detail operates as intended. I hope that I have given a useful description of what the remaining clauses do.

Dr Blackman-Woods: I thank the Minister for his helpful run-through of the CPO clauses in the Bill. I have a couple of specific questions about clause 22, but I want to say at the outset that those are probing questions because we agree with the overall thrust of the clause. I think that the Minister has taken some tentative steps down the road of socialism in protecting the public interest in the way that might happen under the clause. We absolutely agree with the broad intention of the clause. It is right that it applies to new towns and mayoral developments, and to an extent to transport, to try to facilitate, in particular, the larger scale development that is very much needed. Nevertheless, there are a few questions about how compensation will be decided under proposed section 6D(2) to (4), which is what my questions specifically relate to. At the moment it does not look as though any claims under the proposed section can be referred to the Upper Tribunal. If that is not the correct interpretation, perhaps the Minister will clarify that.

We know that the no-scheme principle is central to a fair assessment of compensation and that the scope of the disregarded scheme must be appropriate so that

proper compensation is paid. The Government have included proposed section 6D(5) under clause 22 to safeguard the public purse in circumstances where it is appropriate to disregard a wider scheme. Where the appropriateness of doing so is challenged, the Upper Tribunal is empowered to determine the matter. Can the Minister explain what safeguards exist where a scheme is extended instead under proposed section 6D(2) to (4), where the recourse to the Upper Tribunal does not exist and all qualifying schemes, regardless of merit or circumstances, will be extended as a matter of law? I am sure that he has sensible reasons for including them but, to ensure that there is confidence out there in the development sector, we might need to hear a little more about why that is the case—if indeed it is the case.

Does the Minister agree that, as desirable as it is to recover the benefits of public investment, such recovery should be made from all those who benefit and should not discriminate against those who are already bearing the impact of losing their homes or businesses to make way for the scheme? The extension of the scope of the scheme in proposed section 6D(2) to (4) without any appeal or consideration of the facts of a case means that there could be injustice to homeowners and small businesses as well as investors and developers that own land affected by such schemes. It goes beyond ensuring fair compensation, which is assured by proposed section 6D(5).

My point is that the Government must avoid poorly targeted policies to recover the benefit of public investment and must introduce separately a properly considered mechanism that might build on existing schemes such as the tax incremental funding and community infrastructure levy schemes, which properly focus the recovery of value from past and future public investment.

Those are my questions for the Minister. As I have said, we agree very much with the basic provisions of clause 22, but there is perhaps a need to put something else into the public record about why they are being introduced in the way they are. Perhaps he should look at the limitations for appeal under proposed section 6D(2) to (4). Does he think anything more needs to be done, or will the scheme as outlined put in place appropriate safeguards for those who might be concerned about the extension of the wider scheme, in particular, and the extension to transport? Overall, we can see the rationale for the Government wanting to do that.

I move on to new clause 13. We have had a helpful discussion about CPO. We had a rather lengthier discussion about CPO during the passage of what is now the Housing and Planning Act 2016. I also looked at CPO powers under the previous Government's Infrastructure Act 2015. Having recognised that CPO powers and the legislation underpinning them are very complex, we are in danger of the Government going on with the process of simply amending CPO powers and tinkering with the system, making it more complex, I suspect, rather than less. However, there seems to be a view across all parties that we need to review this in its entirety and bring forward a much more consolidated and rationalised piece of legislation that will be much easier for local authorities and developers to get their heads around.

Unfortunately, I do not have with me the Town and Country Planning (General Permitted Development) (England) Order 2015. The last time I asked the Government to introduce a piece of consolidated legislation on permitted development, I did not think I was going to get 167 pages in return, plus an additional 12 pages a couple of months ago, separate from that order, so I have some anxieties in proposing this new clause.

CPO legislation goes back a very long way—I think to 1845, with parts of that legislation still used—and it might be about time to think of consolidating it. We are not the only ones to think so. Colin Cottage from the CPA—which is the Compulsory Purchase Association, not the Commonwealth Parliamentary Association, although that might have an interest in CPO—told the Committee:

> "The existing system is not helpful for reaching quick solutions. In fact, in many ways it encourages people to be fighting with each other from the outset. Ultimately, that increases the uncertainty, conflict and cost. That is really the issue that we have to look to address in order to give ourselves a more streamlined system."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 64, Q114.]

Richard Asher from the Royal Institute of Chartered Surveyors said:

> "I believe, and the Royal Institution of Chartered Surveyors has always believed, that codification of the whole of the CPO rules, which go back to 1845 and are highly complex, would be a sensible way forward. I think the simplification of the rules for CPO would be a major step forward…I think the complexity often deters people—particularly local authorities, in my experience—from using CPO powers. It also results in a number of CPOs being refused or rejected by the courts because of the complexity of the rules that surround them."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 63, Q114.]

If ever there were an argument for simplifying, rationalising, streamlining and consolidating a bit of legislation, surely it is that the courts, simply because they are finding the legislation too difficult and complex, are throwing out what might be bona fide requests for a CPO.

12.15 pm

I appreciate that the Government have been consulting on CPO reform. The consultation document appears to have been issued before the Committee sat, so I thought we should acknowledge that. We got not only the consultation but the Government's response. That is a bit of good practice that I suggest the Government use elsewhere but, alas, the Government did not consult on whether the whole scheme should be reviewed. They asked about various aspects of the reform, which is a step forward. If the consultation has led to the measures in clause 22, it is a good thing. However, it is time for a fundamental review of not only the primary legislation but the secondary legislation on compulsory purchase. A full-scale rationalisation and consolidation would be an extremely helpful way forward.

We all know—and I think this view is shared across the whole House—that we have to deliver more homes. I hope that the Minister shares our view that those homes have to be delivered in communities. We should be about place making and not just building homes. The areas that those homes are in will need to be underpinned by appropriate infrastructure. In this country, we are poor at bringing forward the infrastructure that we need on time. Having a rationalised, much more straightforward CPO system would definitely help us to bring forward the necessary infrastructure in a timelier manner.

Very helpfully, Colin Cottage of the Compulsory Purchase Association pointed to some examples from other places that the CPA feels do compulsory purchase

better than we do in the UK. I do not know whether that is the case, but it might be helpful for the Minister to look into that. Colin Cottage mentioned America, which he said had a more streamlined system where,

"81% of land value compensation assessments are agreed immediately, and another 4% settle after a short period of time. Only the remaining 15% are then contested for any lengthy period of time. That is a much higher strike rate than we have in this country."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 65, Q116.]

It would be very interesting to hear whether the Minister or his Department have any intention of looking for international examples that might help to bring forward land more clearly through a revised CPO system. Examples of countries that manage to get to an agreement on compensation much more quickly would be helpful.

The British Chambers of Commerce pointed us to the French system. In these Brexit days, we are perhaps not meant to look to France or other European countries for example of good practice. Nevertheless, the BCC said that the French system had an enhanced CPO compensation scheme that enabled particularly large-scale transport projects to be brought forward more quickly. The Minister might like to look at that suggestion. I will leave that argument there. I know that the Minister reads the Lyons report regularly, so he will know that we made a very comprehensive argument in it for reviewing compulsory purchase legislation in this country. I will not repeat that argument here; I have summarised it as succinctly as I can. I look forward to hearing what the Minister has to say.

Gavin Barwell: I will begin by answering some of the hon. Lady's detailed questions and then come on to the principles behind the amendment. I think she had three questions; I was not quite clear on the first, so I will deal with the other two and then see if I understood the first question correctly.

The hon. Lady's third question was about ensuring that everybody benefits from an uplift in land values as a result of Government public investment in the scheme and that there is a way of capturing back some of that uplift. To a degree, she answered her own question: under current policy, CIL is the main mechanism by which we seek to capture some of the uplift when development is given, so that a contribution can be made to necessary improvements within a community area, a new infrastructure or whatever is required. She will be aware that I have on my desk a review by Liz Peace and her team of CIL and issues relating to section 106 contributions. We are considering that review and will respond to it in our White Paper later this year. The hon. Lady's point that it is legitimate for the state to capture some of that uplift is absolutely valid; we need to think about the best mechanism for doing that.

I believe that the hon. Lady's second question was on arguments about the definition of the scheme, what it constituted and whether the upper tribunal had a role. Have I understood her correctly?

Dr Blackman-Woods: It was whether the widening of the scheme under proposed section 6D(2) to (4) of the Land Compensation Act 1961 could be referred to the upper tribunal under proposed section 6D(5).

Gavin Barwell: The answer is a simple yes. Proposed new section 6D(5) states:

"If there is a dispute as to what is to be taken to be the scheme…then, for the purposes of this section, the underlying scheme is to be identified by the Upper Tribunal",

so the answer is a simple yes.

I think the hon. Lady's first question was about the wider role of the upper tribunal in dealing with compensation disputes. She was concerned that there were some other areas that could not go to the upper tribunal. We believe the answer is that they can, but I may not have captured her question correctly. Would she reiterate in which particular cases she was worried that people could not go to the upper tribunal?

Dr Blackman-Woods: It was the schemes referred to in proposed new section 6D(2) to (4), and whether compensation arrangements could be determined under proposed new section 6D(5).

Gavin Barwell: The answer is a definite yes.

If Mr Bone is feeling particularly generous, he might let me answer hon. Members' earlier questions, but he may prefer me to write to them rather than going back to a previous debate.

The Chair: No: if you have suddenly remembered, Minister, go ahead.

Gavin Barwell: Inspiration has arrived. Clause 19 gives the power to make regulations limiting or making particular provision about temporary possession; the hon. Member for City of Durham asked for some guidance about how those powers might be used. The Government's thinking is that it could be about particular types of land, such as open spaces, commons or National Trust land. We might want to give particular thought to classes of land in which the provisions might not apply.

In the agricultural example given by the hon. Member for Oldham West and Royton, the losses would be assessed as a claim for loss or injury under clause 14(2), so the answer is that it is covered. Thank you for allowing me to clarify those two matters, Mr Bone.

I have some sympathy with the points made by the hon. Member for City of Durham. As we touched on in an earlier debate, the evidence we heard showed that there was definitely a strong desire out there for simplification of the CPO rules. We believe that the Bill contributes to that, particularly by clarifying in statute how the no-scheme world principle works, but also by removing the uncertainty that I referred to about people's ability to come back and make subsequent claims for compensation based on subsequent planning applications. There are definitely measures in the Bill that deliver some of the simplification that people want, but the hon. Lady is right that some people who gave us evidence said that maybe we need a fundamental rethink of the whole thing. I certainly do not have a closed mind on that.

The Law Commission has looked at this area of law. To a degree, what the Government did in the Housing and Planning Act 2016 and what they are doing in this Bill reflects the advice of the Law Commission. Compulsory purchase is probably an area on which it is easier to say, "We need a fundamental reform," than to develop consensus on what that fundamental reform should be. I am certainly not opposed to that in principle.

What I would like to do, if the Committee is agreeable, is to implement these reforms, around which there is a good degree of consensus. Let us see what impact they have on speeding up CPOs; hopefully they will make it easier for people to use and undertake them. At that point, we can consider the hon. Lady's suggestion. There is something that I do not like doing, although I accept that I may be in a slightly different position from other members of the Committee. I have become very conscious, in just the three months I have been doing this job, of how easy it is for Parliament to write into legislation, "The Government must review this" and "The Government must review that." A huge amount of civil service time is then taken up with undertaking those reviews.

We keep all our policies under review and based on the evidence all the time. However, something that has been said to me consistently by people across the housing world—large developers, smaller developers, people working in local authority planning departments and housing associations—is that people are looking for consistency of policy. Therefore, my ambition, if possible, is to set out in the White Paper a strategy for how we can get the country building the number of homes that we need, to listen to what people have to say in response to the White Paper and to implement it. I would then like to try—this is an ambitious thing for a politician to say—to have a period of policy stability during which we get on and implement the strategy that we have set out, rather than introducing changes every single year.

I do not want to be unsympathetic to the hon. Lady because her new clause just reflects the fact that some people have said, "Could we look at a more radical thing on CPO?" If, over time, there were a growing consensus about how that might be done, I would not close my ears to it. However, I do not want to write into this legislation a statutory requirement on the Government to conduct such a review when I am clear that my officials will have a huge piece of work on their hands dealing with the White Paper and the responses to it, and then implementing the strategy. I hope that I have explained my position without being in any way unsympathetic to the principle of the hon. Lady's point.

The Chair: It might be helpful to right hon. and hon. Members to understand a couple of technical things that happened there. First, we are appreciative of the Minister going back to earlier matters. It is my belief that it is better to have answers given on the record, rather than by letter.

The second point is that new clause 13 has been spoken to in this group because it is about CPO, but it is not being moved at this stage, so it cannot be withdrawn. It will be up to the shadow Minister whether she wants to move that clause when we reach it later. As nobody else wishes to speak, we can move on.

Question put and agreed to.

Clause 22 accordingly ordered to stand part of the Bill.

Clauses 23 to 30 ordered to stand part of the Bill.

Clause 31

FINANCIAL PROVISIONS

12.30 pm

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

The Chair: With this it will be convenient to discuss clauses 32 and 33 stand part.

Gavin Barwell: I will try to be brief. Clauses 31 to 33 make standard provision in relation to expenditure incurred, consequential provision that can be made and any regulations that may be passed by virtue of the provisions in the Bill.

Clause 31 provides spending authorisation for any expenditure incurred in consequence of the Bill. That is necessary, for example, in relation to the provisions in part 2, which provide for the circumstances where public authorities may be liable to pay compensation—and, in some cases, interest on that compensation—to persons who have an interest in or a right to occupy land that is compulsorily acquired or subject to temporary possession.

Clause 32 confers a power on the Secretary of State to make such consequential provision as is considered appropriate for the purposes of the Bill. A number of consequential changes are made by the Bill, including those flowing from: the addition of a new procedure for modifying neighbourhood plans; the changes to restrict the imposition of planning conditions; and the amendments to compulsory purchase legislation. Despite aiming for perfection, it is possible that not all such consequential changes have been identified. As such, it is prudent for the Bill to contain a power to deal in secondary legislation with any further necessary amendments that come to light.

Clause 33 makes provision for the parliamentary procedure that applies to any regulations made under any delegated powers set out in the Bill. The majority of delegated powers in the Bill will be subject to the negative procedure, but there are two exceptions. First, any regulations made under clause 19(1) that set out further provision in relation to temporary possession—the hon. Lady asked me about this, and inspiration arrived to answer her—will be subject to the affirmative procedure. That is because the nature of the power to take temporary possession, which interferes with property rights, and the public interest in compulsory powers over land merit a higher level of parliamentary scrutiny.

Secondly, any consequential amendments that amend primary legislation under clause 32(1), which I was just talking about, will also be subject to the affirmative procedure. That is to ensure that any further changes that might be necessary to Acts of Parliament that have previously been subject to the full parliamentary process are appropriately scrutinised. In plain English, if we have missed anything and we need to use clause 32 to deal with that, it would be inappropriate to do that through the negative procedure. Parliament should have the opportunity to properly debate any changes that have been made.

In conclusion, the clauses make standard an essential provision that is necessary to ensure that the measures in the Bill can be commenced.

Question put and agreed to.

Clause 31 accordingly ordered to stand part of the Bill.

Clauses 32 and 33 ordered to stand part of the Bill.

Clause 34

EXTENT

Gavin Barwell: I beg to move amendment 24, in clause 34, page 26, line 38, leave out "subsections (2) and" and insert "subsection".

[Gavin Barwell]

This amendment and amendment 25 provide for the repeal of section 141(5A) of the Local Government, Planning and Land Act 1980 in clause 23(3) to extend to England and Wales only. Although section 141 generally extends to Scotland, subsection (5A) only extends to England and Wales, so its repeal should only extend there.

The Chair: With this it will be convenient to discuss Government amendment 25.

Gavin Barwell: As a demonstration that perfection is not always possible, amendments 24 and 25 are technical amendments to clause 34, which is the standard extent clause of the Bill. In other words, it is the clause that says which parts of the United Kingdom the legislation applies to. They are necessary to correct a drafting error.

As currently drafted, clause 34 provides that clause 23(3), which makes a consequential amendment as part of the repeal of part 4 of the Land Compensation Act 1961, extends to England, Wales and Scotland. That is incorrect, as the measures in the Bill, with the exception of the final provisions, should extend to England and Wales only.

Clause 23(3) is a consequential provision that repeals subsection (5A) of section 141 of the Local Government, Planning and Land Act 1980. That provides that part 4 of the 1961 Act does not apply to urban development corporations. Although the 1980 Act extends to Scotland, section 141(5A) extends only to England and Wales. That is how the mistake was made.

Although leaving clause 34 without amendment would have no practical effect, it would be beneficial to correct it to avoid any potential confusion about the territorial extent of the Bill as it proceeds through Parliament. Making the correction will mean that the extent clause of the Bill will correctly reflect that the substantive measures in the Bill extend only to England and Wales. I hope that is clear; I have done my best to make it so.

Amendment 24 agreed to.

Amendment made: 25, in clause 34, page 26, line 39, leave out subsection (2).—*(Gavin Barwell.)*

See the explanatory statement for amendment 24.

Clause 34, as amended, ordered to stand part of the Bill.

Clause 35

COMMENCEMENT

Gavin Barwell: I beg to move amendment 26, in clause 35, page 27, line 8, after "3", insert

", (Power to direct preparation of joint local development documents)"

The amendment provides for the regulation-making powers conferred by NC4 to come into force on the passing of the Act resulting from the Bill.

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

Government new clause 4—*Power to direct preparation of joint development plan documents—*

(1) The Planning and Compulsory Purchase Act 2004 is amended as follows.

(2) After section 28 insert—

"28A Power to direct preparation of joint development plan documents

(1) The Secretary of State may direct two or more local planning authorities to prepare a joint development plan document.

(2) The Secretary of State may give a direction under this section in relation to a document whether or not it is specified in the local development schemes of the local planning authorities in question as a document which is to be prepared jointly with one or more other local planning authorities.

(3) The Secretary of State may give a direction under this section only if the Secretary of State considers that to do so will facilitate the more effective planning of the development and use of land in the area of one or more of the local planning authorities in question.

(4) A direction under this section may specify—

(a) the area to be covered by the joint development plan document to which the direction relates;

(b) the matters to be covered by that document;

(c) the timetable for preparation of that document.

(5) The Secretary of State must, when giving a direction under this section, notify the local planning authorities to which it applies of the reasons for giving it.

(6) If the Secretary of State gives a direction under this section, the Secretary of State may direct the local planning authorities to which it is given to amend their local development schemes so that they cover the joint development plan document to which it relates.

(7) A joint development plan document is a development plan document which is, or is required to be, prepared jointly by two or more local planning authorities pursuant to a direction under this section.

28B Application of Part to joint development plan documents

(1) This Part applies for the purposes of any step which may be or is required to be taken in relation to a joint development plan document as it applies for the purposes of any step which may be or is required to be taken in relation to a development plan document.

(2) For the purposes of subsection (1) anything which must be done by or in relation to a local planning authority in connection with a development plan document must be done by or in relation to each of the authorities mentioned in section 28A(1) in connection with a joint development plan document .

(3) If the authorities mentioned in section 28A(1) include a London borough council or a Mayoral development corporation, the requirements of this Part in relation to the spatial development strategy also apply.

(4) Those requirements also apply if—

(a) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the combined authority's area, and

(b) the authorities mentioned in section 28A(1) include a local planningauthority whose area is within, or is the same as, the area of the combined authority.

28C Modification or withdrawal of direction under section 28A

(1) The Secretary of State may modify or withdraw a direction under section 28A by notice in writing to the authorities to which it was given.

(2) The Secretary of State must, when modifying or withdrawing a direction under section 28A, notify the local planning authorities to which it was given of the reasons for the modification or withdrawal.

(3) The following provisions of this section apply if—

(a) the Secretary of State withdraws a direction under section 28A, or

(b) the Secretary of State modifies a direction under that section so that it ceases to apply to one or more of the local planning authorities to which it was given.

(4) Any step taken in relation to the joint development plan document to which the direction related is to be treated as a step taken by—

(a) a local planning authority to which the direction applied for the purposes of any corresponding document prepared by them, or

(b) two or more local planning authorities to which the direction applied for the purposes of any corresponding joint development plan document prepared by them.

(5) Any independent examination of a joint development plan document to which the direction related must be suspended.

(6) If before the end of the period prescribed for the purposes of this subsection a local planning authority to which the direction applied request the Secretary of State to do so, the Secretary of State may direct that—

(a) the examination is resumed in relation to—

(i) any corresponding document prepared by a local planning authority to which the direction applied, or

(ii) any corresponding joint development plan document prepared by two or more local planning authorities to which the direction applied, and

(b) any step taken for the purposes of the suspended examination has effect for the purposes of the resumed examination.

(7) The Secretary of State may by regulations make provision as to what is a corresponding document or a corresponding joint development plan document for the purposes of this section."

(3) In section 21 (intervention by Secretary of State) after subsection (11) insert—

"(12) In the case of a joint local development document or a joint development plan document, the Secretary of State may apportion liability for the expenditure on such basis as the Secretary of State thinks just between the local planning authorities who have prepared the document."

(4) In section 27 (Secretary of State's default powers) after subsection (9) insert—

"(10) In the case of a joint local development document or a joint development plan document, the Secretary of State may apportion liability for the expenditure on such basis as the Secretary of State thinks just between the local planning authorities for whom the document has been prepared."

(5) Section 28 (joint local development documents) is amended in accordance with subsections (6) and (7).

(6) In subsection (9) for paragraph (a) substitute—

"(a) the examination is resumed in relation to—

(i) any corresponding document prepared by an authority which were a party to the agreement, or

(ii) any corresponding joint local development document prepared by two or more other authorities which were parties to the agreement;".

(7) In subsection (11) (meaning of "corresponding document") at the end insert "or a corresponding joint local development document for the purposes of this section."

(8) In section 37 (interpretation) after subsection (5B) insert—

"(5C) Joint local development document must be construed in accordance with section 28(10).

(5D) Joint development plan document must be construed in accordance with section 28A(7). "

(9) Schedule A1 (default powers exercisable by Mayor of London, combined authority and county council) is amended in accordance with subsections (10) and (11).

(10) In paragraph 3 (powers exercised by the Mayor of London) after sub-paragraph (3) insert—

"(4) In the case of a joint local development document or a joint development plan document, the Mayor may apportion liability for the expenditure on such basis as the Mayor thinks just between the councils for whom the document has been prepared."

(11) In paragraph 7 (powers exercised by combined authority) after sub-paragraph (3) insert—

"(4) In the case of a joint local development document or a joint development plan document, the combined authority may apportion liability for the expenditure on such basis as the authority considers just between the authorities for whom the document has been prepared."

This new clause enables the Secretary of State to give a direction requiring two or more local planning authorities to prepare a joint development plan document. It also makes provision about the consequences of withdrawal or modification of such a direction.

Amendment (a) to Government new clause 4, in proposed new subsection (12) of section 21 of the Planning and Compulsory Purchase Act 2004, at end insert

"after consulting with the local authorities concerned."

Gavin Barwell: If I may, before I turn to specific amendment, I would like to make introductory remarks about the amendments that we are debating here, and the next couple, which sit together, to a degree, in policy terms, although we shall debate them separately. This is really about our proposed approach to ensuring that all communities benefit from the certainty and clarity that a local plan can provide. I hope that what I say will provide helpful context.

The planning system is at the heart of the Government's plans to boost housing supply. It is not the only thing that we need to do to build more homes; but certainly, one of the crucial ingredients of the strategy that we shall set out in the White Paper will be to release enough land in the right parts of the country to meet housing need. However, rather than having a top-down system in which central Government decide where the housing goes, the Government passionately believe in a bottom-up system where communities take the decisions. There is one caveat: that councillors should not be able to duck taking the tough decisions. In my view, my role in the system is to ensure that each community in the country takes the necessary decisions to meet housing need. How they do it should be a matter for them.

A second objective, looking at the matter from the viewpoint of those who want to build homes, is that the planning system should give them certainty about where the homes can be built, and where they should not try to build homes. That is why we have a longstanding commitment to a local plan-led system, which identifies what development is needed in an area, and sets out where it should and should not go, and so provides certainty for those who want to invest.

Local planning authorities have had more than a decade to produce a local plan. The majority—more than 70%—have done so. However, not every local authority has made the same progress towards getting a plan in place, and there are some gaps in parts of the country where plans are needed most. We have made clear our expectation that all local planning authorities should have a local plan. We have provided targeted support through the LGA's planning advisory service and the Planning Inspectorate, to assist them in doing do. We have also been clear about the fact that local plans should be kept up to date, to ensure that the policies in them remain relevant. If that is not happening it is right for the Government to take action.

[Gavin Barwell]

We invited a panel of experts to consider how local plan-making could be made more efficient and effective. The local plans expert group recommended a clear statutory requirement for all authorities to produce a plan. We agree that the requirement to have a local plan should not be in doubt. However, as long as authorities have policies to address their strategic housing and other priorities they should have freedom about the type of plan most appropriate to their area. In fact, the constituency of the hon. Member for Oldham West and Royton is an example of a part of the country where a decision has been taken to work with a strategic plan over a wider area, rather than 10 individual local plans.

Effective planning, which meets the housing, economic and infrastructure needs of the people who live in an area, does not need to be constrained by planning authority boundaries. We want more co-operation and joint planning for authorities to plan strategically with their neighbours, ensuring, together, that they can meet the housing and other needs of their areas. There are opportunities to improve the accessibility of plans to local people. The amendments that we propose will strengthen planning in those areas.

New clause 4 enables the Secretary of State to direct two or more local planning authorities to prepare a joint development plan document—the documents that comprise an authority's local plan—if he considers that that will facilitate the more effective planning of the development and use of land in one or more of those authorities. Where we direct authorities to prepare a joint plan, the local planning authorities will work together to prepare it. They will then each decide whether to adopt the joint plan.

The country's need for housing is not constrained by neighbourhood, district or county boundaries. The system needs to support planning and decision making at the right functional level of geography.

Mrs Theresa Villiers (Chipping Barnet) (Con): I wholeheartedly subscribe to the sentiments that my hon. Friend the Minister expressed at the start of his remarks about local councils and communities making decisions. How is that reconcilable with the position in London, where, although borough councils have important powers in this policy area, they can effectively be overridden by the Greater London Authority? If we were really localist, would we not be pushing decisions on housing down to our borough councils?

Gavin Barwell: Actually, most of the statutory responsibilities in London still sit with the London boroughs, but their plans do have to conform to the strategic policies of the London plan, as my right hon. Friend knows. There is a debate about such matters. An interesting distinction is that the London plan cannot allocate specific sites, in either my right hon. Friend's constituency or any other part of the capital. It can set out some overall strategic policies, but it is then essentially for the borough plan in Barnet, Croydon or wherever else to decide where the development in their area goes, subject to the overall strategic policies.

The Government's view is that the balance is right, and that there is a case for strategic planning across London, but clearly it would be possible to argue otherwise. Indeed, there was a period during which the capital did not have a body to provide strategic planning. There is absolutely a legitimate debate to be had. It might reassure my right hon. Friend to hear that I would be opposed to a situation in which the London plan could allocate particular sites contrary to the wishes of Barnet Council, because that would undermine the kind of localism that she refers to.

We have been clear that local planning authorities should work collaboratively so that strategic priorities, particularly for housing, are properly co-ordinated across local boundaries and clearly reflected in individual local plans. We have already discussed the duty to co-operate, and separately we have set out our commitment to strengthen planning guidance to improve the functioning of that duty. The Government recognise that it is not currently functioning in an ideal way.

Following a call for evidence and discussions with a range of bodies, including planning authorities, the development industry and the community groups, the local plans expert group drew attention to the difficulty that some areas are having with providing for the housing that they require, particularly where housing need is high and land is heavily constrained. Such challenges can be compounded when the timetables for local plans coming forward in neighbouring areas do not align, and the plans are therefore not informed by a common evidence base. We need to ensure that such challenges—they are real challenges—do not become reasons for ducking the tough decisions that need to be made to ensure that we build the housing we need.

A joined-up plan-making process, in which key decisions are taken together, will help local planning authorities to provide their communities with a plan for delivering the housing they need. The idea of joint planning and working collaboratively with neighbours is not new. Local planning authorities can already choose to work together on a joint plan and as part of a joint planning committee. There are many examples of their doing so. Indeed, I recently met representatives of Norwich City Council at the MIPIM exhibition. They told me about the way in which they are working with South Norfolk and Broadland districts to produce a combined plan across the three districts. I have already referred to the example in Greater Manchester, with which the hon. Member for Oldham West and Royton will be familiar.

We will continue to support and encourage local planning authorities to choose the most appropriate approach to plan-making in their area, whether they are working on their own or with others to prepare a joint plan. My first bit of reassurance to the Committee is that I envisage the power we are taking being used sparingly. Where effective planning across boundaries is not happening, we must take action to help local planning authorities to make progress, to provide certainty for communities; otherwise, we risk delaying or even preventing the delivery of housing that is urgently needed.

New clause 4 will enable us to do what I have just described. It amends the Planning and Compulsory Purchase Act 2004 to enable the Secretary of State to direct two or more local planning authorities to prepare a joint plan. The power can be exercised only in situations in which the Secretary of State considers that it will facilitate the more effective planning of the development and use of land in one or more of the authorities. The change will apply existing provisions for the preparation

and examination of development plan documents. It also provides for the consequences of the withdrawal or modification of a direction.

New clause 4 will also amend some existing provisions—sections 21 and 27 of the 2004 Act—to ensure that, should the Secretary of State need to intervene more directly in the preparation of a joint plan, there is a mechanism for recovering any costs incurred from each of the relevant local planning authorities. Costs will be apportioned in such a way as the Secretary of State considers just. If the Mayor of London, a combined authority or a county council prepares a joint plan at the invitation of the Secretary of State, they will be responsible for apportioning liability fairly for any expenditure that they incur. Government amendment 26 will provide for the regulation-making power conferred by new clause 4 to come into force on the passing of the Act.

12.45 pm

Having described how the legislation will work, I want to add a personal note. I have only been doing this job for about three months, but I can tell the Committee that I regularly have to deal with casework about planning applications and am lobbied by Members about them. Those applications nearly always relate to situations in which a local authority does not have an up-to-date plan with a five-year land supply, so the presumption in favour of sustainable development applies and developers pick where the new housing goes. That is not the world that I want to see. I want to see proper up-to-date plans with a five-year land supply in place throughout the country, so that the people we are elected to represent choose, via the elected representatives on their local council, where they want development to go in their area. We need clarity, for those interested in building the homes that we need, about where to make planning applications; we also need clarity about places such as open spaces that are valued highly and should not be subject to planning applications.

I recognise that many Committee members have already expressed their strong localist instincts, and that there will therefore always be a nervousness about the Secretary of State's powers to intervene. However, I argue strongly that it is in the wider public interest to ensure that we have proper plan coverage throughout the country. Our existing powers purely provide for the Secretary of State to intervene and write the plan, which may often mean that the Housing and Planning Minister ends up doing it. I am not particularly keen to do that; if things are not working—if an individual planning authority has proved unable to do it—I would prefer the option of getting people to work together to do it at a local level. I recognise that this is a power to intervene, but there is a strong justification for it and it is a more local alternative than the Government's simply stepping in to write the plan.

Dr Blackman-Woods: I shall address my introductory remarks to the Minister's general points about the importance of local plan-making. I say at the outset that Opposition members of the Committee have noticed and welcomed the difference in tone and the slight change in policy direction that have come with the new Minister. I agree about the importance of having communities at the heart of local plan-making. When planning is done really well and people are involved in planning their neighbourhoods, we are much more likely to get the sort of development that supports our placemaking objectives, and that is supported by local people. Critically, in my experience, the involvement of local communities drives up the quality of what is delivered locally. We totally agree with the Minister that, where possible, local communities should be at the heart of planning and local authorities should work with their neighbourhoods to draw up a local plan.

Nevertheless, like the Minister, we recognise that if a local plan is not in place, local communities and neighbourhoods are at risk of receiving really inappropriate development. To determine applications, a council is likely to rely on saved local policies, if it has them, from a previous plan which might be out of date. What often happens in my experience—this is particularly true recently, with local authorities concerned about the number of applications they reject in case they subsequently get overturned on appeal—is that decisions go through that might not be in the best interests of the local authority or the local community, simply because a local plan is not in place.

I am pleased that the Minister consulted the local plan expert group in thinking about how to bring forward the provisions in new clause 4. The people on that group are very knowledgeable about the planning system. Nevertheless, he did not need to do that. He just needed to pick up his copy of the Lyons report —I know he has one—and turn to page 62. On that page he will find our arguments as to why in certain circumstances it might be necessary for the Secretary of State to intervene in local plan-making when, for whatever reason, local plans are not coming forward from the local authority.

The Minister knows that one of the major reasons for plans' not coming forward or being thrown out by the inspector is that councils are not suitably addressing the duty to co-operate. When we were taking evidence for the Lyons review, a number of councillors said, "The real problem is that we cannot meet housing need in our area because we do not have enough land available. We cannot put a proper five-year land supply in place because we simply do not have the land available."

From memory, two examples that stood out were Stevenage and the city of Oxford. They have substantial housing need and a strong demand for housing, but they do not have enough land within their specific local authority boundary to meet that need. Under the Government's legislation, the duty to co-operate would come into play. Those authorities would sit down and make a decision.

The city of Oxford needed South Oxfordshire to bring forward some land, and Stevenage required its neighbouring authorities to bring forward some land. Alas, the duty to co-operate did not work the Government had envisaged. The land did not come forward in those neighbouring authorities' plans, and that placed both the city of Oxford and Stevenage in the rather difficult situation of having acute housing need but no means by which to meet that need. There are many other such examples around the country.

We listened to a lot of evidence in the Lyons review. In an ideal world, one would not want to give powers to the Secretary of State to direct authorities to come together and produce a plan, but if they are not doing

[Dr Blackman-Woods]

so, they are putting their communities at risk of not meeting housing need, which is acute in some areas. We therefore decided reluctantly—very much like the Minister—that powers should be given to the Secretary of State in limited circumstances to direct local authorities.

The new clause refers to,

"two or more local planning authorities".

That is one way forward. Another that we thought of would be to look at the area covered by strategic housing market assessments and perhaps make that subject to direction by the Secretary of State, but a few local authorities coming together in the appropriate area is just as good a way forward.

As the Committee will have gathered from what I am saying, the Opposition do not have any particular problems with new clause 4, but I have some specific questions. First, will the Minister clarify who decides exactly what is in the document? Perhaps I misheard him, but I think he said it would be up to local authorities themselves, under the provisions in proposed new section 28A, to decide exactly how they would put the plan together. My reading, though, is that that proposed new section gives powers to the Secretary of State to determine exactly what is in the documents and what they might look like.

Proposed new section 28A(4) says that the Secretary of State can give a direction about:

"(a) the area to be covered by the joint development plan document to which the direction relates;

(b) the matters to be covered by that document;

(c) the timetable for preparation of that document."

I have absolutely no problem with that—it seems to us to be an entirely sensible way forward when local plan-making arrangements have broken down for whatever reason—but it does seem to suggest that it will not be the local councils that will be deciding what the documents cover. In those circumstances, it will be the Secretary of State.

Gavin Barwell: The hon. Lady has read the provisions entirely correctly. We want to make sure that, for example, everywhere in the country there is clarity about site allocations and where people can build. That is why we need that power. The point I was making in my speech was that authorities can choose whether they wish to do their own local plan or to work together, as those in Greater Manchester have done, to produce a spatial development strategy. We shall not specify all the detail, but there are some core things that need to be covered throughout the country.

Dr Blackman-Woods: I thank the Minister for that helpful clarification.

My second point is about proposed new section 28C. Will the Minister direct us to where we can find the set of circumstances that will trigger the Secretary of State's asking local authorities to come together to produce a joint plan? I have given him the example of when the duty to co-operate is not working. I would have thought that should be pretty apparent, because the likelihood would be that a local plan would be thrown out by the planning inspector. I am not sure whether there are other circumstances that the Minister can tell us about. It could be that things are just taking too long, or that something is not being done properly.

I suspect that we will have regulations to support the legislation, which will make it all clear to us at some future date. They will have the specificity on the action or non-action that the Minister has in mind that would trigger the Secretary of State's involvement and such a direction being given to local authorities. It would help our deliberations if the Minister could be a bit clearer about the circumstances in which the Secretary of State will make this direction.

Finally—we will get on to this later, I hope—the Planning Officers Society has helpfully put into the public domain some detail on how the duty to co-operate is failing to meet housing need in this country. The association has very helpfully proposed policies to ensure that everywhere has a local plan in place that are pretty similar to what the Minister has suggested this morning. I did not want to finish my remarks on new clause 4 without acknowledging the work done by the society over several years to highlight, to the Minister and others, the fact that the current system is just not working for everyone, and the fact that something must be done to ensure that each area can have a local plan in place.

1 pm

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

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NEIGHBOURHOOD PLANNING BILL

Eighth Sitting

Thursday 27 October 2016

(Afternoon)

CONTENTS

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 31 October 2016

The Committee consisted of the following Members:

Chairs: Mr Peter Bone, † Steve McCabe

† Barwell, Gavin *(Minister for Housing and Planning)*
† Blackman-Woods, Dr Roberta *(City of Durham)* (Lab)
Colvile, Oliver *(Plymouth, Sutton and Devonport)* (Con)
† Cummins, Judith *(Bradford South)* (Lab)
† Doyle-Price, Jackie *(Thurrock)* (Con)
† Green, Chris *(Bolton West)* (Con)
Hayes, Helen *(Dulwich and West Norwood)* (Lab)
† Hollinrake, Kevin *(Thirsk and Malton)* (Con)
† Huq, Dr Rupa *(Ealing Central and Acton)* (Lab)
† McMahon, Jim *(Oldham West and Royton)* (Lab)
† Malthouse, Kit *(North West Hampshire)* (Con)
Mann, John *(Bassetlaw)* (Lab)
† Philp, Chris *(Croydon South)* (Con)
† Pow, Rebecca *(Taunton Deane)* (Con)
† Tracey, Craig *(North Warwickshire)* (Con)
† Villiers, Mrs Theresa *(Chipping Barnet)* (Con)

Ben Williams, Glenn McKee, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 27 October 2016

(Afternoon)

[Steve McCabe *in the Chair*]

Neighbourhood Planning Bill

Clause 35

Commencement

Amendment proposed (this day): 26, in clause 35, page 27, line 8, after "3", insert—

", (Power to direct preparation of joint local development documents)".—*(Gavin Barwell.)*

The amendment provides for the regulation-making powers conferred by NC4 to come into force on the passing of the Act resulting from the Bill.

2 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following:

Government new clause 4—*Power to direct preparation of joint development plan documents*—

(1) The Planning and Compulsory Purchase Act 2004 is amended as follows.

(2) After section 28 insert—

"**28A Power to direct preparation of joint development plan documents**

(1) The Secretary of State may direct two or more local planning authorities to prepare a joint development plan document.

(2) The Secretary of State may give a direction under this section in relation to a document whether or not it is specified in the local development schemes of the local planning authorities in question as a document which is to be prepared jointly with one or more other local planning authorities.

(3) The Secretary of State may give a direction under this section only if the Secretary of State considers that to do so will facilitate the more effective planning of the development and use of land in the area of one or more of the local planning authorities in question.

(4) A direction under this section may specify—

(a) the area to be covered by the joint development plan document to which the direction relates;

(b) the matters to be covered by that document;

(c) the timetable for preparation of that document.

(5) The Secretary of State must, when giving a direction under this section, notify the local planning authorities to which it applies of the reasons for giving it.

(6) If the Secretary of State gives a direction under this section, the Secretary of State may direct the local planning authorities to which it is given to amend their local development schemes so that they cover the joint development plan document to which it relates.

(7) A joint development plan document is a development plan document which is, or is required to be, prepared jointly by two or more local planning authorities pursuant to a direction under this section.

28B Application of Part to joint development plan documents

(1) This Part applies for the purposes of any step which may be or is required to be taken in relation to a joint development plan document as it applies for the purposes of any step which may be or is required to be taken in relation to a development plan document.

(2) For the purposes of subsection (1) anything which must be done by or in relation to a local planning authority in connection with a development plan document must be done by or in relation to each of the authorities mentioned in section 28A(1) in connection with a joint development plan document.

(3) If the authorities mentioned in section 28A(1) include a London borough council or a Mayoral development corporation, the requirements of this Part in relation to the spatial development strategy also apply.

(4) Those requirements also apply if—

(a) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the combined authority's area, and

(b) the authorities mentioned in section 28A(1) include a local planning authority whose area is within, or is the same as, the area of the combined authority.

28C Modification or withdrawal of direction under section 28A

(1) The Secretary of State may modify or withdraw a direction under section 28A by notice in writing to the authorities to which it was given.

(2) The Secretary of State must, when modifying or withdrawing a direction under section 28A, notify the local planning authorities to which it was given of the reasons for the modification or withdrawal.

(3) The following provisions of this section apply if—

(a) the Secretary of State withdraws a direction under section 28A, or

(b) the Secretary of State modifies a direction under that section so that it ceases to apply to one or more of the local planning authorities to which it was given.

(4) Any step taken in relation to the joint development plan document to which the direction related is to be treated as a step taken by—

(a) a local planning authority to which the direction applied for the purposes of any corresponding document prepared by them, or

(b) two or more local planning authorities to which the direction applied for the purposes of any corresponding joint development plan document prepared by them.

(5) Any independent examination of a joint development plan document to which the direction related must be suspended.

(6) If before the end of the period prescribed for the purposes of this subsection a local planning authority to which the direction applied request the Secretary of State to do so, the Secretary of State may direct that—

(a) the examination is resumed in relation to—

(i) any corresponding document prepared by a local planning authority to which the direction applied, or

(ii) any corresponding joint development plan document prepared by two or more local planning authorities to which the direction applied, and

(b) any step taken for the purposes of the suspended examination has effect for the purposes of the resumed examination.

(7) The Secretary of State may by regulations make provision as to what is a corresponding document or a corresponding joint development plan document for the purposes of this section."

(3) In section 21 (intervention by Secretary of State) after subsection (11) insert—

"(12) In the case of a joint local development document or a joint development plan document, the Secretary of State may apportion liability for the expenditure on such basis as the Secretary of State thinks just between the local planning authorities who have prepared the document."

(4) In section 27 (Secretary of State's default powers) after subsection (9) insert—

"(10) In the case of a joint local development document or a joint development plan document, the Secretary of State may apportion liability for the expenditure on such basis as the Secretary of State thinks just between the local planning authorities for whom the document has been prepared."

(5) Section 28 (joint local development documents) is amended in accordance with subsections (6) and (7).

(6) In subsection (9) for paragraph (a) substitute—

"(a) the examination is resumed in relation to—

(i) any corresponding document prepared by an authority which were a party to the agreement, or

(ii) any corresponding joint local development document prepared by two or more other authorities which were parties to the agreement;".

(7) In subsection (11) (meaning of "corresponding document") at the end insert "or a corresponding joint local development document for the purposes of this section."

(8) In section 37 (interpretation) after subsection (5B) insert—

"(5C) Joint local development document must be construed in accordance with section 28(10).

(5D) Joint development plan document must be construed in accordance with section 28A(7)."

(9) Schedule A1 (default powers exercisable by Mayor of London, combined authority and county council) is amended in accordance with subsections (10) and (11).

(10) In paragraph 3 (powers exercised by the Mayor of London) after sub-paragraph (3) insert—

"(4) In the case of a joint local development document or a joint development plan document, the Mayor may apportion liability for the expenditure on such basis as the Mayor thinks just between the councils for whom the document has been prepared."

(11) In paragraph 7 (powers exercised by combined authority) after sub-paragraph (3) insert—

"(4) In the case of a joint local development document or a joint development plan document, the combined authority may apportion liability for the expenditure on such basis as the authority considers just between the authorities for whom the document has been prepared."

This new clause enables the Secretary of State to give a direction requiring two or more local planning authorities to prepare a joint development plan document. It also makes provision about the consequences of withdrawal or modification of such a direction.

Amendment (a) to Government new clause 4, in proposed new subsection (12) of section 21 of the Planning and Compulsory Purchase Act 2004, at end insert—

"after consulting with the local authorities concerned."

Jim McMahon (Oldham West and Royton) (Lab): It is a pleasure to serve under your chairmanship, Mr McCabe. I refer to my entry in the register of interests as a member of Oldham Council. I am speaking to amendment (a) to new clause 4.

Throughout the debate, what has stood out is a sense that although we are creating a framework to be understood clearly and to set expectations, that is in the spirit of communities themselves determining what is right—a genuinely partnership approach. The amendment to Government new clause 4 seeks to ensure that there is discussion with local authorities before the apportioning of costs between local authorities for joint development plans.

At the moment, new clause 4 will allow the Secretary of State to apportion liability for expenditure, on the basis of what the Secretary of State thinks is just, between the local planning authorities that have prepared the document. The amendment would ensure consultation with the relevant local authorities before the Secretary of State determines what proportion of costs each must pay. The Secretary of State might already intend to consult with local authorities, so reassurance would be what is required. Given that the tone of the debate so far has been one of working with local communities, it would be helpful not to go against that and impose costs without any kind of consultation or discussion.

The Minister for Housing and Planning (Gavin Barwell): It is a pleasure to serve under your chairmanship again, Mr McCabe.

The hon. Member for City of Durham asked a couple of questions about new clause 4, which I will endeavour to answer before I come to the amendment to the new clause. In essence, the main issue that the hon. Lady wished to explore was the circumstances in which the Secretary of State might wish to pursue the power to intervene. The wording of the new clause is relatively broad—I tried to touch on this wording in my speech this morning—under proposed section 28A(3):

"The Secretary of State may give a direction under this section only if the Secretary of State considers that to do so will facilitate the more effective planning of the development and use of land in the area of one or more of the local planning authorities in question."

It might help the hon. Lady if I expand on that and give an idea of the types of situation we have in mind. I will make two points. First, in relation to "one or more", there might be a situation in which a particular local planning authority is struggling to produce its own local plan—perhaps, as I indicated in my speech, because there is not only a high level of housing need in the area concerned, but also heavy constraints on land. Given the cases I have already dealt with over the past three months, I am thinking of districts where a significant proportion of the land area is green belt and therefore has heavy constraints on development potential.

In such circumstances, the Secretary of State might want to direct that authority and two or three others where land is much less constrained to produce a joint plan, in order to provide an opportunity to consider whether some of the housing need in district A might be met in some of the adjoining districts. It is possible that authorities covered by such a direction might have produced a perfectly viable plan for their area, but we would be looking to work across a group of authorities to meet housing need over a wider area.

Secondly, there are probably two types of situation in which that might arise. I have alluded to one already—where an authority has simply failed to produce a plan. As the Committee knows, several authorities are in that position at the moment. The second is where an authority might have tried to produce a plan, but is failing to meet the housing need in its area. Either it has fallen short of the assessed need or the plan was accepted by an inspector but the authority subsequently found itself unable to

[Gavin Barwell]

deliver the housing it had planned for various reasons. Essentially, the two things that I think the Secretary of State is likely to be interested in are, first, authorities that are simply not doing the job of producing a plan; and secondly, plans that are wholly inadequate in terms of meeting the required level of housing need.

Dr Roberta Blackman-Woods (City of Durham) (Lab): Will regulations set out the circumstances that are likely to lead to a Secretary of State's direction, or the process that will be followed in order to involve the Secretary of State? We are struggling with what will trigger the Secretary of State's involvement. Will it be a complaint from a member of the public or one of the local authorities, or something else?

Gavin Barwell: I will do my best to answer that question. I am in a slightly difficult position. I might as well be open about the difficulty that I face. I have referred several times to the fact that there will be a White Paper that will set out clearly how we intend to use the powers. Given that I do not yet have collective agreement to the White Paper, it is difficult for me to say too much. However, the powers will not be used if it is a simple matter of complaints from individual members of the public in an area or from developers.

The Department is likely to proactively monitor the progress that local planning authorities make. I made it fairly clear in my opening remarks that I attach great importance to getting full coverage of the country, not necessarily in terms of every single planning authority having its own plan, but in terms of making sure that all parts of the country are covered by a plan, whether it is a strategic plan covering a wider area or individual authorities having their own plan. I will ask my officials to give me regular updates on progress and I will proactively look to intervene if I believe that is the only remaining lever to get to where I think we all agree we want to get to in planning. Does that go far enough to help the hon. Lady?

Dr Blackman-Woods *indicated assent.*

Gavin Barwell: It does. That is good to hear.

I hope I can provide some reassurance on the amendment. As the hon. Member for Oldham West and Royton said, in the case of a joint local development document or a joint plan, where the Secretary of State is apportioning liability for the expenditure between the relevant authorities, the amendment basically says that the relevant authorities have to be consulted. As I have argued before, I do not think it is necessary to write that into statute, but it is clearly something that we would want to have a discussion with the relevant authorities about. To reassure the hon. Gentleman, the key language in the clause is about justness. There is a test of reasonableness in terms of the way the Secretary of State will be doing it in legislation.

Jim McMahon: Clearly, we have absolute confidence in the Minister. We know he is a localist and values relationships with our local authorities, but—heaven forbid—if another Minister in that position with such powers has a different approach, we would want to make sure that safeguards are in place.

Gavin Barwell: Let me make a couple of further remarks and then I will be happy to go away and reflect on that point. I hear what the hon. Gentleman says.

Should the Secretary of State intervene under section 21 of the Planning and Compulsory Purchase Act 2004, statutorily he can only require reimbursement of any costs he has incurred if the costs are specified in a notice to the authority or authorities concerned. I will read this into the record because it will allow the hon. Gentleman to go away and look at this and check that he is satisfied with it. This is set out in subsection (11) of section 21 of the Planning and Compulsory Purchase Act 2004, which is inserted by section 145(4) of the Housing and Planning Act 2016.

Should it be necessary for the Secretary of State to prepare a plan because the relevant authorities have failed to do so, despite being given every opportunity, again it is right that he can recover his costs, but in doing so he would need to demonstrate that he has been just and has acted reasonably. The former—the justness point—may require a consultation with the authorities concerned. I have given an assurance that that would happen. The latter is a concept that is well understood in legal terms. I do not believe it is necessary to write this into law, but if the hon. Gentleman is happy he can go away and look at what I have just referred to in statute. If he is still not satisfied, there is the option for him to press the matter a bit further on Report. I am happy to talk to him outside the Committee if he is still not satisfied.

Amendment 26 agreed to.

Gavin Barwell: I beg to move amendment 27, in clause 35, page 27, line 8, after "3", insert

", (Review of local development documents)".

The amendment provides for the regulation-making powers conferred by NC7 to come into force on the passing of the Act resulting from the Bill.

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

Government new clause 3—*Content of development plan documents*—

(1) In section 19 of the Planning and Compulsory Purchase Act 2004 (preparation of local development documents) after subsection (1A) insert—

"(1B) Each local planning authority must identify the strategic priorities for the development and use of land in the authority's area.

(1C) Policies to address those priorities must be set out in the local planning authority's development plan documents (taken as a whole).

(1D) Subsection (1C) does not apply in the case of a London borough council or a Mayoral development corporation if and to the extent that the council or corporation are satisfied that policies to address those priorities are set out in the spatial development strategy.

(1E) If a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the authority's area, subsection (1D) also applies in relation to—

(a) a local planning authority whose area is within, or the same as, the area of the combined authority, and

(b) the spatial development strategy published by the combined authority."

(2) In section 35 of that Act (local planning authorities' monitoring reports) after subsection (3) insert—

"(3A) Subsection (3B) applies if a London borough council or a Mayoral development corporation have determined in accordance with section 19(1D) that—

(a) policies to address the strategic priorities for the development and use of land in their area are set out in the spatial development strategy, and

(b) accordingly, such policies will not to that extent be set out in their development plan documents.

(3B) Each report by the council or corporation under subsection (2) must—

(a) indicate that such policies are set out in the spatial development strategy, and

(b) specify where in the strategy those policies are set out.

(3C) If a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the authority's area, subsections (3A) and (3B) also apply in relation to—

(a) a local planning authority whose area is within, or the same as, the area of the combined authority, and

(b) the spatial development strategy published by the combined authority."

This new clause requires a local planning authority to identify the strategic priorities for the development and use of land in the authority's area and to set out policies to address these in their development plan documents. The latter duty does not apply in the case of certain authorities to the extent that other documents set out the policies, but in that case the authority's monitoring reports must make that clear.

Amendment (a) to Government new clause 3, after proposed new subsection (1E) to section 19 of the Planning and Compulsory Purchase Act 2004, insert

"(1F) The Secretary of State may by regulations require a particular timescale to be set for the production of plan documents."

Government new clause 7—*Review of local development documents.*

Gavin Barwell: This morning, when Mr Bone was in the Chair, he kindly allowed me to make some introductory remarks about the whole package of amendments in relation to local plans, so I hope I can be a little more brief as I tackle each one.

We have previously made clear our expectation that all local planning authorities should have a plan in place. That is in paragraph 153 of the national planning policy framework, for example. As I said earlier, the local plans expert group recommended introducing a statutory duty on local planning authorities to produce and maintain an up-to-date plan. The group saw that as a means of underlining the importance of local plans and ensuring that their production is given the necessary priority. We have carefully considered those recommendations and the representations we received on them, and we agree.

New clause 3 amends the Planning and Compulsory Purchase Act 2004, and introduces a requirement for each local planning authority to identify the strategic priorities for the development and use of land in their area. It also places a requirement on the local planning authority to set out policies that address those strategic priorities in the authority's development plan documents, which collectively make up the local plan. That requirement does not apply if a local planning authority in London considers that its strategic priorities are addressed in the Mayor of London's spatial development strategy, the London plan. The same opportunity will be given to local planning authorities in the area of a combined authority where the combined authority has the function of preparing a spatial development strategy for its area as, for example, Greater Manchester will.

Where a local authority is relying on policies in a spatial development strategy to deliver its strategic priorities, it has to make that clear in the authority monitoring report that it is required to publish annually. For local plans to be effective, they need to be kept up to date, which brings me to new clause 7.

Paragraph 153 of the NPPF makes it clear that a local plan should be reviewed

"in whole or in part to respond flexibly to changing circumstances."

We want to put beyond doubt our expectation that plans are reviewed regularly, so new clause 7 amends the Planning and Compulsory Purchase Act 2004, introducing a requirement for a local planning authority to review its documents at intervals prescribed by the Secretary of State. When reviewing its documents, it should consider whether they should be revised, a little bit like the statements of community involvement that we covered earlier in relation to the neighbourhood planning provisions. If the authority is content that a document does not need to change, that is fine, but it needs to publish its reasons for coming to that decision. The new requirement does not affect the existing duty to keep documents under review.

Finally, amendment 27 simply provides for the regulation-making powers conferred by new clause 7 to come into force on the passing of the Act resulting from the Bill.

Taken together, the two new clauses and amendment 27 put beyond doubt the Government's commitment to a plan-led system in which all local planning authorities have an up-to-date local plan that ensures that sufficient land is allocated for housing in the right places to meet needs, with roads and other vital amenities required to support that housing—a local plan that crucially provides an opportunity for local communities to shape the development of their city, town or village. I am grateful for what the hon. Lady said earlier, and I hope that the amendment is accepted.

2.15 pm

Dr Blackman-Woods: It is a pleasure to serve under your chairmanship, Mr McCabe. I will speak about Government new clause 3 and amendment (a) together. I tabled amendment (a) hoping to elicit more information from the Minister about what the Government are trying to do with new clause 3. On the face of it, that new clause seems very sensible in asking that development plan documents set out strategic priorities. That is quite hard to disagree with. What I am not clear about is whether an additional tier of work will be required of local authorities in putting their plan together.

I tabled amendment (a) simply so that I could ask the Minister to focus on the speedy production of local plans. He will know that this has been an ongoing issue for some time. It is undoubtedly the case that the local plan-making process put in place in 2004 ended up being rather more lengthy than those who put the legislation together—I hasten to add that it was not me—thought it would be. It is a very cumbersome

[Dr Blackman-Woods]

process for local authorities. It is not that all the documents are not needed. I will say something about that in a moment.

The issue—I think it is one that the Minister recognises, particularly in terms of the content of new clause 4—is that we need to get local authorities to a position where it is a more straightforward process for them to put a local development plan document together. We know that under the 2004 process, even where there were not really any local difficulties or much complexity, it was taking on average three years to produce the plan to make it ready for inspection. That was not getting it right through the process; that was just getting it ready and going through the various rounds of consultation.

The average cost of the process, from beginning to end, was a staggering £500,000. When I argued earlier in the Committee's deliberations for putting more money into neighbourhood plans as the building block for local plan-making, that was the figure I had in mind. Lots of money is being set aside for consultation, but it has not always produced results that have altered the local plan-making process in any way. As I said earlier to the Minister, I think that money could be better spent.

I think it is fair to say that there has been a difference of opinion among some inspectors as to the weight that should be given to the plan, and various bits of the plan, during the whole process, particularly if the plan was referred back for a part of it to be rewritten. All in all, we have ended up in a situation where local plan-making has been very complex, lengthy and costly. I pay tribute to the Minister and others who are looking at streamlining this process, but I want to suggest a way of doing it that would help not only local authorities but local communities and all those who are subsequently involved in implementing the plan.

This is not actually my idea; it was put in evidence, before the last election, by the Planning Officers Society, the organisation that represents planners. They are the people who draw up the plans and then have to try and implement them. It is important that any Government listens to what they have to say about the planning system because they know better than anyone the difficulties and what would work in practice.

The planners, interestingly, have put together a two-stage process that relates directly to the content of new clause 3, which is why I made the suggestion here. They are suggesting a first stage, which could be the outcome of a lot of work with the local community to set strategic priorities for that specific local authority, or a group of local authorities if that is deemed to be more important. The critical point is that it would not require the long technical documents that currently go with local plans—such as a detailed minerals assessment or watercourse assessment—to be drawn up at that early stage.

I do not know whether the Minister has worked with local communities, particularly on the examination of a local plan, as I have in my local area on our local plan, but everyone came to the committee with documents at least 12 inches thick. They were incredibly complicated and technical, and unless someone is an expert they simply would not understand or have time to go through them. I am sure almost everyone could get to grips with such documents if they had all the time in the world, but to expect a local community to go through such highly technical and detailed documents at the stage of a public inquiry does not seem sensible. Nothing will be agreed until the public examination takes place.

It would be really helpful to consider what planning officers are saying. They are suggesting getting the community on board for what is important to them, such as the strategic direction forward plan and what, broadly in terms of land use, the local authority will set out—what types of housing and other developments in what time frame. If it is possible to get broad agreement on that general way forward, there could be a second stage when the first one has been agreed and has been through a lighter-touch inspection. In the second stage, the more technical documents could be brought into the frame and all the professionals who will have to put the document into operation will be able to assess whether the technical support and evidence is there for the exact developments to take place.

I know the Minister is open to speeding up the process and introducing an easier one. I want to use the opportunity of amendment (a) to new clause 3 to suggest this as a possible way forward that could greatly speed up the whole process, not only for local authorities, but for the local community. That is the purpose of amendment (a).

There are two issues. It is really important to have a final date by which local authorities must produce their plan. I hope that we will not be sitting in another housing and planning Bill Committee, but I fear there may be one coming down the line. I certainly hope that in a year or 18 months, 30% of local authorities will not be without a plan in place. We certainly do not want to be here in 2020 with a set of local authorities not having a plan in place, 16 years after a Bill was enacted requiring a local plan.

As well as testing the Minister on whether he has given any consideration to how to speed up the overall planning process, I want to know whether he thinks it would be appropriate to set a final cut-off point for local plans to be made.

Gavin Barwell: The hon. Lady has just made a very interesting speech. I do not particularly like her amendment, for reasons I will explain, but I have a lot of sympathy with the ideas behind it and will try to reassure her on that front. She quoted the Planning Officers Society, a fine organisation that is chaired by Mike Kiely, who was chief planning officer at Croydon Council and whom I know very well—he is an excellent planning officer. She is quoting from a very reputable organisation.

The hon. Lady made some sage points about the time and cost involved in producing a local plan, which we will address in the White Paper; I hope that reassures her. We are particularly keen to remove a lot of the confrontation involved in the local plan process, such as the huge arguments about whether councils have calculated objectively assessed need correctly, and everything that follows. Councils face the very high test of whether the plan is the most appropriate one, which allows the developer to say, "Well, you've got everything right, except that this site is better than that site." A huge amount of wrangling goes on, and I am not sure whether that is in the public interest. I have a great deal of sympathy with the arguments underlying the amendment,

which the hon. Lady outlined. If she bears with us for a few weeks, she should see our proposals to address those issues.

Let me say a few words, first about the indication of a final date, which the hon. Lady asked for, and secondly about my concern with the specific wording of the amendment—I think it is a probing amendment, so she is probably more interested in the principle than in the detail. The Government have said that we expect authorities to have plans in place by early next year. Anyone who is listening to this debate can be clear that there is a clear deadline to get this work done. That does not mean that we will want to intervene on every single council that has not achieved that by then, because some councils may be working flat out and are very close, so intervening would do nothing to speed the process up. However, councils that are not making satisfactory progress towards that target should be warned that intervention will follow, because we are determined to ensure that we get plan coverage in place.

The key issue with the wording of the hon. Lady's amendment is that the gun did not start at the same moment; councils are at very different stages of the process. Rather than just saying, "Everybody needs to get to these points by these dates", we need to reflect the fact that some councils have plans that are no longer up to date, so they need to do a review. Others have never produced one and are at a different stage along the road. If the hon. Lady was in my shoes, she would want a little more flexibility than her amendment would allow to decide on the right triggers for intervention.

What we hold councils to at the moment is whether they are achieving the timescales they set out in their own documents. I hope that I have reassured the hon. Lady on the issues of principle about trying to reduce the cost and the time taken to produce plans, which is very important, but I would not necessarily want to set out in statute or in secondary legislation a set of timescales that every local council had to fit into.

Dr Blackman-Woods: I have heard what the Minister has said, particularly on the measures that the Government might consider to help speed up and simplify the plan-making process. I await the White Paper with even more fervent anticipation; it is going to be really interesting. I wanted to test the Minister on what was meant by the Government's expectation that plans would be put in place by March next year. I heard his response, but I press him to ensure that local authorities complete the plan-making process as quickly as possible.

Amendment 27 agreed to.

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

2.30 pm

Gavin Barwell: Clause 35 makes standard provision in relation to the commencement of provisions in the Bill. Subsection (1) sets out the default position, which is that provisions are to come into force on a day appointed by the Secretary of State in commencement regulations. Where that default position applies, the Secretary of State may appoint different days for different purposes and may also make transitional provisions and savings. Subsection (3) sets out the exception to the default position, which is that the delegated powers within the neighbourhood planning provisions, the planning register provision and the final standard provisions of the Bill will come into force when the Bill obtains Royal Assent. The clause contains an essential and standard provision that is necessary to implement the Bill.

Question put and agreed to.

Clause 35, as amended, accordingly ordered to stand part of the Bill.

Clause 36 ordered to stand part of the Bill.

New Clause 3

CONTENT OF DEVELOPMENT PLAN DOCUMENTS

(1) In section 19 of the Planning and Compulsory Purchase Act 2004 (preparation of local development documents) after subsection (1A) insert—

"(1B) Each local planning authority must identify the strategic priorities for the development and use of land in the authority's area.

(1C) Policies to address those priorities must be set out in the local planning authority's development plan documents (taken as a whole).

(1D) Subsection (1C) does not apply in the case of a London borough council or a Mayoral development corporation if and to the extent that the council or corporation are satisfied that policies to address those priorities are set out in the spatial development strategy.

(1E) If a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the authority's area, subsection (1D) also applies in relation to—

(a) a local planning authority whose area is within, or the same as, the area of the combined authority, and

(b) the spatial development strategy published by the combined authority."

(2) In section 35 of that Act (local planning authorities' monitoring reports) after subsection (3) insert—

"(3A) Subsection (3B) applies if a London borough council or a Mayoral development corporation have determined in accordance with section 19(1D) that—

(a) policies to address the strategic priorities for the development and use of land in their area are set out in the spatial development strategy, and

(b) accordingly, such policies will not to that extent be set out in their development plan documents.

(3B) Each report by the council or corporation under subsection (2) must—

(a) indicate that such policies are set out in the spatial development strategy, and

(b) specify where in the strategy those policies are set out.

(3C) If a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the authority's area, subsections (3A) and (3B) also apply in relation to—

(a) a local planning authority whose area is within, or the same as, the area of the combined authority, and

(b) the spatial development strategy published by the combined authority."—*(Gavin Barwell.)*

This new clause requires a local planning authority to identify the strategic priorities for the development and use of land in the authority's area and to set out policies to address these in their development plan documents. The latter duty does not apply in the case

of certain authorities to the extent that other documents set out the policies, but in that case the authority's monitoring reports must make that clear.

Brought up, read the First and Second time, and added to the Bill.

New Clause 4

POWER TO DIRECT PREPARATION OF JOINT DEVELOPMENT PLAN DOCUMENTS

(1) The Planning and Compulsory Purchase Act 2004 is amended as follows.

(2) After section 28 insert—

"**28A Power to direct preparation of joint development plan documents**

(1) The Secretary of State may direct two or more local planning authorities to prepare a joint development plan document.

(2) The Secretary of State may give a direction under this section in relation to a document whether or not it is specified in the local development schemes of the local planning authorities in question as a document which is to be prepared jointly with one or more other local planning authorities.

(3) The Secretary of State may give a direction under this section only if the Secretary of State considers that to do so will facilitate the more effective planning of the development and use of land in the area of one or more of the local planning authorities in question.

(4) A direction under this section may specify—

(a) the area to be covered by the joint development plan document to which the direction relates;

(b) the matters to be covered by that document;

(c) the timetable for preparation of that document.

(5) The Secretary of State must, when giving a direction under this section, notify the local planning authorities to which it applies of the reasons for giving it.

(6) If the Secretary of State gives a direction under this section, the Secretary of State may direct the local planning authorities to which it is given to amend their local development schemes so that they cover the joint development plan document to which it relates.

(7) A joint development plan document is a development plan document which is, or is required to be, prepared jointly by two or more local planning authorities pursuant to a direction under this section.

28B Application of Part to joint development plan documents

(1) This Part applies for the purposes of any step which may be or is required to be taken in relation to a joint development plan document as it applies for the purposes of any step which may be or is required to be taken in relation to a development plan document.

(2) For the purposes of subsection (1) anything which must be done by or in relation to a local planning authority in connection with a development plan document must be done by or in relation to each of the authorities mentioned in section 28A(1) in connection with a joint development plan document .

(3) If the authorities mentioned in section 28A(1) include a London borough council or a Mayoral development corporation, the requirements of this Part in relation to the spatial development strategy also apply.

(4) Those requirements also apply if—

(a) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the combined authority's area, and

(b) the authorities mentioned in section 28A(1) include a local planning authority whose area is within, or is the same as, the area of the combined authority.

28C Modification or withdrawal of direction under section 28A

(1) The Secretary of State may modify or withdraw a direction under section 28A by notice in writing to the authorities to which it was given.

(2) The Secretary of State must, when modifying or withdrawing a direction under section 28A, notify the local planning authorities to which it was given of the reasons for the modification or withdrawal.

(3) The following provisions of this section apply if—

(a) the Secretary of State withdraws a direction under section 28A, or

(b) the Secretary of State modifies a direction under that section so that it ceases to apply to one or more of the local planning authorities to which it was given.

(4) Any step taken in relation to the joint development plan document to which the direction related is to be treated as a step taken by—

(a) a local planning authority to which the direction applied for the purposes of any corresponding document prepared by them, or

(b) two or more local planning authorities to which the direction applied for the purposes of any corresponding joint development plan document prepared by them.

(5) Any independent examination of a joint development plan document to which the direction related must be suspended.

(6) If before the end of the period prescribed for the purposes of this subsection a local planning authority to which the direction applied request the Secretary of State to do so, the Secretary of State may direct that—

(a) the examination is resumed in relation to—

(i) any corresponding document prepared by a local planning authority to which the direction applied, or

(ii) any corresponding joint development plan document prepared by two or more local planning authorities to which the direction applied, and

(b) any step taken for the purposes of the suspended examination has effect for the purposes of the resumed examination.

(7) The Secretary of State may by regulations make provision as to what is a corresponding document or a corresponding joint development plan document for the purposes of this section."

(3) In section 21 (intervention by Secretary of State) after subsection (11) insert—

"(12) In the case of a joint local development document or a joint development plan document, the Secretary of State may apportion liability for the expenditure on such basis as the Secretary of State thinks just between the local planning authorities who have prepared the document."

(4) In section 27 (Secretary of State's default powers) after subsection (9) insert—

"(10) In the case of a joint local development document or a joint development plan document, the Secretary of State may apportion liability for the expenditure on such basis as the Secretary of State thinks just between the local planning authorities for whom the document has been prepared."

(5) Section 28 (joint local development documents) is amended in accordance with subsections (6) and (7).

(6) In subsection (9) for paragraph (a) substitute—

"(a) the examination is resumed in relation to—

(i) any corresponding document prepared by an authority which were a party to the agreement, or

(ii) any corresponding joint local development document prepared by two or more other authorities which were parties to the agreement;".

(7) In subsection (11) (meaning of "corresponding document") at the end insert "or a corresponding joint local development document for the purposes of this section."

(8) In section 37 (interpretation) after subsection (5B) insert—

"(5C) Joint local development document must be construed in accordance with section 28(10).

(5D) Joint development plan document must be construed in accordance with section 28A(7). "

(9) Schedule A1 (default powers exercisable by Mayor of London, combined authority and county council) is amended in accordance with subsections (10) and (11).

(10) In paragraph 3 (powers exercised by the Mayor of London) after sub-paragraph (3) insert—

"(4) In the case of a joint local development document or a joint development plan document, the Mayor may apportion liability for the expenditure on such basis as the Mayor thinks just between the councils for whom the document has been prepared."

(11) In paragraph 7 (powers exercised by combined authority) after sub-paragraph (3) insert—

"(4) In the case of a joint local development document or a joint development plan document, the combined authority may apportion liability for the expenditure on such basis as the authority considers just between the authorities for whom the document has been prepared."—*(Gavin Barwell.)*

This new clause enables the Secretary of State to give a direction requiring two or more local planning authorities to prepare a joint development plan document. It also makes provision about the consequences of withdrawal or modification of such a direction.

Brought up, read the First and Second time, and added to the Bill.

New Clause 5

County councils' default powers in relation to development plan documents

Schedule (County councils' default powers in relation to development plan documents) makes provision for the exercise of default powers by county councils in relation to development plan documents.—*(Gavin Barwell.)*

This new clause and NS1 enable the Secretary of State to invite a county council to prepare or revise a development plan document in a case where the Secretary of State thinks that a district council in the county council's area is failing to prepare, revise or adopt such a document.

Brought up, and read the First time.

Gavin Barwell: I beg to move, That the clause be read a Second time.

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

Amendment (a) to Government new clause 5, at end insert—

"with the agreement of district councils."

Government new schedule 1—*County councils' default powers in relation to development plan documents*.

Gavin Barwell: New clause 5 is the next part of the package of amendments that the Government have tabled in relation to local plans. It allows for the introduction of new schedule 1, which enables the Secretary of State to invite a county council in a two-tier area to prepare a local plan for a district local planning authority in the county in instances where, despite having every opportunity, the district has failed to do so.

The Government absolutely want to see local planning authorities producing their own local plans, but where that is not happening it is right that we take action to ensure that communities and business can benefit from the clarity and certainty that having a plan can provide. The Committee has already accepted the principle that the Secretary of State should have the power to direct a group of local planning authorities to work together on a joint plan. This would be an alternative way of addressing the same problem—namely, to direct a county council to produce a plan for a local planning authority area.

It may help the Committee to know that the Secretary of State can already invite the Mayor of London or a combined authority to prepare a plan for an authority in their respective areas under similar circumstances. New clause 5 would extend the same opportunity to county councils in two-tier areas so that, as far as possible, local plans are developed at the most appropriate local level.

I said in a previous debate that the powers for intervention will merely be for the Secretary of State to produce a plan. I think we would all agree that that should very much be a last resort, and that we should explore different options. It would be preferable to have other people in the local area being directed to get involved if a local planning authority is not doing its job. The new clause will work by amending schedule A1 to the Planning and Compulsory Purchase Act 2004.

Under our proposals, a county council will be invited to prepare, revise or approve a local plan only if the local planning authority has failed to progress its plan, and when the Secretary of State thinks it is appropriate. County councils are directly accountable authorities, with the knowledge and understanding of the development needs of their areas, so in the Government's opinion they are suitable bodies to prepare a plan for the areas they represent.

New schedule 1 will amend paragraphs 3 to 8 in schedule A1 to the 2004 Act to ensure that the existing powers available to the Mayor of London and combined authorities also apply to county councils. The county council would be responsible for preparing the plan and having it examined. It may then approve the document, or approve it subject to modifications recommended by the inspector, or it may direct the local planning authority to consider adopting it. The new schedule will also enable the Secretary of State to intervene in the preparation of a document by the county council.

Should the Secretary of State believe it is appropriate to step in to ensure that a plan is in place, new clause 5 and new schedule 1 will give him a further option, alongside existing powers, so that decisions are taken at the most local level possible. I commend the new clause and the new schedule to the Committee.

Dr Blackman-Woods: With your permission, Mr McCabe, I will speak to new clause 5 and amendment (a) at the same time.

The new clause is interesting. The Minister has given us some helpful clarification of the circumstances in which the measures it contains might be invoked, but I suspect that district councils might require a bit more information. I am sure the Minister does not need me to tell him that district councils are not terribly happy with the provisions in the new clause, which allow the Secretary of State to invite a county council to prepare a development plan document if he or she thinks that a district council in the county council's area is failing to prepare, revise or adopt such a document.

[Dr Blackman-Woods]

In terms of sequencing, if a local authority has not prepared a local plan, when might the Government decide to invoke new clause 5 and when might they decide to invoke new clause 4? Presumably, both could be used to bring forward a plan that is not being developed. If the Minister could say something about that it would be extremely helpful.

Amendment (a) was tabled to put on the record the fact that the power in the new clause would allow quite a drastic thing to be done to district councils. I suppose some might be mightily relived, but others will not be. There is no evidence in the new clause or the attached new schedule that efforts will be made to involve district councils in the process, either in making the decision to move the responsibility for producing the plan to a county council or subsequently, once that decision has been taken.

Such involvement might be quite important, particularly because, aside from unitary counties, county councils might have limited planning expertise. They have planning departments that look after minerals and so on, but they may not have the planning expertise to deal with the whole range of housing and other issues that need to be in a local plan. It seems to me quite important for the district councils to be involved at some stage if those plans are to have local acceptance.

Hardly surprisingly, although district councils are not very happy, the County Councils Network has welcomed new clause 5 and new schedule 1. However, even the County Councils Network says in its briefing to the Committee that peer support may be appropriate to facilitate the signing off of the plans, and something may need to be done to work with district councils in addition to a direction from the Secretary of State. I thought it was quite interesting that it mentioned that, and it reinforces my point about amendment (a).

The Minister will know that the District Councils Network has expressed serious concerns about the new clause and the new schedule. It would much prefer a collaborative process. It feels that the new clause casts district councils aside and leaves county councils to get on with the job rather than district councils being expected to work with county councils to see plans through. The district councils have put a series of questions to the Committee. Given what the new clause will do to some district councils' local plan-making functions, it is worth taking a few minutes to go through those questions.

The first question is:

"As County Councils are not local planning authorities, what estimate has the Minister made of the extra time it would take for the County Council to carry out the functions…and where would this expertise come from?"

Will that expertise be expected to come from the district council involved, other district councils or the county council's neighbours? That is not clear. The Minister may intend to follow up on this point in regulations, but it is also not clear how district councils will be notified of the plan-making process, what rights they have to be consulted or what requirement there will be for county councils to continue to seek to work in partnership with district councils.

Given that the process of public involvement in local plans is clear, the District Councils Network also asked what the public's involvement will be when county councils have plan-making powers. County councils typically deal with much bigger areas, so some clarity may need to be given about how exactly affected residents will be consulted by the local authority. That is a particularly important question. I am sure that the Minister will reassure us, but I sincerely hope that new clause 5 is not intended in any way to bypass the local community and its input into the local plan-making process. It would help us all in our deliberations on new clause 5 to have more information about that.

Not surprisingly, the district councils are concerned that the costs of producing local plans will fall on them. They have asked a whole set of questions about funding, but I will wrap them up and paraphrase them. What is there in the system to prevent county councils from spending money in an extravagant way, on things such as exhibitions about the plan, lots of public consultation and glossy documents? The district councils will have to pay for that, so what will be in place to ensure cost-effectiveness in the delivery of plans and efficient use of resources?

2.45 pm

Lastly, given that there are a number of legal challenges, what process is in place to ensure the formal adoption of the plan? In the end, is the plan then adopted by the district council or the county council on behalf of it? With that set of questions, I will leave it there and hear what the Minister has to say about new clause 5 and amendment (a) on consultation.

Kevin Hollinrake (Thirsk and Malton) (Con): It is a pleasure to serve under your chairmanship, Mr McCabe. I want to say a few brief words on new clause 5 and to get a thorough understanding from the Minister about a particular situation that I, and I am sure others, might have in my constituency. This is about a local authority's ability to use new clause 5 or possibly new clause 4 to avoid its responsibility in terms of required housing in its area, and how the Minister or Secretary of State will determine why one local authority is determined not to take its fair share of required housing.

I have a number of local authorities in my constituency, some of which are very keen to deliver houses and are doing so. One or two are not. How do we deal with a situation in which one errant local authority does not appear to want to produce a local plan that meets its objectively assessed housing need, and so uses new clause 4 or new clause 5 through the back door? I have not dreamed that situation. It is not that production of the local plan is being prevented, but there might simply be a political reluctance in the local authority to put housing in its area or there might be an ongoing battle to deliver a proper local plan.

That authority could argue, "We haven't got the land in our local authority area, so we think all these houses should go in the adjoining local authority area"—which has a sound local plan and is delivering on its housing numbers. It might say, "Houses shouldn't go in my local authority area. They should go in this adjoining one because they've got lots of space and lovely green fields to put the houses in." The errant local authority might argue that houses should go into another local authority. We then come along and use new clause 4 or new clause 5 to say, "This has to be a joint plan, and these houses will have to go into the other local authority area that's doing its job properly." How will the Minister

or the Secretary of State determine situations in which a local authority is not carrying out its duty to assess need and deliver those houses? Will the Minister look into that situation?

Gavin Barwell: It has been a useful debate, and I hope I can provide some clarification. Perhaps a mistress of understatement, the hon. Lady said that district councils were not terribly happy and county councils were reasonably happy. My message to district councils listening to this debate is that it is completely in their own power to ensure that this new clause is never used. All they need to do is produce local plans that address housing need in their area, and there will never be any reason at all for the Secretary of State to make use of this power. The only circumstances in which the power could ever be used would be if a district council somewhere in the country were failing to produce a local plan that met need in its area. To county councils, I would say, "Don't get too excited," because I do not think the intention is to make regular use of this power.

I will make one observation. When you become a Minister, you get given a mountain of brief to read into your subject. Something that stood out from one brief was the powers that the Government have taken to intervene on local planning authorities that are not deciding a high enough percentage of major applications within the specified timescale. That was quite contentious when the powers went through Parliament. What is interesting about it is that it has, I think, been used only three times. The existence of a power that says that the Planning Inspectorate is now going to determine planning applications rather than the relevant local authority determining them, has acted as a real spur to people to raise their game. It has not been necessary to use the power very often at all, and I suspect that this power might serve the same purpose. If it has provoked a strong reaction among district councils that do not ever want to see this happen, and that leads to more of them adopting their plans on a timely basis, I will be very happy never to have to use the power.

Dr Blackman-Woods: Does the Minister accept that one of the consequences—whether intended or unintended, I am not sure—of the possible designation of local planning departments as failing on the basis of the number of their determinations that are overturned by the inspector, is that, in practice, local authorities are very reluctant to turn any application down, lest it be overturned on appeal? That is most unfortunate, because we want local authorities to be able to determine an application on its merits, and not for it to be favoured because authorities are worried that they are going to lose their ability to determine all applications.

Gavin Barwell: That would be highly unfortunate and also unnecessary because the performance metric is purely about determining planning applications. It is just about ensuring that decisions are made within the statutory timescale.

Coming back to the issue the hon. Lady is probing with her amendment, what would be most useful—what she was really interested in—is some steer from me about when the powers under Government new clauses 4 and 5 might be used. The speech by my hon. Friend the Member for Thirsk and Malton was useful in providing a pointer about that. I will make two observations. One is generic: the hon. Lady was expressing nervousness that we might be back here in 12 months' time debating another planning Bill. One of the things I wanted to do with this Bill was make sure that we took the necessary range of intervention powers in this area, so that we would not have to keep coming back and saying, "Actually, in this case we would like you to do this." So I sat down with my officials and went through a variety of different situations and how Ministers might want to respond to them.

Taking my hon. Friend's hypothetical example, if there is a local planning authority that is heavily constrained in terms of land—that is doing its best but is really struggling to meet housing needs in its area because of the make-up of that area—that would naturally lead to the use of new clause 4, because one might then look and say, "There are other authorities in the area that are not so constrained and if you worked together across that wider area, could you meet housing need across the area?"

My hon. Friend then mentioned a different kind of example: an authority that—an objective observer might suggest—had plenty of potential to meet housing need within its own area and was just ducking taking the necessary decisions. An intervention there, asking the authority to work with some neighbouring ones to produce a plan, would probably not work because they would continue to obstruct their neighbours and, as my hon. Friend said, potentially seek to pass the burden on to others. This might be a more suitable intervention power in those cases.

If the hon. Lady applies her mind to it, she can probably think of a couple of cases around the country in which a number of planning authorities within a county council area are struggling to meet their obligations. In that situation, looking at a county-wide solution to meeting housing need over a wider area might be an appropriate way forward. In some of those cases, county councils might choose to work with the relevant district councils, even if the Secretary of State gave them the formal responsibility.

Let me provide a little reassurance on a number of the detailed points that the hon. Lady made. She talked about three main things: skills and resources, and whether county councils had the skills and resources to do this work; the process in relation to the adoption of a plan—so if a county council produced a plan, how that plan got adopted; and also reassurance over residents' involvement. I will deal with them in reverse order. I can provide her with complete reassurance on resident involvement. Local plans—whoever prepares or revises them—are subject to a legal requirement to consult the public and others there is a right to make representations on the plan. From the point of view of residents living in a particular area, their ability to have their say and input on a plan will be completely unaffected. I hope that provides complete reassurance on that point.

Adoption is set out in the detail of new schedule 1, which goes with the new clause. I point members of the Committee to new paragraph 7C(4), which says:

"The upper-tier county council may…approve the document, or approve it subject to specified modifications"—

there it refers to modifications that the inspector recommends—

[Gavin Barwell]

"as a local development document, or…direct the lower-tier planning authority to consider adopting the document by resolution of the authority".

The county council has a choice: it can take the legal decision and have the plan adopted, or—perhaps in circumstances in which it has worked with the district council to get to that point—it might be prefer to say, "Okay, there is the plan. It would be better for the district council to make that decision." Either option is available.

On the resources front—financially, as it were—there are clear provisions in place. Let me deal with the skills front. County councils do have significant input and involvement in the local plan-making process. They often have a significant contribution to make in terms of infrastructure—highways infrastructure and some of those other issues—but clearly if the Secretary of State felt that a particular county council did not have the relevant skills to do the job, he or she would not seek to use this provision and might rely on those in new clause 4.

On resourcing and the financial side, there are provisions that can provide reassurance. A county council has to be reimbursed for any expenditure where it prepares a plan because a local planning authority has failed to do so. Likewise, when it is necessary for the Government to arrange for a plan to be written, they can recover the costs.

I recognise—perhaps it is inevitable—that, say, organisations that represent district councils will have concerns about the proposal, but I hope I have provided reassurance. First, I do not expect the provision to be used on a regular basis, and indeed district councils have in their hands the means to ensure that it is never used. Secondly, the Government have sought to address concerns on resident involvement, the adoption process and the skills and resourcing of county councils. Thirdly, the right thing to do in the Bill, given the strong cross-party consensus on the need to get plans in place, is to ensure that, where it is necessary to intervene, the Secretary of State has the powers to think creatively about the ways in which that might happen.

My view in terms of the hierarchy is that the preferable solution would be to direct a planning authority to work with some of its neighbours. If that were not viable, the county council route is an interesting route. My strong view is that the worst option is ultimately that the Government have to step in, intervene and write a plan because, by definition, they are the most distant from the relevant local community. I hope I have provided the reassurance that the hon. Lady was looking for.

Dr Blackman-Woods: I thank the Minister for that helpful and detailed response. There are just two issues I would like him to go and ponder. First, what might be put in place to ensure that costs are kept at a reasonable level for district councils, bearing in mind that many local authorities really are struggling financially? Secondly, in the interests of keeping a positive relationship going between the district council and county council, what could be put in place to try to ensure that they work together in the production of a plan? I will come to amendment (a) at the appropriate point.

Question put and agreed to.

New clause 5 accordingly read a Second time, and added to the Bill.

New Clause 6

FORMAT OF LOCAL DEVELOPMENT SCHEMES AND DOCUMENTS

(1) Section 36 of the Planning and Compulsory Purchase Act 2004 (regulations under Part 2) is amended in accordance with subsections (2) and (3).

(2) In the heading after "Regulations" insert "and standards".

(3) After subsection (2) insert—

"(3) The Secretary of State may from time to time publish data standards for—

(a) local development schemes,

(b) local development documents, or

(c) local development documents of a particular kind.

(4) For this purpose a 'data standard' is a written standard which contains technical specifications for a scheme or document or the data contained in a scheme or document.

(5) A local planning authority must comply with the data standards published under subsection (3) in preparing, publishing, maintaining or revising a scheme or document to which the standards apply."

(4) In section 15(8AA) of that Act (cases in which direction to revise local development scheme may be given by Secretary of State or Mayor of London)—

(a) after "only if" insert "—(a)", and

(b) at the end of paragraph (a) insert ", or

(b) the Secretary of State has published data standards under section 36(3) which apply to the local development scheme and the person giving the direction thinks that the scheme should be revised so that it complies with the standards."—*(Gavin Barwell.)*

This new clause enables the Secretary of State to set data standards for local development schemes and documents, requiring these documents or the data they contain to comply with specified technical specifications. It also enables the Secretary of State or the Mayor of London to direct a local planning authority to revise a local development scheme so that it complies with data standards.

Brought up, and read the First time.

3 pm

Gavin Barwell: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss amendment (a) to Government new clause 6, after proposed new subsection (3)(c) of section 36 of the Planning and Compulsory Purchase Act 2004, insert—"(d) technical documents."

Gavin Barwell: New clause 6 will enable the Secretary of State to publish data standards for local development documents and local development schemes. Local planning authorities already gather a range of information during the planning process, and the local government transparency code places a duty on authorities to make openly available data on which policy decisions are based and public services are assessed.

The local plans expert group, to which I have referred several times, believes that there needs to be a step change in how local plans are presented to their users—for

example, ensuring that documents are accessible on the web, improving the interactivity between maps and planned policy documents, which is something to which I personally attach particular importance, and exploring opportunities for improving online consultation. The Government agree with that recommendation.

There are a number of examples of where new technology has enhanced and improved engagement in communities on local planning matters. By way of example, my Department funded an initiative that has seen Plymouth City Council's neighbourhood planning team lead a Data Play initiative to help to open up council data for neighbourhood forums to use, but we can be more ambitious to ensure that planning and planning documents take advantage of what technology has to offer. New technology means that individuals, groups, entrepreneurs and businesses can now access and exploit public data in a way that increases accountability, drives choice and spurs innovation.

A constituent came to my surgery and brought a relative of his who did not live in my area but was involved in the development business. He showed me something that he had produced for a town in Kent. He had essentially taken a detailed Office for National Statistics map of that town and overlaid on to that map the planning policies of the relevant local plan in order to identify 324 small sites that would accommodate at least one unit of housing and that ought to receive planning consent because they appeared to be consistent with the planning policies set out in that relevant local plan. That was hugely interesting, thinking about the experience we all have with small and medium-sized enterprise builders who talk about access to land. My constituent's relative was planning to go into partnerships with a whole series of small builders in that area. He would secure planning consent and work with the builders to develop out the scheme.

Jim McMahon: I want to endorse the power of open data. Greater Manchester is one of the pilot projects for the Cabinet Office's open data scheme. That means that across all of Greater Manchester the public can access, completely free of charge, data on utilities, services, natural boundaries and, quite importantly, land ownership. We have discovered that the public sector sits on quite a lot of land that is ripe for development. Of course, the Land Commission will identify that as part of the whole parcel of attempts to get such sites developed. I recommend that the Minister, when he visits Greater Manchester, takes a look at that project.

Gavin Barwell: I am always grateful for tips. I think that I am coming up to co-chair a meeting of the Land Commission at the start of December with Tony Lloyd, so I am grateful to the hon. Gentleman for drawing that project to my attention.

I think that we are all localists here, but I hope that we all recognise that, to capitalise on the opportunities provided by new technology and gain maximum value, key planning data need to be published in a consistent format across the country. If every local planning authority opened up its data, but did so using different systems and in different ways, it would be much more difficult for people who want to operate across local planning authority boundaries to make use of the data.

The intention behind new clause 6 is to open up those possibilities, and it will do that by amending the Planning and Compulsory Purchase Act 2004, with which we are becoming very familiar by now, to enable the Secretary of State to publish data standards. In essence, those standards are detailed technical specifications that local planning authorities must meet for documents that they are already required to publish.

We want to work with representatives of the sector to develop the specification of the data standards. We will then consult local planning authorities on the technical document that authorities will need to follow. Once the data standards are defined, they will apply to all local development documents, the planning documents prepared by a local planning authority; and local development schemes, the timetable for the preparation of the development plan documents that comprise the local plan.

The measure provides a solid basis for creating more accessible and more transparent plans. Opening up public data lies at the heart of a wider Government push for a digital nation, in which the relationship between individual citizens and the Government is transformed. This is a small, but important contribution to that.

Dr Blackman-Woods: I will make a few brief comments on new clause 6 and on amendment (a). The Opposition very much welcome new clause 6. Anything that the Government can do to make planning documents more accessible to local people, the better because, as I described earlier, some of those documents can be very weighty and lengthy. Being able to access them easily online and in a format in which people can comprehend them more easily will be a good thing and is very much to be welcomed.

I tabled the amendment on technical documents to test with the Minister whether the provisions of new clause 6 will relate to technical documents as well and to ask whether the Government will give some consideration—to reiterate a point I made earlier—to what exactly is needed in technical documents, which are public-facing documents. Obviously, we want people to have as much information as possible about what underpins policies in a local plan, but we also want to ensure that the important points do not get lost in a mass of detail such that people never seek to address, look at or try to understand the documents.

My first point is that I broadly welcome new clause 6, and it will be interesting to see how it works in practice and what sort of data the Secretary of State puts in the standards. I hope that the Minister will learn from his Cabinet Office colleagues about the open data project mentioned by my hon. Friend the Member for Oldham West and Royton and that the documents are made as successful as possible. Will the Minister deal with the specific issue I have raised about how we might do the whole technical documents thing?

Gavin Barwell: I hope that the hon. Lady and I can have a discussion outside the Committee to test whether we have a point of difference here. In essence, as the new clause is drafted, it defines what needs to be released in legally precise language—as I said, the local development documents, which are the planning documents prepared by the authority, and the local development scheme,

[Gavin Barwell]

which is the timetable for preparation. If she feels that that does not capture some of the things that need to be released, the Government are very happy to look at what other wording can be included. Clearly, however, the wording would need to be precise, so that authorities understand it exactly. Our intention is clear: all the key documents that make up the local plan should be covered by the measure. If, having listened to me, hon. Members feel that there is a gap here and that something is missing, I am happy to talk about it outside the Committee, perhaps coming back at a later date to address it.

Question put and agreed to.

New clause 6 accordingly read a Second time, and added to the Bill.

New Clause 7

REVIEW OF LOCAL DEVELOPMENT DOCUMENTS

In section 17 of the Planning and Compulsory Purchase Act 2004 (local development documents) after subsection (6) insert—

"(6A) The Secretary of State may by regulations make provision requiring a local planning authority to review a local development document at such times as may be prescribed.

(6B) If regulations under subsection (6A) require a local planning authority to review a local development document—

(a) they must consider whether to revise the document following each review, and

(b) if they decide not to do so, they must publish their reasons for considering that no revisions are necessary.

(6C) Any duty imposed by virtue of subsection (6A) applies in addition to the duty in subsection (6)."—*(Gavin Barwell.)*

This new clause enables regulations to require a local planning authority to review local development documents at prescribed times.

Brought up, read the First and Second time, and added to the Bill.

New Clause 9

Sustainable development and placemaking

(1) The purpose of planning is the achievement of long-term sustainable development and placemaking.

(2) Under this Act sustainable development and placemaking 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.

(3) In achieving sustainable development, the local planning authority should—

(a) 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) 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."—*(Dr Blackman Woods.)*

This new clause would clarify in statute that the planning system should be focused on the public interest and in achieving quality outcomes including placemaking.

Brought up, and read the First time.

Dr Blackman-Woods: I beg to move, That the clause be read a Second time.

I accept that this is a fairly long new clause, but it seeks to do something that is really important: to put the purpose of planning in the Bill to be absolutely certain that it is about achieving long-term sustainable development and, critically, placemaking alongside that. It is very much along the lines of, but not identical to what is in the national planning policy framework.

The new clause then says what a local planning authority should do to try to achieve sustainable development: identify suitable land for development; contribute to the sustainable economic development of the community; contribute—this is really important because it often falls off the agenda when considering development issues—to the vibrant cultural and artistic development of the community; protect and enhance the natural and historic environment; contribute to mitigation and adaptation to climate change in line with the objectives of the Climate Change Act 2008, which I rehearsed for the Committee the other day; promote high-quality and inclusive design, which in my experience planning applications and determinations do not pay enough attention to; ensure that decisions are transparent and involve as many local people as possible; and finally and really importantly because it often falls out of the decision-making process in applications, ensure that assets are managed for the long-term interest of the community.

Far too many developers in my area and others are very keen and quick to demolish or to enable alterations to be made to important historic buildings, for example, particularly if they are not protected by a listing. Planners often do not consider the short-term nature of some developments and whether they are of poor quality. If planning communities had to think about how they were managing assets for the longer term, some of the truly awful planning decisions that have been made might not have been made.

The Royal Town Planning Institute in its August 2016 report, "Delivering the Value of Planning"—I am sure that it was one of the first things to land on the new Minister's desk—pointed out:

"Instead of stripping power from planning, governments need to maximise the potential of planning and ensure that planners have the powers and resources to deliver positive, proactive planning."

That is the purpose of new clause 9.

3.15 pm

In terms of how positive planning can be in delivering new development and communities, we also want to consider what is happening in some other countries. If the Minister is planning a world tour—he might be after this Bill, and certainly before the next one—he might want to visit China, where planning has become

the primary tool for municipalities to attract new industrial and residential developments. Because China is developing new cities, which is not happening everywhere around the globe, it is an interesting place to visit to see what planning can deliver when it is done properly and how it can overcome obstacles to growth.

I will not say that everything about the system in China is absolutely fantastic, because I am not sure that is the case, but China is keen, through the planning system, to develop new settlements and ensure that they are underpinned by economic development and deliver all the different facilities and services required to make a new community and a new place where people want to live. My point is that we in the UK are in danger of losing that kind of proactive planning and thinking about how to envision a neighbourhood going forward for 30 or 50 years.

I know that the Minister's White Paper is getting bigger by the day, but I want to add something else for him to consider in it. How might he encourage local authorities, either singly or in combination, to think about delivering new settlements? I suspect that we will not be able to address the housing need in this country unless we think about how to support local authorities to bring together new settlement proposals. My preferred route to that is to facilitate the development of new garden cities underpinned by the garden city principles, because that seems most agreeable to local communities. When I have talked to people in my local community about a garden village or a garden city extension, they understand what it means. They think that it will be a good-quality development with decent, affordable family housing, a range of services, access to employment and transport and an ongoing fund for the community to keep infrastructure and services in a reasonable condition.

I will not say much more, but I point the Minister to the RTPI's new publication. There are also regular publications by the Town and Country Planning Association and others that point to a positive role. The reason why I emphasise it with him is that in the past, I have had lots of discussions—I think that the current Minister is the third or fourth Planning Minister with whom I have dealt—and what I have heard is that planning is a block to development and is what holds up development in this country. It is often portrayed in a negative way, whereas we know that planning can be the method by which we create development. In fact, if we use planning positively it can deliver the neighbourhoods and the places that we all want to see developed and would all want to live in and bequeath to our children and grandchildren. New clause 9 asks for something to be put in the Bill to recognise the positive role that planning can play in making places we all want to live in; in protecting our need not only for employment and housing but for access to culture and leisure; and in promoting healthy environments.

Gavin Barwell: I thank the hon. Lady for tabling the new clause and for underlining the importance of sustainable development and placemaking. To a degree, we have had this debate before—we had an interesting debate earlier about sustainable development—so she probably knows what I am going to say on the overall issue. However, she raised some interesting specific points about new settlements, which I will come on to in a moment.

The Government agree that sustainable development is integral to the planning system and that a plan-led system is key to delivering it, but we do not believe that it is necessary to write these things into legislation. The new clause seeks to make the achievement of sustainable development and placemaking the legal purpose of planning, and it would set objectives to be met by local planning authorities in working towards that goal. However, the Government believe that that goal is already adequately addressed both in legislation and in policy. I refer the hon. Lady to a statute that I have referred to many times today, the Planning and Compulsory Purchase Act 2004, section 39 of which requires bodies that prepare local development documents for local plans to do so

"with the objective of contributing to the achievement of sustainable development."

Our national planning policy framework is also very clear that sustainable development should be at the heart of planning and should be pursued in a positive and integrated way. Taken as a whole, the framework constitutes the Government's view on what sustainable development means. It is explicit that the purpose of the planning system is to contribute to achieving sustainable development; that the economic, social and environmental aspects that the hon. Lady referred to in some detail in an earlier debate are mutually dependent and that none should be pursued in isolation. The Committee has discussed the NPPF already, so I will not read out a long quotation from it, but the first sentence of the ministerial foreword, written by my right hon. Friend the Member for Tunbridge Wells (Greg Clark) when he was Secretary of State for Communities and Local Government, reads:

"The purpose of planning is to help achieve sustainable development."

Our commitment there is very clear. That principle runs through all levels of plan-making—strategic, local and neighbourhood. Since decisions on individual applications must by law be plan-led, the goal of sustainable development permeates the planning system.

Although the Government completely agree with the hon. Lady about the importance of sustainable development and placemaking, we do not believe that setting a prescriptive definition in statute is the right way forward—not least from a democratic point of view, because it is perfectly possible that a future Government will want to amend the NPPF definition in some way, hopefully an ever more progressive way. In our view, that should not necessarily have to be done by introducing more primary legislation; the Government should be able to do it through policy.

For those reasons, I ask the hon. Lady to withdraw her new clause, but I will say a few positive words on her comments on new settlements. I very strongly agree with those comments. I have had some very good discussions with the Town and Country Planning Association on the issue, and I recently addressed a conference at Alconbury Weald, which is one of the new settlements being delivered along garden village principles. There were people there from all over the country who had bid into our programme to create new garden towns and villages. I very much hope to make an announcement on that shortly.

The Government have taken action fairly recently to try to change the law in a way that helps the process. At the instigation of the noble Lords, Lord Best and Lord

[Gavin Barwell]

Taylor of Goss Moor, we made some important changes to the New Towns Act 1981 by means of the Housing and Planning Act 2016. Those changes make it easier to set up new town development corporations in areas and to extend their objectives so that they can better support the delivery of new, locally led garden towns and villages where that is what local areas want.

I very much agree with the hon. Lady that new settlements will be an important ingredient of our strategy to ensure that we get this country building the homes we need. They are not the only answer because, by definition, a significant number of new homes are involved in the creation of a new settlement, and it takes time to get the build-out of those properties. We also need smaller sites where we are more likely to get rapid build-out. The hon. Lady is right to say that in many parts of the country it will prove much more politically acceptable to plan some new sustainable settlements, with all the community infrastructure and environmental sustainability that is at the core of the garden town and garden village concept, than to slowly expand every existing settlement out.

The Government share the hon. Lady's thoughts on new settlements, and our garden towns and cities programme is good evidence of that. In fact, one of the first visits I made as a Minister was to Ebbsfleet to see the progress that is being made. It took some time to get under way, but we are now seeing good progress. I am looking forward to visiting several other new settlements throughout the country over the coming months. I very much share the aspirations that the hon. Lady expressed in support of her new clause.

Dr Blackman-Woods: I thank the Minister for his response, much of which I anticipated, if not quite all of it. I shall make two brief points.

First, with some of the detail of the new clause I was trying to tease out the extent to which the Government feel that new towns or garden cities have to abide by the garden city principles. For example, I discussed with the Minister's predecessor the lack of affordable housing in Ebbsfleet, which did not seem to me to be in line with the garden city principles. That is why the new clause contains quite a detailed list and includes things such as community assets, which are not mentioned in the national planning policy framework. Will the Minister ponder on the fact that there is a great deal of detail in the new clause that is not in the NPPF? How might such detail be applied to new towns?

Finally, we have not discussed this much in Committee because the national infrastructure commission was taken out of the Bill, but I emphasise to the Minister that for any new settlement it is essential to get the infrastructure costs met, and met up front. That was a huge problem for Ebbsfleet, which is why there was considerable delay in the build-out. When the Minister comes to putting the final touches to the White Paper, I hope there is something in it about how infrastructure will be funded, because that seems to be a major issue that holds up the development of new settlements. With that, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 10

FUNDING FOR LOCAL AUTHORITY PLANNING FUNCTIONS

(1) The Secretary of State must consult local planning authorities prior to the commencement of any new statutory duties to ensure that they are—

(a) adequately resourced; and

(b) adequately funded

so that they are able to undertake the additional work.

(2) In any instance where that is not the case, an independent review of additional cost must be conducted to set out the level of resource required to allow planning authorities to fulfil any new statutory duties.—*(Jim McMahon.)*

This new clause would ensure that the costs of new planning duties are calculated and adequately funded.

Brought up, and read the First time.

Jim McMahon: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 15—*Ability of local authorities to set planning fees*—

(1) A local authority may determine fees relating to planning applications in its area.

(2) Subsection (1) applies, but is not restricted to, fees relating to—

(a) permitted development applications, and

(b) discharge of planning conditions.

Jim McMahon: The new clauses are linked: they both relate to resources and funding. New clause 10 would ensure that we carry out a thorough review to understand the situation in local authorities, while new clause 15 would give local authorities the ability to charge more realistic fees for the services they provide.

We have heard a great deal in Committee about resourcing—it was a key feature of the oral evidence sessions—and about how local authorities have been affected by central Government cuts to the revenue support grant and how that has affected planning services. Despite that, local authorities are still subsidising planning services, because they are not able to get enough money from planning fees to cover the cost of those services.

3.30 pm

It is worth spending some time to remind ourselves of the evidence that was given by industry professionals. We heard representations from Andrew Dixon from the Federation of Master Builders, who said clearly:

"Under-resourcing is a major issue that causes numerous hold-ups within"—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 11, Q6.]

the planning system. Roy Pinnock from the British Property Federation reinforced that point. He said:

"There is a general consensus, particularly among commercial development investors, that you get what you pay for. There is a completely profound lack of resource in authorities to deal with the situation in which we find ourselves. It is the single biggest brake"—

we must heed that—

"on development, in terms of applications and starts on site".—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 12, Q9.]

That is someone who is in the industry and representing the industry saying, "Look, we recognise that if we want a decent service, it is going to cost, but it is worth paying that cost, because that will speed applications up, we will get a better quality service and the industry will benefit overall."

We heard evidence from Hugh Ellis, who said that research that the Town and Country Planning Association had carried out

"showed that planning teams had fallen below the critical mass".—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 26, Q34.]

Those teams cannot even keep their heads above water. We heard from the Minister only the other day that conditions were being used as an "abuse" and were being put in place because planning teams did not have the resources to administer conditions in a way that developers would find realistic and reasonable. I think "abuse" is pushing it. That is an understandable reaction to where planning teams find themselves. They cannot deal with the mountain of planning applications that are coming through. If the economy goes and we see the number of houses being built that the Government and communities want, those teams' workload will increase. We need to ensure that we have the capacity to deliver those houses.

On sustainability, witnesses also told us that there is evidence that authorities do not have enough people to deal with complex sites, particularly where flooding is an issue. Mr Ellis said that when the Town and Country Planning Association visited some such authorities, it

"found 1.2 full-time equivalent members of staff were working on a local plan process"—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 26, Q34.]

let alone administering planning applications.

Most people would recognise that the number of staff that are needed is not fixed. That will always be a matter of local discretion and ensuring that demand is matched with the resource to administer that demand. We are therefore not prescribing numbers, but we are reflecting the fact that we need to ensure that there is a "critical mass" in the planning system—a point that came through strongly in the evidence.

We heard from Councillor Newman, who represented not just his own council—although he described quite a lot of first-hand experience of the real difficulties that local councils face—but the cross-party LGA. This is not a party political issue; it is just a practical reflection on the position local councils find themselves in. He offered a solution on behalf of the LGA: to have locally set planning fees. He highlighted that it would then

"be for the local authority to justify both the fees it charges and the outcomes of the service it offers."—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 27, Q35.]

Effectively, there would be a direct contract between the developers who pay for that service and the local authorities that provide it—a relationship of equals, I hope. That is a realistic and reasonable proposal. We also heard evidence from Tim Smith, who said:

"Successive proposals to change legislation have all brought about additional burdens on local planning authorities without a consequent increase in the resourcing available to them.—[*Official Report, Neighbourhood Planning Public Bill Committee,* 18 October 2016; c. 67, Q118.]

Evidence from the Minister, who pointed to the White Paper and discussions that are taking place, was reassuring, but we need to reassure our local authorities. We have been debating expectations and pressures on local authorities, and it is fair to say that there is nervousness about that. Councils are not unwilling to do what is proposed—I think most accept that a well run planning system based on plans and evidence is the way to go—but there is very real concern about those proposals.

My hon. Friend the Member for City of Durham mentioned in a previous sitting, the British Property Federation report published in October last year titled, "Key findings—a system on the brink?" That may be a leading title. Members might be able to guess what the report is going to say. It says that the system is on the brink, but there are lots of data in it about how the industry feels about navigating an under-resourced planning system. The BPF did a review and deep-dived in a number of areas, including Greater Manchester—it has been held up a few times in our sessions as an area of best practice—but even there it found a system on the brink. It also expressed concern about the future for local government finance. It said:

"However, with further Government cuts looming, the risk is that down-sizing (rather than investment) could top the agenda. This is worrying news for all involved in, and dependent upon, planning activity in England. Development activity is critical for our economy"—

I think we can all agree on that—

"not least in order to tackle the urgent housing crisis; but the planning system appears to be hovering dangerously close to the edge. Our findings suggest that more resourcing is needed…and quickly."

That "and quickly" bit is important. It is not necessarily about the new burdens coming forward. The current planning system under the current rules with the current demand is struggling to keep up. Just imagine what the added weight of expectation and demand will do.

The report also asked developers and local authority planning departments:

"Is the planning environment now better or worse than it was in 2010?"

Among local authorities, 11% said it was much worse and 39% said it was worse. Only 25% said it was better. That broadly reflects that greater clarity is coming through on expectations, but resources are not being provided to ensure that local authorities can deliver on those expectations.

The report also asked about the challenges to local authorities in delivering on developers' ambitions. Unsurprisingly, the biggest challenge was under-resourcing: 55% of local authorities said it was a significant challenge and 86% said it was a challenge. Only a small minority of authorities believe that under-resourcing was not an issue. We know that under-resourcing affects not only applications and the administration of applications, but partnerships. As we have discussed, when the system works well, we have ambitious planning departments, communities ambitious for their future and ambitious developers working together to the same end and pooling resources to ensure they have the best quality communities and housing being developed. That relationship is put under strain if there is frustration within the system, and that is a pity.

We see planning officials who have spent a long time being trained in their profession and have a genuine desire to see quality design brought through. We see developers that have sometimes gone through a long period acquiring land and working with their architect to develop something that they believe will add value. With neighbourhood plans, communities will have had real involvement in designing the communities they will live in. It would be a real shame, with that mix and after trying to get the framework right, not to ensure that the resources are there to deliver on the plans.

From the evidence that was given, the best thing to do is not necessarily to ask Government to write a cheque. Perhaps the Chancellor will be pleased about that; I am sure many Ministers come knocking on the door asking for more cash. As far as I can see, the measure that would make the most difference would be for local authorities to have the freedom, autonomy and ability to decide for themselves in the local context the appropriate fees to be levied on a development, both at application stage and to discharge conditions.

New clause 15 is not a probing amendment. We have heard the assurances on the White Paper and what we might be able to expect from that. The new clause is so important that we will want to press it to a vote. Hopefully a vote will not be needed; the measure makes sense to me. Local government is putting it on the table as an option. Perhaps we can agree, and the consensual spirit we have been working towards will not be spoiled by what is a very logical amendment.

Chris Philp (Croydon South) (Con): It continues to be a great pleasure to serve under your chairmanship, Mr McCabe. As I said in an evidence session, I completely accept the principle we just heard described, that planning departments are woefully under-resourced, which is a significant inhibitor to development and to planning consent being granted, and that the most appropriate way to remedy that under-resourcing is for applicants—the developers—to pay higher fees. I agree with the spirit of what has been said. This is a point I raised in the Housing and Planning Bill Committee in this very room a year ago and with both the current Housing and Planning Minister and his predecessor, my right hon. Friend the Member for Great Yarmouth (Brandon Lewis). I am completely on board with the principles being described. However, the two new clauses have some deficiencies.

New clause 10 simply says that where there is inadequate resource, a review must be conducted to set out the appropriate level of resource. Setting it out does not provide it. That is simply a statement that there is inadequate resource, so I do not think new clause 10 addresses the problem; it simply highlights the fact that the problem exists, which we all know already.

New clause 15 is very generally worded. It gives local authorities complete discretion to set their own fees. I have three concerns about it. First, there is no limit on how high the fees might go. I accept that the fees are currently too low, but as drafted the new clause would mean that some local authorities might set fees that are unreasonably high and in fact deter development. There is nothing in the new clause to address that concern. Secondly, there is nothing to ensure that the money raised by higher fees will be ring-fenced for the provision of additional planning services, nor, in a similar vein, to ensure that the existing level of service being provided by general taxation is maintained. There is nothing to ensure that the extra money raised leads to extra—that is to say, incremental—levels of resource in the planning department, which is what I want. Thirdly, the new clause does not place any performance obligations on the local authority planning department. It is essential that if a developer or applicant is paying higher fees, they receive improved performance in return—for example, a decision made within a certain period.

While I fully support the principles articulated by the hon. Member for Oldham West and Royton, I am afraid to say that the details do not quite pass muster. I could not support a new clause unless it had those three things: reasonable fee levels, ring-fenced money to ensure incremental service provision and a link to performance. I am deeply sorry that I will not be able to support the new clause, despite the fact that I support its spirit.

I listened carefully to the Minister's evidence and what he said about the coming White Paper. I very much hope to receive satisfaction when that White Paper is published—I hope in the near future. Should these measures not find their way into the White Paper, I will be an energetic and active advocate of those principles in due course. I would be happy to discuss this further with the Minister.

Gavin Barwell: Let me start by reiterating what I said during previous Committee discussions and in the evidence that my neighbour and hon. Friend the Member for Croydon South just referred to. The Secretary of State and I have heard the concerns of developers, local authorities, professional bodies and hon. Members about stretched resources of planning departments and the calls for an increase in planning fees. We absolutely accept that there is an issue here and we are looking closely at it. I want to ensure that planning departments have the resources to provide the service that applicants and communities as a whole deserve. However, for many of the reasons that my hon. Friend eloquently set out, I do not believe that new clauses 10 and 15 are the answer.

3.45 pm

Taking new clause 10 first, we already have robust mechanisms in place to ensure that local authorities are funded to undertake any additional work arising from new statutory duties placed on them by the House. The new burdens doctrine clearly sets out that when the Government introduce new responsibilities and statutory duties on local authorities, they must be properly assessed and fully funded. That has been the convention for many years, including when Labour was in government. I do not see a need for legislation on that now, and Labour certainly did not do so.

Rather than the wider principle to which the hon. Member for Oldham West and Royton referred, the Government have published a summary of impacts of the specific measures in the Bill. In short, we do not believe the Bill will have a significant impact on local government. The summary document is available in the Library if hon. Members want to study it. If they wish to critique it, I will be happy to listen. For those reasons, new clause 10 is not necessary.

New clause 15 is more substantive, as the hon. Gentleman himself suggested. Localising fee setting is not, on its own, the answer to the resourcing problem. It brings a

number of problems, as my hon. Friend the Member for Croydon South suggested. Instead of a debate on political values and beliefs, let me give a concrete example to illustrate the point: pre-planning application advice, for which local authorities can change their own fees on a cost-recovery basis. I frequently get letters saying that the fees that local authorities charge for such advice are highly variable between authorities, and that the level of service does not always match the cost that potential applicants have to pay.

We are clear that changes in fees need to go hand in hand with improvements in resourcing and performance, to ensure that they deliver a better service for applicants. There is no guarantee that additional income generated through locally set fees would go into planning departments, particularly against the backdrop of local decisions in recent years to prioritise the funding of other services. As my hon. Friend said, the way in which the new clause has been drafted does not even provide a cap on full-cost recovery and would allow local authorities to set fees at levels above full-cost recovery. Far from having the effect that the hon. Member for Oldham West and Royton is trying to achieve—that local planning authorities are better resourced, leading to more development in our communities—the risk is that the fees could be set at penal levels that would deter the very development that we are trying to encourage.

We have to balance what is a fair contribution to the cost of processing planning applications with not dissuading people from taking forward development. Local fee setting may risk fees increasing in a way that discourages homeowners and small developers from bringing forward schemes. We do not want to create uncertainty for developers at a time when we need them to step up the number of homes they are building.

I do not want to break the consensus that this problem exists. I have been clear that I accept that it does, but we need to be clear that when we get evidence it tends to come either from local authorities themselves, expressing the genuine pressures they face, or—and mainly—from larger developers who have the means to pay much higher fees. Indeed, many of the large developers say to me, "We would be happy if local authority planning departments offered a standard service and a premium service. Our members would pay for the premium service to get faster approval." We need to remember that the fees we set are paid by everybody, down to householders paying the application fee for an extension to their property. They may not quite share the enthusiasm that developers have for paying more to get a quicker service.

Chris Philp: Could we not have a graded scale of enhanced fees, reflecting the size of different applications?

Gavin Barwell: There is already a grading of the fees, but the general presumption is that fees increase by a similar percentage. We could consider increasing some fees and not others for larger schemes, with the caveat that although developers with large applications pay very significant fees, the majority of people who pay fees are individual constituents wanting to put an extension on a domestic property.

The hon. Member for Oldham West and Royton and I may have different views on the issue, but it is worth pointing out that we already have the powers to achieve what new clause 15 proposes. The Secretary of State can already provide in regulations for local planning authorities to set their own fees, at least up to the level of cost recovery. I would be surprised if the Opposition believed that fees should go beyond full cost recovery. Earlier this year, we consulted on several proposals for the resourcing of planning departments; we shall publish our response shortly, as part of the White Paper.

Before I resume my seat, I should like to add one other caveat, which does not detract from the central importance of getting the resourcing right. This is about not just money but ensuring that sufficient people enter the profession. In the last year, we have provided the RTPI with funding for a bursary scheme for students undertaking postgraduate planning studies. I very much agreed with the hon. Member for City of Durham when she spoke passionately about the important contribution that planners make with regard to new settlements. Raising the profile and status of the profession and ensuring that planners are seen as not obstructing or stopping development but ensuring that we get the quantity and high quality of development that we need is important in getting enough people coming into the industry.

Money is an issue—I hope I have provided sufficient reassurance that the Government are looking at that—but we must ensure that we have the human resources as well as the financial resources. I ask the hon. Gentleman to withdraw the new clause.

Jim McMahon: I am willing to withdraw new clause 10 on the basis that there is universal agreement that local authority planning departments are under-resourced. If there is no need to carry out a review to establish that, it is not an issue that is worth falling out over.

I do want to press new clause 15 to a vote, though, because we need to focus minds. It is all very well saying that there will be jam tomorrow—there is a White Paper coming and it will all be milk and honey—but our planning departments want more.

Gavin Barwell: Clearly the Opposition can test that issue with a vote, but may I press the hon. Gentleman on the point I raised? Regardless of the wording of the amendment, do the official Opposition believe that planning authorities should be able to charge fees beyond full cost recovery?

Jim McMahon: That has never been a suggestion in any of our debates, or from any of the people who have given evidence. The proposal is not to profiteer from developments that enhance the local community, but to reflect the true cost of administering planning applications. Taxpayers should not subsidise applications through their council tax, and developers should get the service they require. I agree with the hon. Member for Croydon South that there is a need to ensure good performance, as there is a contract between developers and the local planning authority. We would be open to that, as would councillors—Councillor Newman was clear that a better relationship would be created between local authorities and developers through the increased fee and through developers' expectations being managed.

Dr Blackman-Woods: My hon. Friend makes an important point. Does he agree that if the Government do not like the wording of the new clause, they can table another proposal on Report that makes it clear that

[Dr Blackman-Woods]

only full cost recovery is being sought, and that it is about hypothecating for planning any additional money raised?

Jim McMahon: That is an important point. I am a localist at heart. I want to get away from the idea that central Government determine absolutely every fee, charge and activity at a local level. We should be far more inclined to push back and say that if people have an issue, they should take it up with the local authority concerned and have that direct relationship, holding to account locally. It is interesting that we are giving developers a facility that we do not give to members of the public, for example when they are having a relative cremated—we do not determine in Parliament how much those fees should be. We should be a bit more realistic and accept that councils are grown up and mature and that they do such things on a daily basis. That relationship with developers can be done to a great extent.

No one in the Opposition will say that the wording of the new clause absolutely achieves everything we have set out. That was not the intention; the intention was that we put a marker down and that we push the issue, because people have pushed us to push the issue—we heard that in the evidence sessions—and we would be absolutely delighted to see alternative wording come forward at a later stage to tie things down.

Gavin Barwell: I understand that the Opposition want to test the issue with a vote, but I repeat that the law already provides the exact power being sought; it is already in law that we could charge at full cost recovery.

Jim McMahon: It could well be that between now and our next sitting that legislation is used, that the regulatory power of the Secretary of State is enforced and that local authorities are given that ability, in which case we might have a very different debate at our next sitting. As it stands, however, that power is not used, which is why we suggested the new clause. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 11

Review of sustainable drainage

(1) Before exercising his powers under section 35(1) the Secretary of State must carry out a review of planning legislation, government planning policy and local planning policies concerning sustainable drainage in relation to the development of land in England.—*(Dr Blackman-Woods.)*

This new clause would require the Secretary of State to review the impact of the planning system on the management of flooding and drainage.

Brought up, and read the First time.

Dr Blackman-Woods: I beg to move, That the clause be read a Second time.

I am sure that the Minister was an avid follower of the deliberations on the Housing and Planning Bill, so he will know that the issue raised by this new clause was mentioned in those proceedings, particularly in the other place. The Government have already committed to a review of planning legislation, Government planning policy and local planning policies as they relate to sustainable drainage. Given that, it is appropriate for the Minister to ask, "If so, why make a similar amendment to this Bill?" I hope to give him the answer. The new clause is, first, very much a probing one, so that we may put questions to the Minister about the review, and secondly, to reiterate the importance of undertaking that review before the Secretary of State exercises new powers that the Government have said are made under the Bill in order to bring forward more development.

The review came about as a result of a call for a more strenuous new clause on sustainable drainage that was tabled by a cross-party group in the other place. In response, the Government said that they would carry out a review, although it was much narrower than what was requested by their lordships. We ended up with a commitment to undertake a full review of the strengthened planning policy on sustainable drainage systems by April 2017—narrower than this new clause and the previous one.

The Housing and Planning Minister at the time said:

"The Government are committed to ensuring that developments are safe from flooding, and the delivery of sustainable drainage systems is part of our planning policy, which was strengthened just over a year ago. Our policy is still new, as I outlined in more detail last week, and I am willing to consider issues further as it matures. I am happy to review the effectiveness of current policy and legislation".—[*Official Report*, 9 May 2016; Vol. 609, c. 463.]

That commitment was given in lieu of the amendment in May this year.

4 pm

Notably, the previous Minister did not give the other place a time commitment for when the review would be completed. Further clarification from the Minister suggested that a review would be undertaken by April 2017, but at this point in time we are not exactly sure what stage the review is at, including whether it has started or whether the timescales will be met. The point was forcefully made to the Committee in evidence from Friends of the Earth, which said that the Government are still failing

"to instigate requirements for sustainable urban drainage".

As that issue was brought to my attention, and given the commitment from the previous Minister, I tried to find out what the Government were doing. I am not sure that anything is being done. The point of the original amendment was to say that there is a really serious issue of flooding and that one of the ways in which the Government can more easily address flooding issues is to ensure that new developments have SUDS. That amendment asked that, if any such review identified that there was a lack of SUDS in places where they should be in place, action be taken to ensure that SUDS were applied to new developments. However, lots of developments are going up—as we speak, I suspect—that might be liable to flooding but do not have SUDS in place. As we are planning to build about 1 million new homes between now and 2020, it is important that the Government get on with the review.

Indeed, the Environment Agency estimates that one in six homes in England are at risk of flooding. Some 2.4 million homes are at risk of flooding from rivers or the sea alone, 3 million are at risk from surface water alone, and 1 million are at risk from both. That is an

awful lot of homes at risk of flooding, which is why there was cross-party agreement in the other place that something needed to be done to improve the delivery of SUDS in new developments. That is why we thought the Minister agreed to the review. We thought that it would be a speedy review, given how awful it is for people affected by flooding. Some communities are subjected to flooding year on year, which can be incredibly disruptive for individuals and families. Therefore, some urgency is needed when it comes to carrying out the review and putting SUDS in place. I look forward to hearing what the Minister has to say.

Gavin Barwell: Not for the first time, the hon. Lady has accurately predicted what I was going to say. The Government believe that the new clause is unnecessary. Section 171 of the Housing and Planning Act 2016 includes a requirement for the Secretary of State to carry out a review of planning legislation, Government policy and local planning policies concerning sustainable drainage in relation to the development of land in England. Rather than just leaving it there, perhaps I can provide some reassurance on where we are with all that.

My Department has formally commenced work on the review and that section of the 2016 Act. The review's primary purpose is to examine the extent to which planning has been successful in encouraging the take-up of such drainage systems in new developments. More specifically, it will look at how national planning policies for SUDS are being reflected in local plans; the uptake of SUDS in major new housing developments, including the type of systems employed; the use of SUDS in smaller developments below the major threshold; the use of SUDS in commercial and mixed-use developments, including the type of systems employed; and how successful local plans and national policies have been in encouraging the take-up of SUDS in housing developments. It will engage with a wide range of stakeholders to gauge how the new policy and arrangements are bedding in and to analyse options for further action to improve take-up.

My officials are working on gathering evidence for the review, in collaboration with colleagues at the Department for Environment, Food and Rural Affairs and the Environment Agency. We aim to substantially complete our evidence gathering by spring 2017 to ensure that the findings of the review are available to inform the Committee on Climate Change's adaptation sub-committee's progress report on the national adaptation programme, to be published in summer 2017.

It might be worth saying a brief word about the substantive policy issue. The background to the review relates to a non-Government amendment that sought to remove the automatic right to connect to a public sewer for surface water, in a bid to push people into adopting SUDS. Even before the changes to planning in major developments that came into effect in April last year, the NPPF set out some strict tests, which all local planning authorities are expected to follow, to protect people and property from flooding. As part of that policy, priority should be given to SUDS in all developments—except very minor ones—in areas at risk of flooding. The policy has now been strengthened to make clear our expectation that SUDS will be provided in all major new developments, whether or not in a flood risk area, unless they can be demonstrated to be inappropriate.

As well as strengthening policy expectations, we have extended national guidance to set out considerations and options for sustainable drainage systems, including in relation to their operation and maintenance. Lead local flood authorities have been made statutory consultees for planning applications for major developments, to ensure that local planning authorities have access to appropriate technical expertise and advice.

I hope I have reassured the hon. Member for City of Durham that there has already been a significant policy shift in the right direction and that good progress is being made on the review and on meeting our undertakings in the Housing and Planning Act 2016. On that basis, I ask her to withdraw the new clause.

Dr Blackman-Woods: The Minister is right that I tabled the new clause primarily to get an update on the availability and use of SUDS. There is cross-party agreement that they should be employed when new developments are at risk of flooding, and indeed in wider circumstances. We look forward to seeing the report on the climate change adaptation programme in summer 2017. On that basis, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 12

PLANNING OBLIGATIONS

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

(2) In subsection (1) of section 106 (planning obligations) paragraph (d) at end insert—

"(e) requiring that information submitted as part of, and in support of, a viability assessment be made available to the public."—*(Dr Blackman-Woods.)*

This new clause would ensure that viability assessments are public documents with no commercial confidentiality restrictions, except in cases where disclosure would not be in the public interest.

Brought up, and read the First time.

Dr Blackman-Woods: I beg to move, That the clause be read a Second time.

I am not sure that the Minister and I will be in such agreement on new clause 12, but we shall see. The new clause would ensure that viability assessments are put into the public domain so that they are available for public scrutiny. The Minister will know that the Opposition have long raised this issue. Labour's view is that for the public to accept new development, they have to be absolutely certain that viability arrangements for a site—particularly safety integrity level requirements and section 106 requirements—are all that they should be.

I know from my own experience the kind of situation that can make local people sceptical about development or turn the public against a new housing development: for example, when they do not get the amount of affordable housing they think they should get; or when a contribution to a local primary school is suddenly no longer applied by the local authority because of viability issues. Although I am happy to take on trust a lot of what local authorities do, we would all accept that, as a general principle, local authorities need to be as transparent as possible in all their decisions. I am entirely uncertain as to why the Government are of the view that viability assessments should not be in the public domain.

[Dr Blackman-Woods]

The new clause would also help the public by giving us all a better view of any uplift in the value of land across the country. In some areas developers can provide more of a payback to the local community than in others because of the price of land. It does not always vary depending on the value of land—there will be other local circumstances. However, it would be good to have a more detailed understanding of what is being delivered, in terms of a planning gain, and why that particular level has been arrived at, than we currently have from the information that is in the public domain.

Viability assessments are used by developers to argue their planning obligations under section 106 of the Town and Country Planning Act 1990. Of course, we find that a lot of viability assessments are used to reduce payments, although not always—that would be completely unfair. The Royal Institute of British Architects has commented:

"Despite the Planning Practice Guidance encouraging transparency, developers may opt not to disclose their viability assessments to the public on grounds of commercial confidentiality. It is widely accepted that this is sometimes done in order that they can negotiate down their S106 obligations without public scrutiny. As a consequence, affordable housing may be reduced and the quality of the built environment may suffer."

We know that there is a huge lack of affordable housing across the UK, so it is absolutely vital that developers are not allowed to deliberately dodge their obligations to contribute to affordable housing through viability assessments. It is equally important that they can be held accountable by local people.

National planning policy guidance states that when it comes to viability, plans should

"present visions for an area in the context of an understanding of local economic conditions and market realities."

In many places, local economic conditions mean that some affordable housing is required. In fact, that is the case in most areas; I was trying to think of some areas where it might not be required, and it is really hard to do so because there is such a desperate need for genuinely affordable housing. I am talking about genuinely affordable housing, not the starter homes that the Government have put into this category, because £250,000 is certainly not affordable for many people in my constituency.

Gavin Barwell: What is the average house price in the hon. Lady's area?

Dr Blackman-Woods: In Durham city, which has a very different level of average house prices than in the county, the average house price is probably about £200,000 to £220,000.

Gavin Barwell: In that case, I put it to the hon. Lady that constantly quoting the maximum level for starter homes across the whole of England is not a particularly accurate rendering of what the policy will mean in her area. The average house price in the city is £200,000, so the average starter home in the city will be about £160,000. That certainly would not be affordable to everybody living in the city, but it would clearly bring home ownership within the reach of a greater proportion of her constituents than currently have it.

4.15 pm

Dr Blackman-Woods: I am not sure that that is how the policy will work in practice. I spoke to the developer of a new development in Durham where really quite attractive family homes are being built. The prices range from £220,000 or £230,000 up to £310,000. Without the developer having to change anything at all that it does to roll out the development, it will meet its requirement under the starter homes initiative and will not have to deliver any affordable housing. That is the effect of the policy in an area such as mine. Those homes would have been delivered anyway. I am not sure that the policy is adding to the quantity of genuinely affordable homes locally, which is what we really need.

The point I was making was that greater transparency about viability arrangements would help us to understand how planning gain is arrived at and give the local community, which is at times concerned about how section 106 obligations get watered down, more confidence in the planning system overall. It would help communities to accept development more readily if they understood what the costs were and how they stacked up. Sometimes, such transparency would lead to more sympathy for developers than they currently get. The public often assume that the developers are making thousands and thousands of pounds from each development, but in some areas of the country where land prices are more difficult for developers, that might not be the case at all.

The new clause could help developers by making it clear how their obligations were arrived at. It would also help the public to understand how the finances and the housing market in this country stack up. On top of that, it might create circumstances in which, when the public are concerned about a particular development, better negotiation can take place between the developer and the local community about what can be delivered and in what way. At the moment, those conversations simply do not happen because viability assessments are kept confidential.

Gavin Barwell: As the hon. Lady said, new clause 12 relates to section 106 planning obligations and viability assessments. Planning obligations are normally agreements negotiated between the applicant and the local planning authority. They usually relate to developer contributions to infrastructure and affordable housing, and reflect policy in local plans.

The purpose of a section 106 planning obligation is to mitigate the impact of otherwise unacceptable development, to make it acceptable in planning terms. Local planning authorities may seek viability assessments in some circumstances, but Government guidance is clear that decision taking on individual applications does not normally require an assessment of viability. Developers may submit a viability assessment in support of their negotiations, if they consider that their proposed development would be rendered unviable by the extent of planning obligations sought by the local planning authority. Some authorities make such assessments publicly available, which I suggest shows the hon. Lady that there is no need to introduce legislation. Local authorities are currently perfectly free under the law to do what she wants them to do.

It is important that local authorities act in a transparent way in their decision-making processes. My main point of assurance to the hon. Lady is that there is already

legislation—principally the Freedom of Information Act, but also and the Environmental Information Regulations 2004—that governs the release of information. If necessary, that legislation enables people to seek a review if they are not satisfied by the response of the local authority and, ultimately, to appeal to the Information Commissioner if they remain unsatisfied.

Jim McMahon: If a developer does not want that information to be made public because of the commercial confidentiality of the scheme, surely it would be exempt from release under the Freedom of Information Act.

Gavin Barwell: That is my understanding. I am not an expert on that legislation, but I understand that that would be a judgment for the Information Commissioner to make. The hon. Gentleman has put his finger on the problem.

Sometimes developers will argue that the information they provide in order to give the authority a proper insight into the viability of a development is highly commercially sensitive. Therefore, they would not want to see that released in the public domain. If we were to change the law requiring all viability assessments to become public, there is a danger that the quality of information that local authorities would receive as a result would be significantly diminished.

I hope I have provided some reassurance. I will end with two other quick thoughts. There is a read-across from the amendment to the review of the community infrastructure levy, which is currently sitting on my desk, which looks at both CIL and the interaction with section 106. There are some powerful arguments to look at reform in this area so that we are more dependent on a nationally set charge that is locally collected and spent locally and less dependent on individual section 106 contributions, where there is much more scope for the kind of long-running argument that does not necessarily work in the public interest.

Although it is slightly tangential to the amendment, because the hon. Lady was principally concerned with affordable housing I want to set her straight on the starter homes policy. We are very clear on what the policy is, which is to require developers to provide a proportion of homes—we have yet to set out what that will be—at a 20% discount to what the market price would otherwise be. The figures bandied around in London are different because the limit is different in London—this is frustrating to me—so I regularly hear from people who have had colleagues from the Labour party contact them, who say, "Who says £450,000 is affordable?" but that is the maximum limit in London. In New Addington in my constituency, homes sell at well below that, and starter homes will sell at a 20% discount to what they would otherwise sell at in New Addington.

I will not claim for one moment that starter homes will ensure that home ownership is affordable for everyone who currently cannot afford it, but there is compelling evidence—if the hon. Lady is interested, I can write to her with the figures—that it will allow a significant proportion of people who currently privately rent to access home ownership who would not otherwise do so.

Dr Rupa Huq (Ealing Central and Acton) (Lab): Will the Minister update us on the Help to Buy programme? I understand that that has collapsed.

Gavin Barwell: The hon. Lady is wrong. It has not collapsed; it continues to help large numbers of people own their own homes. There were two different Help to Buy schemes: the mortgage guarantee scheme and the equity loan scheme. The mortgage guarantee scheme, which applied to all homes, was basically a market intervention because after the great depression of 2008-09 there was a point in time when people with low deposits were not able to access mortgages. The scheme was an intervention to deal with that. The market has now adjusted and it is possible to access those kinds of mortgages.

The equity loan scheme applies when people are looking to buy a new build property. That scheme is still running because there is a strong public policy benefit. Research evidence shows that something like 40% of those purchases are homes that otherwise would not have been built. The scheme is therefore helping to drive up the supply of new housing, which ultimately is the critical issue we are debating. The publicity the hon. Lady has read—to reassure her, she is not the only person to have got the wrong end of the stick—was about a particular part of the Help to Buy scheme that is coming to an end at the end of this year. The equity loan scheme is continuing, and it will continue through to at least 2021.

I will not go much further, because this is slightly tangential to the main issue, but I want to reinforce strongly and publicly that the starter homes policy will bring home ownership within the reach of a significant number of people who would not otherwise find it affordable. It is not the only answer—other things are required, and I am happy to accept that affordable housing should be about not just helping people to afford to buy but shared ownership and affordable homes for people to rent. We should not say that the starter homes initiative is not making a contribution to helping people afford a home of their own.

Dr Blackman-Woods: Let me give the Minister a bit of reassurance in terms of our understanding of the starter homes initiative. Opposition Members understand what the words "up to £250,000" mean. We were not suggesting that every single home will be £250,000 under this initiative or £450,000 in London, nor were we suggesting for a minute that the initiative does not reduce the cost of home ownership for a number of people. I do not recall mentioning that.

I was making the point that in lots of our constituencies, reducing a home from £250,000 to £200,000 does not make it affordable housing for many people. Enabling developers to discharge their affordable housing obligations through this mechanism means that money might not be available for other obligations under section 106 of the 1990 Act. Because of the viability of a particular site, we would not know that, because we were not seeing the viability assessment.

Gavin Barwell: It is important to get this on the record. The hon. Lady is quite right that if we set the requirement for starter homes too high, it could squeeze out some other important forms of housing. However, one difference that is worth teasing out is what we understand by the term "affordable housing". It has been used traditionally in housing policy to mean council and housing association housing. When most of our

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constituents hear the term, they are interested in how they can be helped to afford a home of their own. To me, policy that makes home ownership affordable for people who otherwise would not have been able to afford it is not the only important type of affordable housing but is absolutely affordable housing.

Dr Blackman-Woods: International uses of affordable housing are usually something like three times average income. In my constituency, that would make a home affordable at about £75,000 or £80,000 if it was one person, and for a couple, double that. That is by international standards. For a lot of people on average incomes, that puts starter homes out of their reach, but that was not the point I was raising.

Now it is my turn to tell the Minister that we are doing a piece of work on what affordability means in the current housing environment. When we have completed that, I will be happy to share it with him. New clause 12 seeks to make viability a bit more transparent. The Government's own review of the NPPF and guidance came forward with the suggestion of guidance being stronger on the transparency of viability assessments. I direct the Minister to Lord Taylor's work and ask him to ponder on it. That was, as far as I understand it, an independent review of the Government's guidance. There is general agreement that it would be really helpful to our whole development system if viability was more transparent. On that basis, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 14

Review of permitted development rights

(1) Before exercising his powers under section 35(1) the Secretary of State must review the provisions of all General Development Orders made under the powers conferred to the Secretary of State by sections 59, 60, 61, 74 and 333(7) of the Town and Country Planning Act 1990 granting permitted development rights since 1 January 2013.—*(Jim McMahon.)*

This new clause would require the Secretary of State to review the permitted development rights granted since 2013.

Brought up, and read the First time.

Jim McMahon: I beg to move, That the clause be read a Second time.

New clause 14 intends to finally hold the Government to account on the extension of permitted development rights. We have heard a lot about our aspirations for quality, decent neighbourhoods and places where people aspire to live and are proud to live. Extension of permitted development rights flies in the face of that, because it allows a free-for-all for developers without checks and balances, local control and long-term stability and quality in mind.

4.30 pm

It was evident that the reason that this was introduced was to kick-start the number of units being brought to the market. Most people anticipated that it would be a temporary move until more permanent features were introduced that took a longer-term view. Many people were, therefore, surprised when it became permanent. They say, and I agree, that it flies in the face of what the Government are trying to do on a range of other issues. That is the purpose behind the new clause.

It is worth putting the new clause into some context. The Library has provided data—I know that, like me, the Minister has a passion for data. Figures from his own Department highlight the reduction in the number of units being converted from commercial to residential use—a figure that dropped significantly, unsurprisingly, in the 2008 crash, because demand fell. Up to that point, many decent-quality conversions took place. Many of our major cities and towns were revitalised, with mills being converted into decent properties that people wanted to live in, creating brand-new communities in areas that were previously derelict. Those conversions were welcomed by many people, but since the financial crash we have seen a year-on-year reduction in the number of conversions. In 2006-07, 20,000 units were converted, but the number fell 12% in the following year and by 6%, 18% and 15% in subsequent years. With the introduction of the temporary extension to permitted development, the figure increased in 2014-15 back to 20,000 units.

If the intention was to kick-start such development and get it back to where it was before the crash, it achieved that, but developers and communities were waiting for the long-term plan that would put quality and affordability back into the system. It is depressing that that has not been forthcoming. Although 20,000 units were brought to the market in 2014-15, it only takes us back to the pre-crash situation. That is good news, but there is a world of difference in the quality of what was being developed before the financial crash and what is currently being developed under extended permitted development rights—and I am not the only one saying that.

We heard several representations in our oral evidence sessions. We have shared our own views on the issue. I also sought out the views of Shelter, which has a keen interest in ensuring that we provide decent-quality housing. It has a living home standard because it wants to ensure that affordability and quality are key in people being able to access their own home, but when it applied the test, four out of 10 households failed it on affordability. Many of the developments being converted from commercial to residential use are in some of the most expensive parts of the country. Developers are making a lot of money off the back of such schemes, without providing the quality.

Julia Park is the head of housing research at Levitt Bernstein and she spent seven months advising DCLG on its housing strategy towards the Housing and Planning Bill. She was advising Government and she was aware of the discussions that were taking place, and her assessment is stark. Her view is that the office to residential free-for-all has resulted in terrible homes, including some flats of only 14 square metres. "Terrible" was the term that she used, as someone actually involved in the housing and planning review. That was not a political point, but a professional view of the quality of those homes. In another pointed remark, she said:

"Bypassing all standards except basic building regulations is short-sighted and desperate".

Kevin Hollinrake: I draw the Committee's attention to my entry in the Register of Members' Financial Interests, which I should have done earlier.

Is the hon. Gentleman implying that every single development that is commercial to residential is not done well? In my life prior to entering politics, I dealt with many schemes that developers brought forward because of permitted development rights. They resulted in excellent developments that met market demand, which is key. I do not deny that there will be problems on some occasions, but is he trying to argue that every single development is an inappropriate home not built to the right standards?

Jim McMahon: I suppose the hon. Gentleman could listen to me, or he could listen to the architect who said of the Housing and Planning Bill:

"This new Bill only addresses speed of delivery: short-sighted political gain at the cost of long-term quality."

The professionals are saying that quality is an issue. I can point to conversions in Greater Manchester, which I know well. Some have used the extended permitted development rights to produce a quality development. That will almost certainly be true, but we can all point to one and try to hold it up as an example of many, when of course that is rarely the case. However, as we are seeing, the Government just do not know. It is okay to shine a light on the evidence provided by professionals, but the Government do not know the answer. If a more regulated planning system were brought back in, council planning departments would definitely be able to get a grip on quality and see it through.

That is all we are asking for. It is not about passing judgment on whether premises should or should not be converted from commercial to residential; it is about ensuring quality, affordability and long-term sustainability and starting to plan communities and neighbourhoods, instead of letting developers get away without paying their fair share. I cannot see why anybody would argue against that. It would highlight the best developers who contribute to community and society. Fair play—they make a profit doing so, and there is nothing wrong with that, but there are some people who do not play the game fairly and who extract as much cash from it as possible, with absolutely no interest in quality or community. Bringing measures back in to take firmer control of that has got to be in the long-term interests of this country and of our towns and cities.

Dr Blackman-Woods: Would my hon. Friend like to point out to the hon. Member for Thirsk and Malton that on the internet, one can find the 10 worst permitted development loopholes, and they are truly shocking? I am happy to let the hon. Gentleman see the examples after the Committee has ceased this sitting. They point to some serious breaches of good planning policy that emerge from an overzealous use of permitted development.

Jim McMahon: That is a fair point. The topography of a town like Oldham, in the beds of the Pennine hills, is a good example. Under the current permitted development rights, height restrictions apply only at the start of a development. If someone who lives on a slope builds out to the maximum height allowed, by the time they get to the bottom of the hill, the property could be 10 m high. Under permitted development, they would be allowed to do so, with no thought for the consequence to the people living below. There are issues, not just about conversion from commercial to residential but about the character and nature of our communities and where people live, and the impact that neighbouring properties can have on each other.

We have heard a lot about quality, and about how neighbourhood planning would go a long way towards giving community a voice. The Bill does not do that. It takes away that voice, it takes away control and it takes away the quality that we all aspire to. We think that new clause 14 is important. It is not a probing amendment; we are absolutely committed to seeing it to a vote, and I hope that we get some support on it, because it is in line with the debate that we have been having.

Gavin Barwell: To a degree, we had a debate on the principle of this earlier when we debated clause 8, so I will not rehearse all those arguments. However, I will pick out three or four points from what the hon. Gentleman said and then make one substantive point about the wording of the amendment, which I think is relevant.

I think that I am quoting the hon. Gentleman correctly—he was quoting somebody else; they were not his words—in saying that the allegation is that this is all about speed and political benefit at the expense of quality. I think I captured the quote correctly. There is no political benefit at all; the benefit is providing homes to thousands of people who otherwise would not have them. There absolutely is a debate to be had about quantity versus quality. I suspect that that is an ongoing debate in housing policy, but it is worth putting it on record that there is no political benefit to the policy. The Government are trying to drive up the supply of housing in this country to meet the urgent pressing need for extra homes. That is what the policy is about.

The hon. Member for City of Durham gave some terrible examples she had seen of how the policy had been misused. As constituency MPs, we all see examples of where people have gone ahead and done things without getting planning, and the enforcement system has not picked it up, and we also see examples of developments that planners have approved that are of appalling quality. Even if we lived in a world where every single change to any building, however de minimis, had to go through a formal planning process and acquire planning permission, that would not be a guarantee of quality, and we should not pretend that it would be.

Ultimately, the argument is about the extent to which members of the Committee believe there is an urgent need to build more homes in this country. I have touched on this before, but several issues have been raised in this debate on planning conditions and permitted development. The hon. Member for Bassetlaw was speaking on Second Reading on the duty to co-operate, but despite the Opposition's rhetoric, saying that they recognise the urgent need for more homes in this country, they oppose policies that help deliver those crucial homes.

Rather than re-run the argument of principle, I make one point on the wording of the new clause. When we came to clause 8, despite our differences on the principle of permitted development, there was agreement that it was a good clause because it would ensure that data were available not only to the Government but to all of us to enable us to assess whether the policy was a good

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policy. The new clause would require a review of the policy before the Government could commence the provisions of the legislation—before we have the data we all agreed were crucial. The hon. Member for City of Durham was nodding gently as I made that point.

The Opposition may well want to press the new clause to a vote as a vote on the principle of permitted development, but its wording is not sensible as it would require that review to happen before we had the crucial data that we all agreed were needed to make a judgment on the policy.

Jim McMahon: I think the Minister has just made the argument for dismissing the driving test. Why not just let everyone get in a car, van or truck and take to the road? Some might crash and some might kill people, but it is fine, because some will not and there is no evidence base. That is a nonsense, of course. We all have examples of good-quality development and bad-quality development, and we can always use a single example to make a point, but the issue is that the controls are not in place.

The Government do not know the answer to the question, which is why we had the debate on putting measures in the Bill to enable us to understand the quantum of the developments, but it is beyond that now. If the argument was that the measure was about kick-starting development to get the economy going and put roofs over people's heads, because that is what was required at the time, and it was a short-term measure, then there can be a debate about that. There cannot, however, be a compromise on the long-term sustainability and viability of communities, and the affordability or quality of housing.

The measure goes against a lot of what we have been discussing, and it beggars belief that the Government seem happy to continue walking down this road with a blindfold on and no idea of what is in front of them. That is a dangerous way to draw up housing policy, and that is why a vote is important. If we get to a stage at which the Government have better wording, they should bring it forward, and we can have a debate about it. Provided that the wording resolved the issue, I am sure that my hon. Friend the Member for City of Durham would support it. However, it is important that the issue is tackled and that the Government show a sense of urgency.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 4, Noes 8.

Division No. 3]

AYES

Blackman-Woods, Dr Roberta	Huq, Dr Rupa
Cummins, Judith	McMahon, Jim

NOES

Barwell, Gavin	Philp, Chris
Doyle-Price, Jackie	Pow, Rebecca
Green, Chris	Tracey, Craig
Hollinrake, Kevin	Villiers, rh Mrs Theresa

Question accordingly negatived.

New Clause 15

ABILITY OF LOCAL AUTHORITIES TO SET PLANNING FEES

(1) A local authority may determine fees relating to planning applications in its area.

(2) Subsection (1) applies, but is not restricted to, fees relating to—

(a) permitted development applications, and

(b) discharge of planning conditions.—*(Jim McMahon.)*

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 4, Noes 8.

Division No. 4]

AYES

Blackman-Woods, Dr Roberta	Huq, Dr Rupa
Cummins, Judith	McMahon, Jim

NOES

Barwell, Gavin	Philp, Chris
Doyle-Price, Jackie	Pow, Rebecca
Green, Chris	Tracey, Craig
Hollinrake, Kevin	Villiers, rh Mrs Theresa

Question accordingly negatived.

New Clause 16

REVIEW OF LOCAL AUTHORITY DETERMINATION OF AMENDMENTS TO PLANNING APPROVALS

Within 12 months of this Act coming into force, the Secretary of State shall conduct a review into the process by which local authorities determine amendments to planning approvals and shall lay the report of the review before each House of Parliament.—*(Dr Blackman-Woods.)*

Brought up, and read the First time.

Dr Blackman-Woods: I beg to move, That the clause be read a Second time.

As the Minister is carrying out lots of reviews, I thought he might like to add another to his list and review the way in which local authorities are able to determine amendments to see whether he can give local planning departments a bit more flexibility in how they deal with amendments, and in particular what they consider to be material or non-material considerations. Does the Department have a view on allowing split decisions to be taken on planning applications? A local authority may say, for example, "We want to approve this application, but there is one bit that we do not like. We are going to approve the rest of the application, but we want this one bit to be changed." I am simply asking a question of the Minister. Further, does he have a view about local authorities being able to charge additional fees where an amendment means that they have to go out to public consultation again, or a lot of officer time has to be put into determining whether a particular amendment should stand?

Gavin Barwell: The Minister is not particularly welcoming of another statutory requirement to have another review, as the hon. Lady may have predicted, but perhaps I can get a better understanding of her concerns outside the Committee, reflect on those and come back to her.

Dr Blackman-Woods: I am happy to write to the Minister with some of the documentation from the Planning Officers Society, which is exercised about the issue. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Schedule 1

COUNTY COUNCILS' DEFAULT POWERS IN RELATION TO DEVELOPMENT PLAN DOCUMENTS

1 The Planning and Compulsory Purchase Act 2004 is amended as follows.

2 Schedule A1 (default powers exercisable by Mayor of London or combined authority) is amended in accordance with paragraphs 3 to 8.

3 In the heading for "or combined authority" substitute ", combined authority or county council".

4 After paragraph 7 insert—

"Default powers exercisable by county council

7A In this Schedule—

'upper-tier county council' means a county council for an area for which there is also a district council;

'lower-tier planning authority', in relation to an upper-tier county council, means a district council which is the local planning authority for an area within the area of the upper-tier county council.

7B If the Secretary of State—

(a) thinks that a lower-tier planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document, and

(b) invites the upper-tier county council to prepare or revise the document, the upper-tier county council may prepare or revise (as the case may be) the development plan document.

7C (1) This paragraph applies where a development plan document is prepared or revised by an upper-tier county council under paragraph 7B.

(2) The upper-tier county council must hold an independent examination.

(3) The upper-tier county council—

(a) must publish the recommendations and reasons of the person appointed to hold the examination, and

(b) may also give directions to the lower-tier planning authority in relation to publication of those recommendations and reasons.

(4) The upper-tier county council may—

(a) approve the document, or approve it subject to specified modifications, as a local development document, or

(b) direct the lower-tier planning authority to consider adopting the document by resolution of the authority as a local development document.

7D (1) Subsections (4) to (7C) of section 20 apply to an examination held under paragraph 7C(2)—

(a) with the reference to the local planning authority in subsection (7C) of that section being read as a reference to the upper-tier county council, and

(b) with the omission of subsections (5)(c), (7)(b)(ii) and (7B)(b).

(2) The upper-tier county council must give reasons for anything they do in pursuance of paragraph 7B or 7C(4).

(3) The lower-tier planning authority must reimburse the upper-tier county council—

(a) for any expenditure that the upper-tier county council incur in connection with anything which is done by them under paragraph 7B and which the lower-tier planning authority failed or omitted to do as mentioned in that paragraph;

(b) for any expenditure that the upper-tier county council incur in connection with anything which is done by them under paragraph 7C(2).

(4) In the case of a joint local development document or a joint development plan document, the upper-tier council may apportion liability for the expenditure on such basis as the council considers just between the authorities for whom the document has been prepared."

5 (1) Paragraph 8 is amended as follows.

(2) In sub-paragraph (1)—

(a) omit the "or" at the end of paragraph (a), and

(b) at the end of paragraph (b) insert ", or

(c) under paragraph 7B by an upper-tier county council."

(3) In sub-paragraph (2)(a)—

(a) for "or 6(4)(a)" substitute ", 6(4)(a) or 7C(4)(a)", and

(b) for "or the combined authority" substitute ", the combined authority or the upper-tier county council".

(4) In sub-paragraph (3)(a) for "or the combined authority" substitute ", the combined authority or the upper-tier county council".

(5) In sub-paragraph (5) for "or 6(4)(a)" substitute ", 6(4)(a) or 7C(4)(a)".

(6) In sub-paragraph (7)—

(a) in paragraph (b) for "or 6(4)(a)" substitute ", 6(4)(a) or 7C(4)(a)", and

(b) in the words following that paragraph for "or the combined authority" substitute ", the combined authority or the upper-tier county council".

6 In paragraph 9(8) for "or the combined authority" substitute ", the combined authority or the upper-tier county council".

7 In paragraph 12—

(a) for "or the combined authority" substitute ", the combined authority or the upper-tier county council", and

(b) for "or the authority" substitute ", the authority or the council".

8 In paragraph 13(1)—

(a) for "or a combined authority" substitute ", a combined authority or an upper-tier county council", and

(b) for "or the authority" substitute ", the authority or the council".

9 In section 17(8) (document a local development document only if adopted or approved) after paragraph (d) insert—

"(e) is approved by an upper-tier county council (as defined in that Schedule) under paragraph 7C of that Schedule."

10 In section 27A (default powers exercisable by Mayor of London or combined authority) in both places for "or combined authority" substitute ", combined authority or county council". —*(Gavin Barwell.)*

See the explanatory statement for NC5.

Brought up, read the First and Second time, and added to the Bill.

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

Gavin Barwell: Mr McCabe, may I take a minute of the Committee's time to say thank you as we come to the end of our proceedings in Committee? I thank you and Mr Bone for the way in which you have chaired these proceedings, which I am sure all Members have appreciated. I also thank the officials, the Clerks who have assisted you, *Hansard* and the Doorkeepers for their support.

I thank all members of the Committee. We have had good debates to which nearly all Members have contributed fully. We on the Government Benches are grateful for the scrutiny of the Bill. I thank my officials for their work on the Bill and the Bill documents, which has been useful in scrutinising the legislation, and certainly for their support of me with their words of inspiration as I have tried to answer questions for members of the Committee.

Perhaps I could single out two people. I learned earlier today that this is the first time my right hon. Friend the Member for Chipping Barnet has sat on a Bill Committee as a Back-Bench Member. I hope that she has enjoyed the experience, and that the Whips are looking forward to putting her on many more such Committees. Finally, perhaps reflecting on whence I came, I thank our Whips. I have had to do their job for a number of years, and have had to sit through proceedings silently, unable to say anything. I think Members on both Front Benches are grateful for their support and help in getting through our proceedings.

Dr Blackman-Woods: Like the Minister, I thank you, Mr McCabe, and Mr Bone for chairing this Committee with good humour, which is much appreciated. I also thank the Clerks for their excellent service and their help in drafting and tabling amendments in the right order and, in particular, in the right place, so that we could debate them. I marvel at the Doorkeepers. I do not know how they manage to sit through our hours of deliberations with such good humour. They keep us safe and secure. I thank *Hansard* for turning around a great deal of material in such a short time. I also thank the organisations that gave detailed evidence to the Committee, and those who turned up to give oral evidence. I hope that they think we have done justice to the points they raised.

I thank my fellow shadow Minister for his input, and both our Whip and the Government Whip. The way in which our proceedings have been conducted is a tribute to the way they organised the business. Although they are not all in their place, I thank Opposition Committee members—and indeed Government Members—for their excellent speeches and, sometimes, passion, even though we sometimes disagreed. Finally, I thank the Minister for his responses, which were very helpful at times, and I thank his hard-working civil servants, who have had to put up with all our questions.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

4.54 pm

Committee rose.

Written evidence reported to the House

NPB 08 Friends of the Earth

NPB 09 Historic England

NPB 10 Tony Burton CBE

NPB 11 Greater London Authority and Transport for London

NPB 12 Local Government Association