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 be 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 with 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 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 thing 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 altogether?

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 be 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 be 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 at the moment is that because of the tension between the national planning policy framework presumption in policy in favour of 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 a 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 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.