Vol. 769
No. 130

Tuesday
22 March 2016

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

£4·00

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at
www.publications.parliament.uk/pa/ld201516/ldhansrd/index/160322.html

PRICES AND SUBSCRIPTION RATES

DAILY PARTS

Single copies:
Commons, £5; Lords £4

Annual subscriptions:
Commons, £865; Lords £600

LORDS VOLUME INDEX obtainable on standing order only.
Details available on request.

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies:
Commons, £65 (£105 for a two-volume edition); Lords, £60 (£100 for a two-volume edition).
Standing orders will be accepted.

THE INDEX to each Bound Volume of House of Commons Debates is published separately at £9·00 and can be supplied to standing order.

All prices are inclusive of postage.

The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Tuesday 22 March 2016

2.30 pm

Prayers—read by the Lord Bishop of Chelmsford.

Health and Social Care: Funding
Question

2.37 pm

Asked by ***Lord Taverne***

To ask Her Majesty's Government whether they intend to introduce measures to convert National Insurance contributions into a special tax for funding health and social care.

Lord Ashton of Hyde (Con): My Lords, the Government do not have any plans to convert national insurance contributions into a special tax for funding health and social care. As noble Lords will know, a fixed proportion of each class of NIC receipts from employees, the self-employed and employers is already allocated directly to the NHS. This adds up to broadly 20% of NIC receipts. The rest of NHS funding comes from general taxation.

Lord Taverne (LD): My Lords, the National Health Service is facing an existential crisis that is probably as serious as any it has faced. The root cause is well known: namely, that spending on health and social security rises much faster than GDP. At the same time, according to the Office for Budget Responsibility, spending on social care and the health service is set to decline instead of increasing as a proportion of GDP in the next five years. Do the Government not recognise that the answer is a change in funding? NICs are now in effect a regressive and inefficient tax on jobs. Only part of the money goes to the NHS and the rest goes into a general tax pool, as the Minister has conceded. If the Government do not accept this, will the Minister make representations to his colleagues in the Department of Health to meet a small group, representing a larger group of cross-party experts who have come to the conclusion that to save the health service now means a new Beveridge?

Lord Ashton of Hyde: My Lords, there is quite a lot in that Question. To start with, according to the OECD figures, the percentage of our GDP in the past three years has been flat at 8.5%. I accept that over time, as our GDP increases, there is a chance that if the expenditure stays the same, the percentage will reduce. As noble Lords know, under the five-year forward view, we will have spent an extra £10 billion a year by the end of the Parliament. As far as having a delegation to talk about a future strategy on funding the NHS is concerned, I would be delighted to commit the Health Minister to meeting the noble Lord, but I cannot really do that. I will certainly make his views known and ask the Minister if he would meet the delegation.

Lord Davies of Oldham (Lab): My Lords, does the Minister accept that the percentage of GDP that the United Kingdom spends on health is much lower than that of comparable countries and that therefore the crisis in the National Health Service needs addressing? Is he aware that, against this crisis background, the Government are asking for a further £22 billion in efficiency savings and yet 53% of hospital trusts say that it will prove impossible to meet the caps on agency staff? We are facing a crisis and the Government are unprepared to face up to it.

Lord Ashton of Hyde: My Lords, on the OECD figures, the United Kingdom's spending is slightly below the OECD average, but it all depends on the denominator and that depends on how high GDP is. However, it is not, as the noble Lord puts it, a lot lower; it is slightly below average for the OECD. On the £22 billion of savings, that was the NHS's own plan. The Chancellor accepted that and agreed to fund it and in fact produced an extra £2 billion this year as a down payment.

Baroness Gardner of Parkes (Con): My Lords, will the Minister ask the Chancellor, who is always looking for innovative ideas, to consider the possibility of donations to the health service, which could be tax deductible? There might be a lot of people willing to give perhaps even large sums to the National Health Service. It would be a win-win situation.

Lord Ashton of Hyde: I am sure that the Chancellor is always looking for good ideas. However, by the end of 2020, we will be spending £120 billion on the NHS, so the donations would have to be pretty big.

Lord Kinnock (Lab): My Lords, health funding is in crisis and expenditure on adult social care has gone down as a proportion of GDP by 19% since 2010, which accounts for part of the crisis in health provision. Would it not be possible to consider that a direct connection between tax contributions and the quantity and quality of health and social care provision would enhance public understanding, improve transparency and probably management, and potentially generate additional buoyancy for funding for these vital services?

Lord Ashton of Hyde: I take issue with the noble Lord's figures. In 2010, the percentage according to OECD figures of GDP was 8.6% and in 2013 it was 8.5%. As far as the hypothecation of taxes is concerned, it is generally an established principle that we do not like doing that because it restricts flexibility. Ultimately, the taxpayer has to pay for the NHS and I agree with the noble Lord that taxpayers are prepared and want to pay for the NHS. They think that it is worth while—we all do. But we do not agree with hypothecating taxes beyond the fact that, as I said in my first Answer, 20% of NIC does go to the NHS.

Baroness Kramer (LD): My Lords, my right honourable colleague, the Member of Parliament for North Norfolk, Norman Lamb, has called for a cross-party commission to take a long-term view on the funding needed both for the National Health Service and for social care.

[Baroness Kramer]
As far as I understand, he has not yet had a response from the Government on his call for that completely cross-party, non-political commission. Will the Government reply on that today?

Lord Ashton of Hyde: As far I am aware, the right honourable Norman Lamb has a Private Member's Bill in the House of Commons, where these issues can be fully debated. Obviously, I cannot give an answer to him today.

Aviation: Sustainable Fuel

Question

2.45 pm

Asked by ***Lord Soley***

To ask Her Majesty's Government what policies are in place to encourage the development of sustainable aviation fuels in the United Kingdom and what new proposals they are considering.

The Earl of Courtown (Con): My Lords, the Government are assessing the benefits of making aviation biofuels eligible for the incentives that currently apply to biofuels used in road transport through the renewable transport fuel obligation. We aim to publish a consultation on legislative amendments to this scheme later this year, including proposals for aviation biofuels.

Lord Soley (Lab): That is a useful statement and a step in the right direction, but is the Minister aware that we are still the largest and most advanced aviation producer in the world, except on sustainable fuels, where we have fallen seriously behind competitors in Europe, North America and Asia? What will the Government do to improve R&D on sustainable aviation fuels and will they please make sure that they include it in the renewable transport fuel obligation?

The Earl of Courtown: My Lords, as I mentioned in my Answer, we will be going out to consultation on this subject later this year, where we will look at increased targets for suppliers to provide long-term certainty to industry and to meet our climate change targets. We will also make biofuels more sustainable by increasing the supply of waste-based biofuels. We will also support investment in renewable aviation fuels by including it in the RTFO. We will also look at possible further competitions on top of the one already held, looking specifically at the jet biofuel issue.

Lord Spicer (Con): My Lords, it sounds as if these excellent new fuels will be polluting our airports rather less in future, so can we bring forward the Heathrow decision?

The Earl of Courtown: My Lords, my noble friend Lord Ahmad answered this question at great length last week or the week before. I do not think that there is anything more that I can add to it.

Viscount Slim (CB): My Lords, I declare that some years ago I was the vice-chairman of the Air League. The Minister may wonder why, but the Air League has been going for many years. It was started by soldiers, not the light blue. We had certain very tough talks with the Government of the day on the taxing and pricing of aviation fuel. The Government of the day gave certain commitments, which I hope still stand. I say to the Minister on the very pertinent Question that the noble Lord, Lord Soley, raised that, if the taxes go up, everybody's air ticket becomes more expensive.

The Earl of Courtown: My Lords, the noble Viscount raises an interesting point. To be perfectly honest, I am not aware of the answer, but if there is anything else that I can add I will write to him.

Lord Rosser (Lab): In reply to a question asked in the Commons in January on the warnings from those involved in aviation that inaction and lack of clear policy direction from the Government were holding back research and development into, and the use of, renewable fuels in aviation compared with other countries, the Commons Minister said that,

"there is more than one way of killing a cat. Yes, alternative fuels may have an important role to play, but more importantly … a market-based mechanism will allow other types of technology to be developed which can then be used to offset the emissions from aviation, which will always be dependent on liquid fuels".—[*Official Report*, Commons, 28/1/16; col. 397.]

Does not that statement of policy, contrary to what has been implied today, indicate quite clearly that the Government are, in reality, giving the aviation industry a double whammy: dithering over policy on the development and use of renewable fuels in aviation, as well as still dithering over airport expansion in the south-east?

The Earl of Courtown: My Lords, of course I would not agree with the noble Lord, as no doubt the House would acknowledge. Sadly, the British Airways Solena project has not progressed, though it is still live and discussions are ongoing between Ministers and British Airways on this issue. As I said earlier, three projects won the advanced biofuels demonstration competition, dividing up a fund of £25 million. One is in Swindon, producing methane for HGV vehicles. The noble Lord is right that we want to look further at the problems relating to aviation fuel. Unfortunately, in the initial competition, there was only one application from an aviation fuel project. I hope there will be another competition in the near future which will include some more.

Baroness Randerson (LD): My Lords—

Lord Rotherwick (Con): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, I am sorry to interrupt. It is actually the turn of the Liberal Democrats, as we have not heard from them yet on this Question.

Baroness Randerson: Does the Minister accept that we need to work with international partners in order to develop the use of sustainable aviation fuels? Does he accept the importance of the European Union as one of our international partners, so it is important for us to remain a member of the European Union?

The Earl of Courtown: My Lords, the noble Baroness is right in so far as we have to look globally at the whole issue, including what is happening in the European Union. As the noble Baroness will no doubt be aware, we have been working with the International Civil Aviation Organization. In February, we reached agreement with other states in the ICAO on a global CO_2 standard for aircraft, which is all part of the same picture. All new aeroplane designs applying for certification from 2020 will have to be compliant with the CO_2 emissions standard. Designs already in production will also need to comply from 2023.

Lord Brooke of Alverthorpe (Lab): My Lords, when will the consultation be concluded and when will the Government implement it?

The Earl of Courtown: My Lords, as I said earlier, the consultation will start later this year. I do not have any information on when it will conclude but I have read out the areas that we shall be looking at. Of course, I will write to the noble Lord if there is any more information that I can give him.

Lord Rotherwick: My Lords, is my noble friend aware that producing sustainable fuels with high levels of ethanol is not the problem? General aviation has a problem with combustion engines, which do not deal well with high levels of ethanol in the fuel, as the hoses, the filters and the seals are incompatible with these high levels.

The Earl of Courtown: My noble friend is a lot more expert on hoses, seals and other aspects of aircraft engines. He makes some good points and I am sorry that I cannot comment any further.

Local Authorities: Budget

Question

2.53 pm

Asked by ***Lord Greaves***

To ask Her Majesty's Government what assessment they have made of the levels of service provision and council tax following local authority budget decisions for 2016–17.

Lord Greaves (LD): My Lords, I beg leave to ask the Question in my name on the Order Paper. In doing so, I remind the House of my interest as a local councillor.

Viscount Younger of Leckie (Con): My Lords, the Government believe that local authorities, as democratically elected bodies, are best placed to determine the right service provision for the needs of their particular area. We have given them important new flexibilities to enable them to continue to do this in the most cost-effective way. Local authority council tax decisions are published annually as official statistics. The date for the 2016-17 council tax statistical release is 31 March.

Lord Greaves: My Lords, on 8 February, the Minister, the noble Baroness, Lady Williams of Trafford, told me that, if all authorities took advantage of the flexibilities which the Minister has just mentioned, the expected average local council tax increase this year would be 3.7%. Are the Government not concerned that the round of council tax decisions by local authorities this year will produce increases far above the rate of inflation and the growth in wages? At the same time, there are continuous cuts in local government services. Is it not the case that these are all due to the continuing reductions in local government funding by the Government?

Viscount Younger of Leckie: My Lords, first, we acknowledge the important role of councils, including Pendle, which deliver the services on which our local communities depend. However, I take issue with the noble Lord because council tax has fallen in real terms by 11% since 2010 and councils have worked particularly hard over the past five years to deliver a better deal for local taxpayers and have coped well with reductions by reforming the way they work to become more efficient in both back-office functions and front-line delivery service.

Lord Foulkes of Cumnock (Lab): My Lords, is the Minister aware that the SNP has reneged on its promise to abolish the council tax, but instead Kezia Dugdale, the leader of Scottish Labour, has indicated that a Labour Government in Scotland would introduce a more progressive property tax? Is this not something that the Conservative Government should look at for England?

Viscount Younger of Leckie: No, we are not in that position. The Question focuses very much on England and Wales. There are lots of opportunities for councils to make savings, particularly when working with other councils or public sector bodies. We have announced plans to reform the local government pension scheme but there are certainly other areas such as procurement, counterfraud and digital where we can make progress.

Baroness Scott of Bybrook (Con): My Lords, Wiltshire council became a county unitary in 2009. Since then, we have saved £25 million every year in efficiencies from that move. We have used that money to keep council tax down in a difficult time through a recession but have also protected the services which people in Wiltshire consider are important, including investing in others. If that model was replicated across the country, it is estimated that it would save £2.8 billion a year. Does the Minister agree that the Government should now seriously look at implementing this county unitary model across the country?

Viscount Younger of Leckie: We are ready to promote and facilitate local government reorganisation but only where areas want this. I am aware of my noble friend's experience in successfully leading Wiltshire. This is an example of what can be achieved for local people where local government moves to a straightforward unitary structure with clear accountability and strong leadership which is sensitive to local needs. Again, the focus will be on—and has been in Wiltshire—the efficiency of service delivery.

The Lord Bishop of St Albans: My Lords, recently the Campaign for Better Transport has estimated that local authority subsidies for rural bus services are likely to be cut this year alone by £27 million. In Hertfordshire, where I live and work, there have been cuts since 2010 of 62%. Forty rural bus services have seen radical declines and 14 have gone altogether. While I recognise some of the things the Government are doing, not least the serious increase in the rural services delivery grant, will the Minister tell your Lordships' House the long-term plans of Her Majesty's Government to engage with local authorities to ensure that we have proper rural transport as one of the essential elements of rural sustainability?

Viscount Younger of Leckie: The entire point of our devolution revolution is that all authorities will have the power to set their own policy agendas and target their spending priorities to match. Local leaders know best what is right for them and we think it is right that Whitehall does not predict exactly what the cost of a local service will be, including the bus service. But by 2020, when councils will be 100% funded by council tax, business rates and other local revenues, they will finally be fully accountable to their electorate and not to Whitehall. This is devolution.

Baroness Wall of New Barnet (Lab): My Lords, I am sure the noble Viscount is aware that the services cut by local authorities include social care, which, as my noble friend Lord Kinnock referred to in an earlier Question, means a massive increase in the number of people coming to hospitals. Does the noble Viscount consider that that is fair and that it is the right way for a Government who care about the health service to behave?

Viscount Younger of Leckie: The noble Baroness will know that the 2% adult social care precept will raise up to £2 billion by 2019-20, with a further £1.5 billion available to councils to work with the NHS to ensure that care is available for older people following hospital treatment, through the better care fund.

Lord Tebbit (Con): My Lords, is my noble friend aware that those of us who have the privilege of living in East Anglia, particularly those of us who live in Bury St Edmunds, where we have an excellent council which has improved services overall and kept rates well under control, do not need an elected mayor? That will only raise costs, introduce another layer of government and lead to further escalation of these problems.

Viscount Younger of Leckie: That may be so, but I reiterate that we think it is right for the local area to decide these matters.

Schools: Funding

Question

3 pm

Tabled by ***Baroness Eaton***

To ask Her Majesty's Government how much funding per pupil with the same needs can vary by school; and what they intend to do to achieve fairness in funding.

Lord Borwick (Con): My Lords, on behalf of my noble friend Lady Eaton, and with her permission, I beg leave to ask the Question standing in her name on the Order Paper.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, the current schools funding system is not fit for purpose. A secondary pupil with low prior attainment would attract over £2,200 of additional funding in Birmingham, compared with £36 in Darlington. The Government are committed to addressing this unfairness by introducing a national funding formula from 2017, based on pupils' needs rather than purely historic calculations. Fairer funding will mean that every pupil, whatever their background and wherever they live, can achieve to the best of their potential.

Lord Borwick: My Lords, how many different local authority funding regimes are there at present? How many basic funding streams will be present after this change? May I also take this opportunity to wish my noble friend a happy birthday today?

Lord Nash: I am grateful to my noble friend for his good wishes. As local authorities are currently responsible for setting their own funding formula for schools, there are 152 varying local funding formulae. We are currently consulting on our proposals to introduce one single national formula for schools. From 2019, funding will be allocated directly to schools on the basis of that formula. This means that, for example, a secondary school pupil with lower prior attainment will attract the same amount of additional funding wherever they are in the country.

Baroness Armstrong of Hill Top (Lab): My Lords, does the Minister accept that deprivation and need must be part of fairness?

Lord Nash: I agree entirely with the noble Baroness. That will be very much behind our reforms.

Baroness Howarth of Breckland (CB): My Lords, does the Minister also share my concern about services for under-fives, which I know he has come across, where specialist services are funded by local authorities at their whim? I hope that when he is reviewing the schools programme he will also look at under-five services and ensure that they get an equal proportion of funding.

Lord Nash: I assure the noble Baroness that we will look at that.

Baroness Pinnock (LD): My Lords, will the Minister share his initial thoughts on the weighting for each of the fair funding criteria, which are outlined in the government consultation, so we can understand his definition of "fair"?

Lord Nash: As I think the noble Baroness knows, the consultation is in two parts. The first looks at the principles of the policy and the building blocks. We will set out the detailed design in the second part.

Lord Watson of Invergowrie (Lab): My Lords, without suggesting that the current funding formula is beyond improvement, the proposed national formula is another example of the Government's centralist mindset. It is not the latest because, since this was announced, we have also had the White Paper on academisation. However, the national funding formula proposes to remove from head teachers the ability to have any say in the distribution of funding within their local area. Why does the Minister believe that civil servants are better placed, and know more, than head teachers about the funding needs of each area of the country?

Lord Nash: The simple fact is that we inherited a funding formula from the Labour Government which was incomprehensible and confusing and which, through centralist diktats, got more and more complicated. We have to simplify it.

Lord Lansley (Con): My Lords, the Government's announcement of a national funding formula, and its implementation in my own county of Cambridgeshire, is extremely welcome. Following the Chancellor of the Exchequer's announcement in the Budget last week of an additional £500 million to support the introduction of the national funding formula, can my noble friend give an indication of how quickly the transition from the present situation to meeting the target allocations in each part of the country will be achieved?

Lord Nash: We will introduce the national funding formula for schools in high need from 2017-18 but the length of time it will take for all schools to reach their formula will be considered in the second stage of the consultation. We want areas that appear to be underfunded—I am aware that that is the case in Cambridge—to have their funding improved as quickly as possible, but also to move at a pace that is manageable for all schools.

Lord Kinnock (Lab): My Lords, what contribution to fair funding will be made by forcing all schools to become academies, whether they want to or not, and getting rid of parent governors?

Lord Nash: The answer to the first point is that the contribution will be massive efficiency savings as schools collaborating in groups will be able to hire much higher calibre financial people and make purchasing savings. We are not getting rid of parent governors; we are merely saying that governors do not have to be parents. Schools can have as many parent governors as they need. We will also ensure that schools engage with parents on a much more consistent and effective basis than having the odd parent governor if they want it.

Baroness McIntosh of Pickering (Con): My Lords, will my noble friend confirm that the historic underfunding of counties such as North Yorkshire will be rectified by having regard to rural depravity, isolation and rurality factors?

Lord Nash: We are intent on rectifying these issues, but I think that the noble Baroness will have to wait for more detail in the second stage of the consultation.

Lord Harris of Haringey (Lab): My Lords, need and deprivation—I think that that is what the noble Baroness meant—are going to be at the core of the new system. Will the Minister give us an assurance now that in, say, four years' time, when we look back at how this new formula has been applied, it will not simply have benefited Conservative-controlled areas?

Lord Nash: I can give the noble Lord that assurance. It is quite clear that the formula will benefit many areas that are Labour controlled, and it is being driven entirely on the basis that we have a level playing field for all pupils so that we can deliver educational excellence everywhere.

Baroness Hussein-Ece (LD): My Lords, does the Minister think that the very high salaries paid in some instances to the heads of academy chains—some are reportedly paid three times as much as the Prime Minister—is a good use of public funds?

Lord Nash: We set out in great detail in the White Paper our thinking behind multi-academy trusts. Where schools are delivering educational excellence people deserve to be rewarded accordingly.

Lord Cormack (Con): My Lords, from the dubious areas of Yorkshire to the elevated areas of Lincolnshire, surely all schools can benefit from having parent governors. Can my noble friend be a little more encouraging than he was in his answer on that subject?

Lord Nash: I entirely agree with my noble friend that all schools can benefit from that, but we are trying very hard to focus governance on skills, so that people must have the relevant skills. But they may represent all sorts of different groups, and parent governors have a great deal to contribute.

Liaison Committee

Motion to Agree

3.08 pm

Moved by ***The Chairman of Committees***

That the Report from the Committee *New investigative committee activity* (3rd Report, HL Paper 113) be agreed to.

The Chairman of Committees (Lord Laming): My Lords, with the leave of the House I beg to move that the third report of the Liaison Committee be agreed to. I can honestly say that I am delighted to be moving this Motion because I am very grateful indeed to all the Members of the House who worked hard to put forward their proposals for ad hoc committees in the next Session. Once again, this has been a very worthwhile exercise and the Liaison Committee has had an excellent range of topics to choose from.

I also take this opportunity to offer my warmest thanks to the members of the Liaison Committee for the constructive and thoughtful way in which they approached the task of first shortlisting and then

[LORD LAMING]
selecting the proposals to recommend to the House. Sadly, it is of course not possible to avoid disappointing some of our colleagues, but the good news is that they can, if they wish, make proposals in future years. In the mean time, I hope that the House will agree that the committee's recommendations cover a wide range of subjects, which will make excellent use of the talents of the Members of this House, which we are so fortunate to have.

The committee unanimously agreed the following proposals: first, an ad hoc committee on the long-term sustainability of the National Health Service; secondly, an ad hoc committee on sustaining the charity sector and the challenges of governance; and, thirdly, an ad hoc committee on financial exclusion and access to mainstream financial services. We agreed also to recommend an ad hoc post-legislative scrutiny committee to consider the Licensing Act 2003, which colleagues will recall covers a wide range of important matters.

I believe that it is widely acknowledged that Select Committee activity is one of the greatest strengths of this House. The expansion of this activity in the 2010-15 Parliament, with the growth in the number of ad hoc committees from one each Session to three, together with the introduction of a post-legislative scrutiny committee, have been very productive. Your Lordships will also remember that the committee agreed to establish an international relations committee at the start of the next Session, and the report mentions some safeguards in relation to the work of that committee.

I end on the note of thanks with which I began. Both the process that led to the committee's report and the agreeing of it have been a delight. I commend the report to the House. I beg to move.

Lord Tyler (LD): My Lords, I am sure that the House will warmly welcome the committee's recommendations, but perhaps the Chairman could take this opportunity to explain to the House just how items get on the agenda of the Liaison Committee. For example, I think that he will be aware that there is a common view that the proposals in the Strathclyde report may well best be answered by a Joint Committee of both Houses, because they matter for both Houses of Parliament. Is that a matter for which the Liaison Committee could take responsibility?

The Chairman of Committees: My Lords, the position is very clear. Everybody has an equal opportunity. Every Member of the House has the opportunity to put forward topics for discussion. As the report indicates, we had a large number and a wide range of topics. We considered each and every one most carefully. That, I am sure, will continue to be the way in which the system works in future.

Lord Campbell-Savours (Lab): My Lords, I understand that the gathering of signatures in support of applications to the Liaison Committee for particular ad hoc inquiries does not go down very well with the committee. Why not? If 100 Members of this House decide that they want a particular ad hoc committee to be set up, why should the committee then select some item that is perhaps supported by a very few, simply because a majority of the committee at any one time just fancied that subject? This happened when I put in an application for a further inquiry into identity cards. I was supported by a lot of colleagues, who wrote to me, who knew about the application, but I understand that it had minimal support within the committee. We need to find a way of more accurately reflecting what a large number of people in the House might wish to support.

The Chairman of Committees: My Lords, the committee considered the range of options that were put to us. There was a common theme on some topics; others were more individual. We considered each of them on their merits and we have reached the conclusion that we now commend to the House.

Lord Pearson of Rannoch (UKIP): My Lords, I have been able to give brief and informal notice to the Chairman of Committees of my intention to query the wisdom of the selection of our new ad hoc committees. Let me say again, and in agreement with the noble Lord, that the findings of your Lordships' ad hoc Select Committees are one of the most valuable contributions of your Lordships' House to British public life. The experience and knowledge that resides in your Lordships is perhaps unsurpassed by that in any other community in the United Kingdom.

However, at least three of the four selected ad hoc committees, if not all of them, fall into a rather similar category of inquiry, which one could loosely describe as social science. This appears to be at the expense of other important topics. I do not have time to go into all of them, but there is the hugely important and possibly catastrophic subject of antimicrobial resistance, proposed by the former Secretary of State the noble Lord, Lord Lansley. There is better regulation as proposed by the noble Baroness, Lady Deech, which would have gone to the heart of our democracy and how it is working or, rather, how it is not working, with the resultant disillusion among the voting public.

Above all, I would single out the problem of Islamism and the spread of Sharia law in this country, so forcefully and tragically brought home to us yet again this morning in Brussels. I submit that it is wrong of our Liaison Committee not to have picked one of the three proposals to examine this perhaps greatest threat to our present culture. We could, for instance, have had an inquiry proposed by the noble Lord, Lord Foulkes, on global jihadist movements and the international fight against terrorism. There was a proposal from the noble Baroness, Lady Berridge, for an inquiry into our Prevent strategy, whether it is working and, if not, what perhaps can be done about it. Perhaps most simple of all, we could have had from the noble Lord, Lord Williams of Elvel, a committee to examine the spread of Sharia law in communities in the United Kingdom and to assess its social consequences. I feel that the noble Lord and his committee owe the House something more of an explanation as to why these and other committee inquiries were not chosen from the very large number of suggestions that were put forward.

Noble Lords would of course be disappointed if against this background I did not once again protest at the fact that we have no fewer than seven committees looking into our relationship with the European Union, in the form of one main committee and six sub-committees. I know that Europhile noble Lords will

say that these committees are hugely valuable and that the reports that they produce are treated with awe and admiration in the corridors of Brussels, but I have to say that I see no evidence of this. In fact, if we take even the influence of the British Government in the deliberations of the Council of Ministers, we can see that since 1996 the Government have opposed 55 legislative measures in the Council of Ministers and were defeated on every single one of them. If the Government have such little influence in Brussels, I would have thought that the reports of your Lordships' Select Committees have even less. Even if they do have influence, can it be right for us to fund seven of these committees when all these other subjects need to be looked at by your Lordships with the wisdom and authority that our committees bring to bear on every subject that they address?

Lord Foulkes of Cumnock (Lab): My Lords, perhaps I may say a few words, since my name has been mentioned. Indeed, I have received a commendation from a rather unexpected quarter—I am not sure that it is all that welcome, but it is interesting. The topic mentioned by the noble Lord that I put forward was one of six that I suggested, none of which was accepted by the committee—and I am a member of that committee. I agree with the noble Lord, Lord Laming. The members of the committee are all constructive and thoughtful and I go along completely with committee's recommendations. The noble Lord, Lord Laming, conducted the discussion exceptionally well. He allowed full consideration of all aspects. There was no dissent. It was perhaps one of the most constructive ways of coming to a consensus that I have ever experienced in any committee in this House. I hope that the House will accept the recommendations of the noble Lord, Lord Laming.

The Chairman of Committees: My Lords, I am extremely grateful to the noble Lord, Lord Foulkes. The fact that he made a number of recommendations and none was accepted is an indication of the thoughtfulness of the committee and the way matters were approached. We were not intimidated by his presence.

The noble Lord, Lord Pearson, does the committee a great service because he illustrates that we received a range of serious topics and each was very carefully considered. I would not wish in any way to give the impression that the committee thought that some of the topics that have not been recommended today were not worthy matters. That was not the case. The committee took the matters very seriously.

I may be able to give the noble Lord, Lord Pearson, some comfort in that the House has agreed to look again at the committee structure in 2017-18 and it may be that there will be opportunities then to look at some of the matters that he has raised. Although I have never had the privilege of serving on the EU Committee or its sub-committees, I have received consistently good reports about their work and the impact that they have, not only in this country but in Europe and beyond. I hope very much, that said, that noble Lords will be willing to accept this report. I beg to move.

Motion agreed.

Riot Compensation Bill

Third Reading

3.22 pm

Motion

Moved by ***Lord Trefgarne***

That the Bill do now pass.

Lord Scott of Foscote (CB): My Lords, I apologise for raising a point on the Bill at such a late stage. In justification, I read the Bill for the first time this morning. Clause 8(1) states:

"If the decision-maker decides that a claim is valid, the decision-maker must then decide the amount of compensation, up to a maximum of £1 million per claim (the 'compensation cap')".

However, Clause 8(9) states:

"The Secretary of State may by regulations change the amount of the compensation cap for the time being specified in subsection (1)".

So regulations can change the amount of the cap. That plainly leaves it open to the Secretary of State to increase the cap or reduce it, as the case may be. What troubles me a little is that a possible reduction in the cap might make difficulties in relation to claims for compensation that have not come to fruition, are still in the pipeline and undecided. Would a reduction in the compensation cap affect such claims? I raised this point with the noble Lord, Lord Bates, to whom I am grateful for his assistance, and the noble Lord, Lord Trefgarne, the sponsor of the Bill.

The consequence has been that the Minister has had a discussion with Home Office legal advisers, and four points have been made, which I think should be placed on the record, because they will be of assistance in construing this Bill and deciding what effect it should have.

Lord Taylor of Holbeach (Con): My Lords, there is a Motion before the House that this Bill should now pass. This is a formality of the House and I do not believe that there is a substantive case from the noble and learned Lord, who said that he only read the Bill this morning, when it has been before the House and has been properly dealt with by it, or that he should be intervening in this way. I propose that the House consider the Motion that is before it.

3.24 pm

Bill passed.

Access to Medical Treatments (Innovation) Bill

Third Reading

3.25 pm

Bill passed.

Housing and Planning Bill

Committee (8th Day)

3.26 pm

Relevant document: 20th Report from the Delegated Powers Committee

Amendment 89LZA

Moved by ***Baroness Andrews***

89LZA: After Clause 134, insert the following new Clause—

"The purpose of planning

(1) Part 2 of the Planning and Compulsory Purchase Act 2004 is amended as follows.

(2) Before section 13 (survey of area) insert—

"12A The purpose of planning

(1) The purpose of planning is the achievement of long-term sustainable development and place making.

(2) In this Act "sustainable development and place making" means managing the use, development and protection of land and natural resources in a way which enables people and communities to provide for their legitimate social, economic and cultural well-being while sustaining the potential of future generations to meet their own needs.

(3) In achieving sustainable development and place making the local planning authority should—

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

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

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

(d) protect and enhance the historic environment;

(e) positively promote the enhancement and protection of biodiversity so as to achieve a net benefit for nature;

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

(g) positively promote high quality and inclusive design that meets the needs of the maximum number of people, including disabled and older people;

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

(i) ensure, whenever possible, that assets arising from the development process are managed for the long-term interest of the community.""

Baroness Andrews (Lab): My Lords, before I launch into my new clause, I am sure that the whole House will have noticed that we are missing the congenial figure of the noble Lord, Lord Kennedy of Southwark, on our Front Benches. I am sure that the other Front Benches would like to join us in sending him every best wish for a speedy recovery. He was taken ill last night.

Before we move on to dissect the planning Bill in all its glory, I am proposing a new clause, which I hope will bring great spirit and a brighter vision for the Minister about what planning can achieve. The new clause also draws on the recent report of the National Policy for the Built Environment Committee. We have just heard an interesting discussion on the role of the committee and the report was an excellent example of a very thoughtful appreciation of a very complex topic. Our findings, which are based on extensive evidence of how, with the talent and vision we already have among our planners, architects and engineers, we can make better places for the future. That is reflected in my new clause, which sets out the terms of what is possible, with the need to reassert the fundamental and public purpose of planning itself—something that I am afraid we have lost sight of.

Planning is about making places and shaping the future of communities. Therefore, it has a profound impact on our lives in many different ways. Obviously, it includes housebuilding, but it is not exclusively about that; it can determine whether communities thrive or not and whether the future is safe, whether it is healthy or harmful and whether that community is productive or idle. Of all the public services that we have, it is the longest term. The proposed new clause would put in the Bill a positive statement of the public purposes and benefit of planning.

In 1947, the Town and Country Planning Act took its place alongside the National Health Service Act, the Education Act and the National Insurance Act as the foundation of what was intended to be a new, prosperous and socially just society. Without the 1947 Act, London and Brighton would have converged into a huge, ghastly conglomerate. Somewhat immodestly, I suggest that my new clause is in that tradition. What is significant about it—it is unique in my experience—is that it is supported by a host of organisations which look after different aspects of community interest, such as Age Concern, Friends of the Earth, TCPA and Aspire. These organisations know what a difference a good place can make; they share the concerns on this side of the House that the changes in this part of the Bill will make high-quality, accessible, sustainable outcomes more difficult to achieve in the anticipated new developments.

3.30 pm

This amendment specifies what planning authorities need to plan for if they are going to make the best use of land and resources. First, we have the three indivisible elements of sustainability: economic, social and environmental. We need to plan for clear outcomes for health and well-being, for provision for economic development and mitigation of climate change, given the current fragility of the future. Noble Lords may know of the Foresight land use futures project which reported some years ago and concluded that the potential role of land and land use in climate change mitigation and adaptation would be profound. The move to a low-carbon economy will increasingly influence land-use decisions, settlement patterns, the design of urban environments and the choices on transport infrastructure. I wish I thought that the Bill before us had anything like the grip on those issues and the foresight and ambition of that report.

This amendment—and I say this boldly—anticipates happiness too, because happiness and resourcefulness go together. It recognises that the best places to live are those which understand how arts, heritage and culture enrich our lives and create a sense of belonging and identity. It also speaks for the need for rich habitats and green space, all of which are represented

by a paramount emphasis on quality and design. This will create inclusive and resilient communities that will thrive in the future. It will design in health and safety. In short, it offers a prescription for the sort of communities we would all choose to live in. The tragedy is that none of this is even hinted at in this Bill and yet it is not some utopian vision which is and should remain out of reach; it is a practical, cost-effective and eminently far-sighted proposition because it will pay for itself and save lives. Instead we have in this Bill an attempt to wrench the planning system towards a particular, limited and short-term purpose. It is driven by Treasury principles and underwritten by the constant accusation that the current planning system is too slow and expensive and has failed to deliver, especially when it comes to building houses.

If the Minister reads the report of the Select Committee on the built environment, she will see that the evidence we received from the people who build houses makes it clear that while the planning system definitely can be improved, the consistent failures impacting on housebuilding have been the lack of finance, the lack of skills and the dead hand of land banking. This new clause reasserts a holistic view which is fundamentally at odds with what this Bill proposes, which is a fragmentation of the planning system—three new routes to achieve the new status of permission in principle—and a perverse separation of the key elements of any development—location, land use and amount of development—from everything in the technical details section which makes up the look, feel, sustainability and quality of a place and the prospects for its community.

Once again we are in murky waters in this Bill, with instances of definitions and delivery waiting on regulations which we will not see and which it will be beyond our reach to change, and a consultation on how the process is going to work running parallel with our deliberations and not available to us. This is unacceptable.

The Bill is supposed to create greater certainty and speed. I wish I could believe that it will, because that is certainly what housebuilders, developers and homebuyers want, but I am afraid that the Bill and the technical consultation are so complex and so riddled with uncertainties and ambiguities of language, meaning and policy that I simply cannot see it happening.

I am offering the Minister an alternative. If we can put on the face of the Bill this ambitious statement of what planning should be about and the sorts of communities we want to see, we would send a strong signal and a challenge to the planning community that we know what it is capable of and what we have a right to expect from it. The Select Committee was adamant on this point. As a nation, our aspirations for the quality of the built environment have been routinely too low. Only the Government can set a more ambitious path and we urge them to do so. The Minister could make a great start by accepting this modest amendment. I beg to move.

Lord Clement-Jones (LD): My Lords, I have not spoken previously in Committee, but I took part in the Select Committee process and helped to produce the report *Building Better Places*. I support the noble Baroness, Lady Andrews, in this amendment because to a very great degree it reflects many of the conclusions of the Select Committee. It is important that as the Housing and Planning Bill goes through this House it reflects a number of the conclusions of that report. The amendment takes quite a number of those issues in a very comprehensive way and puts them in this new clause.

I pay tribute to the noble Baronesses, Lady Andrews and Lady Whitaker, who were, in a sense, the prime movers behind the setting up of the Select Committee on National Policy for the Built Environment, and, of course, to the chair, the noble Baroness, Lady O'Cathain, who helped drive the report through. The essence of this amendment is that the National Planning Policy Framework guidance is essentially rather weak about placing a duty on sustainable development, and that is what the committee heavily identified.

This amendment has formidable support across the country. The noble Baroness, Lady Andrews, read out a few of the names, but it is extremely comprehensive. The supporters' view, which I entirely endorse, is that planning plays a key role in shaping decisions for the wider built environment as well as in individual buildings and development. They share a concern that current reforms will make high-quality, accessible, sustainable outcomes harder to achieve. This is partly because the NPPF fails to recognise the long-term social and economic benefits of many planning interventions from accessible design standards to green infrastructure and from biodiversity to adequate play space for children. The committee found that the evidence was overwhelming on health, inclusion, climate and economic efficiency and that good planning creates well-being and lower long-term costs to the public purse. The essence of the report was the Committee's statement:

> "Moves towards deregulation of the planning system, coupled with an intensification of housebuilding, have the potential to exert significant enduring impacts upon the built environment in England. A consistent theme across much of the remainder of this report is the need for quality, as well as quantity, and the need to think about long-term implications for 'place', as well as the important and more immediate need for more housing".

It went on:

> "This was a consistent theme throughout much of the evidence that we heard; many witnesses told us that the design, quality and standard of much recent development is simply not good enough. The coordination between different aspects of the built environment is, in places, sadly lacking … We believe that, as a nation, we need to recognise the power of place and to be much more ambitious when planning, designing, constructing and maintaining our built environment. Failure to do so will result in significant long-term costs".

Those are extremely wise words. One only needs to look at one factor, which is heritage. The report states:

> "The National Planning Policy Framework seeks to balance heritage protection and development policies. We believe that it is essential that this balance is sustained, enhanced and delivered. We recommend that planning and development policy and practice should reflect more explicitly the fact that our historic environment is a cultural and economic asset rather than an obstacle to successful future developments",

and so on. If one took every line of the amendment moved by the noble Baroness, Lady Andrews, to which I have put my name, one would find that there are supporting statements in this report.

I very much hope that the Minister and this House will listen to some wise words in this report. We spent many months listening to many witnesses, whose evidence

[LORD CLEMENT-JONES]
quite overwhelmingly says that we need to amend and make much more of the guidance, whether through a new clause like this or through much tighter guidance, to make sure that place is properly taken into account in our planning system.

Baroness Gardner of Parkes (Con): My Lords, I have listened and have been most interested, and I agree with most of what has been said. The only thing I am unhappy about is that phrase "place making". The noble Lord mentioned heritage, which is very important because we are creating heritage for the future. "Place making", however, seems a pretty dull phrase, and I hope that by the time we get to Report, noble Lords may come up with something better.

Lord Inglewood (Con): My Lords, I had the privilege to be a member of the Select Committee on the built environment, and like the noble Lord, Lord Clement-Jones, I have not spoken in this debate before, so I declare the interest I have put in the register.

Planning will not go away—that seems certain. Whatever side of the House you sit on, there has to be a recognition that planning will continue on our island because of the number of people we have and the appropriate amount of land we have. Against that background—I spent the first decade of my working life working in and around planning matters—there is obviously an enormous amount of controversy about what might happen, and so on. However, the perennial problem as I have always seen it is that people get bogged down and put off by the mass of detail that surrounds this topic, and we need a consensus across the political divide and across the rural and urban communities about the generality of what planning is all about.

My noble friend Lady Gardner quite rightly said that the word "place" is perhaps not the most romantic or exciting sounding word, but it conveys a very important phenomenon. As the noble Lord, Lord Clement-Jones, said we want people in this country to live in a decent place in a decent environment, because that in turn will generate a much better quality of life for them and their families. While I am not unhappy with the detailed wording of what is proposed in the amendment, there is a case for saying that if we can find a brief form of words that would encapsulate what land use planning in this country is all about—and the emphasis will change over time—it would be to everyone's advantage, not least because the generality of the direction in which policies will subsequently be developed will be set in a framework.

Baroness Whitaker (Lab): My Lords, I declare an interest as a fellow of the RIBA. I thank the noble Lord, Lord Clement-Jones, for his kind words about the Select Committee and endorse the importance of this amendment. I will add only one point, as I agree with almost everything that has been said so far. Planning is one of our vital professions, but it has suffered in recent decades in prestige, status and most recently in numbers, as local authorities have cut services, whose value they have come to appreciate less. A clause like this one would return the idea of vision to the career of planning, which sorely needs it. I hope the Minister will understand that we need to revitalise the career of planning so that the places which are made as a result of a development are truly places in which people thrive.

3.45 pm

Lord Shipley (LD): My Lords, I agree with what has been said so far in this debate. I want to emphasise that this is an extremely important amendment because it underpins so much of what follows. It provides the framework within which individual policies can be devised to secure sustainable development and sustainable place-making, and it is important that we have something in the Bill that emphasises that importance of planning.

Two years ago I chaired the University of Birmingham's policy commission on future urban living. As we took evidence, it became very clear that it was going to be very difficult to make significant change without an enhanced planning system to lead it and a better understanding of why it matters. We concluded that planners must not be seen simply as regulators. That is increasingly the way in which the role of the planning profession in local government has gone. Planners have to be seen as part of a senior management team of a council with a specific role in achieving long-term sustainable development and long-term sustainable place-making. I use that phrase because it is the one that is in common parlance when discussing planning.

It is very important that officers of councils have a broader responsibility in planning than simply regulation. Achieving all this requires a radical upgrade in the importance of planning to attract back the multidisciplinary creative talent that was once prevalent in planning departments. For that reason, the objectives of this amendment are very important because they explain the role of planning as a multidisciplinary function in the local authority. As the noble Baroness, Lady Andrews, said, in recent years we have lost sight of the importance of planning. I agree absolutely with that. I think it is a very important statement.

As the noble Lord, Lord Inglewood, has just pointed out—I think I am quoting him correctly—it is important that we capture land-use planning. This is very important, and it is absolutely right that we should.

Lord Porter of Spalding (Con): My Lords, I remind everyone that I declared a bunch of interests at the start of the debates. I am going to add another one now, seeing that the NPPF has been mentioned. I was one of the four practitioners who wrote the original draft of the NPPF, and I confirm that it is not necessary to add this set of words to the Bill, because that is what the NPPF already does. It is about sustainable development, and that will be determined individually by each council with each application in its area. Putting something in the Bill will limit the ability of councils to deliver what we need to deliver.

Unlike noble Lords who have spoken before, looking through rose-tinted glasses, about what the world has become since 1947 and the planning Act, I remind noble Lords that the tower blocks that we have started to knock down were once seen as iconic buildings of the 1947 Act. I am not sure that we want to go back to

that world. Probably my final statement on this will be that this fantastic building that we all have the privilege of operating from would not have been built under the 1947 Act.

Baroness Morgan of Ely (Lab): My Lords, I set on record my best wishes to the noble Lord, Lord Kennedy, and wish him a speedy recovery. In this Bill we have a half-baked, ill-thought-through set of proposals. Parliament, local government, housing providers and the voluntary sector have been treated in a high-handed manner in the development and consultation of this Bill. No regulations have been produced, and the Government freely admit that regulations will, for the most part, not be available until many months after this Bill has become an Act of Parliament. All we have been offered is an expression of frustration from the Government at that fact. This is not a good way to pass legislation that stands the test of time. It is, however, definitely the way to pass legislation that is quickly discredited, not used, and fails everyone—a bit like the recent Budget.

Amendment 89LZA, proposed and set out passionately by my noble friend Lady Andrews and supported by the noble Lords, Lord Clement-Jones and Lord Greaves, seeks, as we have heard, to put in the Bill this new clause, which sets out the purpose of planning. It is a set of principles to which planners need to adhere. Since 2010 there have been a number of changes to the planning process, as we have heard. It is good that we have an expert here from the National Planning Policy Framework, which sets out how local people and local councils can produce their own local plans. The Localism Act 2011 gave specific powers to local authorities and local communities to develop planning policies, but this amendment would help to give a framework for that decision-making process. I acknowledge that it is generally accepted that sustainability needs to be considered, but the amendment would put it on the face of the Bill. That is why it is important for everybody to be absolutely clear about what we are trying to achieve. If the Minister has any objections, I would like to know exactly what they are.

Viscount Younger of Leckie (Con): My Lords, before I begin, I want to echo the views expressed by the noble Baroness, Lady Andrews, about the noble Lord, Lord Kennedy of Southwark. From the government Benches, we also wish him a speedy recovery.

I thank the noble Baroness for her comments on her amendment. I agree that sustainable development is integral to the planning system and that a plan-led approach is key to delivering it—which were almost the precise words of the noble Lord, Lord Clement-Jones. However, I do not believe that the amendment, although well-intentioned, is necessary to secure sustainable development through planning.

The Government have put local and neighbourhood plans at the heart of the planning system. We abolished top-down regional strategies and devolved more power to local communities through neighbourhood planning. This puts local planning authorities and communities at the forefront of shaping a vision for their area and deciding how to meet their development needs. Our commitment to a plan-led system is underlined in national policy and is at the heart of the current system that has the development plan as the starting point for decisions on planning applications. We have also made clear our commitment to getting local plans in place and streamlining the local plan-making process.

The amendment would make sustainable development a legal purpose of planning and provides detail on objectives that plan-making authorities should deliver. However, I believe that this is already addressed in both legislation and policy, and that the proposed amendment would not achieve its objective.

Section 39 of the Planning and Compulsory Purchase Act 2004 already sets out that bodies preparing local development documents should do so with the objective of contributing to the achievement of sustainable development. As my noble friend Lord Porter said, our National Planning Policy Framework is clear that sustainable development should be at the heart of planning and be pursued in a positive and integrated way. The framework is explicit that the purpose of the planning system is to contribute to achieving sustainable development, and that the three pillars of the environment, society and economy are mutually dependent and should not be pursued in isolation. It makes it clear that policies set out in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. Taken together, these requirements ensure that the principle of sustainable development runs through all levels of plan making; that is, strategic, local and neighbourhood. Because decisions on individual applications must by law be plan led, the goal of sustainable development permeates the planning system as a whole.

While I fully agree about the importance of sustainable development, I do not believe that setting out an exhaustive definition of it, as under the proposed amendment, is the right way to ensure that local communities take a leading role in contributing to its achievement. The amendment would require those involved in planning to satisfy a prescriptive, eight-part definition of sustainable development. This would add considerably to the complexity of the system, pose significant practical implications and take no regard of the individual contexts that local planning authorities have to address. My noble friend Lord Inglewood alluded to those matters.

The added complexity introduced by the amendment would likely result in more legal challenges to plans and planning decisions. It could have the unintended consequence of discouraging local planning authorities from preparing plans and discouraging applications from coming forward.

Placing in statute such a lengthy, statutory definition of sustainable development which applies to all planning decisions, including on applications, is unrealistic. How would a person applying for a loft extension prove that their development complied with the amendment's proposed principle to,

"contribute to the vibrant cultural and artistic development of the community"?

Nor does it take account of the fact that sustainable development is an evolving concept. I believe that sustainable development needs to allow for future progress in our understanding of what is sustainable.

[Viscount Younger of Leckie]

We want to ensure that all local authorities can effectively plan for the individual needs of their areas, and that they are able to respond to changing demands. The amendment would impose an additional, and unnecessary, legal burden on delivering the homes and sustainable growth that this country needs.

The noble Baroness, Lady Andrews, raised the matter of the report of the House of Lords Select Committee on the National Policy for the Built Environment. We are, of course, carefully considering the committee's findings and will issue a government response in due course, and perhaps that gives her some reassurance. I hope that this also provides a little reassurance to the noble Lord, Lord Shipley, that we attach considerable importance to this matter. However, I must disagree with the noble Lord, Lord Clement-Jones, that the National Planning Policy Framework is weak with regard to sustainable development.

To take up a point raised by the noble Lord, Lord Clement-Jones, which focuses on heritage, as we heard, it is a matter for the conservation and enhancement of the historic environment and is one of the key principles of the national planning policy. The national planning policy recognises that the historic environment can be a stimulus to economic development by acting as a catalyst for regeneration and inspiring high-quality design. It requires local authorities, in developing a positive strategy for the conservation and enjoyment of the historic environment, to take account of opportunities to draw on the contribution made by the historic environment to the character of a place. It sets out a clear expectation that all planning processes should respond to local character and history, and that local authorities should look for opportunities for new development in relation to heritage assets to enhance or better reveal their significance.

I hope that the noble Baroness will be somewhat reassured by my explanation and will be prepared to withdraw her amendment.

Baroness Andrews: I am grateful to the noble Viscount for his reply, and I am particularly grateful to everyone around the Chamber who has supported the proposed new clause. There was a stark contrast with the enthusiasm shown by Members of the House to the response of the Minister, and to an extent the Minister's response was predictable—if not rather nervous, I thought. I can understand, having been in the position that he is in, how difficult it is sometimes for a Government to accept a positive statement of policy in a Bill, but it has happened in the past—I think of the Children Act 2004 and the paramount importance of the child. All I am asking for in this proposed new clause is that a statement for the positive purposes of planning be put in the planning Bill. We may not have another planning Bill for some years. I have difficulty in understanding quite why it would be a deterrent to local authorities rather than something of an inspiration.

We all believe, as the noble Lord, Lord Shipley, said, that planners have tremendous creativity and a great role to play in the shaping of the future community. I understand perfectly well that we have definitions of sustainable development in other planning Acts, and I know how hard it was to achieve them. I also know that the final draft of the National Planning Policy Framework, which was crawled over by many consulted bodies, is an excellent document, but it took some arriving at. However, I do not think that that is a substitute for having something in the Bill which simply says that in this country we believe that planning has a significant role and can actually achieve more than it is likely to achieve without having such a statement of purpose.

Although I will withdraw the amendment at this point, I would like to consider with colleagues around the House whether it would be worth bringing it back, possibly in a different form, at the next stage.

Amendment 89LZA withdrawn.

Amendment 89LZB

Moved by ***Baroness Andrews***

89LZB: After Clause 134, insert the following new Clause—

"Duty to deliver accessible housing

(1) Part 3 of the Planning and Compulsory Purchase Act 2004 is amended as follows.

(2) After section 39 (sustainable development) insert—

"39A Duty to ensure supply of wheelchair-accessible housing

(1) An English planning authority must carry out its relevant planning functions with a view to ensuring the adequate supply of accessible and adaptable dwellings and wheelchair-user dwellings in England.

(2) A local planning authority in England must have regard to any relevant guidance given by the Secretary of State in carrying out the duty under subsection (1).""

Baroness Andrews: My Lords, this is a very different sort of amendment, and it is about a different sort of priorities. Our decisions, wherever we make them in government, should be about giving priority to people whose needs are evidently greater than ours and whose potential is diminished because those needs are not met. One of the many failures of the current Housing and Planning Bill, as has been pointed out over many days now and with regard to many aspects of the Bill—from starter homes to pay to stay—is that it marginalises people who are in real need and who cannot take advantage of market forces. This amendment is about one such group: disabled people with mobility difficulties, whose outstanding need is for accessible and adaptable homes.

4 pm

In the debate so far, noble Lords such as my noble friend Lady Lister, who is not in her place at the moment, have raised extremely important questions about the housing needs of disabled people and the need to ensure that the existing stock is protected. But we have heard very little indeed about the need to plan and provide for the needs of disabled people in the present or the future. There has been no place for them so far in the debate on starter homes, let alone when it comes to planning for the needs of the whole community. I am bound to reflect on the fact that in this week of all weeks, when the position of disabled people has come under such scrutiny in relation to tax breaks for better-off people, yet again we have an instance where the thrust of policy is towards those who can afford a

reasonable amount of money for a starter home and where a Bill is silent on the needs of people who have no voice.

There have been few opportunities so far to address the needs of working-age families, let alone the predicament of elderly and disabled people. The noble Baroness, Lady Greengross, will speak to her amendment, which in a way is twinned with mine. We have done so much together in recent years on lifetime homes and we are in harness here. To give a very short background, it is only when one has experienced limitation on mobility that one understands the nature of the obstacles, which are everywhere, to having a full life. I have not, and therefore I can only imagine the frustration and anxiety, and we are not short on imagination and data. The most recent data consistently show that the majority of housing in England has very poor levels of accessibility. The English Housing Survey 2012 found that 95% of the total housing stock—that is, 21.5 million homes—is not fully visitable by disabled people, and are hardly compliant with lifetime homes standards in their lack of basic features. In short, disabled people are simply shut out of 21.5 million homes in this country.

What is a nuisance for many is infinitely worse for disabled people, and the situation is deteriorating. The number of disabled people waiting for a home that meets their needs has risen by 17% in the last five years. Aspire, which has been very helpful in framing this amendment, has found that 86% of people with a spinal injury are unlikely to be discharged into a home that meets their physical needs, and 300,000 disabled households live in accommodation that is simply unsuitable. That comes from Leonard Cheshire Disability. Some 24,000 wheelchair users are in urgent need of wheelchair-accessible social or affordable housing. Many others, of course, need to be able to rent or buy suitable homes.

We all know that it is a truism that poor housing means poor health, but for disabled people living in places that reduce their ability even further it has a massive impact on their physical and mental health. I refer noble Lords to a recent report by Loughborough University, *The Health and Wellbeing of Spinal Cord Injured Adults and the Family: Examining Lives in Adapted and Unadapted Homes*. What is described in that report makes for pretty dreadful reading: the anxiety, the loss of independence, the loss of opportunity and the sense of despair. One person simply says:

"It's depressing living in here, like this, in a house that doesn't meet my basic needs … I'm at rock bottom … I just sit here. I can get to the back door but that's as far as I go".

Those of us who have the luxury of free movement should try to imagine that. Living in an unadapted home means not being able to do the necessary things, let alone the desirable things such as getting out and about, and 30% of the research participants in this study reveal that they had even contemplated suicide.

The other thing we know is that the costs fall on the NHS and the social care budget: there are more weeks in hospital waiting for suitable accommodation; a bed in an NHS spinal unit costs £960 a day; the cost of one hour's social care a day is £5,000 a year. But if the kitchen and bathroom are inaccessible, it is a lot more than that. Some 200,000 starter homes are being planned without the slightest reference to what local people with disabilities might need or make use of. It is that lack of awareness and of ambition that prompted me to table the amendment.

The Minister will no doubt tell me that the NPPF requires local planning authorities to meet the housing needs of disabled people in their local plans. Will he tell me how many LPAs have actually identified this need and reflected it in their local plans? How many local plans are still incomplete or not signed off? How many LPAs actually know how many wheelchair users they should provide for?

There are some outstanding local authorities. Brighton & Hove, for example, has used Section 106 to require developers to include accessible affordable homes in their schemes. Another, Dartford Borough Council, has in the past enabled the development of accessible, affordable homes through granting exemption or relief from CIL, and, of course, the GLA has been an outstanding leader. But they are the exceptions. The fact that they have to use Section 106 and CIL to incentivise the development of accessible homes demonstrates the extent of market failure and the market's inability to develop such housing.

It is a simple argument: if one council can do it, all can. All local authorities need to know the extent and diversity of the need in their local area and be able to plan how best to meet it. Some are better at planning and providing than others. The amendment we tabled is very simple: it seeks to raise the debate by seeking to impose a duty on all local authorities specifically to assess the level of need for accessible, adaptable and wheelchair-user dwellings, and make this explicit in local plans. This would establish a statutory footing for the future supply of what is so desperately needed. I beg to move.

Baroness Greengross (CB): My Lords, I support the noble Baroness, Lady Andrews, in this very important amendment. She described it and made her case so beautifully. I rise because I spent six years as a commissioner in the Equality and Human Rights Commission. I am very much aware that people with disabilities are, rightly, a protected group in our country. Therefore, not complying with the amendment might be seen even as discriminatory by many people. Even more importantly, it would not be the right thing to do. What is the point of being in a protected group if there is no possibility of you being able to live in a local housing project? It is just logic; we have to do something to fulfil our obligations and do so with a good will.

The number of people with disabilities is rising. Thankfully, they, like any other person in our society, have a much better chance of survival than previously. This means that an appropriate proportion of housing in any development should be fully accessible to wheelchair users, as the noble Baroness has proposed. Therefore, I support her very important amendment.

I turn now to the amendment standing in my name in this group. As Mark Twain so famously said:

"Buy land, they're not making it anymore".

During Committee, a host of ideas have been put forward as to what we should do about the severe housing shortage facing us as a nation. While a large

[Baroness Greengross]
number of the ideas that have been put forward are great in theory, unfortunately some of them do not always work in practice, as has been repeatedly demonstrated in some of the debates we have already had, while others have been proven after many years of successful practice.

One such is retirement housing for older people with supported care needs. This is often called "extra care retirement housing", which might not be the best name for it. There are others, often called "close care", or they may be part of a retirement village. They are provided by a whole range of providers in the public, voluntary and private sectors. Such developments are not merely housing schemes designed without stairs, with grab rails and so on for older people; they offer older people a whole lifestyle, providing independent living, where many of the day-to-day chores are taken care of, and where support services come into play if they are required. People there have the reassurance of knowing that trained help is on hand if they need it. There is a restaurant that provides not just food but company when they wish to go there. There is a lounge or lounges available with activities to take part in. There is a guest suite, so that if the family wants to come to stay, it can. There are also 24/7 alarm calls and monitoring by those who understand the needs of older people.

During the years, I have met hundreds—in fact, probably many thousands—of older people in this and other types of housing. Because of my experience, my husband and I were able to ensure that my mother spent the last five years of her life in extra care retirement housing. She lived there, and died happily in her own home, with friends and family around her. I want many more people to have that opportunity.

The case for providing extra care retirement housing goes much further. At the same time as providing all these services, it also offers direct benefits to both local and national government because it brings down the costs of both health and welfare provision. This has already been said in relation to people with disabilities. I declare an interest as I head up the think tank, the International Longevity Centre UK. A study by the ILC in 2011 showed—to take just two examples—that extra care residents are less likely to be admitted for overnight stay in hospital and that they experience fewer falls. The study also showed that around 19% of those aged 80 or more, living in the community and receiving domiciliary care, were likely to move into institutional or residential care, while only 10% of people in extra care housing were expected to do so. That cuts the numbers by more or less a half. So as well as enhancing well-being for many, it keeps older people at home for longer and gives them opportunities to have a full life and to contribute to their communities because they still live in them.

There was a lady I knew who was totally disabled and in her late 70s. Her MP used to speak to me about her often because she was in awe of her; sadly, she died recently. This lady was about the best telephone campaigner in her area and she often terrified her MP. She was able to be in her community and be a resource in that community.

This amendment does not try to spell out quotas or targets but it ensures that there is a legal duty on people who make decisions on planning applications to have special regard to the need for such provision in the community. As such, I hope that it will be acceptable to your Lordships' House. For me, extra care retirement housing—or housing of that type—ticks all the boxes. It adds to the housing stock; it encourages downsizing where appropriate. At a time when everyone is rightly concerned about the availability of finance, it releases funds that would otherwise be spent on health, social care and other forms of welfare provision. It truly is a win-win situation.

Lord Greaves (LD): My Lords, I shall say a few words in support of the amendments tabled by the noble Baroness, Lady Andrews, which I signed with some enthusiasm, and by the noble Baroness, Lady Greengross.

Looking back over the past 40 years during which I have been involved in housing issues, it seems that the drive and impetus to provide adequate housing for disabled people across a range of level of disabilities, together with the drive to provide better housing for older people, has faltered. As part of the current wish of people across the political spectrum to have more houses built, simply building them has a higher priority than what kind and quality of houses are built. That is something which I read right through this Bill. I hope that I am wrong, but that is how I read it.

4.15 pm

A long time ago, in the late 1970s, when I was chairman of the local housing committee, one thing that we did year after year was build a small number of properties for disabled people. Those properties are still there and people are still benefiting from them. However, such properties are no longer being built. As more and more people live longer and longer, more people become disabled. It will happen to most of us at some stage in our lives. However, it seems that we cannot look ahead and plan for it. As far as housing for older people is concerned, as a society we still have not found ways of providing good endings to the lives of many people. We know how to do it in many cases, as in the examples mentioned by the noble Baroness, Lady Greengross. We know what to do and what kind of provision should be made, but it is simply not a priority. We should all be very ashamed of that. Many of us may suffer at the end of our lives as a result, if the experience of our final years is not as good as it could be, although we do not know whether that will be the case. Housing is crucial to this. Both these amendments are worthy, particularly that of the noble Baroness, Lady Andrews, as it would place a duty on local authorities to look at this matter and consider it in all their planning policies for new housing. That is critical.

Lord Swinfen (Con): My Lords, I support the amendment in the name of the noble Baroness, Lady Andrews. I have been in this House since 1977. During that time, the number of Members on the mobile Bench has increased considerably. When I entered the House, I think there was one, possibly two. That is an example of what is happening in the wider world around us, where you see more and more people using

wheelchairs. More of us are living much longer because of the improvement in medicines and doctoring. That means that more people will need wheelchairs.

A property that is built for wheelchair use does not preclude it being used by people who do not need wheelchairs. However, those who move into that property when they do not need a wheelchair will not have the expense and complete upset of having to move home when they do. The more residential property with proper wheelchair access that is built, whether it comprises blocks of flats or individual houses, the better. Make it easy for one and you make it easy for all to keep people in their homes. Most people want to stay in their homes permanently. I strongly support the noble Baroness's amendment which would also cover most of what is required by the noble Baroness, Lady Greengross.

Baroness Hollis of Heigham (Lab): My Lords, I shall add a quick comment. Of course, I support my noble friend's amendment and the absolutely spot-on comments of the noble Lord, Lord Swinfen. However, quite a number of elderly people suffer from disabilities which do not confine them to a wheelchair but still require aids and adaptations to be built into the property. For example, they cannot lean over to open a window if the windows are too high and stiff; their arthritic hands make them incapable of that. They cannot manage plugs at floor level because they cannot stoop and bend. These have to be sited at about waist height: suitable for anybody, whether in a wheelchair or not. They will need surfaces in kitchens which are, if you like, on Ladderax and can be adapted as they become more physically immobile but not necessarily confined to a wheelchair. Many of them will, alas, go on to suffer from mental health deterioration such as Alzheimer's and so on. They will need smart gadgetry in their homes. In my city, the estimates for building that in when housing for older people is built are around £10,000. If you try to retrofit, you quadruple that cost.

I do not disagree in the slightest with the remarks that have already been made: I very much support them. However, I hope that we take a wider view of the increasing frailties that are being generated among elderly people. Many of them will be in wheelchairs; many will have disabilities and frailties which are not wheelchair-related. They may be hard of hearing; they may have difficulty getting into the house. In my housing association's sheltered housing scheme, one of our most difficult problems now is retrofitting space for mobility scooters and their charging. The housing was built 20 years ago, when mobility scooters, as we know them, hardly existed. Now there may be 15 to 20 mobility scooters in a scheme of 40 households, but nowhere to park them or plug them in. There is a real problem of space standards here. I know that it is hard to think forward and we will always end up retrofitting, but I hope that the Government will take this away and consult with architects and companies like Habinteg which have very wide experience of disability needs in house-building, to see what that agenda should look like for the next 20 or 30 years.

Baroness Gardner of Parkes: My Lords, this case has been made very clearly, but I will say something about the adaptation of homes, because I was chairman of social services and knew quite a lot of places. Often, a home is adapted for someone for their life and readapted several times. That is excellent, but it is important that, after that person has gone, the adaptations are not just thrown away, as I saw happen far too often. The home should be used again for someone else in a similar situation.

Baroness Morgan of Ely: My Lords, the accessibility of housing stock to people with mobility problems remains woefully low and more needs to be done by the Government to increase the number of homes where people with disabilities or mobility problems can live. By increasing the supply of homes that are accessible to people with disabilities or who have mobility problems, we will help people with care needs to be able to stay in their own home for longer and, potentially, reduce the costs on other services. The whole area of adult social care needs careful consideration. The benefits and challenges of living longer need to be addressed. We need to ensure that people can live rewarding lives for as long as possible.

We need to bear in mind the fact that people are likely to spend 20 or 30 years in retirement. It is, therefore, important to focus on this when we are developing policy. My noble friend Lady Andrews was absolutely correct to draw the attention of the Committee to the self-inflicted damage done to this Government by their treatment of the disabled in the Budget last week. By accepting this amendment, they might make up some of the massive territory that they lost with the disabled community this week.

The noble Baroness, Lady Greengross, with her wealth of experience, is someone the Government really should listen to. Amendment 89LZC, in her name, requires that planning authorities, or the Secretary of State, should have special regard to the local need to provide adequate and appropriate accommodation for that ageing population. We support that position. Amendment 102, in the name of my noble friends Lord Kennedy and Lord Beecham sets out to put, in the relevant regulation, the fact that new dwellings should meet the nationally described space standards published in March 2015. This amendment is only putting into the schedule to the Bill the Building Regulations standards agreed by this Government and I hope the Minister can accept it.

Lord Swinfen: The noble Baroness is castigating the Government for the way that developers are building residential accommodation. Should she not be castigating developers for not thinking about how much longer their residential property could be used if it were properly designed in the first place? The Building Regulations are there, so developers need to produce answers not just the Government.

Baroness Morgan of Ely: Absolutely, but it would make sense for the Government to ensure that developers are absolutely clear about their responsibilities. These amendments would send a message to those developers: that they need to take this on board and that it is in their own interests to ensure that these provisions are made.

Lord Stunell (LD): My Lords, I support the amendments that the noble Baronesses, Lady Andrews and Lady Greengross, have brought forward. I will also speak briefly on Amendment 102, which the Labour Front Bench has just referred to.

I agree with the points raised by those who proposed the amendments. It is absolutely the case that the population demographics of this country require housing to be much more adapted, adaptable and enduring in its adaptability. The noble Baroness, Lady Gardner of Parkes, made the very good point that once adapted a property should, wherever possible, be put to continuous good use. It should certainly not be made unaccessible by subsequent occupiers.

I want to pick up a point arising from Amendment 102 about introducing into Building Regulations minimum standards for internal spaces. The standards published last March in fact cover some of the ground that these amendments cover and so I ask the Minister not to put too much weight on the additional cost, and the therefore likely reduction in the number of homes built, as a result of adopting any or all of these amendments. The reality is that, if the building industry is told to do something through regulations or enforceable codes, while it may grumble, it will do it. The additional cost will then rapidly be taken out of the equation because of the number of properties built.

In that respect, I want to draw the Minister's attention to some remarks made by the chair of the Berkeley Group reported in the magazine *Building* a week or two ago—he was referring to affordable housing but I am sure his point is just as relevant for accessible housing. The article says:

"Tony Pidgley has said the government needs to impose a fixed level of 'affordable' housing on every development if it wants to tackle the housing crisis. Pidgley said if ministers insisted on a … rule developers would just get on with it".

That is a critical point for the Government to understand. The industry will always grumble and complain that it does not want to do things and this can be used as an excuse by Ministers and civil servants to reject amendments like those in front of us. I hope that the Minister will steer clear of that argument.

Baroness Scott of Bybrook (Con): My Lords, I was not going to speak on this, but I would like to say a few words. Nobody can disagree about the importance of people with specific needs having specific housing. I know about this personally as my eldest daughter is in a wheelchair. She is very lucky: she has an accessible house with an accessible bathroom and kitchen—you and I could not use that kitchen; I can assure you, I have tried. But I cannot support this amendment. Local authorities understand the changing demography of their areas, and I do not want the Government telling those who know their people what type of housing they should have. I fear that an amendment such as this will end up with quotas and those quotas will not fit the demography of that particular place. At certain times, yes, you do need places and all of us probably need places for older people, but some areas need more than others. It is the same with disabled people and specific places for specific disabilities. I ask that we do not agree to this amendment and we allow flexibility in local areas for their specific needs.

4.30 pm

Lord Campbell-Savours (Lab): My Lords, I profoundly disagree with that case. I will refer a little later to my own experience of dealing with these matters.

I understand from the DCLG website that older people now occupy nearly one-third of all houses in the United Kingdom, and nearly two-thirds of the projected increase in the number of households over the next 17 or 18 years will be in households headed by someone over 65. We have an ageing population going into housing all over the country, the vast majority of which is simply not intended for that purpose and has not been adapted. Very often, the people who are moving cannot afford to adapt the housing because they fall within a means-testing system, which sometimes they find embarrassing or sometimes leaves them on the margin and they do not really want to spend the money.

I understand that the Government have introduced a disabled facilities grant, home improvement agencies and FirstStop advice centres. The National Planning Policy Framework asked local authorities to assess housing requirements, including for the elderly. But that is just not enough.

In a case that I was involved in—and I understand it is quite common because I talked to the salesmen from the various lift companies, such as Stannah and Acorn, who visit people's homes—the issue was the depth of the stairlift. Many stairlifts on the market can be fitted only in homes that have stairs of a certain width. Many homes cannot take British lifts and people buy the German lift because that is a narrower lift going up the stairs. I would have thought that it would be simple for the Government to insist, whether through the Building Regulations or whatever, that when companies are building houses, the stairs are of at least a certain width to enable lifts to be fitted when, inevitably, they will be required in a very large number of homes in the United Kingdom as the population of this country gets older and we reflect on the statistics on the huge increase in households headed by people over 65.

Dealing with the point that the noble Baroness has just made—she has reservations about quotas and so on—I cannot see why we cannot lay down really important standards of that nature so we can get over the problem. That is exactly what the amendment in the name of the noble Baroness, Lady Greengross, deals with. It refers specifically to the requirement to,

"have special regard to the local need for such accommodation".

There is no reason at all why most houses cannot be built within a spec that is easily adaptable for disabled requirements.

Viscount Younger of Leckie: My Lords, before I respond to the amendments, I will make some introductory remarks to set today's discussions in context.

This Government want to see new homes and places that communities can be proud of and which stand the test of time. We want to ensure that the appropriate infrastructure is in place when and where it is needed. We also want to see high-quality design creating places, buildings or spaces that work well for everyone, look good and will adapt to the needs of future generations. All sections of society have a role to play.

The Government have a leadership responsibility in setting the overall planning framework. Local government plays a critical role in the delivery of great places, applying the principles of the framework to fit the local context. For example, through the National Planning Policy Framework, we require local planning authorities to plan proactively to meet the local housing needs in the area based on the needs of different groups in the community. Through their local plans, planning authorities set out the vision for the local area, the types of housing they need, and their expectations for the design quality of the built environment, including standards of individual dwellings.

The amendments all tackle very important issues but, as I will explain, it is not necessary to place new requirements on local authorities. Amendment 89LZB, proposed by the noble Baroness, Lady Andrews, places a requirement on local planning authorities that in carrying out their planning functions they ensure the adequate supply of accessible and adaptable dwellings and wheelchair-user dwellings in England. National planning policy sets out clearly the need for local authorities, through their local plan, to plan for the housing needs of all members of the community and that planning should encourage accessibility. We expect them to work closely with key partners and their local communities in deciding what type of housing is needed.

The introduction of optional requirements for accessibility in the building regulations provides local authorities with the tools needed to ensure that new homes are accessible and that, in particular, the needs of older and disabled people are met. Some areas, including London, are already making use of these standards. I believe it is right that decisions on how and where to apply these standards should remain with local authorities.

The noble Baroness, Lady Andrews, raised the issue that there are not enough accessible homes and that councils are not compelled to make provision. She is correct to say that, in viewing the housing stock in England, only a limited number of homes are accessible, but that is not the result of current policy. It is because of the historical failure to plan for accessible housing, which I think the noble Baroness and I agree on. As a Government we are taking up this important challenge, which other Governments have not done.

Building regulations for accessibility were introduced only in 1999, setting minimum standards for step-free access and downstairs lavatories, and to ensure that doors and corridors are accessible. It should therefore be no surprise that the vast majority of existing housing is lacking in some or all those features. But current policy ensures that, at the very least, in new homes these minimum standards for accessibility are met. We have introduced higher levels of accessibility into the building regulations which local authorities can apply in relation to need. In London, a requirement in planning policy is for 90% of homes to meet category 2, which is accessible and adaptable dwellings, and for 10% of homes to be category 3, which is wheelchair-user dwellings. Other planning authorities can and do set different requirements, and my noble friend Lady Scott raised the important point about the flexibility needed in a local area.

Independent research undertaken as part of the *Housing Standards Review* indicated that 76% of local authorities already have policies for accessible and adaptable housing standards in their local plans. The expectation is that this will continue to improve over time, and the same research indicated that between 2005 and 2014 the number of local plans adopting lifetime home standards had increased from 35% to 60%. We expect this trend to continue and we should allow our current policies to bed in before considering further action.

The noble Baroness, Lady Andrews, asked how many people need accessible housing. I am pleased to tell her that the planning practice guidance which we have published is very informative in this respect. The English housing survey for 2011-12 tells us that around 30%—29.8% to be specific—of households include a person with a long-term illness or disability, and in 2007-08 some 3.3% of all households included one or more wheelchair user. The data in the planning practice guidance provide further sources of census, population, rental, housing and payments statistics which are important to help in the evaluation of specific local needs for accessible homes.

I thank the noble Baroness, Lady Greengross, for her Amendment 89LZC. I agree that it is important that we plan to meet the needs of all members of society. In particular, since this country is expecting the number of people over 65 to reach about 17 million by 2035, it is important that we plan specifically for the needs of older people. This point was well made by the noble Lord, Lord Campbell-Savours. I recognise that many older people do not want or need specialist accommodation or care and may wish to live in general housing that is already suitable, such as bungalows, or in homes that can be adapted to meet any change in their needs. Helping people to remain in their own homes and preventing or delaying the need for acute care can help ensure better outcomes for older people and reduce costs to local services.

We have already put in place a range of mechanisms to support local authorities in planning and delivering specific and diverse types of housing for older people. The care and support specialised housing fund will, over its two phases, fund a total of 221 schemes to develop up to 6,000 affordable homes. Under the affordable homes programme the Government have committed £1.6 billion for 100,000 homes for an affordable or intermediate rent, including 8,000 new homes specifically for vulnerable people, older people and people with disabilities. We also recognise that, at some point, a number of older people will want—or indeed need—to move into supported housing. We must therefore ensure that there are sufficient homes available.

However, I do not think that this amendment is necessary. The National Planning Policy Framework already requires local planning authorities to plan for a mix of housing based on the current and future needs of different groups in the community, including older people. This includes provision of specialist accommodation or dedicated accommodation specifically for older people. Furthermore, the need for specialist accommodation is already a factor that can be taken into account by local planning authorities when considering planning applications for such facilities.

[Viscount Younger of Leckie]

I thank the noble Lord, Lord Beecham, whose Amendment 102 seeks to set a national minimum space standard for new homes. I share his concern about poorly designed housing developments and agree that new homes should be of a high quality—a point I made earlier. However, setting a national regulatory minimum size for all new homes would not be the right way to address the concerns on quality, size and housing need.

Noble Lords will be aware that in March last year the Government published a national space standard for new dwellings that local authorities could choose to adopt in their local planning policies. This was an outcome of the housing standards review, which looked at a wide range of standards applied to new housing and introduced a simplified and defined framework that removed overlap, contradictions and duplication.

Housing need and viability differ across the country. We need to ensure the widest range of options for as broad a market of buyers as we can. We must cater for a range of incomes and different dwelling sizes. Local authorities are best placed to understand and decide how to meet these varying local housing needs and we expect them—with the input of local communities—to put in place local plan policies that will bring forward new homes of a size that meet local needs. But they must also ensure that development remains viable and affordable for a range of home buyers.

We continue to support the adoption of space standards through planning policy where needed and where appropriate. It provides a flexible way to address concerns about the size of new homes, whereas a requirement through the building regulations will limit viability and rule out a flexible approach to meet local circumstances. With this explanation I hope that the noble Baroness will agree to withdraw her amendment.

Baroness Andrews: I am very grateful to the noble Lord for that full response and to everyone who spoke in the debate. There was a very thoughtful and humane response around the Chamber. I particularly thank the noble Lord, Lord Swinfen, for drawing attention to some of the inexorable facts of an ageing society and the challenges that we face. The Minister was right when he said we were looking at an accumulation of programmes caused by an historic failure to come to terms with a society that is ageing. It is because it is historic failure that it is urgent. That is why, while I appreciate that the Government do not want to put a new duty on local authorities, we need a clearer and more urgent sense of priorities from them that this needs to be addressed.

There is a lot of good stuff happening, but we need a national conversation about the challenges that we face, and it can be led only by the Government. It is a wider debate than the one that we have had today, and the noble Baroness, Lady Greengross, referred to it in her excellent amendment. It is a debate about where housing in an ageing population fits into the challenge of housing the whole nation. If we provide on the assumption of an ageing population, as Berkeley Homes does so well, we free up housing stock and make it easier to find homes for families. As my noble friend Lady Hollis said, we are looking at the opportunities presented by enormous numbers of smart technologies, which will help us not only to provide the sort of housing that would really suit ageing people but to reduce the costs to the health service. This is an important amendment, because it raises a debate that really goes to the heart of what this Bill is about and how intelligently it plans for the future, but also what we as a country are about in the care that we give to our older families.

4.45 pm

In relation to what the noble Baroness, Lady Scott, said—and I appreciate that she has huge experience—my amendment did not take any discretion away from local authorities. It is essentially a problem that has to be solved and designed and delivered at a local level. I call on the Government to rise to the occasion and show some stronger leadership. To come back to what the noble Lord, Lord Greaves, said in a telling phrase, "It simply hasn't been a priority". Well, all I can say is that it is time that it was a priority. Since the Government have it on their watch, I hope that they will make it more of an explicit priority. I beg leave to withdraw the amendment.

Amendment 89LZB withdrawn.

Amendment 89LZC not moved.

Clause 135 agreed.

Amendment 89LA

Moved by ***Lord True***

89LA: After Clause 135, insert the following new Clause—

"Lee Valley Regional Park Authority

In section 48 of the Lee Valley Regional Park Act 1966 (precepts), after subsection (11) insert—

"(12) No precept or levy shall be imposed by the Authority or be payable to the Authority under this section unless the council or London Borough concerned has in its annual budget resolutions assented to the imposition of such a precept or levy by the Authority and specifically approved that levy or precept by a majority on a recorded vote.""

Lord True (Con): My Lords, before moving this amendment, I hope that the House will not mind if I, too, express my shock at the news about the noble Lord, Lord Kennedy of Southwark. Not only by his charm and skill at the Dispatch Box has he won our affections but, as leader of a London authority—I declare that I am, too—I know that he is respected in local government across London. I hope that other noble Lords will convey to him what I know will be the best wishes of every London borough leader for a speedy recovery.

In introducing this amendment, I make it clear that I do not wish to press it in its present form. It is a probing amendment. I said earlier in these proceedings that it is in some ways a provocative amendment. I would not press it as there is a risk that it might make the Bill hybrid, among other things, but also because the solution will not be the solution proposed in this amendment. However, I believe that the issue needs to be aired. I know that it has not pleased the Lee Valley authority; because its lobbying efforts are poorly directed, I have quite a little dossier of material that it has sent out to various people asking for the status quo to be defended.

The Lee Valley Regional Park Authority runs what is a 26-mile long linear park running from Ware in Hertfordshire to the East India Dock. It was set up under legislation passed in 1966 and started in 1967. That is, frankly, another world—remember England as World Cup winners, Harold Wilson at No. 10 and the young Leonid Brezhnev thrusting his way forward in the Soviet Union. Since then, in those 50 years, a lot has changed. The area has been transformed by the staging of the 2012 Olympics and from those Olympics the Lee Valley authority received a legacy of the Olympic velopark, the only site in the world that brings together all four Olympic cycling disciplines. It was lately the site of the world's cycling championships, which I saw reported to have been before sell-out crowds with a global television audience—a venue claimed on the LVA's own website to be,

"a jaw-dropping events space … in the super league of London's … venues".

It has the Lee Valley Hockey and Tennis Centre, another Olympic facility, which will stage the Women's Hockey Champions Trophy in June with finals-day tickets priced up to £62.50 a throw—they have already sold out—and with indoor tennis courts at £20 an hour off peak. It has the Lee Valley White Water Centre, another Olympic venue, offering corporate half-days at a minimum of £164 per person and the self-proclaimed state-of-the-art Lee Valley Athletics Centre. There is the Lee Valley Ice Centre, home to two ice hockey teams, and the Lee Valley Riding Centre, with stables offering full five-star livery services for £10,000 a year—not exactly a service for London's poor. There are two golf courses, two boating marinas, two large camp and caravan sites, six heritage sites, a sports ground complex, seven parks and wetland sites and 1,400 hectares of land and water resources. In addition, the authority runs two farms which the accounts say feature £250,000 of "biological assets"—dairy cattle to you and me. I am surprised that the TaxPayers' Alliance has not cottoned on to that one.

According to the 2014-15 accounts, not one of those assets made a profit, apart from a princely £17,000 from the Lee Valley Boat Centre. Even netting out the £1.9 million cost of leisure management services and ignoring the losses on tourism services reported in the accounts, these facilities cost £35 million to run for a gross income of under £12.5 million. The authority had eight staff with packages of over £100,000 a year and a director of communications paid some £73,000, who, it seems, lifts the phone to the lobbying firm some of us have heard of, London Communications Agency, whose fee I cannot find disclosed in the accounts, although I note from its own website that the agency's chairman boasts Lee Valley among the prized accounts that he handles personally, along with Chelsea Football Club. I doubt whether London's council tax payers get that PR service cheaply. In short, here is a large public sector body sitting on immense resources and losing money on them. There is no reason to think that any of these vital sporting and environmental assets would be threatened by reducing or ending the LVA planning rule or by better or changed management or a plan to bring the thing into balance.

The fact is that were these prize assets subject to any other public local authority, we would be expected by the Front Bench and taxpayers alike to be looking for a way to balance the books fast by outsourcing, raising income or cutting costs. It defies belief that such a massive and diverse portfolio as I have described needs a huge public subsidy. Instead, because the LVA has a residual planning function and a legal right in carrying out its park and planning duties to precept 32 London boroughs and councils in the counties of Essex and Hertfordshire, including Thurrock Council, it has a captive subsidy and therefore relatively little incentive to be efficient. It simply posts a bill to taxpayers, often an hour or two away from its facilities, to pay for half of all its activities—£10.8 million in precept. Formal break-even targets are vaguely spoken about but are far away.

Looking at some of the typical levies, Bexley's levy of £230,000 would not cover the authority's advertising budget and Kingston's levy would not cover the cost of its chief executive's pay package. There is no relation between the levy and performance, benefit or usage. It is simply a tax—taxation without representation—for many London authorities that pay the lion's share, have few visitors to the park and no representation on the board, while other districts that pay nothing do. My amendment would introduce accountability by ensuring that the Lee Valley Regional Park Authority had to prove its worth and competence in order to win payments from willing, not captive, councils. It asks that a proposal to support the Lee Valley Regional Park Authority be put on the same basis as any other budget proposal put before a council.

I recognise, as do all those authorities unhappy with this archaic system—and I have been encouraged by many other London local authorities and Essex County Council—that in the real world that is unrealistic. However, it reflects a legitimate end-result aspiration, so by raising this issue I ask instead that we might look at reform. I hope that my noble friend may be prepared to consider addressing this issue and launching a swift consultation with the Lee Valley Regional Park Authority and all others concerned to find a better and more equitable way forward to ensure financial stability, phase out the subsidy from the precepted planning authorities and safeguard the regional park's assets. It has to be unwound in a way that protects the existing precepting authorities and does not leave the riparian authorities on their own paying for it. At a minimum, we might seek a taper of the precept leading to abolition, perhaps over a four-year period in line with the four-year settlements being sought.

There may be many ways in which we can achieve that. We need to understand why the authority loses so much on so many facilities, why more income per head is not raised and why we cannot work better. Above all, this archaic precept, which may once have served well, needs to be addressed and progressively removed to bring a worthy 20th-century authority into the modern world to manage effectively and to preserve the important 21st-century facilities that it has in its charge. I beg to move.

Lord Tope (LD): My Lords, it is a pleasure to be back in harness with the noble Lord, Lord True, on matters of mutual interest to south and south-west London boroughs. I am grateful to him for his quite lengthy explanation. I will try not to repeat much of

[LORD TOPE]
what he said but to add to it. I am glad that he started by suggesting that the solution suggested in his amendment might not be what happens in the end. That is probably right and partly why I did not add my name to it.

I first came to this problem when I became leader of a London borough council, coincidentally at exactly the time that the GLC was abolished. When the regional park was established in 1966, it was funded by the Greater London Council and paid for through the precept on all London boroughs to the GLC, not to the park authority. It was brought to my attention in my first year as leader of a London borough council when suddenly we found that we had a precept to a park authority, the existence of which we were only vaguely aware of—I must confess that at the time I thought that the park was in Essex, although as the noble Lord, Lord True, said, it is not—and that we were going to be paying several hundred thousand pounds to this authority right across London. I inquired how many visitors from Sutton—my borough—went to the park and was told that there were fewer visitors from my borough, which was paying several hundred thousand pounds that year towards it, than there were from Northern Ireland. This has been a thorn in the flesh for the past 30 years, at least, and continues to be so. It gets raised on a number of occasions—the last occasion I remember was during the passage of the Localism Bill—always by ingenious methods such as that which the noble Lord, Lord True, has devised today, for which I am grateful to him.

This has become a little more important now not only because of the financial pressure on all local authorities, including the London boroughs, but because whereas 50 years ago, when the Lee Valley Regional Park was established, there was only one regional park in or partly in London, now there are three. There is the Colne Valley Regional Park, a relatively small part of which is in London, and the Wandle Valley Regional Park, which is wholly within Greater London and which covers the boroughs of Wandsworth, Croydon, Merton and Sutton. It was established a few years ago, not as a statutory authority but as a trust, and at that time I was one of the trustees. It has no funding stream. It has been funded in recent years, to the extent that it has been funded at all, by voluntary contributions from the four Wandle boroughs, as we call them. Rather than keeping the money that we obtained by Lee Valley's reduction in precept, we chose to pass on that discount or reduction to help to fund the Wandle Valley Regional Park.

5 pm

The sums involved are very small; Croydon has never paid that money at all, and last year Wandsworth stopped paying it, so currently it is paid only by Sutton and Merton, each of which paid £5,000 last year. We are therefore in the position where the four Wandle boroughs between them pay well over £1 million to a regional park way over on the other side of London, which goes into Essex and up into Hertfordshire and which is visited by very few of our residents. It is an excellent facility—I am very glad that the noble Lord, Lord True, said that, because this is in no way an attack on the regional park; the issue is simply that the funding is all askew.

I share the noble Lord's view that the authority probably ought to be looking to raise more funds itself and, indeed, it has been doing that in recent years. To give it credit, it has reduced the precept each year for the last few years—not by very much, but nevertheless it is a welcome reduction, as I said, which two of the four Wandle boroughs have passed on to the regional park. It makes no sense, however, for four boroughs that have a regional park in their midst to pay over £1 million, while those boroughs pay something like £10,000 towards the establishment and development of another new regional park.

I very much share the sentiment of what the noble Lord, Lord True, has said, not so much in his amendment but in his urging of the Government to take charge of this issue and to look at it. Over the years there have been numerous attempts to do this. London Councils, as it now is, is not able to do it, because it is a member authority, and while many of its members are disadvantaged by the precept arrangement, many benefit hugely from having this excellent facility quite literally on their doorsteps, with that facility being quite heavily funded by boroughs whose residents seldom if ever go there. Similarly, it receives significant contributions from Essex, Hertfordshire and a rather smaller one from Thurrock. I remember the last time that we raised this issue, a DCLG Minister said, "Well, it needs primary legislation—if London comes forward with the solution, we might do something". We have waited 50 years—or 30, certainly, since the abolition of the GLC—to try to find such a solution and it will not happen that way, such are the conflicting interests.

I hope very much that one thing that will arise from the initiative of the noble Lord, Lord True, in raising this issue is, as he suggests, that the Minister will say to us, "Yes, DCLG will take this up and look at it, and will look at the funding, not only of the Lee Valley Regional Park but of the three regional parks that are wholly or partly within the greater London area". In that way we would get the funding on a basis that gives all of them—whatever form that funding takes—a secure and stable future, which Wandle Valley Regional Park certainly does not have at the moment.

Lord Harris of Haringey (Lab): My Lords, this is in danger of appearing to be a sort of "all our yesterdays" discussion as regards London boroughs. I was deeply tempted by the amendment in the name of the noble Lord, Lord True, when he told me that it might render the Bill hybrid, which of course would consign all the other ridiculous provisions within it to some long drawn out and time-consuming purpose. However, that would be an inappropriate and churlish way to go forward.

I think, however, that the noble Lord, Lord True, has made a number of perhaps unfair assertions about the Lee Valley Regional Park. His big concern seems to be that this legislation was crafted back in 1966, and is no longer fit for purpose. I am afraid there is plenty of local government legislation going back many decades that looks at these issues. I recall discussions about the Lee Valley Regional Park Authority in the distant days when I was a local authority leader in London. I needed some convincing at that time that this was a worthwhile contribution for my borough to

be making, even though we are slightly closer than either Richmond or Sutton. I am fascinated to discover that the residents of Sutton are less adventurous than the residents of Northern Ireland as far as visiting the jewels of north-east London is concerned.

I needed some convincing, and at that time it was difficult to defend the contribution the Lee Valley Regional Park made to the wider area, but the situation is very different now. The noble Lord, Lord True, cited all the major facilities that are now available for the people of London—he made that part of his argument; I thought it was part of the argument the other way—and, of course, the other counties and areas concerned. He is appalled at the cost of some of those facilities, yet at the same time he complains that the Lee Valley Regional Park Authority is not doing enough to recover costs and reduce the burden which falls on the precept levy.

Let us therefore be clear about this. In the past 30 years, we have seen the development of a series of major facilities—given a huge advantage by the 2012 London Olympics—in north-east London which serve not only that area but a much wider area beyond, and which are trying to recover their costs. I am sure the noble Lord, Lord True, is correct that, like all cross-local-authority initiatives, it could perhaps be managed more effectively to deliver even more benefits at less cost. But through the effort it is making to raise funds, it is trying to reduce the burden raised as part of the precept. That it has done successfully and in successive years by reducing the precept year on year. That is the sign of an organisation that is trying to move in the direction that it should. The efforts of the noble Lords, Lord True and, apparently, Lord Tope—rising from Sutton—to complain about this, are an attempt to undermine this process.

Therefore, we have to ask what precisely the preferred outcome is of the noble Lord, Lord True. He says he does not want the amendment to be passed as such, which is just as well as it would be deeply unworkable, given its impact and disrupting effect on finances. He says he wants a review but, presumably, the question is, what would be its terms of reference? The reality is that such collective provisions need to be funded collectively. If you are saying that, because the London Borough of Sutton or the London Borough of Richmond are geographically a bit remote from north-east London —of course, there are excellent transport arrangements, and if the citizens of those boroughs are not prepared to travel to north-east London, that is their loss—and that you are therefore going to undermine that collective support, you are creating some very dangerous precedents for other provisions which are resourced collectively.

The Minister will obviously not want to support this amendment because of the danger it would pose to the rest of the Bill—he would be quite right to allow the rest of the Bill to fall apart, but he probably will not wish to. I hope he will assure us that any review of the way the Lee Valley Regional Park Authority is to be funded would be based on accepting the idea that this facility serves a much wider area and deserves to be collectively funded across that area, rather than the cost falling on a very narrow number of riparian boroughs and authorities.

Lord Campbell-Savours: My Lords, I have a very simple question to ask of the noble Lord, Lord True. I did not see any of the briefs that he said were circulated—if I have had one sent to me, I have not seen it—but I noticed something on the internet about the authority. It seems that the chairman, Mr Paul Osborn, is a Conservative councillor; that the deputy chairman, a Mr Derrick Ashley, is a Conservative councillor; and that the Conservatives have 15 people on its board, with eight Labour members and two Liberal Democrats. In other words, this is like a family argument within the Conservative Party about the competence of their own people to manage this facility. I suggest to the noble Lord, Lord True, that he gathers them all together and puts it to them that he has a bit of a problem with his authority coughing up to pay for their excesses. I do not think that it is a matter for us; I am sure that the noble Lord, Lord True, can sort this out. I say in support of what my noble friend has just said that facilities such as this lose money all over the country. There are lots of services provided by local authorities which do not necessarily make money; they are there for the benefit of the wider community. We have that in some of the national parks where there is a problem and they have to be helped out, but we do not close them because we have trouble funding them on occasion. I enjoyed the noble Lord's contribution; however, he talks about taxation without representation, and I think he has some pretty good representation there and he should have a little chat with them.

Baroness Morgan of Ely: My Lords, I am glad to report that my noble friend Lord Kennedy has been sent home from hospital, so that is good news.

I hate to intrude on this London borough grief—I know that my noble friend would have loved it—but I want simply to endorse the pertinent points made by my noble friend Lord Harris. We cannot make changes to how authorities are funded through amending a Bill coming towards the end of its parliamentary process without any discussion with those concerned, who would have to manage the consequences of the amendment if it were carried. It is simply not appropriate, so I hope the Minister will not accept it.

Lord Tope: My Lords, I have probably 30 years' experience of duelling with the noble Lord, Lord Harris of Haringey, which is significant because Haringey is just a little bit nearer to the Lee Valley Regional Park than the London Borough of Sutton, yet it pays pretty well exactly the same precept. He suggested that I was trying to undermine the funding to Lee Valley; absolutely not—I am second to none in my praise and admiration for what Lee Valley does and achieves and the excellent facilities there. I said that the reduction in the precept had been used to support the Wandle Valley Regional Park; what I should have added is that Lee Valley Regional Park has been very supportive of the Wandle Valley Regional Park. It has provided tangible support to the best extent it can within its powers, and we are grateful for and appreciative of that. If anything I said has been interpreted as some form of attack on Lee Valley, some form of questioning its value, my 30 years of experience with the noble Lord, Lord Harris, lead me to suggest and put on record that that is quite wrong.

Viscount Younger of Leckie: My Lords, I feel that I might be intruding on some private arrangement as well. However, in all seriousness, I thank my noble friend Lord True for Amendment 89LA, which would make the funding levy for the Lee Valley Regional Park Authority voluntary. I acknowledge the contributions that we have heard, particularly from the noble Lord, Lord Tope, and from the noble Lord, Lord Harris, with his contrasting view.

My noble friend Lord True eloquently highlighted the background and the issue. I listened carefully to what he said, so I do not wish to go over that from my perspective. Under the current arrangements, the majority of the authority's funding is generated by its own commercial and investment activities, and the rest comes from a levy on council tax payers in the councils of Greater London, Essex and Hertfordshire. This amounts to less than a pound per head of population per year.

The Lee Valley Regional Park Authority is a private statutory body established by the Lee Valley Regional Park Act 1966. Having been established via this Act, the authority sits outside a significant proportion of current local government legislation. We believe that any potential changes to the funding levy must first be fully discussed and agreed by the affected councils and the park authority before any legislative options are considered by Parliament—how interesting that the noble Lord, Lord Campbell-Savours, made this very point. We understand that such discussions have not taken place, but I can offer a light at the end of the tunnel for my noble friend Lord True, who seeks to initiate discussions with the local authorities. We will offer to meet to discuss this further, because it is important that discussions are led by the affected boroughs and not based on decisions from central government.

So, while I acknowledge the points that my noble friend has raised today, without this local agreement, we do not propose to amend the levy funding arrangements. Therefore, I hope that my noble friend will withdraw his amendment.

5.15 pm

Lord True: My Lords, I am partially encouraged by what my noble friend says, but I am also discouraged. I assure him that I do not speak on an individual basis; indeed, the House has heard from the noble Lord, Lord Tope. Many authorities—I named a large number of them—wish this matter to be addressed, are ready to address it and have sought to address it on many occasions, as the noble Lord, Lord Tope, said. No authority can hold a veto on these discussions, including the Lee Valley itself. I heard what the noble Lord, Lord Campbell-Savours, said and, frankly, I do not think that councillors should be running commercial facilities, or facilities directly, at all. I am not troubled in any way by what he said about a Conservative councillor being the chairman. He should be doing a better job, in my judgment.

I shall look very carefully at what my noble friend said, but this nettle really needs to be grasped. It is not good enough for the noble Lord, Lord Harris, to say, "Don't rock the boat". The so-called reductions are 2% a year; there are authorities across this country being asked for reductions of 25% to 35%. With the facilities that that body now has, it can and must do better. All I am asking for is an agreed programme over a period of years moving towards financial equivalence.

I shall study what my noble friend said, but it would be disappointing if this did not lead to some concrete, active and swift discussions. I beg leave to withdraw the amendment.

Amendment 89LA withdrawn.

Amendment 89M not moved.

Clause 136: Permission in principle for development of land

Amendment 89N

Moved by ***Lord Greaves***

89N: Clause 136, page 66, line 28, at beginning insert "Subject to section 58B (land for which permission in principle may not be granted),"

Lord Greaves: My Lords, Amendment 89N is the first in the group of amendments on the part of the Bill that refers to permission in principle and relates to Clauses 136 and 137 and Schedule 12. We move back to discussing a countrywide issue rather than a London parochial matter, which the House of Lords does so well. Most Members of the House of Lords come from London, so it is not surprising, really.

This is, I think, the most important and most central part of Part 6 of the Bill, which is the planning sections. It is regrettable that we come to it at tea-time on day eight out of seven allocated for Committee. Nevertheless, we have seven hours today to have a good look at it—and perhaps a bit more in the morning, who knows.

In Part 6, particularly in the planning-in-principle system, we are looking at a radical, fundamental change to the system of development management in this country. My second regret is that this comes to us at a late stage in the parliamentary process on the Bill without any clear understanding or knowledge at all in the country about what is being proposed. This is a technical matter and an extremely important one. For those of us who are local politicians, it is vital because it is about local planning applications, and we all know that they are some of the most controversial things that happen in relation to councils and local communities. These proposals would have been ideal for pre-legislative scrutiny. In particular, when we get on to later parts of Part 6, which were dumped into the Bill at a very late stage in the Commons and had absolutely no scrutiny, it behoves us here to do what we can in the limited amount of time that we have. This is not a good and sensible way, in my judgment, to introduce new and important legislation.

As in some of the earlier parts of the Bill, there is a huge amount of prescription of powers for Ministers to make regulations in this part of the Bill. Simply reading the Bill itself will not tell anyone how the new system will work. That again is unfortunate. Because it is part of the planning system, where a lot of the regulations in planning delegated to Ministers are done through development orders that do not go

through parliamentary process, the position is even worse, because a lot of the very important consequences of what is being proposed here will not be subject to parliamentary scrutiny. So we have an important job to do.

I am grateful to have come across a document called *Technical Consultation on Implementation of Planning Changes*, which has been sent out to local planning authorities. It is unfortunate that it was not sent to us earlier, because it answers quite a lot of the questions about what the Government intend that is not set out in the Bill. I recommend it to noble Lords who have not seen it as bedtime reading before Report. At least it will help them go to sleep.

We all know about the present system of development control. Where planning permission is required, most development is subject to applications for planning permission to local planning authorities, which may be outlined and establish the principle of development, or may be reserved matters, or may be both taken together as a full application. The new system is unusual in that the old system will remain alongside it. I understand that it will remain for everything except housing. Even for housing, there will be a choice for people as to which system to use. It appears that the Government believe that planning in principle should rely on only three material considerations in relation to whether planning in principle for a site should be given. I am simply reporting what I think the Government are proposing.

One is location—the red line. One is uses, which I understand means housing together with any lesser uses that might be appropriate in a big housing development, such as some retail development, playgrounds or whatever. The last is the amount of development—the number of houses—which the technical consultation suggested should be flexible within quite tight limits. Once there is planning in principle, an application to the local planning authority will be required for technical details. They will have to be only within parameters—a new planning word that we will all learn to love or hate—set out in the planning in principle, if I have understood the technical consultation correctly. The planning in principle may be by allocation in a qualifying document—this may be a local development plan or a register; the brownfield register is the one that is most often talked about, but it seems that there may be other registers as well—or by application to the local authority in a similar way to application for planning permission.

As I say, all this is little known and little understood. The legislation is complicated. Even among planners there is a great deal of concern. Hugh Ellis, policy director at the Town and Country Planning Association, says:

"You can't make a decision in principle",

first,

"about a site until you know the detail of its implications, from flood risk appraisal to the degree of affordable housing. Giving permission in principle would fundamentally undermine our ability to build resilient, mixed communities in the long term".

The planning manager in my local authority in Pendle, who is an extremely competent planner, said after reading and studying the consultation document:

"Until there is more clarity on the process that is involved and the level of assessment that is required in order to be able to approve developments in principle, it is not possible to make informed comments on the process".

That was in response to the Government's technical consultation.

It appears that this is happening based on a fallacy that housing supply is being held back mainly by the need to secure planning permission, which is not happening. There is very little evidence for this. The blockages are mainly market-linked. They are to do with viability, sources of finance, economic demand as opposed to need, extra costs on sites, and predevelopment work such as site clearance and decontamination. They are to do with the habits of development companies, which they deny but which we can all see around us, of land banking: getting planning permission for sites and then sitting on their increased value, which has a beneficial effect on their bottom line; and, in some places, borrowing money on the basis of those sites and spending it somewhere else.

One of the things we have to look at in this PIP business is the boundary between planning in principle and technical details. The Government think that it is very clear: there are just those three things in PIP and everything else is a technical detail. But technical details include flood risk, contamination, community infrastructure, highways and transport, place-making, landscape heritage, design, and all the rest. They are not technical details; they are things that you need to sort out before you give agreement in principle to a site being developed—or at least some them are some of the time.

One of the arguments put forward is that there is duplication in the present system and a repeated test of the principle of development on a site. I have some detailed evidence from my own authority, which may or may not be typical, which said that in the last three years there have been only three refusals of planning applications for housing based on principle. They were all in the green belt, where they would presumably be turned down anyway. There is really very little evidence that this complaint is true.

What can PIP—I think I will call it that—be used for? It was invented last October—that recently—as part of the brownfield sites proposals. Since then, it has been extended in the Bill to the local planning process. The Bill actually says that it can be used for anything, all subject to ministerial regulation through either statutory instruments or development orders. It could be used for anything from industrial estates to fracking. We in this House ought to tighten up the wording on the face of the Bill. There are lots of other things we need to be discussing.

5.30 pm

I apologise for coming late to the particular amendment I am moving, but I thought we needed an introduction to PIP generally to get this debate going. Amendment 92D, which is in my name and that of my noble friend Lady Featherstone, sets out a long list of the types of land for which permission in principle will not be able to be given. This is simply because, in these areas, proposals for new housing or for any other development need clear, careful and full consideration. Permission in principle seems to be a way of streamlining the process and cutting corners. I am suggesting that a proper full

[Lord Greaves]
planning application would be required in the case of green belts, conservation areas, national parks, areas of outstanding natural beauty, metropolitan open land in London, local green spaces in a local development plan, commons and village greens, access land under the CROW Act, local and national nature reserves, sites of special scientific interest and parks and parkland of various kinds. Reading some of the amendments from the noble Lord, Lord True, perhaps I should have put "royal parks". It would also apply to any land used for recreational purposes, public open space, a garden or land forming the curtilage of a dwelling, a scheduled monument and the national forestry estate. It states that local planning authorities,

"may set out in a local development document descriptions of land for which permission in principle may not be granted".

This is probing as to whether PIP will be possible in all these areas, but it is a vital part of the Bill for your Lordships to discuss.

I have been trying to remember if this is the fourth or fifth planning Bill I have been involved in since I have been in your Lordships' House. Every single Bill that I can remember left your Lordships' House much better than it arrived. That applied even to the then Localism Bill—over which my noble friend Lord Stunell had some ownership, or said he had. When we sent it to the Commons, it was a better Bill than when it came here.

I hope that the Government will be sufficiently flexible to allow us to understand exactly how the system is going to work and, when we think it is not going to work very well, to accept sensible amendments. I beg to move.

Lord Beecham (Lab): My Lords, as the noble Lord has just reminded us, we have at last come to the part of the Bill which deals with permission in principle or, as he has put it "PIP". This is another form of PIP—following the personal independence payment—which is to be the subject of controversy. I am also reminded, of course, of the character of Mr Pip in *Great Expectations* which we do not really harbour in relation to this Bill.

What the Government are engaged in is legislation in principle. Members all around the House have complained frequently during Committee about the large number of issues on which the impact assessment was hopelessly inadequate. With even greater vehemence and relevance, they complained about the Bill's reliance on secondary legislation, drafts of which remain unavailable. An embarrassed, overworked and—it is fair to say—much-admired Minister shares our concerns. However, given the Government's determination to drive the Bill through as quickly as possible, there is little chance that we will have an opportunity to see—let alone have time properly to consider—how the legislation will work in practice.

On 17 February, two months after the Bill left the Commons, the department issued a 64-page document—the one referred to by the noble Lord, Lord Greaves—containing a "Technical consultation on implementation of planning changes". Had Michael Gove been Secretary of State, we would at least have seen the definite article before "implementation". The consultation on this major change to planning policy and practice will end on 15 April. I assume that, on the Government's rushed timetable, Report will conclude in the following week or, at the latest, the week after. There is therefore no chance that this House will have an opportunity to consider the responses to that consultation, let alone the Government's reaction to it, before the Bill is enacted. Of course, all this is four or five months after the Bill left the Commons.

One of the Bill's characteristics, particularly relevant to the clauses we are now discussing, is the increasing number of functions assigned to the Secretary of State. Thus, where an application is made to the local authority, under new Section 59A, the Secretary of State will have the power to set out in a development order the process that local authorities must follow. In relation to technical detailed consent, a development order may—and I emphasise that word—set out the process that must be followed.

The Explanatory Notes helpfully assert that the Government intend to consult on the process in due course. Perhaps the Minister could indicate when this might occur. They also identify a range of issues where the Secretary of State may—or I suppose may not—do a variety of things. New Section 59A provides that development orders will set out how long PIP is valid for and that it may contain transitional arrangements when PIP expires. It empowers the Secretary of State to issue statutory guidance.

Clause 137 sets out a string of powerful new actions which the Secretary of State may take. These include the possibility of requiring the register of brownfield land to be held in two parts—one for brownfield land suitable for housing; the other for a grant of PIP where the local planning authority considers it suitable. To be clear, this is a new form of planning permission, imposed centrally, which deliberately reduces the scope of democratically accountable local decision-making. The next step would presumably be for the function to be entirely in the hands of the Secretary of State or his appointees.

Regulations may provide that the local planning authority is permitted to include land which does not meet all the specified conditions and that the Secretary of State might exercise this power so that the local planning authority could register land suitable for four dwellings or fewer. New subsection (4) sets out what regulations may specify in relation to the register. It gives an example where the Secretary of State may specify that certain descriptions of land are not to be entered into the register. New subsection (4)(c) provides that the Secretary of State may allow for some discretion by the local planning authority—how generous—to exclude land from the register and that he might allow the local planning authority to exercise its discretion in exceptional circumstances. He may also specify by regulation what information should be included in the register or specify descriptions of lands by reference to national policies, advice and guidance. For example, regulations could refer to the definition of previous development land within the National Planning Policy Framework.

Given the plethora of possibilities, could the Minister advise us how many civil servants will be required—and for how long—to produce the detail envisaged by this

Government of self-proclaimed localists, ensuring that Whitehall, and not town halls, becomes in effect the local planning authority? How many regulations are likely to emerge from this bureaucratic jungle? Yesterday we received a letter from her—for which we are grateful—enclosing the timetable for consultation, impact statements and the laying of regulations in respect of eight areas of the Bill. None will reach us before Report and there is as yet no timetable for PIP.

Last week, in reference to the Government's approach, I referred to George Orwell. Today it is Lewis Carroll's turn because, as ever with this Government, when it comes to legislation it is "Sentence first—verdict afterwards" and, I might add, evidence invisible. This is no way to deal with important legislation about the future of our communities, cities and counties. Members on all sides of the House have expressed concern about the way in which the Government have proceeded. One Conservative Peer, whose identity I will not reveal, approached me last week and said: "You have done well to preserve your sanity over this terrible, terrible housing Bill". I will not seek to test the opinion of the House on the question of my sanity but the opinion of the Member in question—a thoroughly loyal Conservative Back-Bencher—tells its own story. The hubris exhibited by this Government is beginning to make Margaret Thatcher look like a legislative shrinking violet.

This is exemplified in the Delegated Powers and Regulatory Reform Committee report of 12 February, to which the noble Lord, Lord Greaves, referred. It is highly critical of Parts 6 to 9 of the Bill and declares that the memorandum,

"seeks to justify a delegation of wide powers … without properly explaining why this is considered appropriate".

The committee found that,

"references to powers being 'technical' or even 'quasi-technical'",

were not accurate. It drew attention to the wonderful phrase that one delegated power was the result of,

"a 'likely shifting matrix of considerations'!".

Perhaps the Minister could clarify the meaning of these words, but the House will forgive her if she is unable to do so.

In relation to PIP, the committee drew attention to new Section 59A of the 1990 Act, to which I have referred, which would of course be created by this Bill. It points out that the Secretary of State's power, either for himself or for a local authority, to grant PIP—either by a "qualifying document" or via a "prescribed description", respectively—would be by negative procedure. This is coupled with an assurance by the Government that a document will be prescribed only if it is made by a public body after going through a robust process—whatever that might mean.

The committee points out that the Secretary of State's legislation would not bind future Governments, and that new Section 59A should be amended to specify the consultation and other processes involved, and not be left therefore to secondary legislation. The committee notes the Government's intention to apply PIP to housing-led development, albeit with the possibility of being extended to other developments. On this, the committee points out that the procedure is new and untested, and that no reason has been proffered for a possible extension to non-housing development. Hence its conclusion that the delegation of power under new Section 59A is inappropriate to the extent that it would allow PIP for developments which are not housing-led. All this reinforces the concerns and misgivings widely shared across your Lordships' House and elsewhere about the excessive reliance on secondary legislation, in respect of which the contents are shrouded in mystery from which the cloak may not be lifted before we reach Report, let alone Third Reading.

Before I turn to the amendments in this, the first of eight or nine groups, it would be sensible if I outlined the Opposition's view on the overall policy. We clearly support efforts to promote the building of more new homes, for which there is an evident massive need. We are also at one with the Government in wishing to see brownfield sites reclaimed for housing, but also for ancillary and perhaps alternative uses. However, we have major concerns about what will be built in terms of design, space, energy efficiency and affordability. We want to see a range of tenures and, where sites are substantial, we want to see them as not just sites for property development but for the building of communities.

We are conscious of the huge numbers of extant planning permissions to which the noble Lord, Lord Greaves, referred, some of which have been on the shelf for years, while—as my noble friend Lord Campbell-Savours has pointed out more than once—land and property prices have soared, producing potential capital gains which, of course, thanks to the Budget, will now extract minimal taxation.

A good deal of concern has been expressed by a wide range of commentators, some of them expressing fears that we may be adopting by default the kind of zoning policy which has led to significant problems in urban America. The Royal Town Planning Institute stresses the need for local communities to have a say through their planning committees in what happens to their area, and that there should be flexibility to exempt certain types of development from PIP while the whole process, including the second stage of technical details consent, should be developed in consultation with planning authorities.

The National Housing Federation welcomes PIP, but cautions that councils should define density, housing and tenure mix in this new "zonal planning system" which could affect,

"people's democratic rights; and the way we secure high-quality outcomes for people".

The process will require planning authorities to prepare a register of brownfield sites which, when included in a development order, will grant PIP for the type, amount and location of development. Other sites may be identified in local and neighbourhood plans and "other documents". Can the Minister tell us what sort of "other documents", and whether or not, in this category, development will be limited to housing?

Thirdly, and more worryingly, applicants may seek PIP in a process which will restrict the local planning authority's function to approve or refuse and provide no opportunity for conditions to be imposed. Critically, applications could not be turned down on technical details even if there has been a change in circumstances such as those reflected in Amendment 95, to which we will come in a later group, where, for example,

[LORD BEECHAM]
archaeological finds may be discovered. In my own ward, a small housing development is going ahead under the existing procedure after archaeological investigations of the site, which formed part of a civilian vicus near a major fort on the Roman wall. Under the new provisions, had there been any such discovery after PIP had been granted, nothing could be done. Similar concerns could arise about environmental or ecological issues, which the divorce between allocation and detailed permission may exacerbate.

The Town and Country Planning Association points out that the department says that local planning authorities will have a choice of what kind of land will be subject to PIP. However, it is not clear from the addition to the Town and Country Planning Act 1990 of new Section 59A(2)(c)—inserted in Clause 136—whether that new section's reference to an indication that the land is "allocated for development" means that the LPA could, apparently, pick and choose which sites to include. The TCPA points out that this, like so much else, is subject to statutory guidance, and calls for a clear statement from the Secretary of State. Perhaps the Minister could procure this before Report.

London Councils stresses that local authorities should have sufficient flexibility to exempt certain types of development, or certain types of land or areas, from PIP, and that the second stage of technical details consent should be properly thorough and not, in its words, just a,

"truncated prior notification type procedure".

Can the Minister offer any assurances in that respect? Can she say whether, in relation to housing sites, there will be a limit to the number of houses to be built under PPI? Sorry, I meant to say PIP. I am getting my consonants mixed up. The Government are getting their policies mixed up. A report in *Planning Resource* in October suggested that PIP would apply to housing schemes of around 500. Is there any indication of the kind of numbers that the Government are expecting to be included in such schemes? Above all, will she dispel the concerns expressed by Hugh Ellis—the noble Lord, Lord Greaves, referred to him—the policy director of the TCPA, that PIP as prescribed in the Bill,

"could apply to all forms of development",

even for fracking as part of a minerals plan, and whether it is the Government's intention to adopt US-style zonal plans? Interestingly, in last week's Budget the Chancellor referred specifically to zonal planning. But perhaps this, like certain other proposals in the Budget, will now be subject to review and, we hope, with a similar outcome. We broadly support the amendments of the noble Lord, Lords Greaves, which list some 19 types of land to be excluded from the process.

Amendment 90 in my name and that of my noble friend Lord Kennedy—whose return I very much look forward to—approaches the issue from a different standpoint, restricting PIP to brownfield sites, where it seemed the concept was originally to apply. We support many of the amendments to be moved by other Members in relation to PIP in the groups of amendments which follow, which seek to allow the tailoring of what resembles a one-size-suits-all pre-emptive policy to local needs and aspirations, not only for increasing housing supply but for building well-designed, mixed communities.

Having spoken at some length, I promise your Lordships' House that I will be brief hereafter as we go into the Bill, and not merely in stature.

5.45 pm

Baroness Pinnock (LD): My Lords, I am confused—or perhaps puzzled—because earlier this afternoon the noble Viscount, Lord Younger, said that the Government's legislation on localism puts local planning at the heart of the system. Yet what we have heard so far this afternoon about permission in principle seems to be very much at odds with that principle of putting local people and local planning at the heart of what happens in communities. Both the previous speakers, with their knowledge and expertise gained over many years, have understood the Bill's proposals. I decided to seek to understand what might happen in my own locality as a consequence of this proposal.

It seems there are two possibilities. One is that land that has not previously been allocated in a local plan could be appropriated and allocated as a site with permission to build. Therefore, if a developer needed greenfield land on which to build as opposed to a more difficult brownfield site, the relevant land could be appropriated and given permission in principle regardless of the wishes of the local community. It is of huge concern that the democratic process has been totally disregarded. Anyone who has ever served as a local councillor—as I do—will tell you that the issues which engage local people more than any other are developments taking place on their doorstep as they have such a significant impact on their lives in terms of increased traffic on the roads or the number of children trying to access schools which may already be full. All this sort of thing needs to be considered. Having permission in principle is totally contrary to what we regard as a local planning authority, making local decisions based on a democratic principle.

Having thought of that site, which was appropriating new land, I then wondered if they were thinking about brownfield sites—white land, as we sometimes call it—which want to change their use. I know about one in my ward: a former hotel which has closed. A developer has bought it and wants to develop it. There are huge issues about access, because I live in a hilly part of the country; about the height of the houses and their impact on other local residents; about drainage. You name them, those problems are there. Yet, under this proposal, that site could be allocated for housing development without any consideration of the impact it would have on the neighbouring properties. For those reasons, I am very concerned.

My second concern, which I hope the Minister will be able to give some assurances on, is that, since the 1947 planning Act, we have developed a process of engaging with local people about changes and developments in their area. They have their say; their voice is heard even if, at the end of the day, they do not achieve their outcome. If people feel that they have had a chance to put in their objections and contrary suggestions, they are more likely to be satisfied with the outcome than if they are disregarded and a proposal

goes on despite them. I am very concerned that that element of local planning will just disappear under this proposal. If this does come to pass, I will be pointing out to people exactly why it has happened.

The last issue I want to raise is why this proposal has suddenly appeared in the Bill. If it is because developers are putting pressure on the Government about an inadequate supply of land for housing then we ought to look at the evidence, which simply does not support that idea. In my own ward, I have planning consents for over 500 units, 300 of which have had consent for over three years. Nothing is happening because the developers are waiting for property prices to rise. All we will get with permission in principle is more land-banking by developers. Who benefits from that? It is the developers. It is not local people, who will lose opportunities to try and shape their community and have a say in what goes on. I hope the Minister will be able to reassure me on some of these points and will listen to the expert comments and concerns raised earlier.

Lord Lansley (Con): My Lords, the amendment to Clause 136 in the name of the noble Lord, Lord Greaves, enables us to consider some of the principles of permission in principle. I draw attention to my entry in the *Register of Lords' Interests* as the chair of the Cambridgeshire Development Forum. When we discussed the principles of the Bill at Second Reading, and in other debates in Committee, I said that we have to keep our eye on the purpose: our capacity to build more homes. If we are successful, through the mechanism of the Bill, in enabling and encouraging more homes to be built, many of the issues we have discussed in Committee will be expedited as a consequence.

Permission in principle is a measure which stands a good chance of enabling us to deliver more homes more quickly. I refer to the example which I gave at Second Reading from my own constituency, which continues to be current and interesting. When it was first proposed, Northstowe, to the north-west of Cambridge, would have been the largest new town built in this country for some 30 years. In 2003, as the local Member of Parliament, I participated in the public examination before the inspector as part of a detailed structure plan inquiry. The purpose of the inquiry was to identify the best location for the establishment of a large new town with some 10,000 homes. The structure plan identified Northstowe as the best location for such a development. It was intended, and subsequently incorporated into local planning, that there would be 6,000 new homes built there by 2016. It is now 2016 and no homes have yet been built. Governments of all political colours always included Northstowe as an example of development potential: the coalition, this Government, the previous Labour Government—Gordon Brown mentioned it when he announced eco-towns. Indeed, Simon Stevens from NHS England included Northstowe as one of the new healthy towns when he talked about them three weeks ago. It is no kind of a town unless we build it: we have to make it happen.

I draw attention to this because the structure plan inquiry went into detail—often exhaustive detail—about the suitability of the location for a development of that size. It looked with great care at the questions which permission in principle is intended to treat as the particulars. What was the location? It was a housing-led development, but what other associated uses were in the master plan? What was the amount of development? What were the density issues? The particulars were all there but, under our existing planning system, the fact that so much had been, as we understood it, agreed in the structure plan did not make any difference to the amount of cost, complexity and time that needed to be absorbed by the lead developers to bring this through to even an outline planning application. As noble Lords will understand, that is before the point at which they go on to the full planning application which follows.

What is intended here is very straightforward. Under such a set of circumstances, where major sites for housing development are contemplated and there is a local or neighbourhood planning process or an appropriate register as a qualifying document, we should go from three processes to two. The noble Lord, Lord Greaves, is right that the balance and the boundary between those two things is important. However, the implication of what he was saying was that, because the Government identify three particulars as the basis on which the development order will be granted, those particulars therefore exclude, by definition, some of the issues which enable the particulars to be determined.

Lord Greaves: My understanding, having read the technical consultation, is that that is exactly the position. One thing we have to tease out is the exact stage at which the detailed investigations into and the related decisions about particular sites take place under the new system. We all agree that while they should not take place three times, they should take still place. However, there does not seem to be anything in the new system that says they will unless they are carried out and paid for by the local planning authority. That is unacceptable.

6 pm

Lord Lansley: I understand the noble Lord's point, and he is quite right that we have to tease this out. My noble friend will tell me if I am wrong, but, as I understand it, a qualifying document must be based on a suitable process for establishing how the particulars have been arrived at. For example, where a site is allocated under a local plan for housing development, as part of the process, the local planning authority will go through what I hope will be a rigorous process—I think we all know it will be—with time to examine, for example, whether it is in a flood plain and, if so, what the mitigation would be. It might also examine whether the development is environmentally sustainable and whether, from the point of view of the local highways authority, issues arise from development on a large scale.

We have to be clear whether the local plan process enables a suitable site for housing development to be included in a local plan and thereby gives rise to the potential for permission in principle being granted. This does not mean that a subsequent environmental impact assessment will have to be done on the site at that point. It means that when either that assessment or the highway authority's response to a plan's technical details takes place, the question will not be whether

[LORD LANSLEY]
the site is right in principle but whether the assessments necessitate mitigation measures. I hope that the Government make it so that there are three processes instead of two and that the qualifying documents in the first process giving rise to permission in principle are sufficiently robust.

I have an additional question about the relationship between permission in principle and current local plan processes. A significant number of local and neighbourhood plans were made and adopted following the publication of the National Planning Policy Framework and many local authorities will adopt those plans in the months following Royal Assent. Will they automatically be eligible for permission in principle through a development order? If so, how can we be confident that the necessary and rigorous processes that should be the basis for the granting of such permission have been gone through, such that local authorities are not required to go through the outline planning application processes? That relationship is very important. I hope that we can make local plans rigorous so that permission in principle can, through development orders, be applied to suitable sites.

Why do I say that? In my experience as a Member of Parliament for an area with a great deal of planning activity, I found that local communities often did not give the attention they should to, or were not engaged to the extent that they ought to be in, understanding the importance of the local plan or local development framework. We need that to happen. Permission in principle has the ancillary benefit that it will cause it to happen much more.

How often have those of us involved in these matters found that when a planning proposal with the potential for an outline planning application was brought forward, people affected began to organise on the basis that that was their moment to be heard? But in a plan-led process, that is not the moment. Instead, it is when the local plan is being put together—but that is a big process and people find it difficult to intervene. We need to ensure that people are clear about the overriding importance of local plans. If they know that a site for housing development may be granted permission in principle as a consequence of its incorporation into a neighbourhood or local plan, they are far more likely to get involved in making that happen.

Lord Stunell: I absolutely accept the points that the noble Lord is making about the difficulty of engaging local communities and the fact that they arrive at this process far too late. Could he say a little more about how PIP will accelerate that? The concern on these Benches is that it will leapfrog the normal process, however inadequate it is.

Lord Lansley: It is probably more for my noble friend the Minister to explain how the processes work. My point is simple: it is said that permission in principle is inimical to a local planning authority's processes or democratic input, but that is not the case. It should prompt a much greater involvement on the part of local people. It should also focus the local planning authority on engaging with the people they represent, not only to ensure that there is a plan-led system, but so that it is understood that the local plan will in many instances give rise to permission in principle. That will cause people to engage with a local plan more than they have previously. For that and other reasons, I support Clause 136 and permission in principle.

Baroness Pinnock: Following on from what the noble Lord said—although perhaps the Minister will put us right—my understanding is that permission in principle has two routes. One is through the local and neighbourhood plan. Giving permission in principle is really what such plans do. It is the second route that I am concerned about. Through this route, an application can be made directly to the local planning authority for a site that may not have already been allocated for development—if it had been, it would be in the local plan. That is my concern with this proposal. If it just said that sites allocated in a local plan have, by the very nature of their being in a local plan, permission in principle, I could probably live with it. I am concerned about the second area, and I hope that I will get answers and reassurances.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, I wish the noble Lord, Lord Kennedy, a speedy recovery and I am glad to hear that he is back on his feet. Although he is not the greatest fan of the Bill, it has been a great pleasure discussing it with him.

I want to make a point about the letter that noble Lords received on the secondary legislation. I sense from the Benches opposite that some have it and others do not. I will think about what the noble Baroness, Lady Hollis, said about placing copies in the Printed Paper Office. I am sure that we can do that in future. I also have a couple of copies with me, if noble Lords would like to see it. I was absolutely determined that the letter would be with noble Lords, and it is a shame that difficulties with offices being spread thinly have prevented it. In future I will put copies in the Printed Paper Office.

Baroness Hollis of Heigham: I thank the Minister for that. It is a strain trying to do a Bill four days running. We cannot keep up with it. By putting it in the PPO, which is very effective and efficient, we all have access to shared information. So I thank her.

Baroness Williams of Trafford: The noble Baroness is very welcome. We learn these things as we go along. I also confirm to noble Lords that I will be responding to the DPRRC report tomorrow, as well as giving my intentions for Report. That said, I will go through the whole principle of permission in principle, as the noble Lord, Lord Greaves, did. It is a measure that responds to issues raised by representatives from the housebuilding and professional planning sectors about the lack of predictability and efficiency in our current planning system, which noble Lords have alluded to, in two specific key areas.

First, the current system requires applicants to invest heavily upfront in the finer details of the scheme without sufficient certainty that the site is "in principle" suitable for that type of development. This can waste time and effort for local authorities which have to

determine detailed applications that may not be suitable in principle, and for communities and other consultees that are asked to comment. In August 2015, the Planning Officers Society released a discussion paper on this very issue, which states that,

"the costs associated with submitting applications for outline planning permission, with all its information requirements, can be significant for small and medium builders. This, coupled with no guarantee of success, can deter small and medium businesses from putting forward sites into the planning system. This needs to be resolved".

Secondly, the current system allows "in principle" decisions to be revisited at multiple points in the process. I am sure we have all seen this. Even where land is allocated in a local plan, decision-makers will reassess the basic principles of site suitability when a planning application is submitted. This means that the hard work and local effort that go in at the plan-making stage are often revisited and repeated at the development management stage. On this point, when giving evidence about the Bill in the other place, the Home Builders Federation said of planning applications:

"Unfortunately, I can point you to many, many examples of where the principle of development gets discussed at length even for an allocated site".

I also take this opportunity to highlight that the Lyons review, published in spring last year, also identified that the principle of development should be established earlier.

Clause 136, which my noble friend Lord Lansley referred to, responds to these issues by introducing permission in principle: a new type of planning consent that will provide upfront certainty that the fundamental principles of development—the use, location and amount of development—are agreed and established once in the planning process. This will give increased certainty that a type and amount of development is acceptable in principle before significant investment is made in costly technical matters. However, permission in principle must be followed by an application for "technical details consent" before full planning permission is granted and work can start on-site. This will provide the opportunity to assess the detailed design and to ensure appropriate mitigation of impacts and that the contribution to infrastructure is secured.

Clause 136 will enable permission in principle to be granted in two ways. The first is on sites that local planning authorities, parishes and neighbourhood forums choose and allocate within their local plan-making process. It will strengthen plan-led development in this country and increase the efficiency of the system by ensuring that the hard work that goes into local plan production and site allocation is put to best use.

I stress that the choice about where to grant permission in principle will be a local one, reached through the rigorous involvement of communities and members of the current plan-making process and not through the Secretary of State. Far from removing a community's voice from planning decisions, permission in principle will strengthen the role of the local plan and help ensure that housing development takes place on sites that people actually want to see built. Where permission in principle is granted through neighbourhood plans, this will truly ensure that communities are in the driving seat of local planning.

To meet the specific challenges faced by smaller developers, Clause 136 will provide a second route for permission in principle to be granted by enabling applicants to make an application to the local planning authority for a minor development. The noble Baroness, Lady Pinnock, referred to this. This will ensure that smaller builders can test the acceptability of a scheme before having to invest heavily in the technical detail that may go to waste if the development is not acceptable in principle.

6.15 pm

Baroness Andrews: I thought it was worth interrupting the Minister at this point because of the definition of "technical details". If we can get that straight, it might save a lot of discussion later on. Does "technical details" mean the NPPF or is it less than the NPPF? In *Fixing the Foundations* the Chancellor talked about,

"a limited number of technical details".

Does she have a list of those technical details? I think we would all benefit from genuine clarity about that at this point.

Baroness Williams of Trafford: My Lords, when setting out the local plan, local authorities will have to be clear on things such as environmental mitigation and flood risk—all the various things that would usually be considered. If noble Lords have suggestions for what should be included in the technical details stage of the process, I would be very grateful. I thought the noble Baroness was going to mention something entirely different because we talked the other day about sites of archaeological interest. Of course, such things have to be considered in terms of the NPPF anyway. But if she thinks there are additional things that should be included at the technical details stage, I am very happy to listen and take them on board.

Lord Greaves: That is very helpful but I think what is concerning people is not what additional material considerations there may be for planning applications or the new system, it is which of the existing ones the new system will miss out. Will anything that is a material consideration for a planning permission at the moment, whether it is a full permission or reserved matters or whatever, still be a material consideration under the PIP technical details system?

Baroness Williams of Trafford: I assure the noble Lord that absolutely it will. The rigour that exists in the current planning system will be the rigour that exists through permission in principle. All the permission in principle system does is create a lesser financial burden upfront for builders, particularly small builders, which might want to build developments. It saves the upfront money knowing that they have the "in principle" go-ahead to pursue it further. I assure the noble Lord that none of the rigour that exists now will be diminished or diluted in the permission in principle system. I hope that that reassures him.

Lord Stunell: Can the Minister indicate to the House whether the Government have a particular ceiling in mind for what a minor project consists of, which might otherwise be somewhat in the eye of the beholder in this debate and might lead us into confusion?

Baroness Williams of Trafford: I am making an assumption here, but I would say that a minor scheme would be one with no more than a few dwellings on it. It would certainly not be a large scheme, which is currently designated as more than 10 dwellings, so perhaps one or two houses; no more than that. In fact, it might be just one dwelling.

I can also assure noble Lords that the technical details must be negotiated and agreed before developments can start, so in terms of the rigour of the planning process, they cannot be agreed afterwards. They have to be agreed before the development can go ahead.

Lord Greaves: I am a bit confused by the Minister's language. When she said that they should be negotiated before the development starts, does that mean that permission is given by the local planning authority as if it was a reserved matter?

Baroness Williams of Trafford: Yes, it would be. The development cannot go ahead unless the technical details have been agreed. It is an essential part of the process, just as it is under the current system.

Perhaps I may finish my opening remarks by reminding noble Lords of what the sector has made of our proposals since the Bill was published back in October. The Federation of Master Builders strongly supports them, and it believes in particular that the application route for minor developments will help to reduce the barriers to bringing forward small-scale housing development. In its evidence to the committee scrutinising the Bill, the Home Builders Federation said that Clause 136 would definitely increase supply because it is,

"a positive step towards finding the sites that local authorities actually want to see developed".

I hope that I have been able to demonstrate briefly that permission in principle is a much-needed measure that is supported by the sector. It aims to introduce more predictability and efficiency into our system for locally supported development.

The noble Lords, Lord Beecham and Lord Greaves, talked about fracking. I should just like to make the point at this juncture that fracking sites are precisely the type of development that would not be suitable for permission in principle; they are simply at the other end of the scale. We are talking here about housing-led sites, so I shall say on the Floor of the House that fracking is not the sort of thing that we are thinking about. However, I know that noble Lords like to have it confirmed again and again, and I do not blame them.

The noble Lord, Lord Beecham, asked about the number of dwellings. The number will be determined through the local plan derived via consultation with the local community. He also asked about archaeological sites. If, say, a new dead king was found under a site, making it a site of great archaeological interest, it is fair to say that the technical details consent would be refused at that point.

Baroness Andrews: The noble Baroness may be inciting me to withdraw my amendment, because some archaeological sites can be mitigated rather than withdrawn, but that mitigation requires the permission in principle to be changed because the mitigation can happen only, for example, by reducing the minimum number of houses. What happens then?

Baroness Williams of Trafford: The noble Baroness is absolutely right that the archaeological aspect of a site could be mitigated. Perhaps we will move on to that issue later, but I thought I would mention it, given that she is sitting in front of me. It might be a good example.

A few noble Lords talked about local development orders. We will get on to those in a later group, but I want to make the point at this juncture that local development orders are quite different from permission in principle, because they are tools that local authorities use to grant detailed planning permission for a specific development within a defined area, such as unlocking problematic sites and playing a vital role in regeneration. I thought I would make the point, because it has been mentioned.

Amendments 89N and 92D, tabled by the noble Lord, Lord Greaves, and the noble Baroness, Lady Featherstone, seek to place in the Bill an exclusion on certain sites from benefiting from a grant of permission in principle. Let me simply reaffirm the following truth: the Bill enables permission in principle to be granted for development on sites chosen by local authorities and neighbourhood forums. If a local authority considers that a site is suitable for housing-led development in line with local and national policy, it will be able to use permission in principle to help to ensure that such sites are delivered.

Lord McKenzie of Luton (Lab): Perhaps I may ask the Minister about a point that has been puzzling me. Does the duty to co-operate between local authorities remain as it is under their current system?

Baroness Williams of Trafford: Yes, my Lords. Indeed, I would reinforce the point that the duty to co-operate, particularly on larger sites, is even more important, given the buy-in by local communities of two different local authorities. Does that answer the noble Lord's question?

Lord McKenzie of Luton: Yes. I thank the noble Baroness.

Baroness Williams of Trafford: Perhaps I may reaffirm that if a local authority considers that a site is suitable for housing-led development in line with local and national policy, it will be able to use the permission in principle to help to ensure that the site gets delivered. The NPPF already provides strong protections for the type of sites listed in these amendments, including the green belt, the historic and the natural environment. At its heart, the framework is clear that local authorities should plan positively to meet each of the economic, social and environmental dimensions of sustainable development. For example, paragraph 157 sets out that plans should identify land where development would be inappropriate and contain a clear strategy for enhancing the natural built and historic environment.

Permission in principle does not change any of these existing protections. Local and national policy has always driven how local decisions are made, and the addition of a new route to obtaining planning permission does not change that. I suggest that setting out centrally what type of land may or may not be granted permission in principle would set an unwelcome precedent.

Noble Lords have tabled a number of amendments to Clause 136 that seek to restrict permission in principle to be granted for housing development only. Amendment 90, tabled by the noble Lord, Lord Beecham, is part of the group. Although I understand the desire to add more detail to the legislation at this stage, there are important reasons why it would be unwise to restrict the granting of permission in principle to housing development in the Bill. First, and most importantly, if we restrict permission in principle to housing only, we lose the crucial ability to facilitate mixed-use development. We are currently consulting on an approach that would enable permission in principle to be granted for housing-led development to allow for the possibility of mixed uses that are compatible with a residential environment. This means that as long as a site allocation is housing-led, local authorities will be able to grant permission in principle in line with local and national policy for other uses.

Lord Beecham: I will not ask the Minister to do so now, but will there be a definition in guidance about what housing-led actually means in terms of proportions of sites and so on?

Baroness Williams of Trafford: Yes, my Lords. I can give an example of what that might include. It may be a retail community and office space. This approach is absolutely crucial to continuing to promote sustainable development and the delivery of balanced, mixed communities, spaces and places in line with the principles set out in the NPPF. We are currently consulting on this approach and we would welcome views about what would constitute a suitable proportion of housing and the compatible uses, in line with the noble Lord's pre-emptive question. This will allow us to set out a sensible definition of housing-led development in secondary legislation.

Amendment 90 would also restrict the granting of permission in principle to brownfield sites only. I want to remind the Committee that the Bill will enable permission in principle to be granted to sites identified on the new brownfield register specifically to help to ensure that development takes place on these priority sites. We also intend to enable permission in principle to be granted on sites chosen and allocated by local authorities, parishes and neighbourhood forums within their local and neighbourhood plans. Restricting the granting of permission in principle to only brownfield sites in this context would greatly reduce the effectiveness of this measure and the freedom for local agreement on where development should take place as part of the plan-led approach.

Finally, my noble friend Lord Lansley asked whether new plans could automatically be considered for PIP. Once the secondary legislation is in place, our newly adopted plan could grant permission in principle. The choice about whether it should be granted will be a local one. I hope that, with those words, the noble Lord will feel happy to withdraw his amendment.

6.30 pm

Lord Greaves: My Lords, I am grateful for the care with which the Minister has answered and taken part in the discussion on these amendments. Inevitably a great deal of what she said was explaining the proposals rather than engaging with some of the arguments put forward, although she engaged with quite a few.

The noble Lord, Lord Lansley, made an interesting point about emerging plans. We will discuss this later, but it is clear that the Government do not intend that permission in principle should be retrospective. However, there are plans at the moment that may not—and if they are very close to adoption, will not—have been put together with an understanding that permission in principle might come from them. There is an interesting debate to be had in a later group about that.

The noble Lord, Lord Lansley, also mentioned flood plains. In a sense, this underlines the difficulty behind the permission in principle and technical details concept. Is the liability of land to flood on a flood plain or indeed in any other circumstances a matter to be sorted out before permission in principle is given or not? Should it be sorted out at local plan level? If there is an application for permission in principle outside the local plan, direct to the authority, who sorts it out and at what stage? One of the concerns of local planning authorities is that the work on assessing the problem, assessing what needs doing, designing mitigation methods and so on may be transferred from the applicant—the developer—to the local authority. Most of the work involved in putting a local plan together, such as the strategic housing land availability assessment and other such documents, is done by and paid for by the local authority.

In terms of planning applications, one of the complaints seems to be that developers—applicants—have to spend a lot of money at an early stage when they are not sure if their application is going to get passed. I am not quite sure how you get away from that, but if a local authority says that it cannot give permission in principle on land because it is a flood plain, it will have to have evidence to show that—not least if it goes to appeal. To get that evidence, it will have to do the work and show that mitigation is not possible. There is a real problem. Is this a device for transferring the cost of doing work before an application can be agreed from the developer to the local authority? If it is, there are obvious problems, which I think we can discuss in later groups.

Otherwise, I am pretty grateful to the Minister for what she has said and I will have a happy time over the Recess reading it all. I beg leave to withdraw my amendment.

Amendment 89N withdrawn.

Amendment 90 not moved.

Amendment 90ZA

Moved by ***Lord Greaves***

90ZA: Clause 136, page 66, line 31, leave out "technical" and insert "development"

Lord Greaves: My Lords, this is a miscellaneous group relating to planning in principle. In moving Amendment 90ZA, I will speak to the rest of the amendments in my name in the group. Amendment 90ZA and two other amendments in this group relate specifically to the term "technical details". Noble Lords will know that I take an interest in what things are called. I think that it is important for the way in which they are regarded. "Technical details" seems to me to be the wrong name. They suggest a formality, either right or wrong, or yes or no, like building regulations—non-controversial, technical and able to be the subject of tick lists.

It is becoming clear from the discussions that "technical details" in the case of planning in principle will include a great deal more than that. They will include things that are debateable and arguable and they will require a lot of evidence from both sides. Also, when a local authority makes a decision, it will be subject to appeal. "Technical details" seems to me to be a source of confusion and misunderstanding and have a lack of clarity for the public. When people are told that their objection about access to the site through their estate or the impact that it is going to have on the local landscape is just a technical detail, I think they will get quite angry. Therefore, because it seems a more sensible name and because I always want to help the Government in these matters, I suggest that they should be called "development details", which is a clear, simple and obvious name for them.

The Bill says that when there is an application for permission in principle—in other words, getting a PIP directly through the local authority and not through a document—the local planning authority may grant the planning in principle or may refuse it. It suggests that there are no circumstances in which local authorities could grant it with conditions. This is causing a lot of bemusement in the planning world. Amendments 94ZB and 94ZC are to probe this and say,

"they may grant permission … with conditions",

but,

"any conditions imposed … may only relate to matters that are material to the granting of permission of principle".

It seems rather drastic to say that, in relation to the area, the amount of housing or indeed other uses of the site, the local authority is not able, perhaps after discussion and negotiation with the applicants, to put conditions on in the normal way.

The present planning system is not anti-development; it is actually very pro-development. One thing that applicants often complain about that is not to their benefit is that there can be a great deal of negotiation after the initial pre-application discussions with the local planning authority. There will be perhaps negotiation as it is going through the system and the final result may be different from what was proposed at the beginning, but the result will be that planning permission is given.

The whole impetus now within the local planning system is that, when a planning application comes in, it gets permission. Therefore, what the local planning authority is doing and what the planners are doing very often during that process, in negotiations with the applicants, are the things necessary to make it possible to give that planning permission—and it goes to committee to make a recommendation for that. To say that you can simply pass it or kick it out seems to me a recipe for having more refusals than we do now. If there are things that people think need negotiating and changing, it will not be possible to do it—and having conditions is a way to do that.

Finally, conditions on an outline planning approval will mean that the permission given will say something like, "This permission is given subject to reserved matters, which are as follows", or it may say that all the matters are reserved, but it will give outline planning permission subject to subsequent agreement about the reserved matters. What is now being said is that the planning in principle will be given but there will be a list of parameters set for a subsequent application for technical details. I do not understand what the difference is between an outline planning permission and a permission in principle in those circumstances and I do not understand what the difference is between reserved matters and parameters. Perhaps the Minister can elucidate what parameters mean and what they are all about. Will the parameters set out be mandatory on technical details? Will there be things that have to be sorted out at that stage? What happens if perfectly good objections arise to a proposal at technical detail stage that have not been thought about at planning and principle stage? Will it be impossible to consider these other things, which members or local groups or even councillors may bring up and which may be valid and obvious things that need to be sorted out before the application can be dealt with? Will they be banned from being dealt with if they are not in the list of parameters—if they are not in the parameter of parameters that have been agreed at the first stage?

With Amendment 94B, I am just trying to be helpful, as the Bill as it is written at the moment does not make sense. It would make an amendment to Section 70 of the Town and Country Planning Act. Perhaps somebody could look at it.

Amendment 94ZA is all about guidance. For heaven's sake, we are going to have lots of regulation-making powers by the Secretary of State, then we are going to have all the powers of the Secretary of State to make development orders under the Town and Country Planning Act, which will set out most of the rules and regulations for local authorities. In addition to that, we have this ridiculous paragraph saying:

"Local planning authorities must have regard to any guidance issued by the Secretary of State in the exercise of functions exercisable by virtue of this section".

If the Secretary of State issues guidance, people will pay attention to it—obviously they will. But putting it in legislation like that is an insult to local planning authorities, to councils, to planners and to councillors. It is treating them like children; it is just pathetic. However, that is just an outburst on my part. The other amendments in this group are more substantial. I beg to move.

6.45 pm

Baroness Andrews: My Lords, I intervene briefly to support quite a lot of what the noble Lord, Lord Greaves, has just said. This business of language is absolutely critical. Part of the problem is the splitting of what is now a holistic process through the discretionary

system that we have into two arbitrary divisions. That is what the Bill proposes, and that is why the distinction between the two parts of the process and the language is absolutely critical, as is understanding where the boundaries lie and whether they are in any way permeable or whether they are fixed. The technical detail to describe the infrastructure, contamination, substance or transport is not correct or appropriate. Perhaps the noble Lord, Lord Greaves, has got it right when he talks about development, because they are all aspects of development, but I ask the Minister and officials to think really hard about the proper language here.

The other issues that have been raised are about the flexibility, and we will come on to that in later amendments. What we have is a cliff edge at the end of the first stage on the three criteria, which are very blunt—location, land use and amount. The rest is about how it works. Unless we are clear that there is no way that anything that is discovered that cannot be known, because no site investigation will have been required—in many instances none will have been done—and unless we know whether there is any way in which to alter the PIP, or unless conditions are attached to the PIP, the only choice is to reject the planning application as a whole. The noble Lord, Lord Greaves, is quite right—that means that we may end up getting fewer sites agreed than under the present system. This is an extremely important set of amendments and some very important issues have been raised.

Baroness Gardner of Parkes: My Lords, I support the point just made that language is very important in this matter, but I am slightly disturbed by the noble Lord, Lord Greaves, saying that the language is too simple and talks down to people. What does it matter if the planning officers find it all so simple? I am a great believer that ordinary people should be able to understand the law. Therefore, it should be in as simple a form as possible and we should not worry about who feels that they are being talked down to. We have just had two conflicting statements on that, but I agree with the noble Baroness, Lady Andrews, that language is important.

Baroness Williams of Trafford: I, too, agree that language is important and what might be talking down to one person might feel incredibly complex to another, particularly when it comes to planning, which lies outside the interest of most people and is of interest only when it affects them.

The effect of Amendments 90ZA, 95ZA, and 95BA, tabled by the noble Lord, Lord Greaves, is to replace "technical details consent" with "development details consent" to reflect his wish that applications following the grant of permission in principle should be determined in accordance with the existing rules relating to planning applications under Part 3 of the Town and Country Planning Act. I share his desire to ensure that an application that follows a grant of permission in principle includes a robust process that allows for consideration of development against local and national policy. We have set out our wish for an application for technical details consent to strike the right balance between securing such a process, while minimising unnecessary duplication at the permission in principle and technical details consent stages. We are currently consulting on how to get this balance right, and asking key questions about important matters such as information provision and involvement of communities and others.

Amendment 92HA allows me to explain the difference between permission in principle and local development orders. I apologise to noble Lords that I am slightly repeating myself, because I have just made this point in the previous group, but it is important to say again that local development orders are tools that local authorities use to grant detailed planning permission to specific development within a defined area. They are a particularly useful tool in unlocking problematic sites and play a vital role in regeneration. Local development orders and neighbourhood development orders will still have a role in allowing a local planning authority or neighbourhood groups to grant a more detailed planning permission for specific sites.

On Amendment 94ZA, we have taken a power to issue statutory guidance on the new system of permission in principle. We think that this is an important power as it will allow us to make clear to local authorities, developers, statutory bodies and the general public how the new system should work. The guidance will also help to make permission in principle fully accessible to all users, thereby placing strong expectations on how, where and in what circumstances permission in principle can be granted.

I turn to Amendment 94ZB. New Section 70(1A) as introduced by the Government will enable local authorities to refuse or approve an application for permission in principle. The amendment suggested by the noble Lord effectively removes the ability to make an application for permission in principle to the local planning authority. As I set out in my opening remarks, Clause 136 enables applicants to apply directly to their local authority for permission in principle and it is important to have this route, alongside being able to obtain it through a local plan, a neighbourhood plan or the brownfield register. Our intention is to make this option available for applications for minor development, specifically to help address the particular challenges faced by smaller developers, who often find that the cost of providing swathes of technical detail up front prevents them from entering the development market.

One of the ways that we can help to address this chronic housing shortage is by diversifying the housebuilding sector and encouraging small and medium builders and custom builders into the market. The permission in principle application route aims to help achieve exactly that, offering a route for smaller builders and even custom builders who can seldom afford to waste money on detailed planning information for sites that are unacceptable in principle to gain more upfront certainty and reduce the risk for them to enter the market. The permission in principle application route will be optional for applicants and will sit alongside other routes for securing planning permission. Permission in principle will be determined by local authorities in accordance with the development plan for the area unless material considerations indicate otherwise. We will be setting out minimum statutory requirements for consultation when an application for permission in principle is made to ensure that the local community

[Baroness Williams of Trafford]
and the statutory agencies are consulted before it is granted, closely following the existing requirements during the planning application process. In no way will the permission in principle application provide a route for applicants to push through unacceptable proposals. Instead it will be hugely beneficial to the SME market and could play an important role in helping to diversify the housing market.

Turning now to Amendment 94ZC, I am thankful to the noble Lord for his comments on how decisions to grant permission in principle are made. However, I do not think it is appropriate that permission in principle should be granted subject to conditions, because permission in principle is to provide simple certainty on the basic acceptability of the site early on in the process. As the permission in principle does not on its own authorise development, conditions at this point would unnecessarily complicate the process, although we expect local authorities to make clear when they give permission in principle the matters that they would expect to see covered in an application for the technical details consent, and we are currently consulting on how best to achieve this. The technical details consent application will provide the opportunity for the local authority to determine all further matters of the development in line with the local plan and other material considerations, subject to conditions. This is the appropriate time to impose conditions on how a scheme is to be delivered.

On Amendment 94B, I agree with the proposals put forward in the noble Lord's amendment. That is why, in response, I draw attention to page 157 and more specifically to paragraph 11(2) of Schedule 12, which already makes the changes the noble Lord seeks to make with this amendment. I thank him once again for this debate and, in light of my comments, ask that he withdraw the amendment.

Baroness Andrews: On the last point the Minister raised, when the permission in principle is allocated the local authority must advise the applicant what will be covered by the notion of technical details. It seems to me that much of what is driving this Bill is a concern for SMEs, possibly more than large developers. But SMEs will not have gone through the plan. They are bringing their applications forward, so they may have an eye on a site but they may not have any idea what that site is like. They certainly will not have done a site assessment. How, therefore, can the local authority be certain of the advice that it is going to give to that small builder about the technical details to be covered? As we keep saying, we do not want to waste money. That is part of the present system, so we are told. But surely there is a possibility that a small builder will engage with a site only to find that he cannot deliver because he cannot deal with the technical details which will be given to him at a later stage.

Baroness Williams of Trafford: The noble Baroness raises a vital point. The lack of some upfront costs will help the smaller builder because knowing what will be expected of him or her later down the process could enable that smaller builder to make a decision on whether or not to proceed with that application. I hope that that is helpful to the noble Baroness.

Baroness Andrews: It does depend on the local authority and the small builder knowing what they are looking for. It may be, if it is a site that nobody knows about, that they will not know what they are looking for. This is one instance where, if we had the consultation and the response of people who are going to manage this, we would be in a much better position to know whether this is safe or not.

Baroness Williams of Trafford: I hope the noble Baroness will engage with the consultation. In fact, her words tonight will form part of the consultation. All noble Lords' suggestions are being taken forward to help shape policy.

Lord Greaves: My Lords, the problem is that getting permission in principle will not provide certainty. All it will provide is certainty that you can go on to the next stage where the hard work will have to be done and paid for and the application might be turned down. The Minister keeps talking about the fact that conditions can be put on and applications can be amended at the technical details stage. That is absolutely right but they can also be thrown out, and the problem that some of us, including the noble Baroness, Lady Andrews, are trying to grasp is that some of the things which will be discussed at technical details stage are regarded as something that should be discussed at outline planning stage. They are matters of principle such as the question of whether you can get proper safe access to the site and the matter of ecology on the site. The proposal that has been put forward is that you can get planning permission in principle for such a site but then there are technical details that have to be dealt with, so it does not stop the cost. It might even cost small builders more because they are being led down the garden path with permission in principle and then they are being stopped when they get to the privy at the bottom, whereas at the moment they would be stopped halfway down the garden path. So this needs to be thought out.

As a ward councillor I am currently engaged peripherally in discussions for a small planning application for about 24 houses. The development has had full planning permission but the developers decided it was not viable as set out so they have come back with a changed application. Discussions are now taking place which are delaying the whole thing, but the purpose is to get it passed in the end. Some of the discussions are taking place because residents in nearby flats, assisted by me and other councillors, are complaining about some of the properties just behind them being too high and too big. Meanwhile, the developer is saying that it is still not viable and they want another one. So discussions are taking place at the moment on the minor detail of changing the design of one of the houses, perhaps putting another house in a corner where there is not one.

7 pm

All that discussion is taking place at the moment. There is nothing unusual about it. Planning applications do not just come in and then be dealt with and sent out again; they require a lot of pre-application discussion with planning officers, and sometimes with councillors

as well. If they are sensitive in any way, a lot of discussion takes place during the eight weeks of the application process, and then the decision is made at the end. If, half way through, a decision is made to change it, there will be another application. As far as I can see, none of that will change unless the new process is so rigid that it forces councils to make a decision before they want to, in which case they will decide to reject the application. So, more things will get rejected if this kind of constructive negotiation, which is partly political, partly residential and partly planning, does not take place. These proposals do not seem to fit in very nicely with the real world, but, having said that, I beg leave to withdraw the amendment.

Amendment 90ZA withdrawn.

Amendment 90A

Moved by ***Lord Greaves***

90A: Clause 136, page 66, line 32, leave out "a prescribed period" and insert "three years"

Lord Greaves: My Lords, I submitted some of the amendments in this group before I got further information by reading the technical consultation and implementation, which I will come to. I shall speak also to the other amendments in my name in this group. These amendments are mainly about timescales and time limitations, which is why they have been grouped. There is a very helpful Labour amendment in the middle of the group.

Amendments 90A, 95C and two others refer to the prescribed period. Amendment 90A is a probing amendment to find the Government's idea of what the prescribed period should be for after permission in principle is given on a piece of land but before technical details have to be given, otherwise the permission in principle may lapse. I have suggested three years, which is the present position for outline planning permission and reserved matters. Since I tabled the amendment, I have been able to see the technical consultation which talks about a different timescale, and I hope noble Lords will let me raise this as it is important.

The maximum determination period for permission in principle on application and technical details consent is how long the local authority has to process and determine applications. At the moment, it is essentially eight weeks for ordinary applications and 13 weeks for major applications. The proposed determination periods that are being consulted on are five weeks for permission in principle for minor applications, five weeks for technical details consent for minor sites and 10 weeks for technical details consent for major sites. There is considerable concern about these proposals and these timescales. I apologise to the Minister, who will not have answers on these specific things, but I want to put them on the record.

I have a comment from my planning manager in Pendle. He says:

"If there is to be meaningful consultation the timescales involved are unworkable and will lead to many applications being rejected. A significant number of applications need amending or further clarifying information needs to be prepared. This requirement often comes from the comments of consultees who normally take the full 21 days to respond".

Consultees are Highways England, the Environment Agency, the Coal Authority and the rest of them.

"The processing of an application and registration takes two days and letters sent out to consultees. They will get the letters in the first week. There are then three weeks for consultation. That leaves 1 week to deal with all the issues that are brought up. If there are outstanding matters"—

and my experience is that there usually are—

"which there will inevitably be, LPAs will refuse consent rather than allow something that is potentially unacceptable.

Timescales need to be more realistic or the process will fall down with impossible to achieve timescales".

The Minister said that our comments will be fed into the consultation, so I hope those comments will be fed in.

Amendment 93A states that PIP cannot be retrospective, and I think the Government agree that that is the case, so perhaps I will not pursue it. Amendment 92N probes the circumstances in which the Secretary of State can grant PIP instead of the LPA. Amendment 93A also states:

"The procedure to be followed for the readoption or revision of a qualifying document in a way that affects the granting of permission in principle to any land is the same as that which applies to the original adoption of the document".

The purpose of that provision is to probe whether, after the document has been adopted with all the public consultation and processes which it appears are being promised, it could then be changed in some way on the sly without all that process taking place again.

Amendment 93B is about whether permission in principle will cease to have effect on land. If planning permission is given for a different use, does the housing PIP then lapse or does it stand alongside a new permission for, say, a supermarket? If land is allocated for a different use or has the allocation for housing removed in the local development plan, does the planning in principle lapse if the local development plan is changed? If land is removed from the list of land suitable for housing development or the register of brownfield land, does that mean that the planning in principle is also removed at the same time?

Amendment 93C is about how applications for planning permission will work on land which already has planning in principle for housing. If it has permission in principle for housing, and somebody puts in a planning application for a supermarket, a garage site or whatever, will that simply operate on the same lines as it would if that permission in principle did not exist? If the permission in principle for the supermarket, the garage site or whatever is then granted, does the planning in principle for housing lapse or does it continue to exist alongside? I beg to move.

Lord Beecham: My Lords, I rise with, I promise, uncharacteristic brevity to speak to Amendments 93 and 96, which are tabled in my name and that of my noble friend Lord Kennedy. These amendments relate to time. Amendment 93 relates to new Section 59A(4), which states:

"Permission in principle … takes effect when the qualifying document is adopted",

and, critically, goes on to say in new paragraph (b) that it,

"is not brought to an end by the qualifying document ceasing to have effect or being revised, unless the order provides otherwise",

which strikes me as somewhat peculiar provision. My amendment would ensure that the provision in principle

[LORD BEECHAM]
expired when the plan was no longer relevant or had been replaced. It limits the time to circumstances when it remains relevant or has not been replaced.

Amendment 96 again relates to the time factor, because the somewhat convoluted proposed new subsection (2ZZC) says:

"Subsection (2ZZA) does not apply where … the permission in principle has been in force for longer than a prescribed period".

That is what the Bill currently says. The amendment seeks to put a limit on that period of five years, so there would have to be development within a five-year period. That seems perfectly reasonable given what we already know about the vast number of outstanding permissions which are not acted on, and which therefore of course do not contribute to meeting housing or indeed any other needs.

Baroness Williams of Trafford: My Lords, the effect of all four Amendments 90A, 95C, 96ZB and 96 would be to put a timeframe in the Bill to allow local authorities to reopen the principle of development when determining an application for technical details consent after a permission in principle has been in place for three years.

Proposed new Section 70(2ZZC), as introduced by the Government, will give local authorities the ability to re-examine the principle of development when a permission in principle has been in place for longer than a set period and where there has been a material change in circumstance. I assure noble Lords that we intend to set out a suitable period for when the principle of development could be reconsidered in secondary legislation. We are currently consulting on the duration of a permission in principle granted either on allocation in a plan or on application to a local authority. To set the duration of permission in principle in secondary legislation rather than in the Bill is a prudent approach, because it gives us a better opportunity to ensure that this model works as intended and for the Secretary of State to keep it under review and respond as appropriate.

Amendment 92J would have the effect of removing the ability to prescribe the type of development that can be granted permission in principle in secondary legislation and—taken with some of the other amendments tabled by the noble Lord to this clause—would limit permission in principle to housing development only. Once again, I understand the desire to place detail in the Bill. However, as I have already set out, there are important reasons why permission in principle should not be restricted in this way. The power that Amendment 92N seeks to remove is there simply to ensure that permission in principle is consistent with the existing system. This is important as it minimises complexity, and for this reason, I ask the noble Lord to consider not moving this amendment.

On Amendment 93, I will briefly explain to noble Lords our intentions behind proposed new subsection (4)(b) in Clause 136 on the duration of permission in principle. We have no intention of allowing permission in principle to exist in perpetuity. We are intent on setting out a sensible duration and are currently consulting on the option of setting that limit at five years. Proposed new subsection (4)(b) would give us important flexibility to ensure that, in appropriate circumstances, where a plan or a register is more regularly revised or updated, it does not automatically mean that permission in principle comes to an end.

Lord Beecham: Did I hear the Minister correctly? She indicates that she is thinking of a five-year period, but how would that be provided for? It does not seem to be in the Bill—will it be a matter for regulation, and whence would that authority derive?

Baroness Williams of Trafford: The noble Lord is right; as I just said, we are currently consulting on setting the limit at five years. Does that answer the noble Lord's question or am I answering a totally different one?

Lord Beecham: Does the Minister mean that she is thinking about a government amendment to this clause on Report, or will that be determined by regulation?

Baroness Williams of Trafford: My Lords, I am saying that we have no intention of setting it out in perpetuity; we are consulting on what the length of time would be and on the option of setting the limit at five years, which would indeed be set out in secondary legislation.

Lord Greaves: On the question of five years, if I remember correctly, the limit for outline planning applications and full applications used to be five years, and the limit for outlines was reduced to three years precisely to encourage people to get on with development and apply for reserved matters. Is it not the case that going back to five years for planning in principle before technical details are required could result in the process slowing down, which is the opposite to what the Government want?

7.15 pm

Baroness Williams of Trafford: I take the noble Lord's point; I hope that all that would come out in the consultation and that we would arrive at a sensible period of time.

On Amendments 93A and 92K, in answer to the points raised about permission in principle applying to existing local and neighbourhood plans, I hope that I can make some helpful assurances. I make it clear that permission in principle, granted on allocation in locally prepared plans and registers, will apply only to those adopted once the permission in principle measure is fully in force. The Government have no intention to apply the measure retrospectively to site allocations in existing local development plans. It will be possible to grant permission in principle only going forward, so existing plans and site allocations will not be affected. My noble friend Lord Lansley asked what would happen to plans that are in evolution. Local authorities can go back and review their plans to put permission in principle to effect. I am making the point that it cannot be done retrospectively, which has been a concern.

Lord Greaves: While we are on this, in principle—I hate to use that word here—there might be no reason why, if the local plan has been put together in a very thorough way with lots of public consultation, it should not apply, once it is adopted, perhaps next year

or later this year, to permission in principle. The problem is, as the noble Lord, Lord Lansley, and the Minister said, that because of the way in which local plans are put together at present, very often there is not much public involvement about particular site allocations because people always think, "That's been allocated for housing for ages so it'll be allocated again, and we can always get involved and object if and when there's a planning application"—and people hope that there never will be. If a local plan involving site allocations, whether it is the whole local plan or just the site allocations document, is almost or half-way ready to go to inspection, and the sites have more or less been agreed, and then there is the question of whether that plan, once it is adopted, should qualify for PIP, if the Minister is saying, "The local authority might have to go back and review it", and if that then involves having a greater degree of public involvement and neighbour consultation than has taken place so far, that will delay the plan. Can the Government give a guarantee that under those circumstances they would not then penalise the authority for not meeting deadlines in production of the plan?

Baroness Williams of Trafford: My Lords, there is no intention to penalise local authorities; the Government made it quite clear that this would not be retrospective but could be reviewed as time went on. The noble Lord makes his own case when he talked about local people not being involved in the planning process. In fact, there is every evidence that the local planning process has vastly increased engagement from local communities, so I think it is a very good system, and I hope that local people get involved.

I turn to Amendment 93B. I assure the noble Lord that, as I said, we intend to set out a sensible period of when permission in principle ceases to have effect in secondary legislation. Setting the arrangements out in secondary legislation is more prudent, allowing us to consult and explore this further so that we can get the approach right.

Lord Greaves: I do not disagree with that at all.

Baroness Williams of Trafford: If I could just complete this point, the noble Lord can come in afterwards. On Amendment 93C, I reassure the noble Lord that we are consulting on the application process for the technical details consent. We envisage that the process will draw on the existing planning application process set out in Part 3 of the Town and Country Planning Act of 1990. However, because the permission in principle, followed by technical details consent, is a different route to obtaining planning permission, it would be inappropriate to place a requirement in the Bill that fully duplicates the current full planning permission procedure at the technical details consent stage.

We will be setting out the application process for technical details consent in secondary legislation once our current consultation closes, and, as I have said today, I will be very interested to hear views from noble Lords. I invite the noble Lord to withdraw his amendment.

Lord Greaves: It would be very helpful to have a bit more information about some of the Government's thinking on the secondary legislation to which the noble Baroness referred several times. That is what I was trying to intervene on. It is very difficult to know how the process is going to work and to understand it without knowing at least some of that. I accept that some of it is in the technical consultation, but not all.

Can the Minister tell us the relationship between pieces of land which have permission in principle and other planning applications that might be made on those pieces of land? Is the existence of the permission in principle a material consideration in the consideration of another planning application for a different use? If that planning application is granted, does the permission in principle on that land lapse, or would there be two permissions of a different sort side by side?

Baroness Williams of Trafford: My Lords, I do not think that a local authority would want to put a permission in principle on a site that already had an application for another use, but that would be up to the judgment of the local authority, particularly in planning for housing.

Lord Greaves: I am sorry to pursue the detail, but it is important. There might be a permission in principle on a piece of land that has been there for three or four years, and nothing has happened, and someone comes along and wants to develop it for something different. That is the sort of situation I am thinking of, in which the permission in principle is historic on the land, as it were, and it is a new application. Perhaps the Minister will write to me on that. I beg leave to withdraw the amendment

Amendment 90A withdrawn.

Amendment 91

Moved by ***Baroness Hayter of Kentish Town***

91: Clause 136, page 66, line 36, at end insert—

"(4) Criteria for permission in principle and technical details consent shall be subject to consultation with local authorities."

Baroness Hayter of Kentish Town (Lab): My Lords, Amendment 91 stands in the name of my noble friends Lord Beecham and Lord Kennedy and is still on the issue of permission in principle. In particular, we seek to mitigate the parts of the Bill that introduce a new system that in effect takes out both local democratic control and the rights of local people to have a say in proposals on their area—or on their doorsteps, as I think the noble Baroness, Lady Pinnock, said earlier.

Amendment 91 would require consultation with local authorities on criteria for PIP and on the technical details. Amendment 94 sets out information about the permission in principle granted by a development order, which must have prior consultation with local planning authorities. Amendment 95 would allow local planning authorities to overturn permission in principle decisions where important material considerations which the planning stage did not reveal have come to light. My noble friend Lord Beecham gave the example of archaeological finds in the debate on an earlier group.

These amendments and the others in the group are essential if the Government's new system is to retain any workable input of local democratic accountability

[Baroness Hayter of Kentish Town]
and to allow for further consideration as circumstances or what is known about a particular plan and its effect come to light. I beg to move.

Lord Greaves: My Lords, I have four amendments in this group that pursue the question of what should be in permission in principle and what in technical details. These are absolutely crucial issues, which need a great deal more thought between now and Report.

People will not understand that permission in principle can be given, as I suggested in Amendment 96ZC, for a piece of land where there are clearly drainage problems and there needs to be drainage assessment, unless that drainage assessment has taken place. If it is a brownfield site, is the local authority supposed to carry out that assessment to see whether a sustainable drainage scheme is needed for the site, to set out any details of measures that can mitigate the problem, or perhaps improve the problem by taking water off land that is liable to flood but that, if dealt with properly, would not? I suggest that that kind of thing ought to be part of the assessment of permission in principle, and it ought to be the responsibility of the developer to assess it and to produce a scheme that is acceptable. Otherwise, it will be put in the local plan as suitable for development, it will be allocated for housing and it will automatically get permission in principle because of that, yet the problems will not have been looked at and sorted out, and the certainty that the Government want for the developer will not exist. It will simply be transferred to the technical details stage.

Amendment 96ZD picks up another similar issue, which is highways and access appraisal. On any substantial development it is almost impossible to get outline planning permission nowadays unless you have the access sorted out. That is absolutely crucial. The access may be the direct access into the site, off the road or down the road, or works may be necessary on the local highways network to make the development of that site acceptable. Again, if that is not done by the permission in principle stage, if people think they have permission in principle and everything is okay, all the problems, all the expense of doing this will inevitably go to the technical details stage.

On the proposed timescale for dealing with consultations of three weeks, which I read out during the debate on the last amendment, if the local planning authority is consulting the local highways authority and it has to do a technical appraisal, go on site, measure junctions and all the rest of it, the whole thing is impossible. Unless it is sorted out at the permission in principle stage, there will be no certainty, permission in principle will be nothing, and technical details will turn into a full planning application type of process.

7.30 pm

The third survey I have mentioned is for contamination and remediation. That clearly requires work done in advance. If it is a complicated site—if there have been mills, foundries, railway yards or whatever on it—it will require specialist technical people to do it. The applicants will have to get that work done, spend money on it and find out whether development is possible. The idea that they will then not have to pay for this and simply get permission in principle and the whole world will suddenly be wonderful is frankly a dream. Nothing is going to change. All this work will still have to be done. There are lots of other surveys that I could have put down as well—ecological surveys, landscape surveys, heritage surveys and all the rest of it; my noble friend Lady Parminter will speak to an amendment on those issues in due course.

The final amendment refers to the CIL. I have tabled it simply to have confirmation from the Government that developments under permission in principle will be liable for CIL charges. I also ask that it be possible to put Section 106 charges on the application at the technical detail stage. Again, I say that it is far better for such discussions and negotiations to take place at the earlier stage, so that you can filter out applications that are not going to go anywhere and actually cost developers less. If you just give permission in principle and then say that developers have to do it all for the technical detail stage, they will lose more money than under the present system when the application is turned down. This is a fundamental issue of the relationship between planning in principle and the technical details and how the interaction between developers, planners and everybody else is going to work. I honestly do not think that the Government have thought it out properly yet.

Baroness Andrews: My Lords, I have two amendments in this group that I hope take forward some of the matters which the noble Lord, Lord Greaves, has already addressed. I shall go as quickly as I can, but I have been trying to thread my way through the technical consultation document and it has thrown up quite a few questions, and if the Minister will bear with me, I will ask those questions now.

Both the amendments seek clarity on the fundamental question of what happens when a PIP is set in stone and cannot be reopened. We have already addressed the question of what happens if information or material considerations that were unknown when the PIP was awarded turn up during the technical detail stage and may not even be covered. In this case, there would need to be some flexibility around modifying the PIP if it is not to be entirely lost, because that would seem a waste of time, energy and money all round.

Amendment 95 puts this question in more general terms by stating:

"Unless material considerations indicate otherwise".

Amendment 96ZA focuses on instances,

"where the authority becomes aware of information since the permission in principle came into force which renders it no longer appropriate to determine the application in accordance with the relevant permission in principle".

As the Minister anticipated, I will raise the issue of archaeology here, because it is a good example and not because I am obsessed with archaeology—

A noble Lord: There is nothing wrong with that.

Baroness Andrews: Honestly, I am not obsessed with archaeology, but it seems a good example of what might happen, because archaeological findings have the habit of derailing development. The noble Lord, Lord Greaves, has raised a whole range of issues and

material circumstances that can lead to extremely difficult outcomes. Our old industrial sites are often by rivers, so not only do we have layers of contamination going back 300 years, heavy metals and goodness knows what, but we have flooding issues. All such issues relate to the viability of the site, which is a key factor in whether permission should have been allocated in principle—we will come back to viability later on—but none of them would necessarily be explored at that plan-making stage when sites were given approval in principle. They also raise questions of when the NPPF kicks in, how we will see and know that, and the scope of what we mean by technical details.

The reason for pressing for clarity on this point at this stage of the Bill is obvious; it is because the PIP is a radical departure from the discretionary planning process that we have now. It shifts the locus of consent, the plan; it removes the key flexibility to refuse permission that exists—in relation, for example, to an outline planning application; and it implies that the principal development made in a plan cannot be reopened even when new evidence comes to light.

I am aware of the provisions in the Bill—we have discussed them briefly—that allow for decisions to be reopened after a period has elapsed, but they do not address this issue of when technical details that are not understood or anticipated at the plan-making stage challenge the core principles of whether development should go ahead. That illustrates the basic difficulty of having separated this process into two distinct halves.

Paragraph 2.13 of the consultation document states that this,

"does not prevent consideration of the technical details of the scheme against local and national policy and other relevant material considerations … Any conditions needed can be imposed when technical details consent is obtained"—

which I think means that the technical stage of the process, as well as the front end, will have to be in compliance with the NPPF, but I would like to have that confirmation. I would also like to know why the term "does not prevent" is used rather than "has to comply". Can the Minister confirm that if the technical details are found wanting and there are some aspects that do not comply with the NPPF, the plan will not be approved? If he can give a clear answer, it would be very reassuring.

I have to raise a wider point here, which is the paradox whereby, as the noble Lord, Lord Greaves, has alluded to, if you have not done the site assessment and there has been no requirement on you to visit and test out the site, how do you know whether the NPPF will apply? A review of the NPPF is going on, so how does the Minister think that might reflect what we are discussing in this Bill?

When we come to what is covered by the technical details, I have already raised what the Chancellor meant when he talked about a "limited" range of technical details. The Minister has said that we will have to wait for the consultation, but if she could have a stab at that this evening, that would be useful.

The technical consultation states that the parameters of the technical details that need to be agreed will have been "described" in the PIP, not that they will have been determined or agreed or assessed, for the difficulties that they might cause. What does "described" mean? Does it mean that they would be listed, that a paragraph of intent would have been written, or that evidence would have to be produced, either from a desk analysis or a site visit, on, for example, the history and extent of contamination?

The Minister will probably say that the developers or the LPA will already have identified key issues, because that will have been done in the local plan, which will passport the brownfield site forward. Great weight is put on the local plan; the argument is that it will save time. But local plans are sometimes barely more than a red-line indicator of an allocation; they go no further and rarely involve site visits or detailed investigations. They are subject to a strategic environmental assessment that is based on desktop analysis; it does not involve the requirement for wildlife or archaeological field surveys. Material considerations can cover all that.

Let us think about flooding. There are parts of the country that now flood once in every 10 years when previously they flooded once in every 100 years. These are new circumstances to take into account. I would be very happy incidentally for the Minister to write to me about this if that was simpler.

Here is the rub. Paragraph 2.25 of the technical assessment states:

"The local planning authority may not use the technical details consent process to reopen the 'in principle' issues",

if they,

"are not acceptable for justifiable reasons"—

in which case—

"the local planning authority could justify a refusal at the technical details stage, and the applicant would have the right of appeal".

So this is an opportunity for the Minister to say what a justifiable reason would be. Let us bear in mind that we are trying to bring greater certainty to this whole process, but not only does it appear that it can be overturned completely if the technical detail is confounded but there is no room for manoeuvre and no way in which the applicant can go back and say, "We've discovered a real problem. We can mitigate it, but it means we'll have to really challenge and change the number of houses that we can build".

Many of these facts and material considerations will not reveal themselves without serious site-based knowledge. How many developers are going to do that? Once they have permission in principle, they know that they are home and dry, at least in principle. So we could have the worst of all worlds: a fixed and immutable decision in principle which might be overturned when the full facts of the site and its constraints are known. This is a probing amendment, of course. It is an attempt to keep the door open to a change of mind over PIP when an important material consideration which could not have been foreseen actually comes to light.

Amendment 96ZA deals with where the material considerations take on an acute presentation. The very common unknown quantity of undesignated archaeology can stop development in its tracks. We know that archaeology is important because it is the only means we have to understand our remote past. Technology now gives us the power of understanding

[Baroness Andrews]
and overturning what we thought we knew. For example, recent investigations in Stonehenge revealed that masonry workers came as immigrants from Europe 2,500 years ago. We actually did not know that; it is another gift that immigration gives us.

Archaeology is fragile, irreplaceable and unpredictable. Some of it is known and designated; most of it is unknown, awaiting discovery and undesignated. That is precisely why, after such careful negotiation, the NPPF has put a clear weight on the need to protect heritage assets as part of sustainable development; that is in paragraph 128 of the NPPF. In fact, a fully predetermined assessment and evaluation is usually carried out only where there is an application for permission, and for conditions or obligations to be imposed, or to mitigate or compensate for unavoidable but justifiable harm to the historic environment.

The problem is that brownfield sites are the most intensively worked sites in our history. They have been occupied longer and more has been done to them, and there tends to be very intense archaeology now. In most of the city-centre archaeological sites, such as Leicester, brownfield sites are turning up extraordinary archaeological finds now—not just Richard III but whole medieval and Roman foundations, which we simply did not know about. So we have a problem with brownfield registers.

We also have a problem with SHLAA methodology which will be used, because that does not involve assessment either. Many of the sites that will be identified or allocated have not had the benefit of predetermination in terms of archaeology; therefore, there is a real possibility of damage.

Let me just short-circuit some of this. Any short-circuiting of the development management process which impedes or precludes the opportunity to oppose development on the basis of archaeological objections or to impose conditions makes the historic environment vulnerable. The PIP runs this risk because, as we know, it is not possible to impose conditions at the in-principle stage, and it is not clear that the technical details will encompass archaeological and other considerations related to the historic environment. As I said, it is very difficult to assess whether there is an in-principle objection to development on archaeological grounds without detailed consideration. If no in-principle objection is made, as I said before, sometimes you can mitigate rather than throw out the scheme.

The difficulties are compounded by the loss of expertise in local authorities. It is estimated that they have lost a third of their conservation officers in recent years. Relaxing planning regulation and reducing information requirements generally allow the planning regime to operate with less input from local authorities, and the reduction of input from local authority heritage and archaeological services is doubly damaging. It leaves the sites even more vulnerable to harm.

To conclude, both these amendments raise similar issues in slightly different form. I hope that at least—if in writing, that is perfectly acceptable—the Minister can actually address some of the specific issues that have been raised by the reading of the technical consultation document. But I ask her to think about something else. It would be really helpful if she could put the following assurances on the record—assurances that would apply equally to both my general and my specific amendment: that permission in principle will be decided only by local authorities, whatever its roots; that it will always be decided against the NPPF; that if there is insufficient understanding of the impact the development might have, permission in principle will not be used; and where the impact is difficult to assess without details, the authority will be encouraged to set a conservative limit on development or to carry out investigations as required by the NPPF in order to increase confidence as to the acceptability of the site.

7.45 pm

Baroness Young of Old Scone (Lab): My Lords, I support Amendment 91 and the amendments down in the name of the noble Lord, Lord Greaves, and I simply express the concern about the lack of clarity around the permission in principle process and the technical details stage. I had a very useful session with the policy and Bill team, and a brief one with the Minister about this, and I think that a considerable amount of greater clarity could be given for the benefit of the Committee about what issues will be taken into account at permission in principle stage and what issues will remain for the technical details stage, and what consultation will take place at both these stages.

I will briefly deal with the content of each stage and the consultation separately. I keep banging on about the need for a flow chart that demonstrates the steps in this process, and I hope that the Minister is going to provide us with that. Very strong assurances were given that the permission in principle could not go ahead if the site was not compliant with the NPPF. But I think that it would be of benefit to noble Lords if it could be spelled out in exquisite detail exactly what that would imply in terms of the sorts of issues that would be resolved at permission in principle stage, and assurance given that they would be also subject to full statutory consultation, including the statutory consultees, because that is the point at which both government agencies and others, and indeed the public, can be alerted to the possibility that a local authority will be granting permission in principle for a site.

At technical details stage, it is absolutely important—and I endorse what has been said by other noble Lords—that if we are going to be able to give developers the security that permission in principle needs to provide if it is not going to be a hollow process, we need to have resource to some of these hugely important details, which are contained in the NPPF. We need to be sure that local authorities are giving themselves sufficient assurance that things like flood risk, roads, contamination, nature conservation and other infrastructure issues are being dealt with adequately to give the local authority the security to assure developers that permission in principle can be granted. So the technical details stage genuinely becomes simply for the fine-tuning of the site, rather than trying to deal with some of these basic issues, at a point when permission in principle has already been granted on an adequate basis. That would also help with the current proposal that technical details would be subject only to discretionary consultation—that local authorities could decide how much and how far they wanted to consult on the technical details. If they

genuinely are fine-tuning, I could just about live with discretionary consultation at that stage. But if they are at all going to deal with fundamental issues, which ought to have been dealt with at permission in principle stage, it would be important that full-scale consultation was required of local authorities at the technical detail stage, and not left for local discretion.

So I ask the Minister: before we reach Report stage, can we please have my flow chart? I think that that will reassure the Committee that permission in principle is not a hollow process, and that if permission in principle is granted by a local authority because a site is in the local plan, in the neighbourhood plan or in a brownfield register, it has also taken sufficient steps at the point of deciding that it is going to grant permission in principle to have taken account of all these hugely important issues at that stage and fully consulted on them.

Baroness Williams of Trafford: May I start on a cheery note and reassure the noble Baroness that I did send the flow chart out with the details of the regulations? I do know that some noble Lords on the Benches opposite did not seem to get it. It will go into the Printed Paper Office. I have some copies here and the noble Baroness can avail herself of one. I hope that she is content with that.

I must say to the noble Baroness that we have spent many hours discussing the process of PIP and, if I do not answer all of her questions, perhaps she could look through *Hansard* and get back to me. Some of what I am about to say may also give her reassurance.

When permission in principle is granted through locally prepared plans and registers, local authorities will choose which sites they grant it to as part of their existing plan-making and site-allocation work. This choice will therefore be a local one, reached through rigorous involvement of communities and members within the current plan-making process. For the application route for minor development, following the existing planning application process, local authorities will be required to determine applications for permission in principle in accordance with the development plan for the local area, unless material considerations indicate otherwise, after a period of consultation with the community and statutory bodies.

The noble Baroness, Lady Andrews, asked me what "describe" meant. It means the setting out of expectations about what will be covered in a later application underpinned by evidence. That is my understanding of what "describe" means.

Amendment 94 would include in the Bill that information included on the planning register would be subject to consultation with local authorities. Under the current system, local planning authorities are already required to hold and maintain a planning register of all planning applications. The power in subsection (7) of new Section 59A, inserted into the Town and Country Planning Act by Clause 136, will merely require local authorities to add to the planning register information about permission in principle granted through locally made plans, registers and applications. The information to be placed on the register will be the same as they are currently required to publish or make available for standard planning applications.

On Amendments 95 and 95B, permission in principle will agree and establish the fundamental principle of development for location, uses and amount of housing development. Section 70(2ZZA), as introduced by the Government into the Town and Country Planning Act through this Bill, means that when the local authority determines an application for technical details consent, it cannot revisit the fundamental principles agreed by the permission in principle. The noble Baroness, Lady Andrews, pressed me again on what technical details might look like. They might look like matters relating to the design, affordable housing, inappropriate mitigation or, conversely, appropriate mitigation.

Lord Greaves: Does that include access to the local highways?

Baroness Williams of Trafford: I do not think that the site would get permission in principle if there were no access to the site. That would be one of the fundamental principles for a site to be suitable for permission in principle. But I will get on to that.

If accepted, the amendments would have the consequence of allowing the local authority to reconsider the fundamental principles when considering an application for technical details consent. That defeats the purpose of the measure and undermines the certainty that it aims to give, because it allows other material considerations to become relevant during the decision-making process, as is currently the case. There would therefore effectively be no change.

However, I want to make it very clear that in determining an application for technical details consent, although the local planning authority will not be able to revisit the fundamental principles of development, it will be required to consider all the details of the application fully against the National Planning Policy Framework. The noble Baroness asked at what point; the NPPF is relevant the whole way through and local policy is also relevant. I re-emphasise that technical details consent can therefore be refused if the detail is not acceptable. Permission in principle is a tool that will allow the basic suitability of a site to be established early. What it will not do is override the need to ensure that proposals are sustainable, create mixed and balanced communities and include any necessary mitigation measures.

The noble Baroness pressed me on what would happen if technical details consent cannot be granted for a scheme. I hope that I have set out the rigorous process of consideration and engagement that will be followed to grant PIP and in that context, the scenario when no scheme can be given technical details consent, is an extremely rare one. But if it does occur, in those rare circumstances we have made provision for PIP granted on application to be revoked or modified.

Baroness Andrews: That is the first time we have heard that. Does that mean that there can be changes to PIP if the technical details require it? Would that mean that there could be an even lower number of houses or a slightly smaller site?

Baroness Williams of Trafford: I understand that it could be modified in an extreme circumstance such as that. This is a rare circumstance, but I understand that that is the case.

[Baroness Williams of Trafford]

On the revoking of a PIP granted by a local plan or brownfield allocation, the noble Baroness makes a good point. The Bill does not currently make provision for this, as she has told me again and again. Can I take that away and thank her for her points? She also asked me to confirm absolutely that only local authorities can be responsible for the granting of permission in principle. Yes, that is the case.

Lord Beecham: The Minister has just made a concession and agreed to my noble friend's point, but she talks in terms of revocation. Is it not necessary also to provide for variation?

Baroness Williams of Trafford: The noble Baroness has raised something that I have said I will take away. I will also take away the noble Lord's point because it is not particularly provided for in the Bill. Will the noble Lord and the noble Baroness let me take that away and reflect on it?

On Amendment 96ZA, an important starting point is that permission in principle will be granted where a proposal accords with the development plan for the area, having regard to the National Planning Policy Framework, as I have said, alongside other material considerations. When choosing appropriate sites that may be deemed suitable for a grant of permission in principle through a local plan, local authorities will be able to draw on a wealth of information to determine whether that site is suitable. That includes information gathered to support their local plan, a strategic housing land availability assessment, local knowledge of areas of constraint, engagement with communities and statutory bodies, and other information. That will all be underpinned by consideration against local and national policy.

It is possible that on the basis of that assessment a local authority could conclude that granting permission in principle would not be appropriate, either because the site is unsuitable—which goes to the point made by the noble Lord, Lord Greaves—or, in exceptional cases, that the fine detail of the scheme needs to be worked up before a decision can even be reached on the principle of development. I hope that what I have set out is a sensible basis for deciding whether to grant permission in principle. I remind noble Lords that it must be followed by a grant of technical details consent before development may commence.

I turn to Amendments 96ZC, 96ZD, 96ZE, and 96ZF, which provide by condition for the assessment of flood risk, highways and access, contaminated land, and securing of appropriate infrastructure through either Section 106 contributions or the community infrastructure levy. I hope that I have put the noble Lord's mind at ease over the course of my remarks as I have described in more detail how permission in principle will operate—specifically that it will still include consideration of these important matters through an assessment against local and national planning policy.

Specifically on conditions, I hope that my comments on Amendment 94ZC set out the Government's thinking on the timing for the use of conditions. Permission in principle is to provide simple certainty on the basic acceptability of a site early on in the process. As it does not on its own authorise development, conditions at this point would unnecessarily complicate matters, although we would expect local authorities to make clear, when they give permission in principle, the matters that they would expect to see covered in an application for technical details. On the community infrastructure levy, I confirm that, where it is in place, it would become payable once technical details consent has been granted, as is the case when full planning permission is given.

Finally, Schedule 12 is a list of consequential amendments that we have made to the Town and Country Planning Act and other planning legislation. This accompanies Clause 136 and is important for ensuring that permission in principle, as a new route to obtaining planning permission, operates effectively alongside the existing system. I will therefore press that Schedule 12 stands part of the Bill.

8 pm

Baroness Andrews: I am very grateful for the noble Baroness's response. I will read *Hansard* properly because I want to make sure that I heard her correctly. I will ask her one question, because she is being so generous. One of the technical details that really bothers me is the notion that affordable housing should come at the technical details stage. Is there any possibility that she could consider, when we talk about the 30% to 40% of affordable housing that we want to see in developments, making that a subsection of that stage? It is not of the same order as drainage and environmental considerations.

Baroness Williams of Trafford: I hope that I can reassure the noble Baroness that that is certainly one of the things that could be part of that stage. I could perhaps come back to this on Report, but it is certainly one of the examples of what could come forward.

Lord Greaves: That was very interesting and we are making a bit of progress. I will put a particular instance to the Minister. It is based on real life, but I shall not say where it is. There was a big application for 500 houses—that is huge by east Lancashire standards. It has outline planning permission. As part of that, it required details of access. The highways authority—it is a two-tier area, so a county council—was required to approve access off not only an existing main road, but I think the roundabout on to that road. It also required a contribution towards improvements to a roundabout further down the road to increase its capacity on to the motorway. That all happened at the outline planning stage. Where would that happen under PIP and technical details? When will it happen? What is the process by which it would happen? Would that be part of declaring that that piece of land was okay for permission in principle, or would it have to wait for technical details?

Baroness Williams of Trafford: My Lords, the noble Lord will know that outline planning permission is entirely different from permission in principle, but if a site required significant infrastructure investment to access it, it is unlikely that that would be a simple permission in principle site.

Baroness Hayter of Kentish Town: My Lords, on behalf of everyone who has spoken, I thank the Minister for dealing with that. We will all need to look quite closely at some of the things she said. At one point I thought she said that PIP was about the basic acceptability, but she also said that it would be very rare for the technical details to be declined. I see quite a contradiction in that if it is just very basic, but if it would then be very rare for the technical details to be the hold-up. However, that is something we will need to read carefully in what she said and ensure that these two fit in properly.

Other issues remain, particularly about the consultation. As my noble friend Lady Young said, is "technical details" just the fine tuning, or is there something quite substantial there? If PIP is only basic acceptability, it sounds like there is more there. However, like my other noble friends, I thank the Minister for agreeing to look at whether PIP could be modified for changes. We will want to come back and look at that when we have read this carefully, but for the moment, I beg leave to withdraw the amendment.

Amendment 91 withdrawn.

Amendment 92

Moved by ***Baroness Parminter***

92: Clause 136, page 66, line 36, at end insert—

"(4) Permission in principle may not be granted in respect of land of high environmental value, which is defined as such by dint of—

(a) containing priority habitat(s) listed under section 41 of the Natural Environment and Rural Communities Act 2006 (biodiversity lists and action (England));

(b) holding a nature conservation designation such as 'site of special scientific interest'; or

(c) having been selected as a local wildlife site.

(5) Land of high environmental value is also exempt from the development order requirements provided for by section 59A (development orders: permission in principle)."

Baroness Parminter (LD): My Lords, I am a strong supporter of brownfield first when it comes to housing, but I have a particular concern that the PIP proposals do not exclude brownfield sites that have very clear benefits for biodiversity and, by extension, to society—namely, land of high environmental value. That could be SSSIs, heathland, local wildlife reserves or habitats for some of our most precious species, such as red squirrels, water voles, or bluebell forests, you name it—some really special areas of our country.

The coalition Government put together some very strong safeguards for such land. I quote the NPPF, paragraph 111:

"Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value".

The planning practice guidance goes on to say that brownfield land can have high ecological value and that,

"planning needs to take account of issues such as the biodiversity value which may be present on a brownfield site before decisions are taken".

My concern with the PIP proposals is: how can those very strong safeguards in the NPPF and the planning guidance, which make it clear that those decisions have to be looked at right at the early stage, be taken into account? The Minister said earlier that if something was not compliant with the NPPF, it would not happen. It seems quite clear to me that the NPPF is saying that land of high environmental value is not compliant and it should therefore be excluded.

These sites are important, but they are not a huge number. My understanding is that English Nature has assessed the figures and we are looking at a total of between 6% and 8% of all brownfield land. They are important sites, but they are only a small number. Therefore, it would be difficult to argue that, by removing them from the PIP provisions, they would somehow prevent use of brownfield sites for housing overall. Clearly the number is quite contained.

They are a small number but they are vital. Most of our species—some 65%—particularly those of most concern, are declining. We need to take account of that, not only for the effects on nature and biodiversity, but for the impact on quality of life as well. Therefore, there is a strong case for land of high environmental value to be excluded. I beg to move.

Baroness Young of Old Scone: My Lords, I support these two amendments to which I have also put my name. It is distressing that we are again beginning to see important and lesser wildlife sites being increasingly damaged by development, and particularly by housing development. When I first came into the environmental movement almost 30 years ago, on average 15% of sites were damaged each year. We managed to get that down to less than 0.1% about 10 years ago, but it is increasingly creeping up again. So there is a real issue to make sure that the provisions for permission in principle and for the brownfield site register do not inadvertently make it more possible for development to damage sites of wildlife interest.

As the noble Baroness, Lady Parminter, said, the NPPF and, indeed, the national planning practice guidance steer both local authorities and developers away from land of high environmental value. We run the risk of encouraging developers—at the breakneck speed with which we are moving towards the provision of housing in particular—to be less aware of the requirement to be careful, especially on brownfield sites and on sites such as local wildlife sites that do not have statutory protection. As the noble Baroness said, brownfield sites with high environmental value are comparatively small in number, but a proper assessment is required at the appropriate time for that to be established.

We also need to take into account the fact that some of the traditional safeguards against development of these sites have diminished. Local authorities are under pressure and have less specialist ecological advice available to them. The statutory nature conservation bodies similarly have less capacity and less ability to comment in detail on small-scale sites. So it would be absolutely right to have on the face of this Bill a reminder to both local authorities and developers of the importance of these sites and to abstract them from the permission in principle and the brownfield site register processes.

Lord Deben (Con): My Lords, this is an important amendment and I hope that my noble friend will listen carefully to the arguments that have been put forward. I suspect that she will have been provided with an answer that goes somewhat like this: "We already cover this under this part and that part and the other part". I have sat where she sits and I know that this is what civil servants are liable to suggest.

The reason for this amendment is precisely because it makes the position very clear. It states absolutely without peradventure that this is the position—not that if you look up in planning guidance you see that this is the recommended position. I beg my noble friend to recognise that we are dealing with people who will often do anything to avoid being concerned with the precise details that the amendment brings to our attention. I commend especially the comments of the noble Baroness opposite, who talked about the fact that, across the parties, we have fought together over many years to reduce the amount of damage done to wildlife sites. Frankly, we have been very successful. It has been a common activity and we have done well. However, there is some indication that there has been a return, in a way that is not reasonable and not what I think the majority of people in Britain want.

I am particularly keen on this amendment because of its reference to brownfield sites. I believe that we should be much tougher about building on brownfield sites and much more determined against building on greenfield sites. I believe from experience that, if you allow people to build on greenfield sites, that is where they will build; they will not build on brownfield sites. If that is the position you hold, it is important that you make a distinction between the vast majority—some 92%—of brownfield sites where building is obviously suitable and the 8% or so where there are specific environmental reasons for not building.

The amendment enables the Government to say on the face of the Bill what my noble friend will no doubt tell us that the Government believe. No doubt she will say, "We do not think we need it because we accept it and it is within the law". I delicately suggest that there are many out there who do not do a lot of looking up and who do not search too carefully for the various documents. I would like it to be clear that there is no way in which these sites can be designated in principle for development because, small though they are, they are too important and too valuable for us in our generation to return to doing the damage that was done in previous generations.

8.15 pm

Lord Berkeley of Knighton (CB): My Lords, I cannot too strongly support the views expressed by the noble Baroness, Lady Parminter, and the noble Lord, Lord Deben. As somebody who has fought to preserve environmental and natural habitats, I know that we are talking about something that can easily become the thin end of the wedge. We should be trying to make it the thick end of the wedge. This country is not that big. As the noble Baroness said, we do not have so many areas that are dedicated to the preservation of wildlife. Very often, if the law is not strong enough—I have seen this happen—developers will march ahead and think, "We can sort this out later". I could enumerate three or four examples of that. That is why it is so important that the Government take on board these amendments and protect our environment at all costs. Reading through the amendment, I am inclined to say to the noble Baroness, "What's not to like?".

Lord Teverson (LD): My Lords, these areas are described in common parlance as brown land or brownfield sites. Although the legislation does not describe it in that way, that is how we normally describe these sites. When we refer to brownfield sites, we think of industrial areas, pollution and sites that are derelict rather than of the very wide variety of sites that would be covered by permission in principle. The essence of this issue is that many of those sites, particularly those on urban fringes and, indeed, in urban areas, probably have a more diverse and interesting ecology than do many greenfield sites, which often comprise monocultures and are not as important in ecological terms or in their value to local communities. This amendment is important as it would protect these designated sites and ensure that they are exempted from the Bill's provisions.

Baroness Evans of Bowes Park (Con): I thank the noble Baronesses, Lady Parminter, Lady Young and Lady Bakewell, and the noble Lord, Lord Greaves, for tabling these amendments to both the permission in principle clause and the brownfield register. I also thank all noble Lords who have contributed to this short debate. I recognise how important this issue is and agree that the planning system should play an important role in the protection and promotion of the natural environment. I will briefly explain how the permission in principle measure will continue to ensure that the natural environment is both safeguarded and promoted without the need for such exclusions as set out in these amendments—I fear that my noble friend could have written this speech.

I begin by addressing Amendment 92. Clause 136 will enable permission in principle to be granted on sites that local planning authorities, parishes and neighbourhood forums choose and allocate within their plans or identify on new brownfield registers. The aim is to build on the detailed work that goes into plan production to identify suitable sites for particular housing-led development and to grant those that are considered locally to be suitable a level planning consent. This will give increased certainty for local authorities, developers and others that an amount of housing-led development is secured in principle, leaving them to work up and agree the details on the site. This means that the choice about where to grant permission in principle is a local one—as we have heard—reached through involvement of communities, members and statutory bodies. Permission in principle will therefore be granted only where development is considered to be locally acceptable, in line with local and national policy.

If a local authority considers that such sites of environmental sensitivity are not suitable for development, in line with the strong protections for the national environment set out in the national planning policy framework—both noble Baronesses mentioned this—then it need not allocate the site for such use in its local

plan, or choose to grant it permission in principle. I should add that where an application for permission in principle for minor development is made to a local authority, it will be able to determine this in accordance with the local plan unless material considerations indicate otherwise. This would be in the same manner as planning applications are currently determined.

Lord Deben: My noble friend says that if the site was of the relevant kind and the local authority thought that it should therefore be designated in that way, it could do so. But does that mean that if this were a site of importance, the local authority could decide that it would develop it, because that seems to me to be rather difficult given the guidance in the other document? If the local authority cannot designate the site, will my noble friend explain why we cannot include the measure as an amendment to the Bill?

Baroness Evans of Bowes Park: As I said, if there are sites of environmental sensitivity that are not suitable for development in line with the strong protections of the NPPF, a local authority does not need to allocate the site for such use in its plans. This measure will continue to be in line with the strong protections in the NPPF.

Amendment 97 would place similar exclusions on land to be included on the brownfield register. I recognise noble Lords' desire to protect land of high environmental value and understand concerns that such land should not be considered suitable for housing. I hope that I can reassure them why it would not be desirable or necessary to include such an exception in the Bill.

Local authorities will be required to have regard to national policies and advice when preparing their registers. This requirement is in the Bill. This means that when making decisions about which sites should be included on registers, local authorities will be required to take into account the NPPF. The framework states:

"Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed … provided that it is not of high environmental value".

This is one of the core planning principles of the framework. Local authorities have discretion to determine whether a particular site is of high environmental value. I believe that this is the right approach.

Baroness Young of Old Scone: One of the points of this amendment is to pin down the concept of high environmental value rather more closely and clearly than is the case in the NPPF or, indeed, in the national planning practice guidance, by listing the parameters of high environmental quality. At the moment, there is very inconsistent practice by local authorities in determining that. That is unsatisfactory. It would be preferable to include in the Bill a standard definition.

Baroness Evans of Bowes Park: A definition in the Bill would remove discretion and override a local understanding of the environmental value of the land. As the noble Lord, Lord Teverson, said, an area considered to be of high environmental value in an inner-city might be quite different from that in other areas. A fixed definition could unintentionally lead to a situation where a local authority would have excluded land but was prevented from doing so by the definition. Local authorities are best placed to exercise their discretion and to make the decision, rather than fixing a definition for them by putting it in the Bill. I hope that, on the basis of these explanations, noble Lords will agree not to press their amendments.

Baroness Parminter: I thank the noble Baroness for her comments and her acceptance that this is an important issue. It clearly is, given the strength of feeling in the Committee, and I am grateful to colleagues for rowing in on it. The Minister seems to be saying that it is up to local authorities. If one is being charitable, it is a belief in the spirit of localism: it is okay for local authorities to do this because they can look back to the planning guidance that we have already provided. However, the words "need not", which the noble Lord, Lord Deben, picked up, are critical. If they need not allocate this land, it means that they can allocate it. However, that is clearly contrary to the provisions set down by the coalition in the NPPF, which says that this should be excluded. Colleagues in Committee have shown that this designation is, in principle, too important not to be included in the Bill. I will withdraw the amendment now, but I am sure that we will return to it on Report.

Amendment 92 withdrawn.

Amendment 92A had been withdrawn from the Marshalled List.

Amendment 92B

Moved by ***Lord Tope***

92B: Clause 136, page 66, line 36, at end insert—

"(4) A development order under subsection (1) shall be made in respect of land in Greater London by the Mayor of London and in respect of land in England outside of Greater London by the Secretary of State.

(5) Section 59B (development orders made by the Mayor of London) shall apply to the making of a development order under subsection (1) by the Mayor of London."

Lord Tope: My Lords, I will also speak to Amendment 96A. I begin by raising a couple of issues, in the hope that by the time I finish—which will not be long—clarification may have arrived. The Housing and Planning Minister in the other place stated that the mayor will be consulted on, and have the power to call in, applications of technical details consent where they are for schemes of strategic importance, and gave the assurance that the mayor will have an opportunity to influence the process of boroughs identifying sites of strategic importance. I hope that, when she replies, the Minister here can clarify exactly what that means in practice and how the mayor's strategic planning powers which exist now will be taken properly into account in the new system. For instance,

"an opportunity to influence the process by providing his views",—[*Official Report*, Commons, Housing and Planning Bill Committee, 3/12/15; col. 548.]

[LORD TOPE]
is significantly weaker than the current power to take over an application. Although the mayor may still be able to take over an application at technical consent stage, the principle of the type of development will already have been set. That highlights why we are moving these amendments today.

Amendment 92B would give the mayor power within Greater London to grant development orders. Amendment 96A sets out the detail that he or she would have to follow in doing so, including a fairly full consultation process with a duty to respond to that consultation. That would directly correlate with the power of the Secretary of State elsewhere in the country. It is appropriate to an authority which has had a directly elected mayor, with a strategic planning role, for 16 years.

Many times during the progress of the Bill we have said that London is different. It is different in that respect and in terms of having a particularly high level of housing need. It has a strong economy and competing pressures for available land and high-density development. Almost all the land with housing potential within Greater London is brownfield and most has existing use in place. I speak as a London resident: if we are going to go down this route then the mayor and the Greater London Authority are better placed to understand London's particular needs. That is why they are there. Their relationship with the London boroughs, while occasionally and understandably difficult, is on the whole very good and there is a continuous dialogue there. It is much more appropriate for the Mayor of London and Greater London Authority to have these powers in relation to Greater London than for them to be vested in the Secretary of State, who has to deal with the rest of country as a whole. We believe in devolution and this is very much a part of it. In this case it is to the GLA—what may follow elsewhere is not part of this amendment.

In essence, the purpose of these amendments is to give the Mayor of London—whoever that may be—the powers that the Secretary of State will have in the rest of the country. I beg to move.

8.30 pm

Baroness Hayter of Kentish Town: My Lords, I support the amendments proposed by the noble Lord, Lord Tope. I was surprised when he said we have had a Mayor of London for 16 years—the establishment of that position was another great step forward by a Labour Government.

It is absolutely appropriate that the mayor—the only politician with a London-wide executive mandate—has these powers. The amendment sets out a framework in which he can make an order, including who he must consult and how the proposal should be dealt with. It is effective and time-constrained and should not cause any undue delay. It reflects the mayor's mandate and we think it strikes the right balance, enabling him to help drive forward the development of our great capital city.

Baroness Evans of Bowes Park: I am grateful to the noble Lord, Lord Tope, for his comments on these amendments, and to the noble Baroness. I hope I will be able to assure your Lordships that the Mayor of London will continue to play an important role without the need for these amendments.

New Section 59A of the Town and Country Planning Act 1990, inserted by Clause 136, makes it possible for permission in principle to be granted on sites allocated within local development plans, neighbourhood plans and the new brownfield register, and the choice of when to do this will be a local one. Let me be absolutely clear that the Secretary of State will have no direct role in choosing specific sites to grant permission in principle to. In the same way that the Secretary of State maintains oversight of the existing development order-making powers under Section 59 of the Town and Country Planning Act 1990 to ensure consistency of how the planning system functions across England, he must maintain oversight of how the permission-in-principle system will work.

Amendment 92B would effectively set up different planning systems between London and the rest of the country by giving the Mayor of London the ability to change the process for permission in principle. We believe that introducing inconsistency into the system would be undesirable.

I reassure noble Lords that there are a number of ways in which the Mayor of London will be able to play an active role in influencing the granting of permission in principle in London. The London Plan will be able to set policies that will influence which sites are suitable for a grant of permission in principle. The mayor will also be a key statutory consultee during the plan preparation of any borough in London. Furthermore, where a mayoral development corporation is in place, the plan for that corporation can allocate specific sites that could be granted permission in principle. Mayoral development orders can also now be used to grant planning permission for site-specific development in London.

The noble Lord also asked whether the mayor would be able to call in applications for technical details consent. The answer is yes: the mayor can call in applications, including the new technical details consent, when the planning application is of potential strategic importance. He can also do this for an application for permission in principle. I will see if there is any further information that I can provide the noble Lord with in writing, but I hope that on the basis of what I have said he will withdraw his amendment.

Lord Beecham: For the avoidance of doubt, will the Minister confirm that the Government do not intend to extend any of these mayoral powers to the mayors of combined authorities under the devolution deal?

Baroness Evans of Bowes Park: Yes, I can confirm that.

Lord Tope: My Lords, I am grateful to the Minister for that reply. I think she said that this would give London a different system from the rest of the country. London has a different system from the rest of the country. It has had it for 16 years. The Government believe in devolution. This seems a logical part of the difference of London, which was set up originally under a Labour Government and has been supported by a coalition Government and a Conservative Government. I do not really follow that justification.

I am grateful to the Minister for what she said. I did not actually ask if the mayor would have those call-in powers. I said that, since he does have those call-in powers, can she say a bit more about how that relates to the current situation? If she can write to me further, as she said she would, I would be very grateful. In the mean time, I beg leave to withdraw the amendment.

Amendment 92B withdrawn.

Amendment 92C

Moved by ***Lord Rotherwick***

92C: Clause 136, page 66, line 36, at end insert —

"(4) Permission in principle may not be granted for a development of land which is an important part of the national infrastructure, or is the subject of national policy or interest, as defined by the Secretary of State in regulations made by statutory instrument."

Lord Rotherwick (Con): My Lords, I thank my noble friend and her officials for the time they gave to address my concerns in a number of meetings. I will speak to Amendments 92C and 97B. First, I declare an interest as a private pilot. I am vice-president of the General Aviation Alliance and president of the General Aviation Awareness Council. I love flying and I seek to protect the ability of British people to take to the skies for both business and recreation in all sorts of light aircraft.

General aviation—GA—aerodromes are very vulnerable to development. Many are officially deemed brownfield sites, even though they may actually comprise broad acres of flat grassland in desirable locations. They are much coveted by developers for housing. We have already lost many vulnerable aerodromes that form part of a national communications network. The pressures on land in our crowded island mean that they are threatened by the Bill's intent to ease the planning process for housing. If aerodromes are added to the register of sites that have planning permission in principle, they will be doomed.

The Government's own *General Aviation Strategy*, published last year, indicated that GA was worth £3 billion annually to the UK economy and emphasised the importance of our national network of aerodromes. The strategy specifically notes that many aerodromes do not believe that they have,

"the full support of local authorities and Local Enterprise Partnerships ... While most of these bodies would acknowledge the clear value of GA infrastructure this appeared to be often overshadowed by the need for other land use priorities, in particular housing".

GA supports 38,000 skilled jobs, often in rural areas. GA gives us transport choices—an alternative to our increasingly congested roads, railways and major airports. This is particularly important to businesspeople —wealth creators—to whom time is always valuable.

Other uses and users of the UK aerodrome network include pilot training, air ambulances, the police and recreational flying. GA aerodromes have other benefits in addition to their economic, recreational and transport value. They are unofficial wildlife sanctuaries, protecting the habitats of flora and fauna and providing large open spaces close to and sometimes within our expanding towns and cities. We cannot afford to lose any more of these aerodromes.

When the National Planning Policy Framework—NPPF—was introduced, I spoke in this House about the need to give aerodromes specific protection, with some result. This Bill again raises the threat that localism may trump the national interest because no adequate powers are given to the Secretary of State to exclude land from the register. I speak now about not only aerodromes but other national communications, security and economic assets, and my amendment is broadly framed as a consequence.

Under Clause 137 and proposed new Section 14A(1) of the Planning and Compulsory Purchase Act 2004 the Secretary of State could prescribe land which can be included, but no power is proposed in primary legislation for the Secretary of State to exclude specific categories of land from the register. This could permit unrestricted housing development that would have a detrimental effect on national infrastructure, security and economic activity. My concern is that the Bill as currently drafted omits to provide the Secretary of State with clear and specific powers to protect the national interest in important matters. Regulations that "may" be issued and guidance that "may" be followed are not adequate to protect essential national infrastructure that is often already under serious development pressure.

In addition, the local registers of land available for development were first prepared under the previous planning regime and may still include land that should have been given special consideration under the NPPF. My proposals would amend Clause 137 and new Section 14A(1) so as to give the Secretary of State powers to exclude from the register land which is considered to be of significant value for national infrastructure or economic purposes, or otherwise the subject of national policy and interest. It must be recognised that these areas of land have current or potential economic value for the national communications infrastructure which may outweigh the benefits of housing development.

Amendment 97B defines for planning purposes aerodromes operating as aerodromes for more than 28 days in a calendar year as those which are specifically excluded; in other words, those that do not operate for more than 28 days in a calendar year would be deemed obsolete. Exclusion from the register does not of course mean that the site cannot be registered. It requires only that any proposed development should go through the normal planning allocation process with full consultation. I beg to move.

Lord Stevens of Kirkwhelpington (CB): My Lords, I support the amendment moved by the noble Lord, Lord Rotherwick. I also have to declare my interests as president for many years of the Aircraft Owners and Pilots Association and as a keen private pilot myself. I will be brief. The noble Lord, Lord Rotherwick, set out eloquently the difficulties that general aviation is facing. There are one or two issues that I think need to be stressed.

General aviation gives to this country an essential network and it is in essence vital to the public interest. It provides an infrastructure for travelling that is second to none if one is privileged to use it. It also does immense work in terms of training professional pilots. This country, along with America, is one of the world's

[LORD STEVENS OF KIRKWHELPINGTON]
centres for training professional pilots who go on into the commercial world and other areas such as the air ambulance service, the police and so on. Commercial concerns have been illustrated. General aviation in this country brings in £3 billion a year, which is a considerable sum of money and reinforces the importance of general aviation. Also, there are many amateur pilots who love flying for the sake of flying. They love the leisure pursuit of getting away from the troubles that inflict the world we know when we are walking on the ground; it is a delight to get into the air.

It is essential that the consultation process covers issues that involve the public interest. Over the past 10 years, many airfields have closed, sometimes for good reason. Surely, as the noble Lord, Lord Rotherwick, has underlined, there has to be a consultation process that involves the people who give their time and professional input and will have their careers put on the line if some of these airports are closed.

8.45 pm

Lord Best (CB): My Lords, I will speak to Amendments 94A, 95A and 101BA, in my name and those of the noble Baronesses, Lady Whitaker and Lady Hodgson of Abinger, and the noble Lord, Lord Clement-Jones. I declare my interest as an honorary fellow of the Royal Institute of British Architects and as a vice-president of the Town and Country Planning Association. Such are the mysteries of amendment groupings that I can see only the most tenuous connection between these amendments and the very interesting amendments on aerodromes from the noble Lords, Lord Rotherwick and Lord Stevens of Kirkwhelpington.

Amendments 94A and 95A are intended to ensure that the admirable ambition to build a million homes over the life of this Parliament—the quest for quantity—does not come at the expense of quality and of building decent homes that contribute positively to their environment rather than spoiling it. In considering these issues, it has been hugely helpful to have before us the report from the Lords Select Committee on National Policy for the Built Environment, *Building Better Places*. I congratulate the chair of the committee, the noble Baroness, Lady O'Cathain, her committee members, clerk and advisers.

The Government's permission in principle concept aims to speed up planning and help housebuilders know quickly where they stand, but it brings with it the risk that it is interpreted as, "We want you to get going and we are not much concerned about what your development looks like, how it fits into its local setting, or whether it contributes anything to the community where it happens". Disregarding design has two huge dangers. First, what is built becomes deeply disliked by those who move in—suffering the fate of those dreadful 1960s and 1970s estates that have subsequently been demolished. Secondly, the drive for more housebuilding, which is indeed desperately needed, is stymied by widespread public opinion that quite justifiably concludes that new homes are a blight not an asset. If design of housing developments is awful—as has not infrequently been the case, I am afraid to say—then public opinion will ensure that the hopes for more housebuilding never materialise.

These amendments should protect the Government's ambitions for more new homes by making sure that the new permission in principle is not a handicap. It must not be a licence to ignore the Government's own, helpful, *National Planning Policy Framework*, which sets the parameters—in paragraph 59—for decent design. The NPPF contains a very good set of guidelines covering considerations such as incorporating green and public space in new developments, responding to local character and history, respecting local surroundings and materials, and so on.

I know from experience that objectors to new schemes, suspecting they will be as ghastly as the worst examples of abysmal new private sector estates, can become supporters and advocates when they see good design shine through. To take a couple of examples: at the opening of the Joseph Rowntree Housing Trust's village scheme in Hovingham, North Yorkshire, a local councillor said to me, "I was one of the strongest opponents of this development: I thought it would spoil the village. How wrong I was. It will not only provide excellent homes for local families but it also adds to the attractiveness of the village".

My second example is the major new Joseph Rowntree Housing Trust scheme of 540 homes on the east side of York. This was subject to seemingly endless opposition, but has won over many of its critics with its high-quality design and emphasis on sustainability. A master plan by PRP Architects provides for extensive green space and play areas, homes designed by Richard Partington to an award-winning design of arts and crafts for the 21st century, and extensive environmental enhancements. We can expect public support for the big housebuilding programme the nation needs only if the new homes follow best practice in place-making. To make this happen, local planning authorities must remain able to ensure good-quality design. We know how stretched authorities have become following big reductions in their budgets; it is not good to see this key link in the development chain weakened at just the moment when housebuilding is set to grow rapidly. If planners are to maintain their role as the line of defence against a decline in quality, they need some legislative support to fortify their position.

Amendments 94A, 95A and 101BA propose that the new permission in principle, which means in effect that planning consent becomes as of right for sites in the local plan, in neighbourhood plans and on registered brownfield land, should be conditional on following some straightforward, site-specific design guidance. This says to the developer: "Go ahead in the expectation of getting planning consent, but bear in mind our core design requirements for this particular site". This approach would draw on the good guidance in the NPPF and give clarity to the housebuilder without adding a lot of bureaucracy. When the local planning authority considers detailed planning permission at the new second stage, which involves the consideration of technical details, compliance with the earlier site-specific design guidance would be checked. Thereby, the arrangements in these amendments square an important circle, speeding up the planning process but emphasising the design requirements that each site should take on board. I commend them to your Lordships.

Baroness Whitaker: My Lords, I declare an interest as an honorary fellow of the RIBA. I shall speak to Amendments 94A and 95A, so persuasively introduced by the noble Lord, Lord Best, and Amendment 101BA, in my name. The noble Baroness, Lady Hodgson of Abinger, who regrets she cannot be here, also supports these important amendments, as does the noble Lord, Lord Clement-Jones. So there is all-party support for amendments which are intended to ensure that, in the radical changes to planning processes envisaged by permission in principle, the all-important role of good design is guaranteed. Why is it all-important? Because good design has a fundamental effect on well-being, environmental quality, and the long-term economic value of buildings and competitiveness of places, and because it is at risk in the new procedure proposed.

We heard in the Select Committee on National Policy for the Built Environment, which reported on 19 February, powerful evidence that health, employment prospects, access to services and amenities, were all improved by design which respected good place-making. The Minister responsible, Brandon Lewis, said to us that,

"an increased focus on good quality design could help us to deliver more homes, at a quicker pace, which communities can feel proud of".

Planning authorities are the custodians of their local community's requirements for the right design for their place. To substitute for their discretion an as-of-right regime is to risk issuing a blank cheque for the design of the development. It means that the all-important factors of height, density, landscape, layout, connections for transport and access, to name but a few, need not be considered from the outset. But it is at the outset that they should be thought about. These are not matters of detail, as the Bill would have us believe, but fundamental development parameters that determine the suitability of the development, both to its place and to the needs and aspirations of communities. This is how the National Planning Policy Framework—a very good achievement by the Government—envisages the role of design, and it is the right one. Without consideration of these matters of place-making, how will communities know how developments impact on surrounding areas, on the environment and on the sense of place? Yet they are being asked to give their approval without due regard to these matters. This is surely a recipe for nimbyism.

These amendments all reinforce the essential consideration to be made right at the beginning of a development process, in accordance with the NPPF, of what sort of place will result. The site-specific guidance need only set out the fundamental design requirements and should be relatively easy and quick to prepare, either by the local authority or by the developer. It can be done for an area as much as for individual sites, but it would be a tremendous advantage. It would be an invaluable way to strengthen the hand of planning authorities now that they have been so hollowed out by local authority cuts in staff and expertise. Our recommendation in the Select Committee report is prefaced by the sentence:

"We are anxious to ensure that moves towards a permission in principle do not undermine the capacity of local authorities to develop, design and integrate key sites in a way that ensures that they function effectively and respond to local needs and aspirations".

Finally, the implementation of these amendments would make it easier for local communities to accept the development that is necessary to provide the housing we need, as the noble Lord, Lord Best, said. They can involve public engagement early on in the process as well as provide an opportunity to establish what is important to local people. All the evidence suggests that a little more effort spent establishing the key principles at the start can greatly smooth and shorten the process of planning and development overall. I urge the Minister to respect her Government's NPPF and accept them.

Lord Clement-Jones: My Lords, I rise very briefly as a member of the Select Committee to support Amendments 94A and 95A, so ably spoken to by both the noble Lord, Lord Best, and the noble Baroness, Lady Whitaker, and simply to draw the Minister's attention to a couple of paragraphs in the Select Committee report which directly bear on the planning-in-principle point. Paragraph 143 says:

"These proposals have caused some concern. It was suggested that 'principle' and 'detail' in the planning system were closely related".

One particular witness is quoted as saying:

"This negates the whole basis of the fact that detail and principle in planning are intimately related. How is it possible to give permission for something in principle, without understanding its detailed design or flood risk mitigation or sustainable urban drainage or proportion of social housing? I could go on. It misunderstands the intellectual process of making planning decisions".

So the Select Committee came to the conclusion in paragraph 148:

"We are anxious to ensure that moves towards a permission in principle do not undermine the capacity of local authorities to develop, design and integrate key sites in a way that ensures that they function effectively and respond to local needs and aspirations. The relationship between principle and detail is important in the planning system. We recommend that the Government should carefully consider the impact its reforms could have upon this relationship. As a minimum, it is important that the process of granting permission in principle and Technical Details Consent should give due regard to design quality, sustainability, archaeology, heritage and all the other key components of place-making that would normally be required for the granting of planning permission".

This amendment precisely reflects those concerns and I very much hope the Minister will have due regard to them.

The Duke of Somerset (CB): My Lords, I would also like to speak to Amendments 94A and 95A. I mentioned the importance of design in my Second Reading speech and I return to the subject in this grouping.

9 pm

Amendment 94A seeks that, for permission in principle to be granted, paragraph 59 of the National Planning Policy Framework should be in place and adhered to. I am sure that we have all seen examples of identikit, mass-market estate housing so often crammed in cheek by jowl with its neighbour. Small windows, poor roof design and a lack of adequate insulation are the main hallmarks of this all-too-prevalent building type, and often the houses are far too tightly packed together.

Equally, I have seen more aesthetically pleasing new build, some even having chimneys. Houses without chimneys need a great deal of extra care in their design

[The Duke of Somerset]
if they are not going to appear completely jarring. Many people living in the countryside still like to have the ability to have an open fire to burn wood or coal and, with appropriate interior draft doors built into the construction, it should not compromise insulation efficiency.

Fenestration makes or breaks many house designs. It can be upright or rectangular. Although I have long railed against plastic windows, new techniques and colour incorporation allow much nicer results, as well as contributing to longevity and far less maintenance.

Landscape and layout—in other words, the maximum number of units that can be put on the site—together with the design of the individual homes must be large drivers of residents' well-being and even their health. A parallel can be drawn with the slums of the post-war building era when civic pride was disregarded. Good design will also reflect in capital values years later.

It is fashionable in some quarters to demand sustainability. This is all well and good, but it can be taken too far, for example, where little or no parking provision is made and residents are expected always to use the bus or their bicycle. This is unrealistic.

Our planning regime is by now surely sophisticated enough to incorporate good design from the start. All factors from the holistic design of the site down to the design codes of individual homes should be pre-approved with due regard for the vernacular of the area. This important point is made in paragraph 60 of the code. Such progress would find favour with existing neighbours and lead them to be far less hostile to any new development, knowing that it would not impinge on their amenity and aspirations too adversely.

It is vital that permission in principle incorporates good design from the outset. Good design does not have to cost more. It just takes more effort and care at the beginning of the process. I support these amendments.

Baroness Andrews: My Lords, my noble friends Lord Beecham and Lord Collins and I have an amendment in this group. It reflects much of what has already been said. I commend the other amendments in this group. Our amendment puts concern about sustainable development and design further forward in the process of what goes on the brownfield register and what we expect from brownfield sites. It is important to consider putting it at this point in the Bill because the provisions setting up the brownfield register have no explicit place-making or sustainable development obligations in relation to land included in the register. It seems unfortunate to miss this opportunity, so this amendment attempts to address this by placing a high-level obligation in the Bill to ensure that brownfield land on the brownfield register contributes to sustainable places.

The purpose of the brownfield register is essentially to speed up the provision of housing. The Chancellor has described it as introducing a zonal system, like that seen in the United States. The argument is that this will reduce unnecessary delay and uncertainty for the developer. We have debated aspects of this today, and I am not quite sure why this should follow, especially since we now have 200,000 sites where development has been granted but no building has begun. I am surprised that some more simple way was not found to accelerate development on those sites rather than go through the business of introducing a completely new idea into the planning system.

My concern with the housing zones idea is that there is a chance that they will be just that—acres of housing, as the noble Duke, the Duke of Somerset, has just indicated, which are put up as quickly as possible and, by implication, as cheaply as possible, and which as he said will replicate the worst sort of housing we saw in the 1950s and 1960s in the housing estates which are now being knocked down. They remind me of nothing so much as the housing estates which were put up in south Wales on the tops and the sides of mountains in the 1950s and 1960s, where so little thought was given to the needs of those communities, which needed a bus to get down to the town in the valley, that there was barely a shop, a tree or a bus stop on them. Those estates have been problematic for many years, despite good communities living there. That sort of barren housing estate in this country, as well as ugly town centres and infrastructure, has given us so many problems.

The Minister may say that this will be covered because, in new Section 14A(7)(b), the regulations will require LPAs in setting up a register to have regard to "national policies and advice". That may be so, but that could still be reinforced by sticking my amendment on the end of it to lift the idea that sustainable development and design is at the heart of our expectations for these new developments.

What worries me is that when we come to the technical consultation it does not say that any development must be sustainable. It says that the sites must be deliverable and available, that there will be a realistic prospect of houses within five years and that they will be "viably developed". In the absence of any strong reference to the paramount need to ensure the sustainability of the site, the issues around viability become very vexed. We know from our discussions in the Select Committee just how vexed they are. In evidence we were told that viability is now the key element in discussions between local authorities and developers over specific planning proposals. It was suggested, for example, that the absence of an agreed methodology means a range of different approaches in different areas as to what makes a development viable, and raises the possibility of uncertainty and delay as well as exploitation by developers seeking to avoid planning obligations. Anything we can do in the Bill to improve on that situation to deter that sort of behaviour we should try to do.

Such was the concern at the evidence we received that the Committee recommended that the NPPF and the planning guidance make even clearer than they do at the moment that the process of viability assessment should not be used to enable the unreasonable use of viability assessments to avoid the funding of affordable housing and core infrastructure. I therefore urge the Minister to look at the recommendations in the report, test them out against sustainability before she proceeds further with this part of the Bill and to put in the Bill a clear statement that the brownfield register must have regard to sustainable development and design before the Government approach the notion of viability.

Lord Campbell-Savours: My Lords, I will speak just a few words on Amendment 98A. It is quite odd that in this debate no one has referred to the biggest driver of ugly housing and design in the United Kingdom. It is not bad architects, problems in planning law or disinterested local authorities but the price of land. In many areas that is what determines what houses look like and how they are placed on these sites. The noble Duke referred to mass-market box housing that is crammed in. That is what you get when you have high-priced land. All these debates that are taking place take me back to my amendment—it seems as if I moved it six months ago—on the price of land and the need to build on the green belt as the population expands.

In America, people can buy a house for a fraction of what they pay in the United Kingdom. The reason is very simple: land is cheaper. They do not need fancy architects or planners to tell them to do it. People want better-designed houses because they can afford them. The driver here is the price of land, which is driving millions of people out of the housing market. The best way to deal with this problem is to find a way of securing land at sensible prices, and these problems will evaporate.

Lord Beecham: My Lords, I hesitate to disagree with my noble friend because I entirely agree with him that the price of land is a significant issue, and it has risen to an unconscionable extent in recent years. However, I do not think that is a good enough reason to acquit the industry of poor design and poor building. Good design and well-built properties are not incompatible with a reasonable price, even allowing for the undoubted problems of land prices. I am afraid that volume builders over the years, when prices were not as high, have not produced good-quality properties, paid little attention to issues such as energy conservation—never mind the aesthetics. My noble friend is being overindulgent towards the industry while making a very valid point about land prices.

I hope the Minister will think about the land price issue. My noble friend Lord McKenzie muttered the words "Develop land tax" to me as I rose, and that is not a bad idea, to be reverted to. That apart, I hope she will stress the need for good design as part of the Government's approach to housing and part of their interest when looking at the technical side of permitted development. I would not like to see carte blanche given to the kind of builders who put up pretty depressing properties, as the noble Duke, the Duke of Somerset, referred to before. We should not give them any excuse. They should be made, in the context of the new system, to provide aesthetic quality and energy-efficient quality, among other things, as part of the deal.

Lord True: My Lords, we are reserving remarks about the register until later, so I am puzzled about the register and the point of it and what we will actually do with it when we as a local authority have it, as I said earlier. I agree with what has been said about design, but I also hear what has been said about sustainability. The only thing I would say is that some of the ugliest properties that I have ever seen passed the highest sustainability tests—the wonderful eco-house that is completely jarring in its setting. There are tensions between design and sustainability. That of course leads me back to local rather than national determination. We have to tease out some of these things before putting them in the Bill.

Baroness Williams of Trafford: My Lords, turning first to Amendments 92C and 97B, I fully understand the desire of my noble friend Lord Rotherwick to protect land which is an important part of national infrastructure, including the network of aerodromes, in which I am aware the noble Lord has a particular interest. I will briefly set out why adequate protection for these sites will remain without the need for the amendments proposed.

To be clear, Clause 136 will enable permission in principle to be granted on sites that local planning authorities, parishes and neighbourhood forums consider to be acceptable in line with local or national policy. The National Planning Policy Framework is very clear that, when planning for airports and airfields, they should take account of their growth and role in serving business, leisure, training and emergency needs. Therefore, if a local authority considers that a site is not suitable for housing-led development in line with national and local policy, it need not allocate it for such use in its local plan or go further to grant it permission in principle.

9.15 pm

I understand the concerns which underlie Amendment 97B. However, new Section 14A already includes a power which would enable the Secretary of State to exclude sites from a register. Decisions on sites to be included would need to have regard to national policy and guidance, including that relating to aerodromes. Sites in existing use, such as an aerodrome, are unlikely to be considered as available for housing under the assessment criteria we propose. If the noble Lord is agreeable, I would like to resolve with the sector any concerns as part of our ongoing consultation process on our proposals for secondary legislation.

Amendments 94A and 95A have raised important points about ensuring that the planning system continues to secure good-quality design. I understand the desire to add these amendments but will briefly explain how permission in principle will deliver well-designed places without them.

Perhaps I may set out an example of how I see permission in principle working alongside a robust policy on design in a local plan. A local authority may decide to grant permission in principle for a mixed-use scheme for between 30 and 50 residential units together with retail space. Alongside the permission in principle, it could set out policy-based expectations relating to the lay-out, density and other aspects of the detailed design it wants to see come forward as technical details consent—I think that this goes to the point raised by the noble Baroness, and I again urge noble Lords who are keen to shape this policy to respond to the consultation. The authority could even refer to a pre-prepared design code for a site. If an applicant submitted a scheme for 50 residential units including retail space but proposed a wholly inappropriate design, the authority could refuse a technical details consent.

[Baroness Williams of Trafford]

Limiting permission in principle to uses, location and amount of development will allow the basic acceptability of a site for development to be established early in the process. This will give greater certainty to applicants upfront and reduce repeated work later in the process. Expressing detailed design through policy as part of a permission in principle in the way that I have described sets out clear expectations while allowing some flexibility for a scheme to evolve between the permission in principle and technical details consent stages. The amendments would set an unnecessarily inflexible approach to permission in principle.

Amendment 98, proposed by the noble Lords, Lord Beecham and Lord Kennedy, and the noble Baroness, Lady Andrews, would require local authority decisions on registers to consider sustainable development and good design. I understand their concerns and hope that I can reassure them that the amendment is unnecessary. The NPPF makes it clear that sustainable development should be at the heart of both plan making and decision-taking. The framework also emphasises the importance of good design and states that it is,

"a key aspect of sustainable development … and should contribute positively to making places better for people".

It follows, therefore, that in making decisions about sites to be entered on registers, including sites that are granted permission in principle, local planning authorities will already take account of planning policies on sustainable development and good design.

Amendment 101BA would place in the Bill a duty which local authorities already carry out. While I acknowledge the commitment to the built environment and place-making, I believe that the conditions to facilitate well-designed development are in place and that place-making is taken into consideration in planning decisions.

I would also like to outline the various ways in which the Government are promoting good design, but, given the lateness of the hour and if noble Lords will indulge me, I will write a separate note on that.

I take the point made by the noble Lord, Lord Campbell-Savours, about the price of land. With a land-mass such as America, there is a lot more land for many fewer people; development is simply less dense. He knows my views on some of the proposals that he has made, but, with those comments, I ask noble Lords not to press their amendments.

Lord Rotherwick: My Lords, I thank my noble friend the Minister for her comprehensive reply and her offer to talk further with the general aviation sector. I, of course, was hoping for something more—something that could be written into the Bill; perhaps I was rashly optimistic. I will take away her reply and contemplate it during the Easter Recess. I beg leave to withdraw my amendment.

Amendment 92C withdrawn.

Amendments 92D to 92HA not moved.

Amendment 92HB

Moved by ***Lord Shipley***

92HB: Clause 136, page 67, leave out lines 7 to 18 and insert—

"(2) "Qualifying document" means the development plan or a register as defined in section 14A of the Planning and Compulsory Purchase Act 2004 (register of land)."

Lord Shipley: My Lords, Amendment 92HB would rewrite new Section 59A(2) that is inserted into the Town and Country Planning Act by this Bill. I thank the Royal Town Planning Institute for its advice on this amendment. As we know, the Government have indicated that they intend to use local plans and the proposed brownfield register as the vehicles for the new system of permission in principle. This should be made clearer in the Bill, and that is the subject of this amendment.

There are good reasons to limit permission in principle to sites in local plans. Since these have been subject to public consultation and public examination, there would seem to be a strong case for reducing any further handling of the principle of development in the interests of accelerating housing development and, just as importantly, demonstrating the importance of the plan.

However, I think that the Bill should limit permission in principle to sites in the proposed brownfield register. If there is to be such a register—and that is the Government's intention—we need to know what kind of register it is to be, and whether any other document can be drawn up to grant permission in principle that would run counter to local democratic accountability. This amendment would provide for the qualifying document only to be a local plan or a register of the kind being introduced by new Section 14A.

This amendment would not in itself limit the permission in principle to the brownfield register, but it does limit it to local plans and the new Section 14A registers, which is a great improvement on the Bill. Secondary legislation should then be used to limit new Section 14A registers to the brownfield register. This is because using the Bill to define brownfield may in practice prove an unwieldy mechanism and would actually be better in secondary legislation.

I hope that this amendment is clear. I beg to move.

The Deputy Chairman of Committees (Baroness Morris of Bolton) (Con): My Lords, if Amendment 92HB is agreed to, I cannot call Amendments 92J to 92M inclusive for reasons of pre-emption.

Baroness Williams of Trafford: My Lords, I thank the noble Lord, Lord Shipley, for his comments on Amendment 92HB. The Government have been clear from the beginning that they consider the qualifying documents capable of granting permission in principle to be limited to development plan documents, neighbourhood plans and brownfield registers. But I agree that it might provide more certainty and assurances to the industry and the key stakeholders to go further and specify these documents in the Bill in the way the noble Lord has proposed. I am happy to take the issue away and look at how we can draft an appropriate government amendment on Report that carefully sets out the documents that are capable of granting permission in principle. With these firm assurances, I ask the noble Lord to withdraw his amendment.

On Amendment 92M, it is extremely important that the wording in the definition of "qualifying document" in new Section 59A(2)(d) remains. This enables permission

in principle to be granted for the particulars of the development set out in a site allocation. We currently intend that these prescribed particulars will be limited to use, location and amount of development, and a qualifying document must include that detail if the site is to benefit from the grant of a permission in principle. We are currently consulting on the matters that can be granted permission in principle and will be setting these out in secondary legislation. With those comments, I ask the noble Lord not to press this amendment.

Lord Shipley: My Lords, I am grateful for the Minister's reassurance on the matter and look forward to learning more when we get to Report. In the mean time, I beg leave to withdraw the amendment.

Amendment 92HB withdrawn.

Amendments 92J to 95A not moved.

Amendment 95B had been withdrawn from the Marshalled List.

Amendments 95BA to 96ZB not moved.

Amendment 96ZBA

Moved by ***Baroness Andrews***

96ZBA: Clause 136, page 68, line 26, at end insert —

"(2ZZD) An application for technical details consent in relation to permission in principle will be subject to section 61W (consultation before applying for planning permission) and section 65 (notice etc of applications for planning permission) of this Act."

Baroness Andrews: My Lords, I am moving this amendment in the name of my noble friend Lord Beecham. I admit that I am feeling my way on this, because essentially it is a probing amendment to discover what, if any, legislative provisions on public consultation will apply to permission in principle. This is an opportunity for the Minister to spell out exactly how this will work. We had a bit discussion on this, which was raised by the noble Lord, Lord Lansley, who seemed to think that because the consultation process as part of the planning application in the plan will apply, that might stimulate people to take a greater interest in the local plan. I am sceptical about that, because so often it is hard to engage with the timetable, detail and process of plan making, whether a local or a neighbourhood plan. It would be useful to have some detail and clarity around that part of the process.

However, I am really interested in what happens when we get to the technical detail stage, which is where my amendment kicks in. I am raising this because I am genuinely concerned. The technical consultation document states in paragraph 2.35:

"Before an application for technical details consent is determined, we do not propose to require by secondary legislation that local planning authorities consult with the community and others before making a decision".

They welcome our views on this. I can give the Minister my view now: it would be a mistake not to have a public consultation in the course of the technical details stage.

9.30 pm

I give her a very specific local example. We have had a major development planned for Lewes on an old industrial site—a classic brownfield site. We have spent the past two years considering various options. People became engaged essentially at the point where we could see what the options looked like in terms of density and design, and felt like in terms of walkability, the layout of the new river frontage and the public space that would be provided. There was huge public interest. The developers organised a very good consultation process and, Lewes being the sort of town that it is, everybody went and had a great deal to say about it all. A great deal was changed in the process. When you have a medieval market town like Lewes, which is typical of many, and you suddenly get a massive extension alongside a brownfield site, there are big issues about whether it is compatible with the character and sustainability of the town. It impacts at every level.

That is exactly what I am asking for: will the Minister tell us at what stages there will be public consultation, what provision there will be and whether local authorities will indeed have discretion, or is this something that we might want to return to on Report? I beg to move.

Lord Greaves: My Lords, the effects, implications and consequences of the planning in principle and technical details regime for consultation with ordinary members of the public, whether they are residents, members of interested groups or whatever, is one of the more alarming parts of the proposed PIP system. I congratulate the noble Lord, Lord Beecham, and the noble Baroness, Lady Andrews, on tabling Amendment 96ZBA.

My Amendment 100ZAZC is about notifications and publicity. This is something that we need to get to the bottom of before this matter leaves your Lordships' House—although I do not imagine before it leaves Committee—and not wait for the consultation. What is set out in the technical consultation document is not very satisfactory. I will explain why in a minute.

My amendment would insert a new subsection into Section 65 of the Town and Country Planning Act 1990. It says:

"A development order which makes provision under subsection (1)",

in setting up the new permission in principle system,

"must also provide that … any requirements relating to applications for outline planning permission also apply to applications for planning in principle".

The technical document suggests that that is the Government's view, too, although I can see huge problems with consulting residents over permission in principle, because they will come up with all kinds of comments, objections and concerns that will be ruled out of order as nothing to do with the very limited parameters of permission in principle. There will be problems, but I think that what the Government propose to do is okay as it stands.

Any requirements relating to applications for approval of reserved matters also apply to applications for technical details consent. This is a matter for alarm and I will come to it in a minute. My amendment states:

"when compiling a register under section 14A of the Planning and Compulsory Purchase Act 2004",

[LORD GREAVES]

—that is, a brownfield register—

"the local planning authority must have regard to the requirements for notices, publicity and the issue of certificates that apply to applications for planning permission and carry out procedures to the same effect".

If a local authority is setting up a brownfield register, and if at least part of that register is going automatically to grant permission in principle, the requirements for putting a notice on a piece of brownfield land and writing to immediate neighbours—or whatever it is that the local planning authority would do if this were an ordinary planning application—must apply. If they do not know it is happening, by the time it has happened it will be too late. It will not be the same as a local plan, where there are at least general attempts to publicise it and to get people to say what they think about it. In the case of just putting a piece of land on a brownfield register, the systems for telling people what is happening and giving them the chance to have their say must be the same as if this were a planning permission.

My amendment continues:

"a local planning authority that is proposing to make site allocations for use of land in a local development plan that would, if made, result in the granting of permission in principle, must carry out notifications and publicity equivalent to that which is required when an application is made for outline planning permission."".

Earlier, the Minister said there was evidence that lots of people were getting involved in local plans nowadays and that that was very successful. It is true at neighbourhood plan level, but I do not believe it is true at local development plan level—a process which tends to take place remote from most people. Unless people are told directly that a particular piece of land is going to be allocated for housing in the local plan, they will not get involved and then, by the time they want to be involved, it will be too late.

So what is wrong with the technical consultation? The government document reads:

"Before an application for technical details consent is determined, we do not propose to require by secondary legislation that local planning authorities consult with the community and others before making a decision".

It goes on to say that local authorities can do so if they wish:

"While we think that it is important for appropriate further engagement to take place at the technical details consent stage, we consider that centrally mandating what should be done risks unnecessarily repeating engagement and takes away an important local flexibility".

This is very dangerous. It means that a local planning authority simply will not have to do all the usual neighbour notification and public consultation that it has to for a planning application, even if it is a reserved matter. If this happens, it will mean that a lot of people will not know what is being proposed and will not have the opportunity to have their say. It will reduce very substantially the effective involvement in local planning applications that takes place at the moment. I hope that the Government will seriously reconsider this.

Baroness Williams of Trafford: My Lords, I turn first to Amendment 96ZBA. The NPPF and our planning practice guidance stress the importance of early pre-app engagement. Under the current planning application process, applicants often voluntarily engage with local communities when developing their proposals. This can help ensure that development is locally supported and makes for a more positive application process. In the same way, applicants will be able to engage the community, as they often do, in their detailed design at technical details consent stage.

We introduced compulsory pre-app consultation for onshore wind development above an appropriate threshold through provisions in the Localism Act 2011. This was to ensure that early community engagement took place to improve the quality of proposed onshore wind development, helping to ameliorate local community concerns and perceptions towards these types of projects. We have not extended the compulsory pre-app development to any other type of planning permission, and therefore I do not see the case for extending it to technical details consent.

I assure the noble Baroness, Lady Andrews, that we envisage that the technical details consent stage will draw on the existing planning application process, including arrangements for publicity. We are currently consulting on the application process for technical details consent. We welcome the views and expertise of noble Lords to help us to develop arrangements set out in secondary legislation. As regards the consultation on technical details consent, we do not explicitly propose to require that local authorities consult on an application for technical details consent, but we are seeking views on encouraging consultation to take place through statutory guidance to the extent that local authorities consider appropriate views.

Amendment 100ZAZC would add publicity and consultation requirements before a grant of permission in principle. I hope that the noble Lord will be reassured to hear that we intend to set out publicity and consultation requirements before a grant of permission in principle. The Bill already provides for us to set this out in secondary legislation. This will be the case whether permission in principle is granted through a locally prepared plan or on application.

We are also currently consulting on the application process for technical details consent. As I set out in relation to Amendment 96ZB, we envisage that technical details consent will draw from the existing planning application process. However, because the permission in principle followed by the technical details consent is a new route in obtaining planning permission, it would be inappropriate to place a requirement in the Bill that fully duplicated the current outline and reserved matters stage. As I mentioned, we will set out the application process for technical details consent in secondary legislation once our current consultation closes. I would be extremely interested to hear noble Lords' views on how to strike the balance between the permission in principle and the technical details consent stage.

Amendment 96F is intended to ensure that local communities and others are consulted by local authorities before land is included in their registers. I understand the noble Lord's concern and agree that an appropriate level of consultation will be important when authorities are preparing and updating their registers. However, local authorities will be expected to assess the suitability

of all relevant sites for inclusion in their registers. As part of that process, we will also expect them to identify which of those sites they consider suitable for permission in principle for housing. Where an authority proposes to grant permission in principle for housing on sites in registers, consultation will be mandatory. As I said earlier, regulations will set out the procedures to be followed. Where authorities do not intend to grant permission in principle for a site included in a register, we propose to give them discretion to consult their local communities and interested parties about those sites. This approach recognises that local planning authorities are best placed to determine whether consultation would be helpful, and it provides authorities with flexibility to adapt their approach in particular circumstances. I hope that with those comments, noble Lords will feel free not to press their amendments.

Baroness Andrews: My Lords, I must confess that I am a bit confused. I will have to read *Hansard* carefully. At the moment, we have a pre-application process which is robust and successful, and local authorities engage with that successfully, because, essentially, a good development has the support of the local community. These will be massive housing developments in some cases and they will require the local communities to be happy with what will be on offer. Of course the local authority should make the decision but I hope that we would have some discipline around this so that, as the noble Lord, Lord Greaves, says, we will not go down a path where less and less influence is exercised by people who have to live alongside or even within these developments.

Having said that, of course I will withdraw the amendment, but this is a very important part of the Bill. I am not certain that I like the idea of your Lordships being entirely responsible for the secondary legislation, as we seem to be increasingly asked to be. We need to know how people who will have to administer this measure feel about it. That is why we need to know local authority views on these things. Clearly, we will think again about the measure before Report. I may seek a meeting with the noble Baroness to see whether we can tease out this issue with some degree of certainty, because it is very important. I beg leave to withdraw the amendment.

Amendment 96ZBA withdrawn.

Amendments 96ZC to 96ZF not moved.

Debate on whether Clause 136 should stand part of the Bill.

9.45 pm

Lord Greaves: My Lords, I tabled this as a sweep-up, in case we had missed something. I am not sure there is anything, but there may be one or two things. I was going to put it in a group, but the Labour Party said they wanted to keep it separate. Perhaps they have got something to say.

A couple of questions have occurred to me during the debate. One of the curiosities of getting planning permission is that anybody can apply for it for any piece of land. Is that also going to apply to permission in principle? That is something for the Minister to think about.

The second question is slightly more substantive. We are told that permission in principle is just for housing, in the Bill or anywhere else. There may be other things associated with housing development, such as shops or local offices, but so long as it is housing led that is okay. In local development plans, allocations of land are usually for housing. In most cases, they do not say "housing with shops". When it comes to applying for planning permission, if people want a little area in the middle of the housing with two or three shops, everyone says that is wonderful and gives permission for it. How will permission in principle work in terms of categories? Will it have to be in the local plan, or the brownfield site register, that it is housing with associated ancillary things? If so, categories in local plans are going to have to be substantially revised. I just thought of that question and it seems to be a practical thing that needs to be looked at.

Baroness Williams of Trafford: I confirm to the noble Lord that it would have to be categorised as housing-led development. For permission in principle to be granted, it would have to be categorised by size, location and type of development. I hope that reassures the noble Lord.

I hope that, through the course of this evening, I have been able to demonstrate that, rather than removing the role of local authorities and communities, the true aim of the measure is to help them in developing their plans. I have given assurances that the choice of where and to what permission in principle is granted is a local one, taken by local authorities or neighbourhood forums through their existing plan-making process. I hope the noble Lord now feels able to withdraw his opposition to Clause 136.

Clause 136 agreed.

Amendment 96A not moved.

Schedule 12 agreed.

Clause 137: Local planning authority to keep register of particular kinds of land

Amendment 96B

Moved by ***Lord Greaves***

96B: Clause 137, page 68, leave out lines 37 and 38 and insert "is brownfield land"

Lord Greaves: My Lords, this clause is effectively about brownfield registers and we have already covered some of the points I will make in moving Amendment 96B and speaking to the other amendments in my name.

Amendment 96B probes whether other registers are being considered and, if so, what they are and whether they will grant permission in principle like brownfield registers.

Amendment 96E probes how a register being in "two or more parts" will work. We have been informed that one part of the register will be of brownfield sites in general and the other of brownfield sites which are suitable for housing and will therefore get permission in principle. However, I am not sure how that will work and whether there are other distinctions or divisions.

[Lord Greaves]

Amendment 96G puts on record that nonsense sometimes creeps into legislation, though I do not blame the Minister or her colleagues on the Front Bench for this. Clause 137 says that regulations will,

"confer a discretion on a local planning authority, in prescribed circumstances, not to enter in the register land of a prescribed description that the authority would otherwise be required to enter in it".

I have not got a clue what that means—perhaps the Minister can tell us in plain English. Indeed, perhaps the Minister can prescribe what it means.

Amendment 97C refers to an even more nonsensical provision in the Bill. Again, I do not blame anybody on the Government Front Bench or in the Chamber, but new Section 14A(6) of the Planning and Compulsory Purchase Act 2004 reads:

"The regulations may confer power on the Secretary of State to require a local planning authority … (a) to prepare or publish the register, or to bring the register up to date, by a specified date; … (b) to provide the Secretary of State with specified information, in a specified form and by a specified date, in relation to the register. … In this subsection 'specified' means specified by the Secretary of State".

I really think we ought to do better than that, and this amendment is a protest.

Amendment 98A probes the definition of "brownfield land". I am not suggesting that my definition is better than the NPPF's "previously developed land", but defining it is important. As the Minister said the other day, this is a hobby of mine. Clearly, brownfield land is land that has previously been developed. I am suggesting that it is also land which,

"is not in use or is being used in such a way that the local planning authority considers that a change of use would be appropriate".

There is an interesting question there as to how far previously used land that is now being used for a less intensive purpose—for example, an old mill that is now being used as a scrapyard—is classified as brownfield land and how far it is just land that is being used for something different.

Amendment 98A also refers to land,

"not of high environmental or amenity value",

which just parrots what my noble friend Lady Parminter said more eloquently earlier. Importantly, it goes on to say that this,

"does not mean land which has reverted to a condition in which its use and appearance is that of a greenfield site".

It used to be almost impossible to reclassify brownfield land as greenfield land. The NPPF came along and its wording is actually quite useful in this respect, but when local authorities are going to be put under a duty to provide a register of brownfield land, including brownfield land that might be suitable for housing, is land still brownfield if it is has grown over and been turned into a wood by natural means or if somebody has taken it over and is grazing sheep on it?

The important thing is that, when compiling a brownfield register, local authorities should be able to make their own judgment about this and not be forced to put on a list of potential housing sites land that has reverted to a wild state, a semi-wild state or some greenfield-type of use and which provides a local amenity. For example, in the ward I represent, there is the site of an old chapel where I can remember the chapel still standing, which is now being registered as a little village green, but that is the result of a series of actions on that land in the past 30 to 40 years and it is now being used as an amenity for residents. There needs to be a system where local authorities are not forced to say, "Yes, this used to be brownfield land and therefore it has to have housing on it now", even if that is not the local view. I beg to move.

The Deputy Chairman of Committees: My Lords, if Amendment 97D in this group is agreed to, I cannot call Amendment 98 for reasons of pre-emption.

Lord True: My Lords, I will be brief and I will not repeat the rather impassioned speech I made another day on why these wretched registers cannot be more dynamic and give local authorities a bit more power and action to get on with the job.

The thing I am rather curious about is: what happens as time progresses? If we are to list on a register land that is said to be suitable for housing and over time there is a great demand for free schools and population growth in urban areas—it is very tight—the local authority might look at that and say, "Well, actually, that could be a school. That might be better than what we were thinking of before as housing", and might want to delist and deregister. Once it is on the register, in a sense it acquires a "resi-value" because it is listed there as being for housing. But planning is dynamic and evolving.

I do not necessarily expect my noble friend to answer now, but I would like to know how these clunking registers are manoeuvrable when local needs and priorities change—or is it that once it is there for housing, it has to be housing for ever and we just have to get the numbers? Where is the flexibility in changing?

Baroness Young of Old Scone: My Lords, perhaps I may comment on Amendment 97C, tabled by the noble Lord, Lord Greaves, in which he quoted the comments on "specified" and said that it was a nonsense. A lot of this, alas, arises from the fact that so much of the Bill is going to have to be made flesh in subsequent secondary legislation. We now have available in the Printed Paper Office the outline of the subsequent secondary legislation that is being planned by the Government, including the timetable for consultation on it and when it will be brought before this House as regulations. Some 34 separate pieces of secondary legislation are envisaged, which will come before your Lordships' House but not, may I say, until the autumn. So we are, regrettably, in a position where we have to buy a pig in a poke on many occasions. I sympathise with the noble Lord, Lord Greaves, that new Section 14A(6) appears to be the sort of nonsense that pigs in pokes produce.

While I am on my feet, I should say to the Minister that I am still looking for my flow chart. It is not in the Printed Paper Office.

10 pm

Lord Stunell: My Lords, I rise to support the direction of travel of my noble friend and to pick up on one of the points made by the noble Lord, Lord True, about the evolution of planning needs in an area that may

have received a PIP some years before. It is important to know the answer to that question. It is also linked to what the Minister will tell us is meant by the phrase "housing-led" in the first place. Reference has been made to shops and maybe offices, but no one has mentioned clinics or schools when talking about housing-led. It would be really helpful to understand whether what might broadly be described as civic or public service buildings are included in that omnibus idea of housing-led neighbourhoods or housing-led sites. That is an important clarification that might help some of us to understand more completely what is envisaged here. Certainly if schools and public services buildings have to be identified separately, that raises a whole host of other questions which I do not think we have discussed so far.

I want to say to my noble friend who is concerned about brownfield sites that they are not necessarily only mills. I remember being fiercely lobbied as a junior Minister by two Deputy Speakers of the House of Commons about a country park in Lancashire, which I think was called Cuerdan Valley Park, a reclaimed mining area that is now, as the name suggests, a country park. Both MPs—one Conservative and one Labour, I have to say—were deeply concerned that part of this country park that was being designated as a brownfield site might be sold off for housing. They were very anxious about what would be likely to happen in those circumstances. It is an existing problem rather than just one that might be created by the new circumstances, but bearing in mind the increased importance of brownfield as a definition with a consequence, it would be sensible for the Minister to give some further attention to it.

Lord McKenzie of Luton: My Lords, I do not usually make my first visit to the Dispatch Box at 10 o'clock at night, but perhaps in doing so I ought to draw attention to my interest as a vice-president of the LGA.

I shall address the issues that have been raised in this series of amendments that are basically all probing. The subject of those probes seems to us to be entirely appropriate. They seek further clarification about what other register is envisaged, whether there is to be more than one register, and if there is one for housing, what the other one will focus on. There is also a need to clarify the words "in prescribed circumstances".

There is concern about the term "specific". My noble friend Lady Young pointed out that it is not so much the tortuous nature of the language, but that it is indicative of the fact that so much of this Bill is to be dealt with in secondary legislation. We have often debated that issue during the passage of the Bill and no doubt we will continue to do so.

The other issue raised by the noble Lords, Lord Greaves and Lord Stunell, was the definition of "brownfield". It is important that we get clarity on that, given the heightened significance of it to the system that is now being proposed. I will be interested in the Minister's answer to the question from the noble Lord, Lord True, about how the register can be manoeuvred where things change over time. There might be a different view on what the land should be used for four, five or six years down the track.

Baroness Evans of Bowes Park: Before I begin my comments, can I just say to the noble Baroness, Lady Young, that apparently the flow chart is in the Printed Paper Office. Someone has been to check and there is a copy waiting for you there.

Before I comment on the specific amendments proposed by the noble Lord, Lord Greaves, I want to make some introductory comments—I shall try to keep them brief—that I hope will reassure the House about our proposed approach. I think we agree that previously developed land has an important role to play in delivering much-needed new homes, which is why the Government are putting a range of measures in place to help unlock housing on suitable brownfield sites.

Clause 137 inserts new Section 14A into the Planning and Compulsory Purchase Act 2004. The power will enable the Secretary of State to make regulations requiring local planning authorities in England to compile and maintain registers of a particular kind of land. We intend to use this power to require local planning officers to compile registers of brownfield land that is suitable for housing development. Brownfield registers will be a valuable tool, providing publicly available information for local communities, developers and others. Making the registers a statutory requirement will ensure that consistent data on brownfield land that is suitable for housing is transparent and kept up to date. This will provide certainty and help to encourage housing investment in local areas. The registers will also help to measure progress against the Government's commitment to get planning permissions in place on 90% of brownfield land that is suitable for housing by 2020.

As noble Lords have said, we are currently consulting on the policy detail before such matters are set out in regulations. It is our intention that regulations will include, for example, the criteria to determine the suitability of sites to be entered on registers, procedures for consultation prior to entering sites on registers, and information to be included on registers for each site. This power could also be used to require local authorities to prepare other registers of land, for example a register of small sites that would help promote self-build and custom housebuilding—another priority for the Government.

The noble Baroness, Lady Young, now has her flow chart. Excellent.

I understand concerns that the power is too wide in its scope, but I emphasise that the power provides flexibility to use registers as a tool to promote more efficient practice where necessary and appropriate in future. I also point out that if the power was used to bring forward registers of others types of land, that would require secondary legislation, which, of course, would be laid before this House.

I would like to use these introductory comments to offer reassurance on two further points. First, I emphasise that when local authorities make decisions about land to include in brownfield registers they must have regard to the NPPF, any relevant development plan or national policy and advice, as well as any guidance issued by the Secretary of State. We are not proposing any change to the decision-making framework. Secondly, noble Lords are aware that it is our intention that the registers will be used as a mechanism for granting

[Baroness Evans of Bowes Park]
permission in principle for housing on suitable brownfield sites. However, entering a site on a register does not automatically grant permission in principle. That decision will be for local authorities. This means that permission in principle will be granted based on decisions made by local authorities, in line with local and national policy, after consultation.

The regulations will set out the procedures to be followed in relation to consultation with statutory consultees and others so that their views can be considered before any sites are included in registers and granted permission in principle. There are no proposed changes to the way in which relevant material considerations are to be considered for those sites.

I now turn to the amendments. Amendment 96B seeks to amend Clause 137. As I said in my introductory comments, this clause provides flexibility to use registers to promote more efficient practice where necessary and appropriate in future. I gave as an example our proposals, on which we are currently consulting, for a small sites register, which would help promote self-build and custom housing. The noble Lord, Lord Greaves, asked whether the small sites register could grant PIP, and the answer is no, it could not.

Amendment 96E would narrow the scope of the power by placing some of the criteria determining the suitability of sites in primary legislation. I hope that my earlier comments have reassured the noble Lord about the Government's intended use of the power. A minimum site threshold for brownfield registers will not necessarily be applicable for registers of other types of land. That is why it would not be appropriate to set out the threshold in primary legislation. The noble Lord may find it helpful to know that it is our intention to set a minimum site-size threshold of a quarter of a hectare, or sites capable of supporting five dwellings or more. We are currently consulting on our proposals. Following the consultation, and taking into account the responses received, we will set out our proposals in regulations.

Amendment 96G seeks to expand local planning authority discretion to exclude land from their registers. Subsection (4)(c) makes provision to allow authorities some discretion to exclude land from their register. For example, the Secretary of State might make provision for authorities to exercise their discretion in exceptional circumstances, such as when development of the land would be particularly controversial and the authority considers that development decisions should be made through the usual planning application route.

Amendment 97C seeks to remove subsection (6) which provides the Secretary of State with a power to require an authority to prepare or publish a register or bring a register up to date by a specified date. It would also provide a power to require specific information. Brownfield land plays an important role in helping to provide much needed housing. I have already emphasised how important it is to have consistent data on suitable brownfield land that are made publicly available and kept up to date. That will assist developers and communities, help to encourage investment in housing and help to measure progress against the Government's manifesto commitment. The requirements in subsection (6) will act as an effective incentive to ensure that local authorities make this information available in a transparent and timely manner.

Amendment 97D would remove the requirement to have regard to national policy, the development plan and guidance. Registers will be a tool to provide consistent, up-to-date information on brownfield sites that are suitable for housing. It is our intention that registers will complement local plans; both are designed to promote suitable sites for development. The clause requires decisions about which sites to include on registers to have regard to the NPPF and the relevant local plan. We also propose that strategic housing land availability assessments, which identify future housing land supply and inform the local planning process, will be the starting point for identifying suitable sites on brownfield registers. This ensures that sites placed on the register have regard to the authority's existing plans for their area. I emphasise that local authorities will be required to consult the public and other interested parties about sites on their registers for which they intend to grant permission in principle for housing. When authorities intend to enter a site on their register but are not proposing permission in principle, they will have discretion to consult the public and others before making a final decision.

Amendment 98A seeks to define brownfield land in primary legislation. As the noble Lord, Lord Greaves, said, brownfield land is already defined in the NPPF, which encourages the reuse of brownfield land provided that it is not of high environmental value and it has strong policies to protect the natural, built and historic environment. It also requires authorities to ensure that a residential use is appropriate for the location and that a site can be made suitable for its use. I should also emphasise that we are consulting on criteria to determine the suitability of sites. These criteria include consideration of environmental and other constraints that cannot be mitigated. Again, we propose to prescribe these criteria in regulations. To apply a definition in primary legislation would narrow the proposed powers and, we believe, frustrate our intention to use them to compile registers of other types of land.

I am conscious that I have not answered all the questions, particularly the one asked by my noble friend Lord True, so if noble Lords agree, I hope we can go back and check other questions, and where I have not been able to touch on them here I shall certainly do so in writing. I hope that, with that commitment, the noble Lord will withdraw his amendment.

10.15 pm

Lord True: I am grateful to my noble friend for agreeing to write but I am worried about the regulatory burden on local authorities and I wish this to be considered. In the Explanatory Notes there is potentially a register of small sites for self-build and custom housebuilding. There is a register of brownfield land suitable for housing which meets the prescribed criteria. There is another register of land which the local authority thinks might be suitable for permission in principle. There is a further possible register of land that the local authority considers suitable for housing development but only capable of four dwellings or fewer. I have not gone through it in further detail.

We have heard the Minister's presentation of the various things that will be required. The Government want to monitor whether their manifesto commitments are being fulfilled. Is there going to be reporting back, forms, et cetera? We are going to have regulations about consultation. But who is going to do all this? We will come on later to discuss planning fees. We cannot afford to keep fully stocked planning departments and offices doing all this. I do not expect an answer now but I beg my noble friend with her officials before Report to give us a clear view of the burdens that are going to be imposed on local authorities, because the more I listen, the more there seem to be.

Lord Stunell: I fully understand that the Minister is going to write to us but if she could give us a hint about whether or not public service buildings, schools and clinics are included in the housing-led concept at this stage, that would be really helpful.

Baroness Evans of Bowes Park: Yes, they are included—I hope.

Lord Greaves: My Lords, the Government Chief Whip has walked in so he will want me to beg leave to withdraw my amendment. I just want to say two things. First, I thank the Minister for a very comprehensive response to this series of brownfield questions we have all been asking. The only point I will pick up again is this: if the Secretary of State is to give guidance or send out regulations to authorities, will the Government please pay particular attention to the question of brownfield turning to greenfield over a period of time? Local authorities need the discretion to decide when that transition has occurred. Otherwise what is clearly, to everybody's eyes, now a greenfield site will have to be built on because it used to have development on it 40 or 50 years ago or whenever it was. That is an important issue but I beg leave to withdraw the amendment.

Amendment 96B withdrawn.

Amendment 96C

Moved by ***Lord Greaves***

96C: Clause 137, page 68, line 38, at end insert—

"( ) A register of land under this section is a local development document."

Lord Greaves: My Lords, these are just two straight questions about the status of the register. Will it be a local development document or will it be a development plan document? I beg to move.

Baroness Evans of Bowes Park: Amendments 96C and 96D seek to define registers as local development documents and development plan documents. I understand that the noble Lord wishes to ensure that the process of preparing and maintaining registers has similar protections to development plan documents and local development documents but I hope I can reassure him that our proposals already include strong protections.

Brownfield registers are not intended to set out policy. By contrast, local development documents and development plan documents set out an authority's policies relating to the development and use of land in its area. Registers would be a tool to provide consistent, up-to-date information on brownfield sites suitable for housing. It is our intention that registers will complement local plans. Both are designed to promote suitable sites for development. As I noted in my introductory comments, decisions about which sites to include on registers will have to have regard to the NPPF and the relevant local plan. We also propose that strategic housing land availability assessments will be the starting point for identifying suitable sites on brownfield registers.

I emphasise that local authorities will be required to consult the public and other interested parties about sites on their registers for which they intend to grant permission in principle for housing. Where authorities intend to enter a site on their register but are not proposing permission in principle, they will have discretion to consult the public and others before making a final decision. I hope that with those assurances the noble Lord will withdraw the amendment.

Lord Greaves: I am grateful for that reply. I think the answer is no. I have the information I wanted, and I beg leave to withdraw the amendment.

Amendment 96C withdrawn.

Amendments 96D to 97 not moved.

Amendment 97A had been withdrawn from the Marshalled List.

Amendments 97B to 98A not moved.

Amendment 98B

Moved by ***Lord Greaves***

98B: Clause 137, page 69, line 38, at end insert –

"14B Viability of brownfield sites: gap funding

(1) A local planning authority may decide not to include a brownfield site on a register established under section 14A if, after they have assessed the viability of development of the site for housing, they think that it is not viable.

(2) Where subsection (1) applies, a local planning authority may make a request to the Secretary of State for sufficient financial support to make viable a housing development on the site.

(3) The Secretary of State must consider such a request and either provide the requested support or give reasons for refusal in writing.

(4) If the site becomes viable for housing development, by means of a contribution from the Secretary of State or otherwise, the local planning authority may add it to the register."

Lord Greaves: My Lords, Amendment 98B is about the viability of brownfield sites and what happens to brownfield sites which local people and the local authority wish to see developed for housing but which are not viable. The amendment then goes on in a rather cheeky way to suggest that the Secretary of State should cough up some money to make them viable.

There are a lot of genuine brownfield sites in areas such as Lancashire and Yorkshire. They may still have structures on them, or they may have been removed. In some cases, they may have been remediated, or they may be perfectly good flattened sites ready for development.

[Lord Greaves]
The problem is that nobody will develop them because there is no profit to be made from building houses on them. There is an old works in the ward I represent on the council in Colne. The outside walls of the mill are still there. We have been trying to get it developed for housing for 10 or 15 years now. We nearly got there before the credit crunch in 2008 and the collapse of house prices. We got the owner to apply for full planning permission, and he got permission for about 20 houses in three blocks. The area is surrounded by terraced houses. It was a nice little development. He was proposing to sell the site on to a local builder who was going to develop it. The local builder is not there any more. The council's joint venture development company has done a viability assessment of the site and, even with a subsidy from the council, it is not viable. The total cost of developing it is around £130,000 per house, but the sale price for new terraced three-bedroom houses in that area is £100,000. It is simply not viable.

Another site in the same town was cleared under housing market renewal about 10 years ago, but the problem is that it is on quite a steep slope. It is remediated and perfectly ready to develop for perhaps a dozen houses. It is possibly just viable with some help from the council on the basis that the council owns the land and will put the land into the scheme for free. This is the kind of thing we are talking about. There must be dozens of brownfield sites in east Lancashire of this nature which simply cannot or will not be developed—although everybody wants to see them developed for housing. That is the obvious use for those sites and it would benefit the area, help to regenerate it and provide much-needed local housing for people. Nevertheless, because of the local housing market, they are not viable.

I have two questions apart from the question of what the Government or the Secretary of State will do about this to help us fill the gap. It is no good doing what they have been doing so far, saying that they will provide loans. You provide loans to get a scheme going, but if over a period of 30 years of selling the properties or renting them out in the short run the scheme does not add up, the loan is no use because you cannot repay it. It needs gap funding. The council itself has money to help with gap funding of sites like this, and we hope to move ahead with one very soon, but this is typical of a lot of places in the north of England—perhaps in smaller towns, away from the big cities—where brownfield sites like this are simply not viable.

First, therefore, the question is: do such sites go on the brownfield register—the big register, with all the sites on? Do they go on that register to get planning in principle, and what is the point of getting that when any scheme on them will get planning tomorrow? Therefore, what use is the brownfield register to these types of sites? Secondly, we keep reading that the Government have lots of money for brownfield sites: the Chancellor in his Budget announced £1.2 billion or £1.3 billion—I think it was the same £1.2 billion that had been announced some months previously, but that does not matter. This money keeps being announced, but whenever we look at it we find that it is for remediation schemes, and we do not need remediation money; we need pure, simple gap funding.

That is a plea from the heart, from the heart of the Pennines, because we want to develop these sites and we cannot, because they are not viable. Gap funding is needed, and we need some help from central government as well as from local funds. However, my questions were also about the brownfield register and how non-viable sites like that would fit in with the register and its purpose. I beg to move.

Lord Beecham: My Lords, I am slightly puzzled by the tenor of the noble Lord's argument. I quite understand his point that no profit can be made by building for sale on these sites. However, that raises the question of why he is looking only at building for sale. Why cannot a site like that be used for social housing? That seems to be the obvious answer in many ways. Of course it is slightly subverted by two things, which affect the potential for local authority or housing association housebuilding. One is the right to buy, which will ultimately accrue, and the second is of course the reduction in rents that will be charged by housing authorities, which will reduce their capacity to invest in either their current stock or in new building. To look at such sites as sites for social housing provision is a better way of dealing with them than to seek some sort of subsidy for private sale, which will ultimately result in people making a gain out of what would probably be better as social housing. Therefore the noble Lord might want to reconsider the whole nature of his approach.

10.30 pm

Lord Greaves: My Lords, it is very simple. Housing associations are organisations which have to run commercially. They therefore judge the viability of their new-build schemes on the basis of contributions that they get from the Housing and Communities Agency, contributions they put into it themselves, the cost of managing and repairing the properties over 30 years and the rents they will get in during that period.

We are an area which has not only low house prices but low rents, so there is a limit to what we can charge. These sites have been looked at in great detail. Some of them have been developed by the council in co-operation with the main housing association, which is the Stock Transfer Housing Association. The sites I am talking about, however, are simply not viable for social housing, just as they are not viable for anything else. The numbers do not add up, whether you are building for rent, for sale or for partial schemes. In some sites they do. For example, the council has developed some sites in Briarfield, where a majority of the houses have been sold, and in order to make the scheme viable and for other good reasons, some of them have been sold to the housing association. We are working together wherever possible, but the fact is that building new houses on a lot of the brownfield sites in a lot of these places, and certainly in Lancashire and neighbouring parts of Yorkshire, simply is not viable. Therefore, there has to be gap funding and some sort of subsidy—not a huge one, but it has to be there to make it possible.

Lord Beecham: I can see the argument for housing association provision, but I would not have thought it would run to the same extent, or at all, for the local authority itself doing the building because it would

have a housing stock and a housing revenue account. It certainly has to balance that housing revenue account, but those costs can be spread, I would have thought, in a way that a housing association might find difficult. I still think there is a difficulty.

Lord Greaves: Some local authorities were sensible enough, or foolish enough, according to your view—I was against what we did in our local authority, but we did it—to get rid of all their council housing. In our case, it was as a result of a quite disgraceful bribe from the previous Labour Government which people felt they simply could not turn down. It really was shocking, the amount of money that was thrown into it—not shocking for the tenants and the houses, because a lot of money went into those houses as a result of the stock transfer, and the local authority had all its debt written off as a result. The whole thing was a public scandal, but very good for the housing estates in Pendle. However, we do not have a housing revenue account, so we cannot do it. What we do is build properties through our development company, a half-owned council development company, highly successful, but, again, it has to be done. We do it on the basis of a 5% or 8% mark-up, profit, compared to the commercial people, who want 15% or even 20% on such sites.

Lord Beecham: I stand corrected on the experience of Pendle, but that is not necessarily typical, one hopes. I look to the Minister to take the point that I made in respect of other authorities, which are perhaps not in quite the vulnerable position that Pendle appears to be. That means, again, looking at local authorities building houses, whether on brownfield sites or elsewhere. There is no incentive in the Bill for that to happen, so I ask the Minister to consider, again, the role of local authorities in providing housing, not just on brownfield sites but more generally.

Baroness Evans of Bowes Park: I thank the noble Lord, Lord Greaves, for his amendment. I reassure him that the Government are fully committed to unlocking new homes on brownfield land, which is why we are creating the £2 billion Home Building Fund to provide the investment in infrastructure and land remediation needed to support major housing developments. The fund will provide long-term loan funding to help unlock or accelerate a pipeline of 160,000 to 200,000 homes. It will support our key manifesto commitment to create a brownfield regeneration fund and to fund housing zones to transform brownfield sites into new housing. The new fund will be available to builders and housing developers across England.

I emphasise that the criteria on which we are consulting to assess the suitability of sites for brownfield registers will include a consideration of site viability. We would expect a site that was not viable to be unlikely to go on the register. I reassure the noble Lord that viability is central to our proposals and ask him to withdraw this amendment.

Lord Greaves: I am grateful for that reply. My only comment is that I want the Minister to say that non-viable sites will go on the register and that, together, we will work to find ways of making them viable and develop them. If the fund is now £2 billion instead of £1.2 billion or £1.3 billion, will somebody please tell me how we can get our hands on some of it, because we will use it well and build lots of new houses on brownfield sites? I beg leave to withdraw the amendment.

Amendment 98B withdrawn.

Clause 137 agreed.

Amendment 98C not moved.

Clause 138 agreed.

Amendment 99

Moved by ***Lord Clement-Jones***

99: After Clause 138, insert the following new Clause—

"Permitted development: change of use to residential use

Where the Secretary of State, in exercising the powers conferred by sections 59 (development orders), 60 (permission granted by development order), 61 (development orders: supplementary provisions), 74 (directions etc as to method of dealing with applications) or 333(7) (regulations and orders) of the Town and Country Planning Act 1990, makes a general permitted development in respect of change of use to residential use as dwelling houses, the change must first be subject to prior approval in respect of the impact of neighbouring buildings which have been in continuous and unchanged use for at least one year on the amenity and enjoyment of the prospective residents of the dwelling houses."

Lord Clement-Jones: My Lords, I shall speak also to Amendment 100 in my name and those of the noble Lords, Lord Stevenson and Lord Kennedy. I am very much third sub off the bench this evening. I know that the noble Lord, Lord Stevenson, is very disappointed not to be present after waiting for eight sittings of this Committee to move this amendment, but we share a strong interest in the viability of live music venues, so I hope that your Lordships will accept this inadequate substitute.

Some of the concern about the fate of live music venues derives from a report, *London's Grassroots Music Venues Rescue Plan*, produced last year by the Mayor of London's Music Venues Taskforce, which suggested that while London's music industry is generating billions of pounds for the economy, a vital part of this important cultural as well as economic sector is under threat. The taskforce, set up by the mayor last year and chaired by the Music Venue Trust, undertook an audit of grass-roots music venues and found that from 2007 to 2015 London had seen the number of spaces programming new artists drop from 136 to just 88.

The situation was mirrored more recently in UK Music's Bristol live music census, published only this month by Bucks New University. It found that 50% of the city's music venues were affected by development, noise or planning issues. Those issues pose a direct threat to the future of Bristol's vibrant ecosystem, which generated some £123 million towards the local economy in 2015 and supported 927 full-time equivalent jobs. So it is an important issue in both those localities and not confined to the metropolis.

One problem faced by live music venues arises when residents move in to an area where noise is emanating from long-standing music venues. The residents make complaints about the noise, and, despite the fact that in most cases the volume levels have remained the

[LORD CLEMENT-JONES]
same for many years, a complaint has to be dealt with by the local authority and often results in additional licensing restrictions. Such restrictions can limit the venue's ability to generate income and can be extremely costly to put in place, so this is a major issue when new residents move in and are affected by existing venues.

The London rescue plan advocates, among other policies, support for what is called the agent-of-change principle, and this is reflected by these two amendments. The agent-of-change principle puts the responsibility for noise management measures on the agent of change—that is, the incoming individual or business. This could be a resident moving into a flat near an existing music venue, or a developer that is building a new music venue near an existing residential building. The principle has already been adopted elsewhere—for example, in parts of Australia and the United States—and is proving successful. At present, developers have no legal obligation to sound-proof new residences, forcing developers to spend significant amounts fending off noise complaints, abatement notices and planning applications. The Music Venue Trust has warned that the Government's 2013 amendments to permit offices, car parks and disused buildings across the country to be converted to residences without planning permission have made the potential situation for venues even worse.

The genesis of these amendments to the Bill is that they were tabled in Committee in the Commons. It appears that Ministers were sympathetic to the case being made but did not, at the end, accept the amendments. Amendment 99 would ensure that residents of buildings converted to residential use are protected from factors, particularly noise, affecting their amenity and enjoyment when buildings are converted to residential use by virtue of a general permitted development order. Such measures would become the responsibility of the agent of change of the permission. Amendment 100 would ensure that residents of buildings converted to residential use are protected from factors, particularly noise, affecting their amenity and enjoyment. Such measures would, again, be the responsibility of the agent of the change of the permission.

Things have moved on since the debate in the Commons. A letter dated 10 March was sent by Brandon Lewis, the Minister for Housing and Planning, and his colleague the Minister for Local Growth and the Northern Powerhouse. It indicates that the Government are amending the permitted development right to include a provision to allow the local planning authority to consider noise impacts on new residents from existing businesses in the area. This is a significant change in the current position. I very much welcome the contents of that letter and I believe that the necessary regulation has now been laid. It is worth quoting part of the letter:

"From the 6 April, a developer will be required to seek prior approval from the local planning authority in relation to the noise impacts on new residents before a change of use from office to residential can be carried out under permitted development. It will in effect allow local authorities to take account of national planning policy and guidance on noise, in a similar way to a planning application, as well as any material concerns raised by owners of music venues in relation to noise. This will help to ensure that before residents move into new housing in close proximity to well-established businesses, including music venues, local authorities are able to require the applicant to put in place noise mitigation measures where appropriate".

That is all very welcome, but there are quite a number of questions about how this is to be interpreted when the new regulations come into effect on 6 April. For example, is there any intention to apply these regulations to situations where new build as opposed to conversion takes place? If not, why not?

10.45 pm

This change is also being effected by secondary legislation not primary legislation and is in fact only guidance. That means that, essentially, this is exhortatory to local authorities as I understand it. It allows them to—but does not necessarily mean that they have to—take into consideration the principle of the agent of change. I would very much like clarification from the Minister about the interpretation of that particular change envisaged on 6 April. If it is only exhortatory, it very much means that local authorities will not arrive at a common position on these cases and in many areas there will still be a threat to music venues.

This territorial application is to England only and not to any other part of the country. Are the Government having any conversations that might take this more widely in other devolved Administrations? Is there any retrospective or transitional element to the guidance? Where relevant permitted developments have been granted in the three-year trial period for when protections for noise were not provided, would venues be entitled to pursue compensation if forced with closure if residents complained once they move in? There are some welcome elements, but there is still some uncertainty surrounding what is proposed and I look forward to what the Minister has to say. I beg to move.

Lord True: My Lords, I also have amendments in this group, although they are unrelated, but I will speak to them now so as not to delay the matter. I hope that I will not test the patience of my noble friend the Chief Whip, but we have had a reasonably lengthy speech. I am about to speak about a matter of fundamental importance so far as my local authority is concerned to people who live there and other local authorities in the London area. It concerns a grave injustice that is being carried out and I intend to pursue a remedy, come what may, in your Lordships' House. I hope that that will not be necessary and that the Government will listen.

The amendments relate to a specific issue, which is the impact of the proposal pushed through in 2013 to allow the automatic conversion of offices of B1 use, to use the jargon, to be converted to residential C3 use without full planning permission. At the time, many local authorities in London asked the coalition Government not to proceed with this step. I remember some testy meetings at the time, but of course the man in Whitehall knew best. We were told we could pass so-called Article 4 directions. We have explained now and many times since the problems of Article 4 directions, but again, the man in Whitehall knew best. We reminded Ministers of the principle of localism and not imposing a one-size-fits-all policy across the country but to let local authorities decide what was beneficial or damaging to the local economy. But I am afraid, again, the man in Whitehall knew best and the order was imposed in 2013 allowing automatic conversion of office to residential use.

Under the procedure, councils' residents and office workers—the people who work there—cannot object to these changes, except on the limited grounds of flooding, contaminated land and traffic. There is no consideration of the impacts on employment or on patterns of commuting. There is no requirement to meet space standards. There is no distinction between offices that are occupied and those that are not, and absolutely no provision for affordable housing, which is what the Bill is supposed to be about, among other things.

What has happened since in high-value residential areas such as mine? It was entirely predictable; we predicted it at the time. The consequences, at first sad, are now immoral and, for some families, bordering on the tragic. I will take some examples from my borough, but the London Councils brief shows that there are problems in many parts of London. Developers, driven by greed and with no social obligation, are asset-stripping high streets for housing, without any contribution to schools, transport or health. There is profit for the developers; the community picks up the ancillary cost.

By autumn 2014, Richmond Borough alone had lost 56,500 square metres of offices—almost 20% of the space in our borough. By April 2015, that had risen to 25% of office space, despite the attempt to contain this with Article 4 directions. The latest figure I have is of 234 prior approval applications granted, with a loss of almost 30% of our office space. I have to hand information on 143 of these prior approvals. Of them, 61 were empty. They are cases where a council such as mine would probably have given permission anyway, but with a social contribution from the developer. Some 22% of the offices turned into homes were partly occupied, and 50 offices, with nearly 15,000 square metres, were fully occupied. Yes, we are told that 189 residential units may come from those, but at what cost? Businesses were given notice or wound up, with no opportunity for succession, for the sake of a quick buck for the developer.

This bleeding of employment space is creating bottlenecks of supply in various parts of London, as the London Councils report indicates. Potential sites for free schools are being lost. The Government are cutting off their nose to spite their face: the policy means that the Education Funding Agency has to pay above odds to buy "resi-value" offices. At a recent public meeting I held, a doctors' practice wishing to expand to serve new residents moving into new homes in the area complained that it cannot now find space in the area because the offices that they had in mind are being converted to houses. In our council's latest business survey, 20% of businesses with between six and 10 employees said that they found it hard to find premises. The gearing between residential and office values in Richmond is up to £4 of residential value for every £1 of office value. It is a no-brainer for those after quick money: double your money, double it again and catch the plane to Bermuda, with not one penny in compensation to those who lose their jobs or business places, or the communities that bear the costs.

My Amendment 101B in this group, which I will not talk to given the hour, provides for compensation in these cases to those tossed out, and to the community. The quantities may not be right—I will hear an argument from the Government about that—but surely the principle is unarguable.

My borough has the largest number of these so-called prior notifications, but it is a widespread picture of growing damage across London. Well over 100,000 square metres of occupied space—businesses no longer there—have been lost in London. Rents are rising in many areas, deterring investment. Around 7,000 dwellings have been agreed in schemes of 10 units or more across London, which might, in the normal planning process, have yielded nearly 1,000 affordable homes. This way, there are none.

Article 4 could certainly be improved. Councils could be allowed to take into account impacts on jobs; local authorities could be allowed to charge fees. Article 4 directions could apply immediately, without risk of compensation claims, and I support the thrust of Amendment 100ZAZB in the name of the noble Baroness, Lady Thornhill. But ultimately, the answer is two "L"s: localism and listening.

My amendment is about localism—it is not to be prescriptive, but concessive; not to be centralist but localist. It allows those who want the Government's order to have it and I have been told that, in some areas, it is very welcome and has been very helpful. They can frame the order on the wall of the mayor's office if they want to, with a portrait of the Minister alongside. My amendment allows an affected local authority to opt out of the order, where it is doing damage, in the interests of the well-being of its community and to protect jobs. What possible rational objection could there be to this, except the "They shall not pass" principle about which I was talking the other day.

When I put down this amendment, I was very disappointed to see that, very shortly afterwards, the Government arrogantly tabled an order making this prior approval permanent, without waiting even to hear your Lordships' arguments or discussion on this subject. In my submission, that was a shabby way to treat Parliament and this House. It would be possible for this House to pray against that order and sweep away this whole policy. If that happened, it would go where it was wanted and where it was not wanted. In my view, that would be exceeding the proper performance of this House, but it could happen. Or we could take my approach. Let it stay where it is wanted and end it where it is damaging the economy and costing jobs.

I beg my Front Bench and my Government to listen. What morality, what principle, can there be in a policy—a Conservative policy—that puts hard-working people out on the streets, destroys jobs and enriches those who speculate at the expense of those who create? I find that shameful. I cannot explain it to my residents and it is profoundly, morally wrong. I beg this Government to listen and to think again.

Lord Tope: My Lords, once again I support the noble Lord, Lord True, in as strong terms as he has spoken to his amendment. I added my name to it for the same reason. Until May 2014, I represented a town centre ward in an outer London suburb and I saw the start of this. As the noble Lord, Lord True, said, it was entirely predictable and, sadly, the predictions have possibly more than come true. I, too, could quote

[LORD TOPE]
statistics from my borough which are very similar to those which the noble Lord, Lord True, quoted but, at this time of night, I am not going to. I simply say that, in Sutton town centre—the area I represented for 40 years—between the coming into effect of prior approvals and 29 January 2015, when the Article 4 direction took effect, 28% of the office space was lost, just in that 18 months or so. That trend has continued.

One of the many arguments against these indiscriminate prior approvals is that they do not distinguish between occupied and vacant offices. Among the statistics given to me from the research done by the London Borough of Sutton was that 62% of the office space lost in the borough was either occupied or at least partly occupied. There are many other statistics to back it up, but the conclusion given to me by the council—and I am no longer a councillor—says:

> "The situation has now reached such a stage that the council's economic development assessment states that the borough has an under supply of office space for the next 15 years".

The noble Lord, Lord True, is absolutely right. I will happily join him in his campaign, although I am no longer a London councillor.

11 pm

Lord Beecham: My Lords, I congratulate the noble Lord, Lord True, on his amendment. He is absolutely right to deplore the Government's imposition of this rule, effectively allowing the conversion of commercial properties in high streets to residential, without any consideration of local need or the property market and to the detriment of the high street. This is Mary Portas in reverse. As the noble Lord said, it is an extraordinary step for a Conservative Government to take.

On an earlier day in Committee, I raised the issue of property guardians and the possible exploitation of people being housed on a very temporary basis in buildings awaiting development. That is an undesirable state of affairs, but this provision is worse because here we are seeing not just buildings that have become empty over time but buildings that are deliberately being emptied of their current occupants, comprising businesses contributing to the local economy, to make profits for private developers, as the noble Lord rightly said, on which he was supported by the noble Lord, Lord Tope. The system is thereby exclusively tilted in their favour without any regard whatever to local circumstances or the views of local people or local authorities. It is another example of the Government imposing their policies with complete disregard for the localism which they repeatedly proclaim is their watchword, and is totally indefensible.

The noble Lord's amendments are quite lengthy but very much to the point and deal very effectively with the problem that he described. I hope that the Government will look again very carefully at what they are doing. Have they made any assessment of the impact of their policy? We have a very poor impact assessment for the Bill. What kind of impact assessment was undertaken when the Government made the decision to change the planning system in the way that they have in this respect? Where did they look for evidence of the impact? Did they consider the position in London, where there is huge pressure in any case on the housing market and huge pressure for the provision of residential accommodation? That should be met by properly thought through housing development and not at the expense of the local economy and local business. For example, have the Government consulted local chambers of commerce in London or anywhere else where these measures have been implemented? Can the Minister tell us what is happening up and down the country in terms of the number of conversions? We have heard very telling figures from two noble Lords in relation to their authorities. Do the Government have any idea what the national position is and what the impact has been not just in terms of the numbers of people but the viability of the local high street—and not just in terms of shopping, as the noble Lord said? He cited the case of a medical practice, and there will be other services as opposed to simple retail, important though that is, which will find life increasingly difficult.

It would be interesting to learn exactly what the Government know about the situation. Have they conducted any kind of review? Will they conduct any kind of review into what is happening on our high streets? Where does the process end? Is there any indication of even a balance of residential property with office and commercial and other uses of property in the high street? If not, the Government have failed lamentably to fulfil their responsibility to look at the picture in the round and, above all, to consult localities. There may be different approaches in some places. Some areas may be ready to accept conversions of this kind, but that is what a planning process is for. It is not a matter to be laid down arbitrarily by Whitehall.

I strongly support the noble Lord's amendment. He may not call a Division on it today—I assume that he will not—but if we get to Report without any indication from the Government that they are prepared to change their position on this, I hope that he will test the opinion of the House. I can say with confidence that the Opposition will support him. The Government need to rethink the position they have created and the damaging effects they have caused, and to do so urgently.

Lord Kerslake: I support the amendment and, in doing so, declare my interests as chair of Peabody and president of the Local Government Association. It is worth going back to when this policy came in. It was in the context of an economy struggling to recover and the Government's desire to stimulate development rapidly. It was particularly focused on the issue of office developments that had outlived their useful economic life and an unwillingness on the part of local authorities to contemplate change to an alternative use. That was the context in which the policy came forward. There was considerable debate about the issue, but the difficulty was that what worked in one part of the country may well not have worked in others. The safeguard introduced at the time was, essentially, to allow certain areas to be excluded from the application of the permitted development rights. In reality, only very few areas were excluded. The exclusions were very narrowly drawn to include areas, such as the City, that were very concerned about the issue.

We now know that, while the policy was well intentioned, the consequences have been perverse in some parts of the country, particularly in London and particularly in places of it that we have heard about, such as Richmond and Sutton. Having that information now, it is right that the Government revisit this issue and think again. For the price of a small addition of new housing, we are in danger of denuding significant areas of their economic capacity to grow and develop. The case is compelling: we should learn from how policies have worked in practice and be open to revisiting them.

Lord Campbell-Savours: I support this amendment, because I recognise why this measure was introduced. In parts of the north of England there were lots of shops closing. You could look down a high street and see the first floor of many retail units completely empty. Sometimes they were boarded up, or with ripped curtains and dusty windows: totally unoccupied. The issue has only been one of flexibility. The mistake was that we did not allow local decision-taking. With that at the beginning of the process, this problem would have been avoided.

The statistics on the numbers involved must be available. I presume that the number of units converted from commercial to residential will have entered into the national housebuilding statistics. Can the Minister tell the Committee the exact number involved?

Baroness Williams of Trafford: My Lords, Amendments 99 and 100 would insert into the Bill requirements on local authorities and others where there are already appropriate protections in national planning policy and guidance to address these issues. National planning policy already incorporates elements of the agent-of-change principle by making it clear that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

The Government recognise concerns about the impact of new residents moving into an area with an established live music venue. As the noble Lord said, my ministerial colleagues met industry representatives in January to discuss this matter. We have responded to their concerns by including a provision in the office-to-residential permitted development right. This enables local authorities to ensure that mitigation measures address noise impacts from existing businesses on the residence. It will both help to protect residents' amenity and to ensure the sustainability of established businesses.

The noble Lord asked about Scotland and Wales. Of course, planning is devolved there. He also asked if there is a plan to apply new prior-approval measures in relation to noise impact to new builds and not just to buildings undergoing a change of use. The permitted development rights take effect on 6 April and apply to changing the use of buildings from office to residential. The application for new build residential property will be considered under the NPPF, which incorporates elements of the agent-of-change principles. The noble Lord also asked if the regulations will only allow local authorities to take noise into account, not oblige them to do so. The regulations allow local authorities to take account of noise where it is relevant rather than obliging them, because that would be an inflexible requirement.

Lord Foster of Bath (LD): My noble friend Lord Clement-Jones asked a further question about the retrospective nature of the very welcome government proposals. I absolutely appreciate the real difficulties with retrospective legislation, but what advice and guidance will the Minister give to those music venues which will be affected before the change comes into effect? Can she also say what changes she will make to the guidance being given to local authorities?

So that the Minister is aware how serious this is, it is worth reflecting on the situation of the Fleece in Bristol, which started the campaign to change this. Chris Sharp, who led that campaign, points out that although he is pleased with the Government's announcement:

> "The irony is that the venue that was doing the most to change the law is being left out in the cold".

It continues to have a problem.

Baroness Williams of Trafford: I will write to the noble Lord with details of the revised guidance and in response to the other questions he asked.

Amendments 101A and 101B would allow local authorities to consider the local community's views and local and neighbourhood plan policies on a wide range of matters under the office-to-residential permitted development right. This has provided greater certainty for developers and has successfully encouraged more development, delivering much needed new homes. As my noble friend knows, where there is a localised impact on the office market, councils have power to remove permitted development rights. The Article 4 direction process provides more robust safeguards than the council resolution proposed by the amendment.

I have heard noble Lords' words about the impact of this. I understand that 1,600 new homes were developed in London under PDR in 2014, and 8,000 in total. I also understand that it does seem, as the noble Lord, Lord Kerslake, said, to be a problem in particular areas of the country. My noble friend and I have spoken about this, and although in Trafford, PDR is very welcome, it is clearly having an adverse impact in Richmond. I suggest that as the hour is late I meet my noble friend and the noble Lord, Lord Tope, before the relevant part of Report to discuss this further. I am not promising that we can move any further forward—and I understand what my noble friend said—but perhaps we might make some progress.

Moving to amendments 100ZAZA and 100ZAZB. I understand that Amendment 100ZAZA would insert specific requirements for local authorities to consider where permitted development rights allow for the change of use to residential. The amendment is not appropriate and would impose inflexible and unnecessary burdens. Permitted development rights strike a balance between encouraging development by providing greater certainty and allowing local consideration of specified matters. Such matters will depend on the building changing use to residential use. Where there are wider concerns, of course local authorities can make an Article 4 direction.

[Baroness Williams of Trafford]

Amendment 100ZAZB aims to remove the local authority's liability to pay compensation where an Article 4 direction is issued with immediate effect. It will also allow the local authority to charge a planning application fee where an Article 4 direction requires a planning application to be submitted. Where a local authority brings forward an Article 4 direction, the current compensation provisions, alongside the exemption from paying an application fee, strike a fair and appropriate balance. They recognise that a national right is being withdrawn for development that is considered acceptable while ensuring that the local authority's liability to pay compensation can be limited.

That said, I reiterate my offer to my noble friend and the noble Lord, Lord Tope. I realise that what I have said may not have satisfied them, but I ask—

11.15 pm

Lord Campbell-Savours: It is very good of the Minister to offer meetings, but we are on the eve of the Recess. The first day we come back we are into Report.

Baroness Williams of Trafford: I said I would meet them before Report. This part will not come to Report on day one, which is why I made that offer.

Lord Beecham: Perhaps the Minister will bear with me. She is offering to meet, which is desirable, but does that embrace the two amendments in the noble Lord's name? Amendment 101A is about local determination and Amendment 101B is about compensation to businesses. Would both those things be on the agenda?

Baroness Williams of Trafford: I think my noble friend's principal concern is the effect on Richmond of the permitted development right, but if he wishes to discuss compensation, of course I will discuss it.

Lord Campbell-Savours: In the event that the Minister meets her officials during the Recess, instead of meeting the two noble Lords, she might care to write to us all and tell us what recommendations are being made. It might save us a lot of time.

Baroness Williams of Trafford: My Lords, I am very happy to write to noble Lords on the back of a discussion.

Lord Beecham: I am sorry to press the Minister, but important though Richmond is, it is not the only place where this is happening. She may not be able to answer this question now, but I hope that the Government have details of what is happening up and down the country on this front. They have imposed this policy across the country; they ought to know what is happening. It would be helpful for those discussions to be a little broader, with all due respect to the noble Lord. The Minister may want to open this up to other Members of the House, because there will be people from different parts of the country whose own experience would be quite helpful. But I hope everything is on the table.

Baroness Williams of Trafford: Yes, my Lords. I am not excluding anything; I am simply making the offer to the two noble Lords who raised this issue quite strenuously, and to any other noble Lords who want to attend. I suspect it is not a northern problem but more of a southern problem, but we can discuss all that in due course.

Lord True: My Lords, I apologise for having provoked a lengthy debate at this time, but it is Committee and one's only chance to put a case. I illustrated it largely with examples from Richmond, but in the London Councils brief there are examples of problems in Croydon, Islington, Camden and Lambeth, which I do not think are Conservative authorities but are all citing difficulties.

I am extremely grateful to my noble friend, and of course I will gladly take up her offer. I hope that another order will not be laid by her friend at the other end before we can meet, because that was a rather unhelpful prelude to our previous meeting.

Lastly, the Minister can have his bone, because it is the Minister at the other end who is calling the shots, and I can have my bone so that my residents and the residents of Croydon and Lambeth have a bit of security. The order can stand and local authorities can be given the power to opt out within this Bill before Parliament. Everyone can be satisfied; those who want it and those who do not. That is what I put on the table, it is what I will take to my noble friend, and I am grateful for the opportunity to do so. But if we cannot meet on that, I will bring this back to the House.

Lord Clement-Jones: My Lords, I am afraid that even as regards Amendments 99 and 100, the Minister has only a partially satisfied customer. As my noble friend has said, it is important that we look in a rather more granular fashion at some of the points that I have raised, particularly on the retrospective aspects and the difference between guidance and putting this on to the statute book.

I am concerned about precisely the point mentioned by my noble friend, which is the example of the Fleece in Bristol, where the local authority played a perfectly proper role. It took account of the NPPF and so on, but in the end it was the Planning Inspectorate that was the real problem. If the local authority is allowed to consider noise impact and then does so, what is the difference between that and the inspectorate perhaps being free or not to take that into account, and therefore it does not impose the same conditions as the local authority? Would it be different if we had something rather more obligatory on a local authority? Would that impose a higher duty on the Planning Inspectorate in those circumstances, thus avoiding the situation that the Fleece found itself in?

I am rather concerned about how strong this particular guidance is going to be. I recognise that the principle is floating around, but how much of a fix do we have on it in order to make sure that the future of our music venues is protected? I am not going to go any further at this time of night, but I would welcome a fairly detailed letter from the Minister. In the mean time, I beg leave to withdraw the amendment.

Amendment 99 withdrawn.

Amendment 100 not moved.

Amendment 100ZA

Moved by ***Lord Palmer of Childs Hill***

100ZA: After Clause 138, insert the following new Clause—

"Time limits for developing land where planning permission is granted

After section 58 of the Town and Country Planning Act 1990 (granting of planning permission: general), insert—

"58A Time limits for developing land

"(1) Where planning permission is granted under section 58, the person or persons to whom planning permission is granted must develop the land to which the planning permission relates within a specified period of time, which the Secretary of State must by regulations made by statutory instrument specify.

(2) Regulations made under subsection (1) must specify that —

(a) development on the land must be commenced before the end of five years from the date on which planning permission was granted, and

(b) development on the land must be completed before the end of seven years from the date on which development on the land was commenced.

(3) Regulations made under this section may make different provision for different purposes.

(4) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.""

Lord Palmer of Childs Hill (LD): My Lords, the clock moves towards midnight, and we are on the eighth of nine days where probably the only consensus is that there is a need for more housebuilding. The Bill in its various components seeks to achieve that, by starter homes, self-build and many other means. However, in my view there is an underlying problem which Amendment 100ZA seeks to rectify.

The problem is the very slow development of land banks. As noble Lords will know, large residential developers want to build gradually to make it a near certainty that the properties will sell. Thus it appears that the owners of large sites—I really do mean large sites—reckon to build and complete no more than 100 to 150 properties per annum. This might suit the business plans of large developers, the construction industry, the banks and the financiers, and it might suit the manufacturers of building materials who want to provide a steady supply of bricks rather than deal with highs and lows. But surely this does not suit those who wish to buy a property. It is an element that keeps prices high because of a shortage of completions.

My first thought in drafting the amendment is that we should promote the good old Liberal policy of land value tax, which I am glad to note that some noble Lords can remember—a tax on land that is developed and undeveloped. However, the problem is that for the sanctions to be really effective, the tax would need to increase for each year that the site remains undeveloped. The amendment seeks a more gentle approach—although I would far rather go for a land value tax—so that when planning permission is granted for building on a site, work must be started within five years of the grant of permission. Then to avoid devices where minimal work satisfies this requirement, we add that the development must be completed within seven years of the start date. That is planning permission to action within five years and seven years to complete from the start date. I am not stuck with the five or seven years—I had to put two dates in—but there needs to be some restriction in order to get the developers to move on.

The focus needs to be on the minds of the holders of land banks—and there are holders of large land banks—so that they cannot just sit on the land while housing is in short supply. At present if the development is not started within the time of the planning application, as those of us who have served on planning committees will know, the period allowed—three years, five years—goes by and then the developer comes back to the planning committee and applies for it to be renewed. My planning officers in the London Borough of Barnet, where I was for 28 years, would always say, "Well you gave it to them last time, you've got to renew it". There should not be a presumption where a developer has failed to develop land that they should immediately be given an extension of the planning permission. These land banks need to be developed. Dealing with odd, small brownfield sites will have a benefit but the only way really to increase housing stock is to tackle land banks and those holding the land banks. That is the real world and I hope the Minister when she replies will give me some further assurance. I beg to move.

Lord Campbell-Savours: Under the noble Lord's proposed new Section 58A(2)(b),

"development on the land must be completed before the end of seven years from the date on which development on the land was commenced".

Does that mean that if you just put up one house on a huge prospective estate you suddenly find you can extend your period by two years? That is what I read from the amendment. I do not think that was the intention behind it, I am sure.

Lord Palmer of Childs Hill: My Lords, the intention is to get the development started within five years and finished within seven years so, as the noble Lord says, if you start one house and do nothing else, you will be caught by the fact that within seven years you have to complete the site. That is the protection against people using devices to partially develop a site.

Lord Campbell-Savours: Then why not simply make it subsection (2)(a) on its own with a seven-year limit?

Lord Palmer of Childs Hill: Developers work by first applying for planning permission. We are saying that once they have the planning permission there has to be a period in which they start the work and then, being reasonable people, there is a period in which they have to complete that development. That was the seven years. It could be 10 years or whatever any of the Ministers want but I believe there has to be a dual requirement rather than the one the noble Lord suggests.

Lord Porter of Spalding: My Lords, the person the planning permission has been granted to might not necessarily be the one developing the site anyway, so to make the original grantee of the planning permission

[Lord Porter of Spalding]
responsible for development is not practical, or probably legal. As has already been said, some sites will be a phased process so rather than a seven-year arbitrary deadline, developers should be working with local authorities to work out the phases of development and the proposed completion time on the basis of the phased development. If you were to grant somebody a site of 2,000 or 2,500 units, you certainly would not want them all being built within seven years. The way it is worded will work against some areas. I can appreciate that people should not be able to build up land banks without having any intention of bringing it forward, speculatively trying to increase profit on the basis of the land value itself, but the way this amendment is worded will have a detrimental impact on the communities where we try to implement it.

Lord Palmer of Childs Hill: My Lords, the actual development has to take place with the original developer—but on the suggestion that the developer might change, which I think the noble Lord made, the planning permission goes with the site. Even if the developer changes, the restrictions or advantages are still there. The person who buys the site gets those benefits and restrictions with it.

Lord Porter of Spalding: I totally agree—the land is where the planning permission sits, but that is not what the noble Lord's amendment says.

11.30 pm

Lord Beecham: The noble Lord, Lord Porter, has a point.

Lord Palmer of Childs Hill: Let us get a lawyer to sort it out.

Lord Beecham: No, I am not going to sort it out—but I was going to suggest that one way in which to look at it would be to revoke the permission, so that that developer is no longer sitting on it. Does that not work?

Baroness Williams of Trafford: I am sorry to contradict a lawyer, and I shall probably get slapped down for it, but the planning permission is usually granted for a site and not for a person. I think that that is the point that my noble friend made. So you would not revoke the permission, because the permission is on the site rather than for the person—or you could, but it would run contrary to anything that planning law has ever done, in my memory anyway. But I am sympathetic towards the intent behind the amendment, because it raises the issue of planning permissions given but the building not happening. That is a challenge within the context of the Government trying to deliver 1 million homes by 2020. However, a requirement fixing a timeframe for both commencing and completing the development is a highly dangerous approach. While I appreciate that this measure is aimed at encouraging the build-out of permissions, it would not be prudent to introduce such a measure without the full and proper assessment of the potential consequences. In particular, careful consideration would be needed of the impact on the viability and deliverability of schemes. It is important to acknowledge that putting a standard time limit on when development should be completed might be unrealistic, given that developments come in different shapes and sizes, as my noble friend Lord Porter, said, and each has its own specific set of issues.

A number of factors can delay both starts on site and completion of development, including market conditions, availability of finance, difficulty discharging conditions and the availability of infrastructure and utilities. Imposing a requirement without considering any legitimate reasons for delay would be a highly risky, unreasonable approach that is likely to introduce fear and a reluctance to enter the market in the first place. It may deter development coming forward, given the added constraints and risks. That is not to say that I do not sympathise when these situations arise because, as a former council leader, I know that it is deeply frustrating. We are trying to encourage the build-out of existing stock of planning permissions and taking it very seriously. The department has already announced a number of measures designed to address these various factors that cause delays on site. They include a £1 billion fund to support small and custom builders to deliver 26,000 new homes, and the £2 billion long-term fund to unlock housing development for up to 160,000 homes announced in the spending review.

I hope that I have been able to set out that, although I agree wholeheartedly with the need to encourage build-out, the amendment is probably not the best way in which to deal with it, as other noble Lords have pointed out.

The noble Lord asked about the presumption to approve if a site has previously had permission. A planning application will always be considered on its planning merits at the time of application, so I do not think that that applies. I hope that with those words I have reassured the noble Lord, and he will feel happy to withdraw his amendment.

Lord Palmer of Childs Hill: I thank the Minister for her reply. The facts of the matter are that, on large sites, developers, whoever they are, never—or so I am told by people in the industry—develop more than 100 to 150 per annum. There must be some way forward to encourage those developers to build more. The amendment might not be right as it is—I accept the points about five years and seven years—but it was tabled to try to highlight the issue. I actually wondered about years. There must be some way to make sure that developers do not only develop 100 to 150 units on large sites. The reason they do that is to keep up the price of those units. There must be some way to work with the Government to have some provision in the Bill to facilitate that. It may not be the amendment which is before us, but I will reconsider that for Report. At the moment, I beg leave to withdraw the amendment.

Amendment 100ZA withdrawn.

Amendments 100ZAZA to 100ZAZC not moved.

Clause 139: Planning applications that may be made directly to Secretary of State

Amendment 100ZAA

Moved by ***Lord Palmer of Childs Hill***

100ZAA: Clause 139, page 70, line 19, at end insert—

"( ) In section 62A of the Town and Country Planning Act 1990 (when application may be made directly to Secretary of State), in each place where it appears except in subsection (1)(a), for "Secretary of State" substitute "Secretary of State or the Mayor of London"."

Lord Palmer of Childs Hill: I rise on behalf of the noble Lord, Lord Tope, who is no longer in his place because of the hour at which this amendment is being debated. Amendments 100ZAA and 100ZBB relate to a matter that has come up in previous discussions on this Bill. Clause 139 will allow the Secretary of State to designate a local planning authority for its poor performance in determining applications for categories of development described in the regulations, possibly including non-major development. If a local planning authority is designated, developers may then choose to make an application for development in the poorly performing authority area directly to the Secretary of State.

It is believed that in London the actual consideration should be made by the mayor rather than by the Secretary of State, because the Greater London Authority, as the Minister will know, has significant planning expertise, local knowledge and strong experience of PSI applications, making it a far better place to determine these applications than Whitehall. This change will probably take into account the mayor's strategic planning role in the capital and the Government's devolution agenda. So rather like a previous amendment proposed by my noble friend Lord Tope, this amendment is saying that in developments of this nature the person best suited to decide would be the Mayor of London rather than the Secretary of State, which would fit in with the Government's proposals for devolution and localism. I beg to move.

Lord Beecham: Perhaps the noble Lord could help me. The amendment as drafted refers to the substitution of the Secretary of State or the Mayor of London. I take it he means the Secretary of State elsewhere than in London and the mayor in London, but that is not what the amendment actually says. It seems to pose a choice, even in London, which I do not think is the intention.

Lord Palmer of Childs Hill: There is to be a choice at times. There may be times when it is appropriate for it to be the Secretary of State. This does not completely outlaw the Secretary of State from taking action in this case, but the appropriate person to deal with it in the first instance would be the mayor of the largest city in this country.

Lord Beecham: With respect, that is not what the amendment seems to say. The Minister and I are in rare agreement.

Baroness Williams of Trafford: I think we might be. I will start with Clause 139, which amends Sections 62A and 62B of the Town and Country Planning Act 1990. It allows the Secretary of State to set out in secondary legislation categories of applications that a local planning authority may be designated for, should their performance fall below the specified threshold. This will allow our existing approach to addressing any instances of underperformance, which currently applies only to major development, to be extended to include applications for non-major development. The existing designation approach has proved successful in speeding up decisions on major development since it was first announced in September 2012. By extending our approach to include non-major development, we are ensuring that all applicants can have confidence in the service to be provided.

We will keep under review the categories of applications on which performance will be assessed to ensure that they remain targeted at the most relevant aspects of the planning process. As the existing designation approach has proved, this measure has several benefits. It encourages improvement and gives applicants the choice of a better service in the very few cases of persistent underperformance. This approach has shown its effectiveness in tackling performance on major development, so it is only natural that we should now bring non-major development within its scope.

I now turn to the amendment moved by the noble Lord, Lord Palmer, on behalf of the noble Lord, Lord Tope, regarding applicants for planning permission having the choice to apply directly to the Mayor of London instead of the Secretary of State where a London borough is designated as poorly performing. I agree that it is essential that the Mayor of London plays an important part in strategic decisions affecting the capital, which is why the mayor already has power to call in for his own decision applications of potential strategic importance—for example, where more than 150 dwellings are proposed.

I should highlight that if applications are submitted directly to the Secretary of State by applicants in areas that are designated as underperforming, Section 2A(1B) of the Town and Country Planning Act 1990 already provides for the Mayor of London to have the same call-in powers for applications that are of potential strategic importance. This ensures that the mayor can still take the final decision on applications of importance in London. I reassure noble Lords that we value the important role of the mayor in taking strategic decisions in London, and we are taking steps in this Bill to devolve more planning powers to the mayor. With that reassurance, I hope the noble Lord will withdraw his amendment.

Lord Palmer of Childs Hill: I beg leave to withdraw the amendment.

Amendment 100ZAA withdrawn.

Amendment 100ZAB not moved.

Clause 139 agreed.

Amendment 100ZABA

Moved by ***Lord Taylor of Goss Moor***

100ZABA: After Clause 139, insert the following new Clause—

"Local planning areas: right to request alterations to planning system

(1) A local planning authority in England shall have the right to present to the Secretary of State an alternative approach to planning, and to request that the Secretary of State alters or suspends part or all of planning legislation to allow the alternative approach to be tried.

(2) The Secretary of State may approve such a request, save that the Secretary of State may not approve more than 12 such requests.

(3) Any such approval be limited to not more than 10 years."

Lord Taylor of Goss Moor (LD): My Lords, I rise to move this amendment on behalf of the noble Lord, Lord Lucas, who is unfortunately disabled by a herniated disk. He is flat on his back, which is probably exactly where most of us would like to be. He is probably tucked up in his bed, which is entirely sensible. He might be watching on telly, although I doubt it, but it is perforce, rather than for any other reason.

The reason I agreed to bring this forward is in many ways illustrated by the debates that have been taking place on this Bill. The longer I have been in Parliament, the more I have seen legislation prescribing in detail on a huge range of issues that back when I was selected were not prescribed in legislation. There are all sorts of reasons for Parliament to take the legislative approach, but it creates a situation in which it is very difficult to experiment.

Here I should declare that I have a number of interests in planning. I have worked on policy in the planning arena for many years, I am now visiting professor of planning at Plymouth University and I have worked with successive Governments of all colours on planning policy. One thing that arises when new ideas are being put forward is that we very quickly get to a point where ideas have been welcomed and people would like to see them experimented with, but we are then told that that will require primary legislation. At that point it is immensely difficult to move things forward. Primary legislation does not easily get a slot, but, also, something brought forward through primary legislation is generally rolled out for the country as a whole, and quite rightly in debates like this—as we have heard over the course of the debates on the Bill—people will query how well it has been thought through, whether it will work and whether it is appropriate to do it. But we cannot do it unless we legislate.

11.45 pm

The intention behind the amendment is to raise the following thought and no more than that, and I hope that the Minister will take it away and consider it positively. We are all aware of the diversity around the country of very different communities and different sizes of planning authorities, areas of enormously high-cost housing and those where you cannot give a house away, where the issue is how you can regenerate communities. There are also places that are fundamentally industrial in character and those that are fundamentally rural in character. It is very difficult to legislate for one size fits all, and the Government agree with that, placing great emphasis on city deals, localism and doing things differently.

I have had this experience, as have the Government. Back in 2008, I did a report on rural housing for the then Government and talked about empowering parish councils to bring forward proposals for affordable housing in their communities themselves. The Conservative Party, then in opposition, brought forward its own paper, *Open Source Planning*, which picked up on many of those issues, and eventually we got *Neighbourhood Planning*. That has been a thoroughly good thing. Would it not have been great if it had been experimented with?

The proposal here suggests that where a local planning authority—a local elected council—wants to bring forward an experiment of that sort, the Secretary of State should have the ability, in a limited number of cases for a limited period of time, to allow such experiments to take place in ways that would not normally be allowed by the planning rules. That would help to evolve policy in a more sensible way. My own view—I did not write this amendment—is that there should be the potential for some parliamentary checks on that, so something might have to be brought forward so that Parliament could scrutinise it if it wished, and some fundamental things about the planning system should not be set aside. The need to deliver homes to meet the requirements of individuals is fundamental and there should not be a discretion around that. However, the principle of finding a mechanism in the Bill that would allow those experiments to take place would be helpful and might even mean that on a future occasion there was less need to debate for so many days at such late hours, and we could all be tucked up in our beds at a good time.

Lord Kerslake (CB): My Lords, I support this amendment. Buried among the thicket of amendments that we have considered in this, I am afraid, rather centralising Bill is a genuinely ingenious and localist approach that we should give serious consideration to. In many ways it mirrors the amendments that came forward during the passage of the Localism Act that paved the way for the city deals. That was a powerful model that opened up new opportunities. The proposed new clause is very open in the way it is described and I am sure that improvements could be made in the drafting, but it is a genuinely localist initiative that would allow different approaches and techniques to be used in different parts of the country.

The proposition in the London Housing Commission report that I chaired—I declare an interest—could help. It proposed that the mayor, through the London Plan, should be able to make that effectively the NPPF for London. If we recognise the fact that we live in a country with different housing markets and different planning environments, we should be open to some experimentation, and this proposed new clause could be very helpful in delivering that.

Baroness Williams of Trafford: I thank noble Lords and in particular the noble Lord, Lord Taylor, for speaking on behalf of the noble Lord, Lord Lucas, another noble Lord whom we wish well, because they seem to be dropping like flies today—I do not know whether it is the housing Bill or something in the air.

I support the key principle in the amendment proposed by my noble friend Lord Lucas and nobly articulated by both noble Lords that local planning authorities should have a greater role in tailoring the planning system to their local circumstances. This includes potentially having the power to suggest an alternative approach, as set out by the amendment.

I am sure the noble Lord would concede that, as drafted, there are some difficulties with his amendment. It is too broad, and it certainly does not provide the necessary reassurances of certain aspects of planning, such as the right to appeal, which must be retained to provide fairness for applicants. In addition, it does not provide a legal vehicle to support the transfer of the planning freedoms, which would lead to some practical difficulties. These concerns accepted, I applaud my noble Friend in his absence for the inventive approach his amendment proposes, and the noble Lord, Lord Taylor, for articulating it.

The Government are committed to driving up housing supply. I am sure that noble Lords know our ambitions. I think the House will agree that any agreement by the Secretary of State to an alternative planning system in a local area should happen only if that alternative system would deliver additional homes. I want that link to be explicit in any legislation.

I reassure both noble Lords that we are already making strong moves in this area. The Government are exploring a deal-based approach where a local authority requests certain planning freedoms in exchange for delivering housing numbers greater than their objectively assessed housing need. This includes instances where those housing numbers might be delivered by a large site such as a garden village or garden suburb.

I have listened to the thoughtful contributions from noble Lords, and I would like to consider how we can best take forward the key principle of the amendment of my noble Friend, Lord Lucas, particularly in light of the recent publication of the report of the local plans expert group and the consideration of responses to the Government's recent consultation on the NPPF. I hope this explanation reassures the noble Lord, Lord Taylor, and that he is happy to withdraw the amendment.

Lord Taylor of Goss Moor: I thank the Minister for her very positive response. I would have spoken to this amendment whether or not the noble Lord, Lord Lucas, was here. She mentioned some of the proposals, not least on garden villages, which is an approach that I have advocated. I resisted mentioning it myself at this late hour, but there will be other amendments where I may return to that issue, as this is a good example of where that might happen. I am delighted that she has indicated that she will look at this.

I agree with the reservations. I think the noble Lord, Lord Lucas, would have done so as well. The amendment was intended to allow this debate to take place. With the permission of the Committee, I would like to withdraw it.

Amendment 100ZABA withdrawn.

Clause 140: Local planning authorities: information about financial benefits

Amendment 100ZABB

Moved by ***Lord Greaves***

100ZABB: Clause 140, page 71, line 14, leave out "non-delegated"

Lord Greaves: My Lords, unlike some of the younger people in this Chamber tonight, I have run out of energy, so I will simply move the first amendment in this group. I look forward to hearing the Minister's response to the amendments.

Baroness Williams of Trafford: My Lords, Clause 140 ensures that the likely financial benefits of certain development proposals will be made public when a local planning authority is considering whether to grant planning permission. It applies only to reports, with a recommendation about how a planning application should be decided going to a planning committee or the full authority. It requires local planning authorities to make arrangements for the reports to include a list of certain financial benefits which are likely to be obtained by the authority as a result of the proposed development being completed.

The financial benefits to be listed include local finance considerations, payments under the community infrastructure levy and government grants, or any other benefit set out by the Secretary of State in secondary legislation.

The Secretary of State will also have the power to require a financial benefit to be recorded where it is payable to a person or body other than to the authority making the planning determination. There are powers to set out in regulations any further information about a financial benefit which must be recorded in a planning report—for example, an estimate of the amount.

Not setting out in public the potential financial benefits of planning applications during the decision-making process impacts negatively on local transparency. It prevents local communities understanding the benefits that development can bring to their local area. Therefore, we amended the national planning policy guidance to make it clear that local finance considerations may be cited for information in planning committee reports, even where they are not material to the decision. Despite this change, our concerns remain.

Our intention is not to interfere in the considerations taken into account when planning decisions are made. The effect of this measure, which will not be onerous on local planning authorities, will simply be to make local communities more fully aware of financial benefits which are otherwise non-material to planning decisions and help them understand better the wider impact of development. We are consulting on how we might use the delegated powers included in this clause; for example, on prescribing council tax and business rate revenue, and Section 106 payments, as financial benefits to be listed.

I shall not thank the noble Lord, Lord Greaves, for his amendment because he did not speak to it, but in thinking what he might have said—I struggle to do so

[Baroness Williams of Trafford]
at this hour—I should point out that the measure would apply to all planning reports, not just those going to planning committees as set out in Clause 140. Local planning authorities would be required to list any financial benefits or costs received or incurred by not just themselves but any other person. They would also be required to provide any information about the financial costs or benefits without any limits to or guidance about what should be provided. The amendment would introduce substantial ambiguity and huge burdens for local planning authorities. The breadth of information required would be significantly onerous, so the amendment would not result in a proportionate approach.

Amendments 100ZABB and 100ZABL would extend our approach and require all reports, with a recommendation, to set out the financial benefits and not just those going to a planning committee or the full authority for a decision. We chose to apply this measure to committee reports, as these will be published in advance and are the most accessible and transparent to local communities and therefore the most appropriate for the likely benefits to be recorded in. Applications determined at planning committees are also likely to be the larger developments, where we imagine the largest financial benefits to be. While reports for planning applications decided under delegated powers are made publicly available, our understanding is that that is generally only after a decision is taken and only where a member of the public requests the information.

Amendments 100ZABC, 100ZABE, 100ZABG, 100ZABH and 100ZABK would require local planning authorities to list the costs likely to be incurred as a result of development. The noble Lord's amendments do not include a definition of costs. Therefore local authorities would be required to list any cost that might arise from development. As I am sure the noble Lord is aware, our intention is for minimum burdens to be placed on authorities, which these amendments would not bring. Where, for example, significant infrastructure would be needed to support a proposed new development, this would be a material consideration and therefore already covered in some detail in planning reports.

Amendment 100ZABF would extend the scope of the clause to require local planning authorities to list the financial benefits likely to be obtained by anybody as a result of the grant of a planning permission. It would significantly increase the scope of the clause. We are consulting on how we might use this power, but our intention is for it to be used sparingly.

Amendments 100ZABD, 100ZABJ and 100ZABM—which I am sure are designed to tax me at this hour of the night—would remove the Secretary of State's power to define in regulations the financial benefits that should be listed in reports. Again, removing this flexibility would require local planning authorities to list all financial benefits, which we do not feel is a proportionate approach. I hope that, with these reassurances, the noble Lord will not press his amendments.

Lord Greaves: My Lords, I am lost in admiration at the vigour and energy that the Minister still has at this time. Having said that, I am grateful for her full response and beg leave to withdraw the first amendment in the group.

Amendment 100ZABB withdrawn.

Amendments 100ZABC to 100ZABM not moved.

Clause 140 agreed.

Midnight

Clause 141: Planning applications etc: setting of fees

Amendment 100ZAC

Moved by ***Baroness Gardner of Parkes***

100ZAC: Clause 141, page 72, line 1, at end insert—

"(1) Local planning authorities may make provision for the payment of fees or charges to them in respect of the performance of their functions and anything done by them which is calculated to facilitate or is conducive or incidental to the performance of their functions, and may vary such fees or charges according to the value of the project concerned or any other material concerns.

(2) Fees or charges under subsection (1) may exceed the costs incurred by the local planning authority in performing functions relating to the relevant project.

(3) Local planning authorities shall retain any fees or charges paid in accordance with subsection (1), and use them as they see fit."

Baroness Gardner of Parkes: My Lords, I am so glad that we are taking this amendment, after having sat here these many hours. This amendment takes us clearly to the part of the Bill that is planning, rather than housing. This is the first time I have spoken on the planning aspect of it. The amendment is self-explanatory and does not need me to talk too much about it, particularly at this time of night. But I emphasise that the case was made by my noble friend Lord True when he spoke on Amendments 101A and 101B. He made the point then that local authorities really do not have control of their own finances.

My view on planning is that it is very wrong that people doing multimillion-pound developments should be charged the same planning fee as the people who are building one small additional room onto their house. I think it right that there should be a proportionate charge according to the value of the work. This again would cover the aspect that my noble friend Lord True brought up about offices being converted to residences; it was all being done for a quick profit. If councils had been able to charge a more realistic amount, either they might have had more funds to replace whatever they were losing in terms of the office accommodation, or the incentive to do all that changeover might not have existed.

It is very important that councils have the right not only to set varying planning fees but to retain the funds. In some cases, all fees collected by the local authority are handed over to the Treasury; that would not help the councils at all. All local authorities are very strapped for cash at the moment, and it is very important that something of this type should be considered. I know that we are only in Committee, the wording on this might not be 100% and we might need to go into it in other ways, but the principle is the important thing that we should be thinking of. I consider that the two other amendments in this group follow the same line that I am taking. I beg to move.

Lord True: My Lords, I have an amendment in this group. It is a very important subject and it is a great pity that it has come up at this late hour. I quite understand why my noble friend wished to move it.

Under Article 4, for example, which is recommended on the process we were discussing earlier, you cannot charge fees in those circumstances. You cannot even charge the prior approval application fee. So in those cases, if we had not had that system, we would have been able to get fees of £380,000, whereas we actually got only £19,000 from all this work—on 234 prior approval cases. I do not want to go over all that again; it just accentuates the problem. I agree with my noble friend. I do not see why local authorities should not be permitted to recover the cost of this service.

In our authority, it costs us £1 million to provide this service. That is money that has to be cross-subsidised. So, in effect, while we are being told that we have to charge up to the level—charging old people full price for their services and so forth—developers and people who want to do extensions do not have to pay. The only people who are told that they must be subsidised are developers. It is in fact a pernicious cross-subsidy from adult social services and other key services into providing a cost on planning that is not the true cost.

This is not the occasion to have a long debate, but it is unacceptable that local authorities are not allowed to recover at least that cost—I would not be as ambitious as my noble friend. This is a matter that we must return to.

Lord Porter of Spalding: My Lords, I do not wish to drag this out any longer, but I feel the need to support this amendment given that I am the chairman of the Local Government Association and local government nationally is subsidising the planning system by about £150 million a year. As the noble Lord, Lord True, said, to make money on planning is probably a step too far, but we should certainly be in a position where councils are able to fully recover costs. I know that the previous coalition Government gave the first decent increase in planning fees for a long time, but that was a fair while ago, so it is about time someone looked at the way that we are dealing with planning permissions. I add my support to the previous two speakers to ask the Minister to make sure that when she is speaking to her colleagues this is something that is looked at.

It works in the industry's interest to have well-resourced planning departments. It enables us to do planning permissions in a stronger, quicker way so that the industry benefits. I do not think anybody would suggest that we should make money on this, but we should certainly be able to fully recover the costs.

Lord Kerslake: I add my support to this amendment, which goes to the heart of an issue of performance and capacity in local authorities. One thing that we did as part of the London Housing Commission was to talk to developers and housebuilders. Absolutely consistently, every single one of them raised concerns about the impact of budget reductions on the capacity of planning departments. It was not simply the number of planners; it was also the fact that often senior positions had been taken out in order to save money and they would be dealing with quite junior planners who did not have the authority to take a decision. They were often temporary and then moved on just at the point that the report might be going to committee. This costs housebuilders and developers a huge amount of money. I did not find a single developer or housebuilder who was not prepared to pay more for the planning service in order to tackle this issue—not one, and I talked to literally tens if not hundreds of different people through the course of this commission.

That is an issue for London, but I believe that it goes beyond London. It has always been incomprehensible to me why we do not go with a model that says: charge the proper rate—not an excessive charge, but the proper rate—for the job that needs to be done. We have planning performance agreements, but they simply do not go to the heart of the issue, which is the ability for local authorities to reliably plan their resources based on a high level of fee income. I strongly support the amendment and hope that the Minister will seriously consider its contents.

Lord Taylor of Goss Moor: My Lords, I will speak briefly because we should all be in bed already, but I agree entirely with the noble Lord, Lord Kerslake. In the planning review that I conducted back in 2008, I specifically recommended both that planning departments should be able to charge a fee that met the costs and that they should be able to offer improved services, provided that developers met those costs. This is not about getting a better outcome for the developer by paying more; it is about getting a proper, quick delivery of services, which is in the interests of the whole community and not just those bringing forward development proposals.

It is nonsense that we see many schemes held up fundamentally because the local authorities cannot afford to deliver an adequate service. Developers are entirely frustrated by that. I agree with the noble Lord, Lord Kerslake. I have spoken to many developers across the country, as well as many councils. There is no unwillingness to pay for a proper quality of service.

The one caveat that I have on this is for individual householders who may be bringing forward small-scale applications. It is of fundamental importance that the fees should remain accessible for people bringing forward a proposal for an extension of their home or whatever. I do not believe that the costs will be excessive there anyway, but if there is an area where we should worry, it is that. For any scale of development, it is a nonsense that planning departments simply cannot afford to process the applications properly and rapidly. It is not in anyone's interest.

Lord Beecham: My Lords, the amendment in my name and those of my noble friend Lord Kennedy and the noble Lords, Lord Shipley and Lord Foster, is very much consistent with the other amendments. However, I draw a comparison between what is being proposed here and what is happening in the legal world, where the Ministry of Justice is not just engaged in full cost recovery, but seeking in its court fees and other levies to recover more than the cost of the service. This does not go quite as far as the Government are prepared to in the justice field. For that it is all the better.

However, I wonder what the implications would be for this scheme if, as other parts of the Bill would perhaps lead to, we saw the outsourcing of the planning

[LORD BEECHAM]
function, which would then potentially become a commercial activity. That might have certain difficulties when lined up with the amendment proposed here. Having said that, I certainly support the amendment and I hope that the Government will respond sympathetically to it.

Lord Foster of Bath: My Lords, the noble Lord, Lord Beecham, quite rightly said that all three of these amendments are related. However, there are differences. The amendment in the name of the noble Lord, Lord True, as I understand it, merely says that there will continue to be a nationally imposed fee framework, but in which full cost recovery will be possible, whereas the amendment in the name of the noble Baroness, Lady Gardner of Parkes, and the amendment that my name is attached to, suggest the devolution of responsibility for fee setting to local authorities. I hope that that is the direction that the Minister will be prepared to go in.

When I was the Member of Parliament for the wonderful city of Bath, my local authority had real problems because, as a world heritage city, it had extra things to deal with, such as archaeological issues, for the very large number of properties that it had to give various forms of planning consent to—as listed buildings and so on. Of course, that also cannot be reflected in the fee structure, so, like many other councils, it had a huge deficit between the fees that it could charge and the costs it incurred.

In 2012, when the Government were carrying out the previous review of the fee structure, it participated in an exercise in which there was a very detailed analysis of every minute and hour spent by staff employed and all the other costs. It showed very clearly that it was recovering no more than 50% of its costs. That is reflected by many councils; I am sure that many noble Lords have seen the figures from London Councils, which show that they are many tens of millions of pounds adrift each year.

The problem is that if we look at this just as giving councils the ability to charge more to cover their costs, I can see the Minister looking horrified, because she wants improvements in standards to go alongside it. The interesting thing is that there is a real opportunity to combine the two. Although I accept what the noble Lord, Lord Kerslake, said about planning performance approaches adopted through the planning performance agreements, nevertheless they have demonstrated very clearly in the one area where local authorities can charge over and above the fee structure that they can develop some very innovative and ambitious approaches. If we give this additional power over fee-level decision-making to our local councils and local planning authorities, I believe that that will be combined with some very adventurous and innovative ways forward.

Finally, I have one simple question for the Minister. If she is not going at least to allow the amendment proposed by the noble Lord, Lord True, with full cost recovery, I wonder how she envisages a later part of the Bill when she wants to give the opportunity for experimentation to private organisations coming into the planning operation. No commercial organisation I know is going to enter a deal where the starting base is only 50% back for any investment. It simply will not happen. I am sure that the Minister has an answer, which will be to accept the amendment from the noble Lord, Lord True or, better still, the other two amendments.

12.15 am

Baroness Williams of Trafford: My Lords, I hope that we can end on a happy note this evening. At present, any regulations that allow for different levels of fees in different local authority areas could be subject to the hybrid procedure. This would significantly lengthen the parliamentary time taken for consideration of the regulations. So the effect of Clause 141 would be that such regulations would no longer be treated as hybrid and would be subject only to the affirmative procedure that is usual for fee regulations. The clause would allow this type of local flexibility to be explored without every associated change to the fees regulations being treated as a hybrid instrument.

I know that some noble Lords had concerns that removing the hybrid process would mean that some interests would not be adequately protected. I should like to reassure them that, where such flexibility is proposed, we intend to ensure that there is appropriate consultation at local level, so that people are not disproportionately affected by the changes. We consider this to be a more direct and effective route for individuals to express their views, rather than petitioning against the instrument. There will still be full parliamentary scrutiny of any such regulations under the affirmative procedure.

My noble friend Lady Gardner made the point that it is wrong that big developers can pay the same fees as householders. That is not entirely accurate, in the sense that applicants pay varying fees on the scale of the development being pursued. It is not actually uniform at the moment.

Turning to Amendments 100ZB and 101, which relate to local authorities setting fees up to cost recovery, I should highlight that Section 303 of the Town and Country Planning Act 1990 already provides for the Secretary of State to allow, by regulations, local planning authorities to set their own levels of fees up to cost recovery. We are not without powers to enable local fee setting. Planning application fees make an important contribution to meeting the costs of the development management service, but they are only one side of the resourcing equation. Local government obviously has been driving down its costs too, and giving local authorities freedom to set their own fees brings unintended risks. Removing the sector's incentive to tackle inefficiencies where they exist—particularly as local authorities are monopoly providers of planning services in their areas—and raising fees in a way that could dissuade home owners or small and medium-sized developers from undertaking developments, would introduce unpredictability for developers just when we need them to be stepping up the number of homes that they are providing. Crucially, providing no link to improved performance would give no guarantee that the additional income would go into planning departments or lead to more timely decisions.

Debate on this part of the Bill has highlighted that planning is a very important public service, with local authorities balancing the private interests of the applicant

with those of the wider community. I totally understand the concern of my noble friend Lord True about the taxpayer subsidising developers but, in the context that I have just outlined, it may not be unreasonable for local taxpayers to make a contribution to the cost of this public service. Local authorities can do a lot more to transform their planning departments. Those that have introduced new ways of delivering planning services, for example through outsourcing and shared service arrangements, have shown that performance can be improved and costs reduced. More should be following their lead.

Finally, we are consulting on proposals to increase fees in line with inflation and propose to do this annually. However, changes in fees should go hand in hand with the provision of an effective service, which is why we propose to link future increases in fees to performance. Noble Lords will also be pleased to learn that we propose to enable some greater flexibility in fee-setting where local areas come forward with ambitious plans for reform, such as providing applicants with a choice of a fast-track service in return for a proportionate fee.

Lord Foster of Bath: I appreciate that the hour is late but will the Minister confirm what she has just said? She has at least implied that a local authority is likely to get the fee level increase—basically, inflation since 2012. Then she implied that there could be additional money coming forward, whereas as I read the technical consultation document, it says it the other way round: everybody will get the percentage increase but those who are deemed to be doing badly will have money taken away. So it is not a case of everybody getting up to that level and then a bit is added; rather of everybody getting basically the increase since 2012 but some is potentially taken away.

Baroness Williams of Trafford: I hope that the noble Lord and I are saying the same thing. We are saying that we are enabling greater flexibility in fee setting.

Lord Foster of Bath: Flexibility down.

Baroness Williams of Trafford: Perhaps we can argue that on Report.

Lord Foster of Bath: For clarity, is it the Minister's understanding from the technical consultation document that under the current government thinking no local authority planning department is likely to see an increase above inflation since 2012?

Baroness Williams of Trafford: Yes, it is, my Lords. I am sure we will argue this long and hard on Report.

Amendment 100ZAC, tabled by my noble friend Lady Gardner, seeks to enable local authorities to charge fees that exceed cost recovery in respect of their planning functions. The Government's guidance on handling public funds entitled *Managing Public Money* states that charges and fees, like those for planning applications, should be set at cost recovery so that the Government do not profit at the expense of consumers.

Local authorities also have the power under the Local Government Act 2003 to charge for discretionary services up to the level of cost recovery. I know many local authorities have chosen to use this power to charge for pre-application advice. While limited to cost recovery, authorities must ensure that they do not make a profit from the provision of pre-application advice over the course of a year. However, I reassure my noble friend that the income generated from planning fees remains with the council. It is for local authorities to determine how these fees are used.

With one slight exception, I hope that noble Lords are satisfied with my comments and that the noble Baroness will feel happy to withdraw her amendment.

Baroness Gardner of Parkes: My Lords, I am most grateful to everyone who has taken part in this debate, particularly as the Committee sitting was extended to enable us to discuss this amendment tonight. Having sat here for many hours, that certainly meant a great deal to me.

A matter that has not been mentioned in this debate is that of enforcement. Many councils tell me that they do not have funds to carry out enforcement in relation to planning and various other matters. That is pretty important, particularly when people construct something which contravenes their planning permission. I know of a famous television celebrity who has carried out all sorts of things for which he is now applying for retrospective permission. When Barbara Castle came to this House—I had the honour of standing against her in 1970—the first thing she did was speak to an amendment I had tabled which opposed retrospective planning permission. She did not appreciate that she was meant to ask me whether she could add her name to the amendment. However, I was not a bit worried about that because she spoke on the issue superbly and her speech was well received by the House. However, there are many aspects of planning that people would like to address but cannot do so. I have mixed views on the suggestion with regard to private enterprise in this regard. Those decisions should be taken by councils, as with many other things. I hope that the Minister will have a meeting with me or recommend changes to my amendment and that I can bring it back on Report. Ideally, if the Government brought it back that would be the best of all, but, if not, I will certainly return to it on Report because it is very important. In the mean time, I beg leave to withdraw the amendment.

Amendment 100ZAC withdrawn.

Amendment 100ZB not moved.

Amendment 100A had been withdrawn from the Marshalled List.

Clause 141 agreed.

Amendments 101 to 101BA not moved.

House resumed.

House adjourned at 12.25 am.

Grand Committee

Tuesday 22 March 2016

Arrangement of Business

Announcement

3.30 pm

The Deputy Chairman of Committees (Baroness Stedman-Scott) (Con): Good afternoon. If there is a Division in the House, the Committee will adjourn for 10 minutes.

Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016

Motion to Consider

3.30 pm

Moved by ***Baroness Neville-Rolfe***

That the Grand Committee do consider the Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016.

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): My Lords, these regulations make necessary changes to primary and secondary legislation as a result of introducing a new process for how a person applies for bankruptcy and changes made to the requirements for reporting on the conduct of directors of insolvent companies.

Currently, when an individual wishes to take the option of making themselves bankrupt, they must complete a paper petition and present it to their local court. From 6 April this year, if we are content with the regulations today, instead of going to court, individuals will be able to apply online via the central government website GOV.UK. We recognise that applying for bankruptcy is a big step and one which should be contemplated only when no other options are appropriate, but the new digital process offers significant advantages. It will be easier and cheaper to access than the current court-based system, and will remove the stigma that some individuals associate with going to court.

Applications for bankruptcy by individuals in financial difficulty will be determined by the Adjudicator—a new post within the Insolvency Service. Once the order has been made, the case will transfer to the Official Receiver in the same way as it does now for administration and, if appropriate, investigation. The process for creditors wishing to make individuals bankrupt will not change, as the courts have an important role where there may be disagreement between parties about amounts owed.

Some people have expressed concern that the new system does not provide for remission of the application fee, which the courts were able to do, or an alternative to online application. Administration costs around fee remissions are disproportionate and any reduction in fees for some applicants would result in higher fees for others. The new system does provide that the application fee—£130, which is a reduction on the old fee of £180—can be paid in instalments, which will help those on low incomes. People who do not have access to a computer are able to use those in local libraries or can get help from a friend or relative, or a debt advice organisation such as Citizens Advice.

Taking the courts out of the bankruptcy process will deliver cost savings in the form of reduced staff, administration and court time. The impact assessment for these measures was published in 2012 and estimated that the savings would be between £8.1 million and £16.6 million a year, depending on the number of debtor petitions. In fact, the number of people petitioning for their own bankruptcy has steadily declined since 2012, and, based on the figures for 2015, it is now likely that savings will be in the region of £6.3 million rather than the £8.1 million that I mentioned. The benefit to business is not material; the main savings we are seeing are in administration and court costs.

The second matter dealt with in these regulations is the issue of reporting on a director's conduct. When a company goes into insolvency, the officeholder appointed as liquidator or administrator is required to report to the Secretary of State on the conduct of its directors. Reports that indicate misconduct on the part of a director are investigated by the Insolvency Service and may lead to disqualification proceedings. Currently, officeholders must submit their report within six months of the insolvency. From 6 April that period will be shortened to three months as part of a package of measures in the Small Business, Enterprise and Employment Act 2015 that strengthen the director disqualification regime.

In addition, we are introducing a new process for how officeholders complete and submit their report. In common with the new bankruptcy process, we are replacing the current paper-based forms with a digital system that allows officeholders to complete and submit their report electronically and upload new information as soon as it comes to their attention. If for any reason the online system becomes unable to receive information for more than a week, the Insolvency Service will be required to provide an alternative means for officeholders to submit their reports.

In both cases, therefore, we are adjusting to the digital age.

Removing forms and moving to an online reporting system means that the changes being introduced are deregulatory measures, delivering a net benefit to insolvency practitioners of £3.4 million a year—savings to business that should result in more money being available to creditors. The regulations we are considering today ensure that the relevant references across the statute book are amended in consequence of the changes being introduced. I commend these draft regulations to the Committee.

Lord Stevenson of Balmacara (Lab): My Lords, I am grateful to the Minister for her extensive introduction to what is quite a narrow SI. It has a good history. I recall the debates that led up to the changes and also the paperwork that was provided at that time. I think that I recall correctly that this measure was welcomed by the industry when it was proposed. The consultation revealed that those involved were pleased by the direction in which the policy was going. The only significant issue was the pressure to go electronic, which came late in the process and was requested by the industry itself. I understand from my consultations with people from the industry that they are very pleased that the regulations have come out the way they have.

This is a good-news story—possibly so good that there is very little that I want to say about it, except simply to say that it was a game of considerable pleasure to read the very small amendments to the wording that had to be looked at if one was to do justice to the scrutiny that we are supposed to have in this House. Small words were changed that made a difference to the process: an individual has to be "adjudged" bankrupt as opposed to being "made" bankrupt. It was an exercise of great skill that I enjoyed processing.

However—there is always a "however", is there not?—I of course noticed the change that led to the amendment to the draft statutory instrument that was inserted into the copy that I have. I slightly extend the point; I did not notice it, but I was very pleased to receive it. However, I cannot make sense of it, so could the Minister make clear to me what I am supposed to read into page 5, Schedule 1, paragraph 14(1), line 2? I could read that the first change, which is in the original, is in the earlier corrections and is obviously correct, because it should read:

"Paragraph 9 … to Schedule 6 (freezing orders in respect of property liable to forfeiture)".

I am not sure about the change of "of" to "to" in the second line, because it seems to me that that paragraph needs to relate to a primary piece of legislation, which presumably is the International Criminal Court Act. If there is not time to be briefed in the short period of time that I am giving the Minister, I would be very happy to receive a Keeling schedule that clearly indicates what we are supposed to read into that.

That is really all that I had to say. I notice that there is no impact statement because of the assertion that there no impact at all on business from this. It says, in fact, that there is no impact on business, charities or voluntary bodies. I find that slightly difficult to believe because, presumably, the impact of insolvency always has a third-party engagement. But I understand the spirit in which this was made—which is, as the Minister said, that this is relatively small in the great scheme of things. It does not come to much, and, as insolvencies reduce, it will get even less. With that, I am happy to support this.

Baroness Neville-Rolfe: My Lords, I thank the noble Lord for agreeing that this is a good news story. It is always nice to put through this House legislation that helps to move things forward. As he says, we have changed the reference to paragraph 9 "to" the Schedule to the Act to "of" the Schedule to the Act. I understand that this reflects the conventions of writing these kinds of SIs. I am reading a book about Cicero at the moment and I am afraid that this point seems rather arcane, but that is the correct convention, which is why we have made the change.

Lord Stevenson of Balmacara: If Cicero had been involved, I think that the noble Baroness's speech would have been about 17 times longer. He was not short on words. Quite honestly, I do not look for a response today. If in one of her excellent letters the Minister could write out what it is expected to mean, I would be very happy to receive that.

Baroness Neville-Rolfe: I would be delighted to do that. These arcane points of parliamentary drafting are an improvement. Actually, I would like to defend Cicero: he was a great orator. I agree that he tended to speak at length, but some of the phrases that he coined are probably still influencing our language and our oratory, even in this House today. The Committee seems happy and I commend the draft regulations.

Motion agreed.

Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2016

Motion to Consider

3.41 pm

Moved by ***Baroness Neville-Rolfe***

That the Grand Committee do consider the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2016.

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): My Lords, our manifesto promised to help businesses to create 2 million new jobs over this Parliament. To meet this, we need a strong and efficient labour market that gives people opportunities to find jobs that are right for them and allows employers to access the right type of labour that matches the skills that they need. We need to make sure that it is fair and that workers in Great Britain have the same access to job opportunities as those elsewhere. The recruitment sector plays an important role in the labour market by matching demand for jobs to demand for workers. According to the Office for National Statistics in 2014, there were around 19,400 employment agencies and employment businesses within the recruitment sector.

The sector is regulated by the Employment Agencies Act 1973 and the Conduct Regulations. Last year the Government consulted on a package of measures—building on the previous consultation during the coalition Government—to remove a number of the business-to-business regulations, and at the same time to strengthen the existing legislation that prevents employment agencies and businesses from advertising jobs in other EEA countries without advertising them in Great Britain and in English.

It is important that we reduce the regulatory burden on employment businesses and employment agencies as far as possible, while increasing the opportunities for workers in Britain to apply for jobs that are based in Britain. However, we also need to balance the need to reduce the burden on business with maintaining all the fundamental protections for agency workers that these regulations ensure. None of these regulatory changes undermines worker protections. We are not changing any regulations that entitle them to be paid for all the hours they work, and they will still be protected from being charged fees for work-finding services.

Regulation 9 of the Conduct Regulations currently prevents employment agencies and employment businesses from claiming to be acting on one basis to the work seeker while stating something different to the hirer. We are removing this provision as there is little evidence that it serves a useful purpose. We do not need free-standing regulation to underpin a standard that would be enforceable to some extent through contract law—or, in cases of fraud, through the general criminal law.

Regulation 11 ensures that agencies and businesses cannot enter into a contract with a hirer on behalf of a worker, and vice versa. It currently applies to all employment agencies and employment businesses but is relevant mainly to those operating in the entertainment and modelling sector. We are removing this regulation as we consider that there are sufficient protections elsewhere in the provisions specifically relating to those sectors.

Regulation 17 currently requires employment businesses to obtain agreement to terms with hirers. While it is important for employment businesses to agree terms with hirers, we believe that this already happens in practice and it is not for the Government to prescribe the terms of any business contract. Failure to do so should not be subject to a criminal penalty, as is the case currently. We therefore propose to remove this regulation.

3.45 pm

Regulation 23(1) covers situations where more than one agency or employment business is involved in the supply of a work seeker. We propose to remove the provision that requires agencies and businesses to make checks on one another. Where employment agencies or businesses are involved in this kind of arrangement, we are also proposing to remove the requirement that they agree the capacity in which they are acting. We also propose to amend Schedule 4 to remove the requirement to include certain particulars in records kept by employment agencies and businesses relating to work seekers. These records will no longer need to include the date the application was received, details of any requirements specified by the work seeker in relation to taking up employment, and the date the application was withdrawn or the contract terminated.

The final deregulatory measure we propose is to amend Schedule 5 and remove Schedule 6 of the regulations to reduce the regulatory burden in relation to record keeping. These are the requirements to include certain particulars in records kept by agencies and businesses relating to the hirer. These records will no longer need to be as comprehensive and the removal of this requirement will have no detrimental effect on work seekers. The amendments proposed to Schedules 4 and 5, and the removal of Schedule 6, will reduce the burden of unnecessary record keeping on agencies and businesses, while having no detrimental impact on the protection of workers.

We are also proposing to extend the current Regulation 27A, which prevents employment agencies and businesses from advertising specific vacancies for a job based in Great Britain in other EEA countries without advertising it in Great Britain, and in English, either before or at the same time. We propose to extend the regulation so that it will apply to generic recruitment campaigns carried out by employment agencies and businesses. This will close a loophole that currently exists and increase the opportunities for workers in Britain to apply for all jobs that are based in Great Britain. We are not proposing to stop agencies recruiting from overseas or in additional languages.

This package of measures will both reduce the burden on business and increase job opportunities for workers in Great Britain. I hope that noble Lords will feel able to support the regulations.

Lord Stevenson of Balmacara (Lab): My Lords, I am, again, very grateful to the Minister for introducing this statutory instrument and for giving us such a full context in which it is operating. I have slightly more trouble with this one than I had with the last one, in three regards. The first is just to check that I am not missing something. The problem said to be under consideration appears in the helpful Explanatory Memorandum which is attached to the impact assessment. It states:

> "The United Kingdom has one of the most lightly-regulated labour markets in the developed world for permanent employees. It is also the third least regulated labour market after Canada and the US in terms of temporary contracts".

That seems to be quite a good situation, but we read further down:

> "The Employment Agencies Act 1973 sought to ensure that there was a consistent approach across Great Britain".

It gives the reasons for that—there were, I think, a number of scandals at the time and it is good that the Government of the day decided to legislate in this way. It goes on:

> "Since then there have been many amendments to the legislation, which has resulted in a very complex set of regulations which place a burden on business, and are not fit for purpose in the UK's modern labour market".

The Government cannot have it both ways: it is either one of the most lightly-regulated labour markets in the developed world or it is a very complex set of regulations which place a burden on business and are not fit for purpose. I am not accusing the Minister in any sense of bad faith—I am sure she spoke absolutely from the heart about what she was trying to do—but perhaps she will reflect after this on the bombastic nature of the briefing with we have been provided, because I do not think that it stacks up.

My second point is an exemplification of that. I stray here into politics, which I know is almost a forbidden thing to do here. But we are told in paragraph 7.1 of the Explanatory Memorandum, headed "Policy background"—a very helpful innovation—that

[Lord Stevenson of Balmacara]

the reason we are amending Regulation 27A of the Conduct Regulations 2003 is that,

"there was a specific commitment from the Prime Minister during his speech on immigration on 21 May 2015 that the Government would make it illegal for employment agencies to recruit solely from abroad without advertising those jobs in Britain and in English".

That sounds good—it must have been a wonderful soundbite to have prepared, ready to be picked up by the papers at the time. As we read on, the truth is that existing Regulation 27A goes some way towards resolving the problem that the Prime Minister identified, since it is already illegal to advertise specific—not generic—vacancies in other EEA countries without also advertising them in English in the UK.

Again, I do not wish to make a major point, because presumably some people will benefit from the fact that a generic advertisement placed not in English in Lithuania will now have to be placed in English in the UK. I do not want to demean that in any way but, again, I wonder about the tone being adopted here. It did not need to be quite as bombastic as it is. I am sure that the gap has been filled and that is a good thing.

My third point is a very trivial one but I would like an explanation. On the question of implementation and review—my favourite topic—the noble Baroness will be aware that I have an interest in common commencement dates. I was doing all right on this one until I got down to Regulation 1(2), which says:

"These Regulations come into force on … 6th April 2016".

I like that. It is one of the two common commencement dates for reducing the burden on business. However, it goes on to say that,

"if later, at the end of the period of 21 days beginning with the day on which they are made".

You cannot have it both ways. It is either a common commencement date or it is not. As we seem to be ahead of 6 April, can I have confirmation from the Minister that we are talking about 6 April and that the conditional phrasing was just a cover in case something went wrong in the great process that we are going through.

Finally, I notice that the review period is covered in the sense that there seems to be a series of reviews stemming from the 2003 regulations, which are said to be in Parliament every five years. The Explanatory Memorandum does not seem to imply that there will be any other reviews going forward. The provision of the existing regulations seems to be for one review and one review only. I just want clarification about the date. It may well be otiose to have a periodic five-year review, but I think that we should be clear whether there is to be a review—and, if so, whether it is a single review after five years or a periodic review.

Baroness Neville-Rolfe: I thank the noble Lord for his extremely intelligent questioning of this proposal. I agree that there is a dichotomy. The regulations are quite complex, and we are seeking to change them so that they are deregulatory. I tried to take the noble Lord through paragraph by paragraph because I felt that that was useful to the Committee. At the same time, I think that the memorandum is correct to say that the UK is more lightly regulated in respect of the labour market than other EU member states. So I do not think that the things are contradictory, although I can see that there is the potential for confusion there.

The regulations will come into force 21 days after the beginning of the day they are made. Unfortunately, it is not a common commencement date. Like the noble Lord, I am always asking the department to put things on a common commencement date. Obviously, given the timing, the common commencement date would have to move to October because I do not think that things can be done in time. Therefore, we are commencing the regulations 21 days after they are made, and I will make them tomorrow or the next day. Perhaps I should write to the noble Lord with more information about the conventions. Spiritually, I am with him—I think that common commencement dates are extremely helpful. We have tried to get one here but the timing has overtaken us.

Lord Stevenson of Balmacara: I do not wish to pressure the noble Baroness in any way whatever, but we have previously had insolvency regulations which are quite clearly coming into effect on 6 April—no buts, no buttons, no relationship, no 21 days here, there or everywhere. They are coming in on 6 April.

Baroness Neville-Rolfe: I think that this has caused some confusion in our ranks. I will look into it, but I hope that the Committee will agree that these regulations should come in as soon as we can manage it. They are deregulatory, and I would like to pass them today. So I crave the indulgence of the Committee on this matter, but I will certainly look across the board at the phrasing of commencement dates in future. We always need to learn from feedback, and the noble Lord, as so often, makes a very good point.

I obviously did not explain the point about recruitment agencies adequately. The change we are making is on generic recruitment, which is not covered by the existing regulations. So we are essentially closing a loophole in the existing system of regulation, which currently just covers adverts for specific jobs—for example, an advert for a carpenter in Luton—but it does not cover generic recruitment. It should of course, so we are seeking to make that change.

Lord Stevenson of Balmacara: In no sense do I wish to delay things, but my point was not that the change in itself is not a good thing—it is a good thing, and the loophole should be closed—but that the bombast had rather got ahead of the action.

Baroness Neville-Rolfe: We will watch our bombast for the future. Finally, the noble Lord knows that I feel the same way as him about the importance of periodic review. I will look at how the review clauses of relevant legislation interplay, and in coming back to him I will explain what our intentions are. With those reassurances, I commend the regulations to the Committee.

Motion agreed.

Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016

Motion to Consider

3.57 pm

Moved by ***Lord Gardiner of Kimble***

That the Grand Committee do consider the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016.

Lord Gardiner of Kimble (Con): My Lords, I am pleased to introduce these regulations, which replace the existing flood defence consents scheme with a new scheme under the environmental permitting framework. This debate follows one in the other place and one in the Welsh Assembly earlier this month.

Certain activities in or near watercourses or sea defences can increase flood risk. The Water Resources Act 1991 requires people to seek prior consent before they start such activities on main rivers, to make sure that they are not undertaken in a way that increases flood risk. Main rivers are designated as such due to their higher flood risk, and about 20% of watercourses in England and Wales are designated as main rivers.

The devastating floods we saw this winter demonstrate how important it is that people do not unwittingly increase flood risk to themselves or to others. With no regulation, activities might block or restrict watercourses or the effective operation of the flood plain, leading to flooding of other property that might not have happened otherwise. Equally, flood defence structures might be damaged with the same effect.

Under the current scheme, everyone must submit an individual, detailed application for a bespoke consent whether their proposed activity on a main river has a high or low risk of increasing the risk of flooding. The new flood risk activity permitting scheme introduced by these regulations uses the framework of the environmental permitting regulations to reduce the administrative burdens of applying for a permit. A public consultation on these proposals was held from December 2014 to February 2015, and the proposals were broadly supported. We made a number of improvements as a result of comments made: for example, to include conditions to protect priority river habitats.

The new scheme uses a risk-based and proportionate approach to permitting activities. We will, of course, continue to ensure that flood risk is not increased. High-risk activities will continue to be closely controlled, but activities that cause no increased flood risk to others can be removed from superfluous close scrutiny. As a result, half of all permits that are issued under the current scheme will be eligible for a simpler permit or could be exempt from the need for an application. Under the new scheme the Environment Agency and Natural Resources Wales have used their experience under the current scheme to categorise activities on main rivers into four bands.

4 pm

Bespoke permits will be written specifically for activities which are unique or of higher risk. Half the current consents will need a bespoke permit under the new scheme. For example, building a new weir for a hydropower scheme or changing the course of a river will require a bespoke permit. Activities needing bespoke permits will be subject to the same close assessment of potential impacts as under the current scheme.

Some 20% of applications will qualify for standard rules permits. These permits are for low-risk activities. Standard requirements and conditions are set out so that applicants can see in advance whether the permit is applicable to their proposals. Standard rules permits are quickly applied for and issued. They are available, for example, for repairing and protecting up to 20 metres of riverbank or for up to 20 metres of temporary scaffolding.

Lower-risk activities are exempt from needing a permit. For these activities the person needs only to register and then follow the conditions set out in these regulations. Some 27 activities have been defined for exemptions; including, for example, putting electric cables under the watercourse and dredging up to 1.5 kilometres. The dredging exemption allows land managers to remove silt from just under a mile of man-made ditches, land drains, agricultural drains and previously straightened watercourses in England. This exemption will make it easier for landowners and others to drain their land and to maintain the flow of water in low-lying areas—an important contribution to lowering local flood risk. We have been engaged with the National Farmers' Union throughout this process, and have been alerting both national and local stakeholder groups to the new scheme.

The lowest-risk activities are identified as exclusions. So long as people are able to follow the conditions laid down in these regulations, they are able to undertake the activity without any permit or registration. An example of an exclusion is the laying of electrical cables under an existing structure, such as a bridge. Some 30% of current applications will be eligible for an exemption or exclusion. In many situations people will be able to change the way in which they do the work so that they will be able to move from needing a bespoke permit to a standard rules permit or even an exemption or exclusion.

Regulators will be able to issue a single permit for ongoing activities that could typically last up to five years: for example, maintenance of flood defences or other structures. Currently, a separate consent is required each time work is proposed or for a series of structures on a watercourse. People will also be able to apply for a single permit that covers multiple activities on one site, such as a farm.

Another key benefit of using the environmental permitting framework is that applicants will need to make only one application to cover a number of different schemes. They will save the time and cost of putting together the necessary information for an application.

The Government intend to review these regulations in 2019 as part of a more general review into the environmental permitting regulations. In the mean time, we will keep the activities permitted under exemptions, exclusions and standard rules permits under review to make sure that we have the right balance between removing red tape and protecting people and property from flooding.

These are proportionate and important regulations and I commend them to your Lordships.

Baroness Jones of Whitchurch (Lab): My Lords, I thank the Minister very much for his introduction. He will know, and has just described, how particularly sensitive the issue of activities on or near watercourses is at the current time, given our recent history of flooding disasters. In particular, we are becoming much more aware of how seemingly small changes upstream can have a cumulative effect further downstream. There is a danger that the impact of relatively small activities is not necessarily contained within a localised area. This has been acknowledged in our trend and that of the department of talking about river flows within a whole catchment area, but we also still have a great deal more to learn about how water flows and the detail of flood management. I think that we are all on a steep learning curve with regard to that. Similarly, I think that it has been acknowledged by the Environment Agency that it has to rethink where its interventions can be most effective.

I can of course see the sense in simplifying the environmental permitting framework, in terms of its paperwork and in the way that the Minister described of not having to make multiple applications for what is effectively one task. But can we be assured that the new emphasis on permits concentrating on larger projects—we have talked about larger risks on or near rivers—will not curtail the Environment Agency's scope for having a more holistic approach to river management? I am taking into account particularly how a number of small interventions might interact as the river flows on.

As has been said, the proposals claim to put greater focus on risk-based management of watercourses. Do we have the scientific understanding to know what the risks really are, and therefore what practices should be acceptable or unacceptable? It seems that we are in the middle of a rethink on all these issues, so what will be the process of deciding what is high or low risk? Will that judgment be made ultimately by an individual at the Environment Agency?

Can the Minister also reassure me that these proposals are not driven simply by the need for the Environment Agency to make efficiency savings? The truth is that many communities are reassured by seeing that agency's officers on the ground, working alongside them and often actively anticipating and responding to problems large and small. Can we be reassured that the new risk assessment process that he described will not leave some smaller communities having to face localised problems on their own? Where will the ongoing support be for those small communities?

I also want to ask about the communication process because, while I fully acknowledge that the current permit system is probably far too complex, it seems to have the advantage of alerting a wider group of people that river activity is planned in their area. If there is to be a simplified application process, can we be assured that all those bodies that have been notified in the past and will have an interest in the planned activity will still be made aware of it before the actual activity commences? I am thinking in particular of local authorities and highways authorities, which might have a view on what is proposed.

On the issue of communication, can the Minister clarify how individual householders who may be affected by localised river activity—for example, dredging or bank clearing—will be made aware of this? Such activity could have an impact on their property even if there is no wider flood risk. How will the new permit regime be publicised? How will individuals find out what is being proposed?

Finally, it feels as though we are making changes—the Minister has referred to this—to what might prove to be a rather outdated approach to the whole environmental permit regime. The Cabinet Office review of the flood defence strategy is taking place at the moment and, as I said, the Environment Agency is also looking again at its strategy. The Minister said that there would be a review in 2019. I very much welcome that because it seems to me that, somewhere down the line, we need to look again at taking a more holistic approach to this and at whether the environmental permit scheme that we have is the right way to go about it. Obviously I realise that the review will take some time to be reflected on and worked through, and it may be that the reviews that are taking place are looking at that anyway. It is important that local communities have faith that their interests will be protected in the most effective ways. I look forward to hearing the Minister's response.

Baroness Byford (Con): My Lords, I thank my noble friend for introducing these regulations this afternoon, which will, I think, make life easier for those having to cope with flooding. I have just a couple of issues. First, in the recent flooding of this past year—for example, up in Pickering in Yorkshire—temporary logs were put in to stem the rapid flow of water down the river. Presumably, that did not need any approval—but, if it did, how quickly was that gained? These things can happen very quickly and I am not quite sure how immediate the response to something like that would be. It was a very good initiative and it worked wonders for them. That is just one practical query.

Secondly, of the 53 responses that the Minister had, 74% supported the proposals and, as a result, further discussions took place, for which I am very grateful. He mentioned that they had discussions with the NFU—here I should declare that I am a member. But are there any outstanding issues that could not be included but that the Government wish to think about further? Was there just a small handful of queries or have they managed to resolve all those that were raised?

From my point of view, I welcome anything that eases regulation, providing that the regulations that are in place work. I gather that this will be cost-effective as well, so I welcome the regulations. It is just a matter of making sure that whatever we do is an improvement on the river flow as well as protecting the wildlife and habitats that surround the river. One of the examples given was the whole question of having to put up fencing to keep cattle off at certain times.

I thank the Minister for introducing the regulations, and my query was only a very small one. But sometimes things happen very quickly, and I am not sure whether that is covered by these regulations or where that authority would have to go to get permission to do what it did.

Baroness Parminter (LD): My Lords, following on from the excellent questions from my colleagues in the Room, I want to ask the Minister for a little more

clarification on the point mentioned by the noble Baroness, Lady Jones of Whitchurch, about review. Like my colleagues, I am not opposed to these regulations, but we need to make sure that they work.

The Minister referred to a general review of the environmental permitting regulations in 2019. Is he prepared at this stage to say a little more about what the purpose of that general review at that time is? I think it is quite important, given that there has been a lot of discussion over recent years about cutting back on red tape, that we see not only what the purpose of that is but how reviewing these regulations fits into that.

As a supplementary to that, the Minister mentioned that, in the mean time, before that 2019 review takes place, these regulations will be kept under review. I wonder if he would be prepared to say what exactly that review's form will be—what monitoring would be undertaken, and what resources would be available—given that, as mentioned by the noble Baroness, Lady Jones, there have been some issues relating to funding for both the Environment Agency and Defra in recent years. So the Liberal Democrats are not unhappy with this approach, but it is a new approach and it needs to be reviewed—and we need the resources to ensure that that will happen.

4.15 pm

Lord Gardiner of Kimble: My Lords, I am most grateful for those remarks, and I am also grateful that there is a general understanding of the purpose of what we want to do. We feel that there are a variety of activities, so it would not be proportionate to have the same sort of approach to permitting for everything; it would be much better if we could direct resources in a more targeted way.

I do not think that anyone can quite comprehend—I certainly cannot—what it was like to have withstood the sort of flooding that we saw in Cumbria, Yorkshire, parts of Durham and Lancashire over the winter. The level of rainfall and the conditions were devastating. Nothing involved in this work here is in any way seeking to shortcut anything that we must do to ensure that we are as well prepared as we can possibly be in this country for those sorts of extreme weather events—or the change in weather patterns or climate change, whatever we want to call it. I assure the noble Baroness, Lady Jones of Whitchurch, who referred to the reports and ongoing work, that nothing in this piece of work is intended to do anything other than work through sensible permitting arrangements for a range of activities, which I hope are utterly common-sensical and could not possibly increase flood risk. None of us is in the business of doing anything other than reducing and managing flood risk for people. That is absolutely right, because we are all thinking about the holistic basis on which river flow is managed in the whole catchment area of rivers.

The noble Baroness, Lady Jones, asked how the two regulators will be able to manage river flows on a holistic basis. For instance, the dredging exemption, which has been designed to be used in specific areas, is not about suddenly enabling dredging everywhere: it is about specific areas and for specific purposes. It is framed to deal with any cumulative effects, so it is certainly not, in any way, going to help increase flood risk downstream: quite the reverse. The exemption is limited to the removal of accumulated silt and sand, and expressly prevents the removal of natural gravel or the deepening or widening of the watercourse. Those of us who understand a bit about ditches and drainage know that there are low-lying areas where ditches in good heart prevent flooding, rather than accumulate it further down the river course. It is specifically designed for that sort of work.

Indeed, the noble Baroness rightly asked about how best these matters could be assessed. It is fair to say, and it is the truth, that the public service often gets brickbats and you have to have the hide of a rhinoceros. But the truth is that the people who work for the Environment Agency and Natural Resources Wales have around four decades of technical and practical experience of assessing the risks of proposed activities in or near watercourses. Their cumulative knowledge is very considerable indeed.

I am very conscious of the way that we look at river courses in the whole catchment area but, having met many Environment Agency staff, I know that they have a very strong local knowledge and interest in how best to manage those watercourses. Over this time, they have advised applicants on how to undertake activities to reduce or remove the risks. I shall say more about resources, but I am confident that on the technical side of those parts of the public service, there are people with immense knowledge.

As I set out in my opening remarks, the Environment Agency and Natural Resources Wales have used this experience to categorise activities on main rivers into higher and lower risk, and thus into the four bands. Removing the lowest-risk activities from the need for a permit enables the two regulators to concentrate their efforts on considering applications for standard rules permits and bespoke permits. They will publish guidance setting out clearly which activities need consent and when standard rules permits, exemptions and exclusions apply, as well as other aspects of the scheme. It is obviously very important in communications to local householders, businesses or farmers that the new scheme is understood.

In response to a point raised by the noble Baroness, Lady Jones—I think that the noble Baroness, Lady Parminter, also referred to this—I reassure your Lordships that there will be no reduction in the number of Environment Agency staff that will be seen on the ground as a result of this scheme. Indeed, in last week's Budget the Government announced an increase in maintenance expenditure in England of £40 million a year. As a result, I believe that their presence on the riverbank will increase as they undertake more maintenance activities around the country.

I am also very happy to reassure the noble Baroness, Lady Jones of Whitchurch, that these regulations have not been motivated by any question of efficiency savings by the two agencies—far from it. These regulations were drawn up in recognition of the fact that we could safely reduce oversight of the many low-risk activities that are undertaken and thereby reduce red tape for applicants. The new scheme will also reduce administrative burdens for the regulators. These savings mean that

[Lord Gardiner of Kimble]
their costs will be lower, and thus fees under the new scheme will also be lower than they would otherwise have been.

I was asked a number of questions, which I hope to be able to answer, but if I do not provide the fullest detail I will write to noble Lords. My noble friend Lady Byford was absolutely right to mention the issue of slowing the flow. We know that the Pickering scheme has been deemed to be very successful and I am sure that we will hear much more about it, but I must not pre-empt any reports that come out. The response from my guardians behind me is that, if people need to take action to avoid flooding in any sort of emergency, they do not need to apply for a permit; this sort of activity is covered by an exclusion. In that case, we would want the capability to deal with an emergency as promptly as possible.

My noble friend Lady Byford also asked about the consultation and whether the Government were considering any other proposals. Of course, we would be open to any suggestions for further exclusions, exemptions and standard rules permits, but we would need to examine any proposals very carefully to ensure that the conditions of use could be applied across the country. Clearly, with the exemptions and exclusions, we have sought to take what I would call the common-sense approach about what is sensible to have in an exemption or exclusion so that we can concentrate on the large proportion of work that will need bespoke permits, because that is where we need to ensure that we get everything absolutely right.

The noble Baroness, Lady Jones of Whitchurch, asked about the notification of local authorities in particular. Although the environmental permitting framework does not require prior consultation on the take-up of standard rules permits, exemptions or exclusions—these are low-risk activities and a consultation on the conditions for them was undertaken in 2014-15—when we move to bespoke permits, clearly we need to be working extremely effectively to ensure that there is notification. For instance, local authorities will be notified of any bespoke permits that have the potential for a significant effect on the environment, which is very important indeed.

The noble Baronesses, Lady Parminter and Lady Jones of Whitchurch, asked about the review, and again I hope that I can provide some reassurance on this matter. As I said in my opening remarks, we will review the new flood risk activity scheme in 2019 as part of the general review into the environmental permitting regulations. Clearly, in the mean time, we will keep the activities permitted under exemptions, exclusions and standard rules permits, and their conditions, under review, and will introduce new exemptions or revising conditions if it is necessary or appropriate.

As to the purpose of the 2019 review, it must assess the extent to which the objectives of the review have been achieved, whether the objectives remain appropriate and whether they could be achieved in a less burdensome way. That is the basis of the review. But clearly, as experience of this new scheme comes along, I am sure the Environment Agency and others in Wales will reflect on this, as I said. The important thing is that there will be this opportunity for a general review in 2019.

Clearly, it is absolutely essential that no one unwittingly increases the flood risk, either for themselves or for others. The intention of this permitting scheme is to ensure that all activities are properly assessed and that action is taken if people act outside the conditions of a permit. These regulations remove the requirement to fill out unnecessary forms prior to carrying out low-risk activities and enable the Environment Agency and Natural Resources Wales to focus their resources on evaluating higher-risk activities.

I will reflect on all the points that have been made. I hope that I have covered them to your Lordships' satisfaction, but this is a proportionate move in terms of seeking to direct our resources to where people and their property can derive the most benefit. For those reasons, I commend the regulations to your Lordships.

Motion agreed.

Third Parties (Rights against Insurers) Regulations 2016

Motion to Consider

4.28 pm

Moved by ***Lord Faulks***

That the Grand Committee do consider the Third Parties (Rights against Insurers) Regulations 2016.

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, the draft regulations extend the range of people who are potentially within the scope of the Third Parties (Rights against Insurers) Act 2010. Subject to the prior approval of both Houses of Parliament, the draft regulations are to be made by the Secretary of State under the power in Section 19 of the 2010 Act. Section 19, in its present form, was inserted into the 2010 Act by Section 19 of the Insurance Act 2015. The purpose of the power is to make provision for adding or removing circumstances in which a person is potentially within the scope of the 2010 Act. The present circumstances within that scope are currently set out in Sections 4 to 7 of and paragraph 1A of Schedule 3 to the 2010 Act.

The draft regulations make a series of textual amendments to the 2010 Act, as amended by the Insurance Act 2015. The effect of the amendments in general terms will be to include corporate and other bodies that are subject to certain sectoral insolvency regimes or, within limited exceptions, have been dissolved within the scope of the 2010 Act. The purpose of making these amendments is to correct omissions from the 2010 Act so that it can be brought into force without adversely affecting people who are currently within the scope of the 1930s legislation that is to be replaced by the 2010 Act.

It may be helpful at this point if I explain the principles that underlie the third parties legislation in a little more detail. It has existed since the 1930s and is so called because the claimant is a third party in relation to the contract of insurance. The current legislation is the 1930 Act, which applies to England,

Wales and Scotland, and the Third Parties (Rights against Insurers) Act (Northern Ireland) 1930. The purpose of the 1930 Acts, and indeed of the 2010 Act, is to protect the interests of claimants against insured persons who have a liability to the claimant but who no longer have effective control of their assets, typically because they are insolvent. The basic effect of the third parties legislation is to transfer to a third party to whom the insured has incurred a liability the contractual rights of the insured against the insurer as regards that liability. This means that the proceeds of the insurance policy are paid to the claimant, not to the creditors of the insolvent insured generally.

The 2010 Act is intended to extend and improve the protection conferred by the 1930 Acts. To trigger the application of the 2010 Act, an insured must both incur a liability to a third party against which it is insured and undergo an insolvency or analogous event specified in the 2010 Act. Unfortunately, following the enactment of the 2010 Act it was found, in some respects, to have a narrower scope than the 1930s Acts. This was partly as a result of the terms used in the drafting of the 2010 Act and partly because of developments in insolvency law following the financial crisis in 2008.

Had the 2010 Act been commenced immediately after its enactment, the effect would have been to deny insurance proceeds to claimants and to pass them to be shared out among the insured's creditors. This would have frustrated the very purpose of the 2010 Act and had the effect of undermining the purpose of compulsory insurance, such as that which employers are required to maintain. The operative provisions of the 2010 Act have therefore not yet been brought into force and will not be so until these defects have been remedied. The remedial process is therefore essential to realising the benefits of the 2010 Act. Part of the remedial process was effected by the amendments to the 2010 Act made by the Insurance Act 2015. The draft regulations will complete the process.

I will now describe the working of the amendments to be effected by those draft regulations. First, they would extend the list of such insolvency or analogous events by adding the sectoral insolvency or administration procedures listed or referred to in the provisions to be inserted in the 2010 Act by Regulation 3 of the draft regulations. These additions cover the possibility of insolvency or administration under special legislative regimes that generally follow, but are distinct from, the Insolvency Act 1986 in a wide range of important business sectors where company failure has the potential to damage public interest or cause market contagion—for example, financial services and postal or energy companies.

Secondly, Regulation 4 of the draft regulations extends the scope of the 2010 Act to dissolved bodies, other than unincorporated partnerships and bodies that are no longer treated as dissolved by reason of subsequent events. The 2010 Act currently applies to dissolutions under Sections 1001, 1002 or 1003 of the Companies Act 2006 but not to other dissolutions, even though dissolution, after which a body will certainly not have effective control over its rights and assets, would appear to be the paradigm case in which a transfer of rights should occur. Regulation 4 therefore broadens the scope of the application of the 2010 Act to these other dissolutions.

The one exception to the proposed coverage of dissolutions generally is the dissolution of unincorporated partnerships. This exception is sensible, as technically a partnership dissolves each time a new partner leaves or is added. This would extend the scope of the legislation too widely, as many such partnerships would be going concerns. In the case of a partnership which is no longer trading, the insured would need to proceed against the individual partners.

The remainder of the draft regulations deal with ancillary matters. Regulations 5 and 6 amend Section 9 and paragraph 3 of Schedule 1 to the 2010 Act respectively. Section 9(3) and (7) of the 2010 Act provide that a third-party claimant does not have to satisfy a condition of the insurance policy regarding provision of information or assistance to the insurer by the insured if it cannot be fulfilled because the insured has died or is a body corporate which has been dissolved. Paragraph 3 of Schedule 1 to the 2010 Act gives a claimant the right to request information from officers, employees, insolvency practitioners or official receivers of a defunct body corporate, other than when the dissolved body has been restored or ordered to be restored to the register of companies. The draft regulations extend these two provisions to all dissolutions, other than those of unincorporated partnerships, irrespective of whether subsequent events result in the body in question being treated as if it is no longer dissolved or as if it had never been dissolved.

The reason for the wider application of these provisions as against the provisions relating to dissolved bodies inserted into the 2010 Act by Regulation 4 is that most such situations reversing a dissolution—for example, restoration to the register of companies—are temporary and unlikely to result in there being a person who is responsible and able, on behalf of the body in question, to assist the claimant by being able to fulfil the condition or to supply the information in relation to the liability.

Before I conclude, I should like to express my department's thanks to all those who have contributed to the preparation of the draft regulations. It is not a simple matter, as I suspect noble Lords will concede. Insolvency law is fast moving and complicated. The Insolvency Service, the Accountant in Bankruptcy in Scotland and the Department of Enterprise, Trade and Investment in Northern Ireland have all made significant contributions to what has been a very difficult technical exercise. I am very grateful to them. I am also very grateful to the Commercial and Common Law Team at the Law Commission, which for most of the period in question was led by David Hertzell and Tammy Goriely, without whose expert knowledge and legal skills the draft regulations could not easily have been prepared. Finally, in a more general sense, I thank the Law Commission and the Scottish Law Commission for their continuing support for the reform of third parties legislation generally. I hope that in the not too distant future we shall be able to make that reform a reality.

In conclusion, the reforms to be introduced by the 2010 Act are supported by insurers and claimants alike. They apply to insurance of all kinds and will be

[LORD FAULKS]
particularly beneficial in cases of long-tail industrial diseases, such as mesothelioma. The approval of the draft regulations by your Lordships' House will be widely welcomed and will be a key step on the way to the commencement of the 2010 Act.

I am afraid that I am not yet in a position to state when the Act will be brought fully into force, as the draft regulations remain subject to your Lordships' approval and to approval in the other place. Nevertheless, I can say that, subject to allowing all parties affected no less than three months from the making of the regulations in which to prepare for commencement, the Government's intention is to bring the 2010 Act, as amended by the 2015 Act and by what will then be the Third Parties (Rights against Insurers) Regulations 2016, into force as soon as reasonably practicable. I beg to move.

Lord Hope of Craighead (CB): I am grateful to the Minister for his explanation and also for bringing this set of regulations forward for our consideration and for the House's approval in due course. It is an extremely important area which I think anybody practising in the common-law field values very much. I have only one question and that is to ask for reassurance in relation to part of Regulation 3, which deals with the relevant bodies in insolvency or administration under sectoral legislation. This is an extremely sophisticated area of law and I join in the Minister's congratulations to all those who have played a part in putting all this together.

A feature of the list of enactments set out in Schedule A1 is that all except the last deal with areas of regulation which are common to the United Kingdom, with the special provisions made in the case of Northern Ireland which are set out in the schedule. Aviation, energy, financial services, postal services and railways apply equally to Scotland as they do to England and Wales. But the question of water and sewerage has occurred to me, because Scotland, I believe, has its own legislation relating to sewers and water: there is the Water (Scotland) Act, the date of which escapes me, and I believe that there is a sewerage Act for Scotland as well.

I fear that without detailed research, which is beyond my resources at the moment, I am not sure whether the Scottish legislation provides for administration under a legislative scheme. I am fairly confident that the Water Industry Act 1991, referred to here, does not extend to Scotland. It may well be that those who have been looking at this in detail have reassured themselves that there is no need for a mention of the Scottish legislation, perhaps because it does not actually provide for this kind of administration. If that is right, of course I understand why there is no mention of those statutes, but it might be as well to be absolutely sure that there is not a gap here that ought to be plugged before the regulations are brought into force.

That aside, I regard this as a very fine piece of fine-tuning which I am sure will be greatly welcomed in order to avoid any further gaps in the valuable legislation.

Lord Bach (Lab): My Lords, I, too, thank the Minister for his explanation of this statutory instrument. I confirm that it is not controversial in the slightest. We are happy to support it, as we supported, of course, the 2010 Bill as it went through Parliament. Indeed, I hope I may be forgiven for reminding the Grand Committee—it was some time ago now—that I was the Minister who took that Law Commission Bill through this House, using the special procedure. I was assisted then by an excellent team from the Ministry of Justice and I suspect—indeed, I am sure—that the Minister has been so assisted today.

The Minister will know that we on this side have many criticisms of much that the Ministry of Justice does these days, but in this area of complex but important law-making and law revision, we have nothing but praise. I have a couple of questions and comments for the Minister's consideration, but they are brief.

The first point is about paragraph 8 of the Explanatory Memorandum, which deals with the consultation outcome. It says that the APIL and the ABI—the Association of Personal Injury Lawyers and the Association of British Insurers—have been consulted and are broadly content. The memorandum states:

"Both organisations expressed general approval of the Regulations".

Is there a particular meaning to the word "general" in that particular context? I am pretty reassured that there is not, because I have a letter here from APIL itself, which suggests that it is happy with the regulations, but I wonder what the expression means in that context—probably nothing.

4.45 pm

Secondly, we are very pleased that the charitable sector is content, which is an important point. It is very important that charities are happy with this, as they often have to deal with complex legal situations without necessarily having the resources that are available to government.

The final point is on paragraph 10, which is about the impact of this measure. It is argued that the amount of money or funding that is relevant here is too low for the threshold for there to be an impact assessment. Paragraph 10.4 deals with a number of uncertainties about what is likely to happen and with the Government's estimates. Would the Minister be able to tell the Grand Committee what the threshold is? Might this not be an example of where an impact assessment would be of some value by the time the matter comes to the other place in April?

I do not claim that any of the points I have made so far are very important, but I would be grateful if the Minister would deal with them. I end by welcoming this statutory instrument and by thanking the noble Lord and his team for presenting it so clearly to the Grand Committee this afternoon.

Lord Faulks: I am very grateful for those observations and for the support for the regulations which was expressed by the noble and learned Lord, Lord Hope, and by the noble Lord, Lord Bach. As I am sure many in the Committee well remember from what became the 2010 Act, the noble Lord has been involved in this for some time and is familiar with this complex area of law.

The noble and learned Lord, Lord Hope, with his customary forensic skill, identified the absence of a specific reference to water and sewerage in Scotland. The question is whether the Scottish legislation needs to be mentioned. The UK Government have consulted the Scottish Government and the Accountant in Bankruptcy about the water legislation, and are content that no special mention is necessary. I am none the less extremely grateful to the noble and learned Lord for having mentioned it. This is such a complex area that it is not impossible to omit something, although I glad that in this instance it had been specifically considered.

The noble Lord, Lord Bach, made a number of comments, and I very much echo what he said in tribute to those who work in this area in the Ministry of Justice, and the extreme skill and dedication that they have to it. I am grateful for this comments in that respect. As to his specific questions, the use of the word "general" was not, as I understand it, in any sense supposed to imply that while they generally approved of it, they did not approve of specific aspects of it. As he may remember, the 2010 Act represents a compromise between insurers and claimants, designed by the Law Commission after extensive consultation.

The changes made in the Insurance Act 2015, and to be made in these draft regulations, are supported both by the ABI and APIL, as the noble Lord said. Both have expressed the clear view that they would like these regulations to be brought into force as soon as possible—there is no reservation about it. Therefore, the use of "general" in the Explanatory Notes is supposed to convey that. I accept that there could conceivably be considered to be some ambiguity, but I assure noble Lords that there is not.

I can confirm that the charitable sector, along with all stakeholders, is content with the change in the law which this will bring into effect.

Finally, the noble Lord asked about the impact assessment and, in particular, paragraph 10 of the Explanatory Memorandum. The point made in paragraph 10.4 is that the costs are,

"not easy to quantify … The Ministry … expects that when 2010 Act, as amended by the Insurance Act 2015 and the Regulations is commenced, it will generate a small net benefit to business"—

mainly insurers and claimants because of the ease with which the process should now be able to be undertaken—

"but that any aggregate impacts will be significantly less than £1 million per annum".

The Explanatory Memorandum goes on to explain that,

"the circumstances added by the Regulations will probably only account for a fraction of this. However, we do not know how often these circumstances will apply; how many people will be affected".

However, it seems that it comes well within the range of those regulations that do not require a specific impact assessment.

Our submission is that these regulations are very much to be welcomed. I am grateful for all the hard work that has gone into providing their final realisation during what has been quite a long process to get here. They will extend the scope of the 2010 Act to include the specific sectoral insolvency and administration regimes and most dissolved bodies, and the benefits of the 2010 Act will now be delivered without exposing some claimants who are protected by third-party legislation to a worse situation than they currently are in because of the omissions in the original Act. In those circumstances, I commend the draft regulations to the House.

Motion agreed.

Autism

Question for Short Debate

4.53 pm

Asked by ***Baroness Browning***

To ask Her Majesty's Government what steps they are taking to improve the speed and quality of autism diagnoses in the United Kingdom.

Baroness Browning (Con): My Lords, I refer to the register of my interests as a vice-president of the National Autistic Society, and to an outside interest in leadership training in the NHS. I should also declare that I am patron of Research Autism and the Autism Diagnostic Research Centre in Southampton.

Why is there a need to improve both the speed and the quality of a diagnosis in autism? It seems to me a pretty straightforward question, and that the answer is rather obvious. Speed is very important, particularly when one looks at some of the more complex cases, but in order for that to be processed and for someone to be referred to the right person, it requires sufficient people to be trained both for children and adult diagnosis. A recent case was brought to my attention of a 50 year-old man in full-time employment in Kent. It has taken two years for him to receive a diagnosis.

The latest Public Health England waiting times show that from the first referral to the first appointment—in other words, not the whole process of diagnosis but that very first step—takes up to 95 weeks in the south-west and, in Yorkshire and Humber, 84 weeks. We are looking at a postcode lottery. I am aware that in some areas the situation is better than that, but around the country we see people waiting for far too long. The quality of the diagnosis is important, too, as well as what happens after it is given. Autism, as we know, is a lifelong condition, and the diagnosis is the passport to an improved quality of life, including support not just for the autistic person but for parents, siblings and carers.

There are still too many problems at each stage of what the NHS refers to as the "pathways". It is terminology that I absolutely hate but I am going to have to use it today, because I think everyone will know what I mean by it—that is, the various steps taken from the time that someone presents, or someone is noticed or a problem arises and somebody along the line says, "Well, could this be autism?". The National Autistic Society has done a lot of work on this, and its recent assessment is that it is very important that every area has a clear route, from raising concerns to being referred for a diagnosis, having the assessment and then getting the care and support that necessarily must come afterwards.

Sometimes people get a referral only after visiting their GP multiple times. This can be down to poor GP awareness as well as people being wrongly diagnosed

[Baroness Browning]
with other conditions such as anxiety, depression or obsessive-compulsive disorder. There is a need for GP training and for GPs to become more established as the important gatekeepers that they are. I am pleased to welcome the initiative of the Royal College of General Practitioners. Two years ago it set up a clinical priority group under the chairmanship of Dr Carole Buckley, who has been doing some excellent work around the country. We need GPs to be aware enough to make an appropriate referral in a timely way, together with social workers, teachers, educational psychologists and in fact many others—not just professionals but people who have an awareness and understanding of autism, who can say, "This could be autism". If that is the case, it needs the appropriate referral.

That is particularly so now with girls as well as boys. Ten or 20 years ago, girls were reckoned to be about one in 10 of people diagnosed with autism. That perception has changed quite dramatically in the last five to 10 years. We now know that there are a lot more girls on the autistic spectrum but they often present differently from boys and therefore diagnosing them requires specialist knowledge. It is a communication disorder, of course, which means that very often the way in which girls communicate can be different from the way that boys communicate. That can raise challenges in terms of the diagnosis.

Across the country there is wide variation in the length of time that people wait for an assessment after being referred. NICE guidance says that it should be no longer than three months, which the Government have repeatedly stated that clinical commissioning groups should be meeting. They are not meeting it. I say to the Minister that the Government need to be far more proactive with clinical commissioning groups. Adult data show that the average in England is 13 weeks while in areas of the south-west, as I said, it is as long as 95 weeks. This is from the 2014 local authority self-assessment on the Autism Act.

It would be very helpful if the Government could collect diagnosis waiting times for adults and children centrally and hold CCGs to account on meeting the NICE targets. One of the other problems about these waiting times is that there is no true picture of the number of people being diagnosed or the number who are waiting, which leads to a lack of provision to cope with the numbers and the reality. It would be very helpful across the piece for health, education and social services to have a much better feel for how many people there are, where they are and what the timescale is that they are working to.

Once people get a diagnosis, too many report that they are not getting the support they need, including in those essential areas of mental health, speech and language therapy and social care. It is of course included in the Autism Act's statutory guidance for adults, but autistic people tell us that, far too often, this is not happening. What will the Government do to make sure that NHS England's work under the Mental Health Task Force to create a care pathway for autism will include post-diagnostic support for all autistic people and will hold areas to account?

There is another area which the Government need to address urgently. Part of the reason is, I believe, the lack of leadership within NHS England on autism. Currently, the lead for autism is the clinical lead for learning disability and autism. It is quite true that there are people who have a dual diagnosis, but the lead sits within the transforming care team, which of course leads important work on closing inappropriate in-patient units for people with complex needs. But there is a strong case for a national clinical director for autism to drive progress within NHS England across the autism spectrum. Clinical directors exist for other conditions including learning disability, dementia and mental health, and we have seen great strides forward in areas where there is a dedicated clinical lead. I ask my noble friend again today: will the Minister support the call for NHS England to develop leadership on autism, because that is where the driver is and where it could so improve the situation?

I also draw my noble friend's attention to the question, which I have mentioned already, of the implementation of the Autism Act 2009. When I was in another place, I was delighted to have the opportunity to be part of the team that took the Autism Bill through to become an Act. Apart from mental health, it is the only medical condition which has its own Act of Parliament. That should be a clear indicator of how important Parliament considers this condition.

However, I say to my noble friend that I am concerned. Despite the fact that it was written into Section 3 of the Autism Act that local authorities and NHS bodies have a duty to act under guidance, I get the impression that that part of the Act is not being implemented as robustly as it should be by the Minister.

I remind people of what that very important part of the Act says. It says that,

"an NHS body is to be treated as if it were a local authority within the meaning of",

the Local Authority Social Services Act 1970, and that,

"the functions of an NHS body",

mean that the Minister can call it to account if is not implementing guidance as it should. It gives statutory backing and power to the Minister—on NHS bodies and of course on local authorities—to make sure that this guidance is being properly implemented.

My noble friend may want to write to me on this. I would like to know just how many times the Minister has exercised Section 3 of the Autism Act, since it was put on the statute book, with either an NHS body or a local authority. It seems that this should be used by the Minister to drive forward the very issue that we are talking about, among other parts of guidance—to make sure that people not only get their diagnosis in a timely way and that it is an effective diagnosis in terms of its quality, and that the follow-up on the services identified by the statutory guidance for the Autism Act is implemented as well.

I am very grateful to colleagues across the House who have attended this debate today and I hope that when she sums up, my noble friend will be able to reassure us.

5.04 pm

Lord Touhig (Lab): My Lords, I am grateful to someone whom I am proud to call my noble friend—the noble Baroness, Lady Browning—for securing this debate. She is a formidable, constant and doughty champion for people and families with autism.

When a couple whom I have known for many years told me that they suspected that their child was autistic, I advised them to keep a diary along the lines suggested by the National Autistic Society, of which, like the noble Baroness, Lady Browning, I am a vice-president; I must declare my interest. They did this and took the diary to their GP, who tossed it aside and said, "I have seen these sorts of things before". I became rather angry, and when I discovered that the senior partner in the practice was someone I knew, I rang him up and, quite bluntly, said, "Pull your bloody finger out and get this child a diagnosis". That should not have been necessary but in so many cases, the hardest part about living with autism is getting a diagnosis in the first place.

The National Autistic Society's research indicates that adults have to wait more than two years for a diagnosis and children are waiting three years, even though the NICE guidelines clearly state that the time between referral from a GP and diagnostic appointment should be three months. A diagnosis begins to unlock the door to getting support and help and to gaining a better understanding of an autistic person's needs, yet there is often a barrier put up by the National Health Service and those working in the service. I am sure that it is not meant that way, and that those working in the health service would be horrified to think that it is, but too many in the NHS erect a barrier —for whatever reason—prolonging the time that it takes to get a diagnosis. That barrier must come down. The diagnosis is the first step for autistic people, enabling them to access the right support and begin a better quality of life. A survey carried out by the National Autistic Society revealed that 61% of people who responded felt relieved to get a diagnosis, while 58% said that it led to them getting new or more support.

For many with autism, it is the first chance to get an insight into why they feel and act differently. Naoki Higashida, a young Japanese autistic boy who wrote *The Reason I Jump*—a book which I have quoted a number times—posed a number of questions about people with autism. He asked, "Why do people with autism talk so loudly and weirdly? Why do people with autism do things they shouldn't, even when they are told not to do them a million times? Why do people with autism take ages to answer questions?" People with autism ask these questions of themselves, often not getting an answer or an understanding. Not until they have a diagnosis does support and understanding of their needs follow.

The families of people with autism often say that delays in getting diagnoses led to the development of serious mental health problems, both for the individual and for their family. It is therefore important that people with suspected autism are able to access a timely diagnosis wherever they live in the country. When, in February 2015, I asked a series of Written Questions about autism diagnosis, the then Minister, the noble Earl, Lord Howe, replied that data on:

> "The number of children diagnosed with autism is not collected centrally".

However, if we do not know the extent of the need, how can we really respond to it properly? The best thing would be to create an autism register to be registered with every GP. The National Autistic Society, in its autism diagnosis crisis campaign, is calling on the Government and the NHS in England to take this action; already, 12,000 people have signed a letter in support. Surely, the NHS should collect, publish and monitor key information about how long people are waiting for a diagnosis and how many people's autism is known to their GPs.

The NHS should ensure that waiting time standards on mental health, currently in development, reflect national guidance and that no one waits longer than three months between referral and being seen for diagnosis. The Government must share in this commitment, ensuring that the NHS in England meets its aims. Timely access to an autism diagnosis should be written into the Government's mandate to the NHS in England.

I am conscious that some people might want to speak in the gap, so I will cut my remarks accordingly. I will end by sharing with the Grand Committee a case study that expresses more eloquently than I can how an early diagnosis might have made a huge difference to the life of one young person. The names are changed to protect the families' anonymity. Jane is 50 and Michael, her husband, is 51. They have a son, Dan, who is 15 and they live in the south of England. It took Dan's parents almost six years to get a diagnosis from the point where they started seeking an autism assessment, although they had started looking for answers two years before that. During those years, his parents were repeatedly told by professionals that he was not on the spectrum. The diagnosis happened only when they went private to get a diagnosis. Dan was diagnosed with autism only last year, six years after his parents raised the issue of autism with professionals and eight years since they first sought help. The delay had a huge impact on his health, his mental health, his education and his family. His mother wrote that:

> "With the help of the firm diagnosis, I was able to fight successfully to get funding for Dan to go to an independent school which specialises in children with various difficulties, including autism. The school understands anxiety and has small classes, so Dan can learn without stress. The impact on Dan's education of not receiving an earlier diagnosis cannot be overestimated: he lost four years of his school education and is having to repeat a year so that he can take his GCSEs. He is a bright boy and loves learning, so he is delighted to be back at school again. The delays also had a huge impact on Dan's mental health, as well as our family's … What makes me really angry is that I know there are plenty of children who still don't have the help they need",

in order to fulfil their life potential. We have an opportunity in Parliament, as politicians and as Ministers, to do something about this. We have an opportunity to make a difference. That is why we are here. I hope that the Government are listening; I am sure that they are, but we really have to keep pressing for some improvements.

5.11 pm

Lord Addington (LD): My Lords, it is a pleasure to be backing up the noble Baroness on this subject. If we are breaking the rules and saying "my noble friend", then to hell with the rules, basically.

We are returning to a subject on which I feel there is going to be a tremendous amount of agreement; the downside is the fact that we are having to say it again. We have had to say this very often. The main thrust is that we have specific legislation that backs up other general legislation, giving rights to these people and responsibilities to the state that are simply not being enacted. That is the long and the short of it. There are a series of rights and, as the noble Lord, Lord Touhig, has just pointed out, the people who get them are the ones who fight and get it recognised. There is an old cliché about anyone who has been involved in any part of the disability movement: if you want to be a successful disabled person, choose your parents very carefully. I think that the best combination is a journalist and a lawyer—a person who will tell you about the law and someone to tell those who are not enacting the law publicly that they have failed. I have seen over and again that the person who shouts, with the right language and in the right way, gets their rights. The rest do not.

The experiences of autism are so similar to the world that I come from—that is, of dyslexia—that it is not worth setting out any differences between them; the principle applies to both. Then we have the joys and delights of co-occurrence of disability, which is very common. All these things come down to the fact that we have a series of pieces of legislation that are not being enacted correctly, and we have to drag people into enacting them.

Before I move on to my main point, I want to back up one point that the noble Baroness made. All these hidden disabilities seem to suggest in their initial stages that the males with the condition greatly outnumbered the females. Then a combination of practice and new social mores when looking at people showed that this was not the case, or at least that the discrepancy was not nearly as great as had previously been conceived. I hope that the Minister will have some way of looking at that and saying exactly how often this occurs. It is quite clear in all these hidden disabilities that the female of the species is much better at keeping its head down, not getting spotted, not causing trouble and not attracting attention. If we can look at that, we might start to get an idea of the true picture because it is also true in all these cases that the male who follows that example is ignored. Can we have a look at that type of behaviour?

I want to draw attention to something that the noble Baroness, Lady Browning, mentioned in passing: education. At the moment, when it comes to special educational needs, a teacher who is going to receive dozens of groups and several predominant groups might receive an afternoon or a couple of hours on the subject. I met a young man, introduced to me by a volunteer in my office, who had missed his special educational needs unit because he had had a doctor's appointment that day and was under no pressure to go back and take it. Two hours. Could noble Lords learn to spell dyscalculic, dyslexic or autism, if they did not know already, in two hours, even if they do not have one of those conditions? I rather doubt it. Effectively, what we seem to be assuming in teacher education is a slap in the face.

Remember how much time people spend in classrooms. Remember how much time those at the higher end of the autistic spectrum, those who do not have the glaringly obvious problems, will spend there. There is so much opportunity for a teacher who has at least some awareness training to be able to say, "I think this child has a particular problem. They will need to be told about it and they need strategies in their learning and social behaviour to enable them to function in society". Even if you do not go to a formal diagnosis but have some awareness that you might be there, just think about how much potential that could release. Think about how you might be able to get somebody in a position where they could handle further education better, or higher education. We have passed Acts and done things that enable people to get through this. We give them extra money, extra time. We have just passed things that gave them this ability. If you do not identify and support in the teaching staff, you are missing the chance to make a person aware that they are doing this and you will not be able to say, "You need to take a slightly different teaching strategy to get the best out of this person and you will get them through". How much waste is actually built into the system there?

Is this a wonderful revelation from me? No, it was first put forward in the Lamb review. I think that was in 2009; I cannot remember off the top of my head. The difference between dyslexics and autistics is that we do not like facts and figures in nice, straight lines. I do not know how co-occurrence happens. It is an established principle that we have badly trained teachers in this area. Unless we can get in there, we will ensure that we do not identify them, and, even if we have identified, we will make sure that that teacher does not know how to adapt the lesson to get the best out of it. This is made even more absurd when we take on the fact that they have a legal duty to teach that person.

Effectively, in this huge part of a person's life, teachers at the moment have a legal duty to do something which they are not trained to do. That is a disaster for anybody who has problems with learning patterns that are not of the mainstream. Autism just happens to be one of the more glaring examples.

5.18 pm

Lord Warner (Non-Afl): My Lords, I am sure we are all grateful to the noble Baroness, Lady Browning, for giving us the opportunity to debate this important subject and for sharing with us her expertise and experience in this area. Despite my four years as a Health Minister, this is my debut on this subject. That probably indicates how hidden the subject of autism often is. My involvement arises from my experience with my six year-old grandson, who is on the spectrum and probably suffers from Asperger's—I should declare this interest.

Normally, I never bring family matters into discussion of public policy in this House but, although I have not formally consulted my grandson about using his example, I am sure he would approve of my doing so today. He

likes to star in stories about himself and his alter egos. One of his favourite alter egos is Seal, so I shall describe him as Seal for the rest of this speech.

My experience is that Seal has been jolly lucky with the individuals that he has encountered on the journey that he has travelled so far. That has nothing whatever to do with any NHS system. The NICE guidance could have been written in Mandarin Chinese as far as Seal's NHS encounters go. What has happened is that he has never been through a CAMHS system and never really been referred by a GP, yet he has progressed through the system. Seal is a quirky, infuriating, endearing, courageous, vulnerable, obsessive, controlling, physically strong little boy who, for some of the time, is great fun to be with and, at other times, would drive a saint to distraction.

If, as a family, you have a diagnosis, you can learn how to cope with the predictable unpredictability of the young person's condition. Perhaps more importantly, you can help the child to learn coping mechanisms for processing and dealing with this very strange world that he inhabits. Seal now knows that he is a very different person from the children around him in his mainstream school, but he also knows that there are a number of adults and other children who are trying to help him. Without that diagnosis and its follow-up, Seal would almost certainly not be in a mainstream school or have many friends his own age. Whether his family would have been able to cope with him must also be very open to doubt.

Seal is where he is not because of the NHS but almost despite it. An energetic nursery school manager pressured a local children's community team to observe him and diagnose him. That team produced an excellent profile of him, and when he moved house the team did the right thing and passed the assessment to the GP practice in his new area. The practice promptly filed it and did nothing. Some time later, what I like to describe as a "House of Lords intervention" ensured that he was seen by a community paediatrician, who then worked with the school that Seal was placed in and produced a diagnosis. Seal has the services that he needs because of that school's excellent SENCO, not because of the NHS. The school drove the preparation of an education, care and health plan and ensured that the community paediatrician gave a clear diagnosis. That has led to this child being in the system; the NHS has contributed very little to getting him into the system. It has taken three years, but I have to say that his experience has been very different from what I hear from many parents of children with autism who Seal and his family meet in the local support group.

I have told this personal story to illustrate the lack of any kind of easy-to-use system for many of the parents of autistic children. I have read the NICE guidance, and they are worthy, professional documents. However, I suspect that their recommended timescales for diagnosis are observed more in their absence rather than in the actual experience of parents. Relying on a GP referral to CAMHS is simply not a credible system unless there is to be a massive investment in GP training and CAHMS. Building alternative routes through nurseries and schools, and accessing community paediatricians, might offer the prospect of speedier diagnoses in some areas.

That does not mean I want the NHS to be let off the hook. It should certainly be capturing more data and comparing local health areas on the total time taken to secure an autism diagnosis. The NHS would be helped by working with local education systems if there were more progress on a common identifier for children who need both health and social care services. The Minister might like to give us some advice on how much progress is being made in this area, where change is long overdue. Will she also ask NHS England to separate the commissioning of autism services from learning disabilities, starting especially with children? If she cannot answer my questions today, I would be grateful if she could write to me.

5.24 pm

Baroness Rock (Con): My Lords, I add my thanks to my noble friend Lady Browning for bringing to this House such an important debate.

People on the autistic spectrum perceive the world differently from others. They find the rest of us strange and baffling. Why do we not say what we mean? Why do we tolerate such a confusion of sensations of light, smell, sound, touch and taste without screaming? Why do we have such complicated emotional relationships? Why do we send and receive so many social signals to each other and how do we make sense of them? Why are we so illogical?

More than 700,000 people in the UK today are currently diagnosed with autism. If you include their families, autism touches the lives of over 2.8 million people. I am one of them. As the mother of a child with special educational needs, I have experienced at first hand the challenges and stresses of raising a child who sees the world differently and finds frightening the things that we take for granted. However, and I really cannot emphasise this enough, I have also experienced the rewards and joys of raising a child who is atypical and unique, and who brings so many unexpected qualities that surprise and enrich our lives. We are lucky; we managed to access the right support and the right schooling.

Why is speed and quality of diagnosis so necessary? It is simply because a diagnosis clarifies special educational and behavioural needs and the means to get those needs met, and gives entitlement to services and financial support. It is the first concrete step on a long journey. We are making progress. Autism diagnosis has increased by a factor of 25 in the last 30 years, but still only two-thirds of children and one in 10 adults with autism have a diagnosis. However, a critical question is: how can parents recognise that their child is on the autistic spectrum? Every child presents differently, and children with the same label may be more different than they are alike.

Early-years educationalists and childcare workers have the insight and ability to recognise communication and behavioural issues, and therefore can take more responsibility in helping parents to assess their child's difficulties and enable specific diagnosis on a timely scale. I am not advocating that every teacher or childcare worker needs to be a neurodevelopmental expert; on the contrary, it is their collective experience and observation of children with difficulties in school and their close communication with parents that puts them

[Baroness Rock]
in a unique position. With training, they can enable parents to articulate their concerns and to have those concerns acted upon, wherever that might lead, whether it is diagnosis or other support.

For many parents, it is difficult and frightening to comprehend what is "normal" behaviour and what is a cause for concern that needs professional input. In my case, my child was my first-born and I had no basis of comparison. It is truly overwhelming to be in that position, but harnessing the good sense of educationalists early on is a really important resource. We need to acknowledge that they are a crucial part of the diagnostic process. As professionals, they have an empathy and perspective that can be nurtured and encouraged to support parents. Timely identification of social communication problems puts parents and children on to specific autism pathways, as my noble friend Lady Browning mentioned, which can then initiate and expedite diagnosis.

The impact of living with a child with autism can be devastating for many families. The high incidence of marital breakdown where a family has a disabled child speaks for itself, and there is growing concern about the mental health costs to siblings and other family members. Being the parent of a child with autism can be one of the loneliest places in the world. Acknowledgment and affirmation of the valuable contribution of early-years educationalists and childcare workers towards supporting parents to get the right diagnosis will lead to the right help. This transforms lives.

5.30 pm

Baroness Hollins (CB): My Lords, I refer to my interests in the register, including my chairmanship of an expert reference group on workforce learning disability services, and congratulate the noble Baroness on this debate.

My own expertise with autism as a psychiatrist is with the 30% of people with learning disabilities who also have autism. Some people with autism have a learning disability but most do not, which is a very important point to bear in mind. The Royal College of Psychiatrists joins the National Autistic Society and others in their concerns that the later someone is diagnosed, the worse it is for the quality of their life.

According to the National Autistic Society, 70% of autistic adults say they are not getting the help that they need from social services, and at least one in three autistic adults experiences severe mental health difficulties due to a lack of support. Without tailored support, people with autism can find it difficult to communicate their needs and make good use of mainstream health and social care services. This increases the pressure on families and carers and creates pressures within primary care and mental health services as they struggle to meet people's needs, often when they are undiagnosed or misdiagnosed.

Individuals with the diagnosis, and their families, can feel overwhelmed without help and understanding. The absence of a diagnosis may mean that families are not communicating in the best way or that people are taking medication that is not needed and may be harmful. We already know that people with autism are vulnerable to mental health problems, with late diagnosis increasing this risk, and that 70% have at least one other mental or behavioural disorder, while 40% meet the criteria for two.

One man with autism, Chris, who waited until adulthood for a diagnosis, told the National Autistic Society that in his view before his diagnosis his needs were never met, and at times he felt suicidal. Having a diagnosis helped him to reach a place of acceptance and opened doors that were previously closed to him. He said that without the diagnosis he would have taken his own life.

We know that people with autism are also vulnerable to physical health problems. A recent study published in the *British Journal of Psychiatry* revealed that people with autism die 16 years earlier on average compared with the general population, and that suicide is the second commonest cause of death for them after cardiovascular disease. One problem with the study was that it was not known how many also had a learning disability, a known risk factor itself for earlier death, for which there is good research evidence.

We know that without proper recognition and diagnosis, children with autism may not be in the appropriate school environment and are at risk of being bullied, leading to isolation, depression and anxiety. Behavioural difficulties, if not properly understood, can put them at risk of being suspended, with profound implications for their future. We know that only 15% of people with autism are in full employment.

Autism, as we have heard, is a multidimensional neurodevelopmental disorder. It presents differently in each person, and diagnosis requires a multidisciplinary team to accurately decode behaviours and observations which may overlap with other conditions. There is no definitive medical or genetic test for autism.

There might be gender differences in how autistic traits present and are interpreted. The stereotype of a person with autism is an obsessional person somewhat locked into themselves; but girls present with more subtle difficulties. While in conversation they might be able to take turns to speak, make eye contact and engage in small talk, but they frequently do not understand the subtext. They tend to be better at social formatting, cutting and pasting someone else's behaviour and trying to make it their own without understanding why they are doing it. There is no research on the number of women on the autistic spectrum but clinicians now suggest that there are probably a significant number of undiagnosed cases referred to adult mental health services for conditions such as depression, OCD, eating disorder or self-harm. Staff at an eating disorder clinic in Birmingham recently identified that between 60% and 70% of women in their 20s attending their clinic had undiagnosed autism.

A teacher at Limpsfield Grange School in Surrey, a school for girls with special educational needs and communication difficulties, noticed that a high percentage of the learners were showing behaviour on the autistic spectrum. Some of the girls were helped to write a book, *M is for Autism,* which asks the reader to view

the world through the eyes of a girl with autism—for example, not having friends, not fitting in and feeling worried all the time.

Autism also presents differently in adults and children. People are less closely observed after leaving school, and many adults learn to limit their autistic behaviour. They face numerous misdiagnoses and potential iatrogenic harm before getting correctly diagnosed with Asperger's or autism. There are also issues for older adults, whose autism might come to light at a time when they lose a spouse or in retirement because of their inability to adjust, or behavioural difficulties that present.

The Royal College of Psychiatrists expresses concern that there are insufficient trained staff to carry out a diagnosis. In order to tackle this, it has developed a quicker aid to diagnosis for psychiatrists and a training package. It is looking at how a basic essential knowledge of autism can be added to the training of all psychiatrists to ensure that general psychiatrists have knowledge and skills about autism in their core skillset. On its website, there is good-practice guidance on diagnosis.

Part of the conundrum is that autism has no cure and no single or clear causation. Prevalence is probably going up, and diagnosis certainly increases the number of children and adults identified with autism. Every person with autism is different, but receiving a diagnosis is a crucial step in their journey. For many people, diagnosis leads to better understanding of individuals for their families, as well as for education, health and care services and employers. For many people, diagnosis leads to adjustments in expectations, education and care. For others, more specialist support and long-term interventions are needed. The growing awareness of issues faced by people on the autistic spectrum is welcomed, but there are still too many people whose needs go unrecognised, misdiagnosed and unmet. We have made strides in the right direction, but we need to speed up the process. Will the Minister commit to sharing examples of good practice across England, and encourage areas that are lagging behind to implement it?

5.37 pm

Lord Wigley (PC): My Lords, I will intervene in the gap in 60 seconds flat. I thank the noble Baroness, Lady Browning, for her work over many years in this area, and I congratulate the noble Baroness, Lady Rock, on her very moving speech. I declare an interest—technically lapsed—as former joint patron of Autism Cymru, which was brought to an end last year for the simple reason that a new Welsh Government-sponsored strategy was taking over and is very relevant to the issues that we are discussing today.

In talking about these matters as an attendee of several meetings and conferences of Autism Europe, it has become clear to me that there is a great jealousy among many European countries of the initiatives that have been taken in the four nations of the United Kingdom. There is significant envy about these. However, I flag up one warning from our experience in Wales: it is one thing to have a strategy on paper; it is something else to have it rolled out evenly in every community that needs those services. There need to be the resources for the local authority and the medical fraternity in order to do the job. That is what my appeal will be: to make sure that good theoretical policies work out in practice.

5.39 pm

Lord Hunt of Kings Heath (Lab): My Lords, it is a great pleasure to comment for the Opposition in this very important debate, on which I congratulate the noble Baroness, Lady Browning. She made a very persuasive case for the early diagnosis of autism. She made the point that currently, although we have seen an improvement, there is a huge variation in practice in many parts of the country. I come back to my noble friend Lord Wigley's comment that it is good to have a strategy but you need to have an implementation programme to ensure that there is consistency across the country. The debate has shown that at the moment there is a postcode lottery and widespread inconsistency in the availability of diagnosis and access to treatment. The principal question for the Minister is what action she can take to ensure that clinical commissioning groups are kept up to the mark and monitored over the issue of diagnosis. The issue of transparency, and the availability of comparative information so that individual CCGs can be monitored and held to account, is crucial in this area.

My noble friend Lord Touhig suggested that a difficulty in getting diagnosis may in essence be a rationing tool, in that if you do not get a diagnosis you do not get access to treatment. If that is the case, that is entirely unacceptable. The same issue applies to access to treatment. If we are to understand the challenges that we face, we have to have local and comparative information about the difficulties of access. I hope that at the very least the Minister will take this away and consider with her colleagues how that might be brought about.

The noble Baroness, Lady Browning, said that we ought to have one single national clinical director to focus solely on autism. I very much agree with that. However, the current set-up of national clinical directors is wholly unsatisfactory. They are given very little time and virtually no support, and it is not fair to ask them to do what they have been asked to. The noble Baroness, Lady Hollins, mentioned her membership of expert groups. She may well know that NHS England has a consultation, which I think has now finished, on the membership of clinical reference groups, which are crucial groups that advise NHS England on policy development. My understanding is that the proposals that were sent out on 9 February proposed reducing the numbers of those CRGs and their clinical members. That is a matter of great regret and I hope the Minister will be able to comment on it.

Resources have been mentioned. The noble Lord, Lord Prior, said recently in response to an Oral Question about the excellent Mental Health Task Force report that £1 billion per annum will be spent by 2020. The problem is that that is not ring-fenced; it is part of the overall allocation to the NHS. As we know, the NHS is facing very severe financial pressures, and I know no one who believes there is any chance whatever that that £1 billion will actually be spent on mental health services.

[Lord Hunt of Kings Heath]

I end by referring to the excellent Autistica report that came out last week. It shows that people with autism are more likely to die at a younger age compared with the general population. It makes a strong argument that we need to build the research and knowledge base; that the learning disability mortality review should include a new national autism mortality review; that standardised mortality data about all autistic people should be collected nationally and locally; and that the Department of Health should include preventing premature mortality of autistic people as a key outcome in the 2017-18 deliverables. Will the Minister's department take very careful note of the Autistica report and perhaps in due course let noble Lords who have taken part in this debate know what the outcome of those considerations might be?

5.44 pm

Baroness Chisholm of Owlpen (Con): What an excellent debate we have had this afternoon. As is normal, I am going to have to try in a short time to get through answering all the questions, which have been so incredibly interesting. I am grateful to my noble friend Lady Browning for raising this important issue. I pay tribute to her many years of support for those who have autism and indeed to the support in the contributions of all our speakers.

Parents can find themselves in a frightening and bewildering place, first, when they sense that there is something wrong with their child and, secondly, once they are given a diagnosis. Autism is particularly bewildering, partly because it can manifest itself in so many various ways. Obviously, as my noble friends Lady Browning and Lady Rock, and the noble Lord, Lord Touhig, said, a timely diagnosis of autism is essential to ensure that the relevant health, care and educational interventions can be implemented for the maximum benefit. The noble Baroness, Lady Hollins, also mentioned that if there has been an early diagnosis, problems can be sorted out before they become too desperate. It is essential to ensure that families do not spend a long time in limbo, uncertain of how best to support a child or young person. Indeed, the same can be said for staff in schools and other settings. As the noble Baroness, Lady Hollins, mentioned, a diagnosis may make a massive difference for adults if they have struggled through their life without support. As our understanding of autism and its impact has improved, we have become better at early identification and more nuanced approaches to therapeutic interventions.

NICE has recommended that following a referral for a clinical assessment, a person should wait no longer than three months before the assessment process begins. NICE also highlights that given the complexity of autism, this process cannot be rushed. This is a challenge for the NHS and its partners. There is no doubt that in some parts of the country the demand placed on services, often through the sheer weight of numbers, means that they can struggle to meet the standards. NICE guidelines recognise that there is evidence of girls being one of the groups at risk. It is looking into better guidelines on this issue.

I will set out some actions that we are taking centrally to deliver improvements in how the NHS and its partners are able to deliver timely diagnoses. Diagnosis is of course a process which should be driven locally by clinical commissioning groups, working in partnership with their local authorities, to develop the right pathways to assessment and packages of care which result from a diagnosis. The noble Lord, Lord Hunt, and my noble friend Lady Browning talked about meeting targets and holding CCGs to account. The Department of Health and NHS England, along with the Association of Directors of Social Services, are visiting CCGs and local authorities. These visits aim to develop a better oversight of the challenges in securing timely diagnosis across all ages. They will consider data on waits, which are so essential, and the design of pathways—as a nurse, I really dislike that word, as the noble Baroness does, but I cannot think of a better one to use. They will also consider many of the critical issues raised so that they can make an effective assessment of how information is made available to the public, the links to mental health services and social care services, how initial referrals are triaged, and who provides leadership locally for autism support. NHS England will complete its work in April and then report to the cross-government autism programme board.

Effective commissioning must start with effective identification of needs. The Department of Health issued guidance in 2014 for health and well-being boards on children's complex needs, including autism, which provides key insights to effective assessments. The noble Lord, Lord Warner, mentioned that there should be specific commissioning for autism to take it away from other learning disabilities. I will write to him further on that but, as the noble Baroness, Lady Hollins, suggested, it can be difficult to separate the two when symptoms and behaviours can so often overlap. Quite often with diagnoses, somebody appears with a different kind of symptom than a natural autistic symptom. That can perhaps lead to finding that the child is also on the autistic spectrum, so I am nervous about separating the two.

The noble Lord, Lord Addington, spoke about higher education. It is essential that school staff are able to recognise and meet the needs of children on the autistic spectrum. The Department for Education has funded the Autism Education Trust to provide training for early years, school and further education staff across the spectrum of need. To date, the AET has provided training for around 87,000 education staff. I know that the AET is aiming to reach a key milestone of 100,000 trained staff in the summer of this year.

In brief, local authorities and CCGs are required to work together in joint arrangements to assess the needs of individuals and develop education, health and care plans designed to focus on the outcomes that will deliver the biggest impact for the child and their family.

Raising the skills and awareness of the workforce is of course key to diagnosis. The Department of Health has provided financial support to the Royal College of General Practitioners to make sure that there is a priority programme on autism, with practical work on autism awareness and training for GPs. This will enable people who may have autism to be supported more effectively from the start of their assessment process.

Last year, the Department of Health also provided funding to a number of organisations, including the Royal College of Nursing, the Royal College of General Practitioners and the National Autistic Society, to upgrade their autism e-learning training tools and materials. The department has also funded the development of two e-learning tools which can help people working with autistic children, young people and young adults to provide better services.

As people with autism are susceptible to mental health conditions, it is also worth noting that this Government are driving forward the transformation of children and young people's mental health services, improving access and making services more widely available across the country. The transformation programme, backed by additional investment of £1.4 billion over the course of this Parliament, will deliver a step change in the way that children and young people's mental health services are commissioned and delivered.

Also very important is the work done under the auspices of the 2014 Think Autism strategy. There are three key new proposals in the strategy that I think will make a difference. Think Autism community awareness projects will be established in local communities, and there will be pledges and awards for local organisations to work towards. The Autism Innovation Fund provides funding for projects that promote innovation, local services and projects, particularly for low-level preventive support.

The noble Lord, Lord Touhig, mentioned better data collection, and this is indeed very important. There will be more joined-up advice and information relating to services, including a new way for social care staff to record a person's condition. There is also a commitment to make it easier for people with autism to find information online, including information about how their local authority is performing.

The noble Lord, Lord Hunt, mentioned finance, which is always at the top of everything. The Government have allocated £4.5 million for the Autism Innovation Fund and the autism community awareness programme. This funding has been announced for one year.

What will make an enormous difference to diagnosis is effective local engagement with parent forums and other groups. That is critical to CCGs being more effective in meeting complex needs locally. They have expertise and experience, and they can interpret and provide a voice for their children.

We have heard today from my noble friend Lady Rock, very emotionally, about the difficulties she had with the diagnosis of her child. We should listen much more to what parents are saying. They know if there is something wrong with their child, and when they go to see a GP they need to feel that that GP is going to listen to them. Parents are often co-ordinating and managing a complex range of services and interventions as part of their caring role. NHS England has undertaken considerable work in this field to promote the value of engaging with parents.

I know I have left out several things that various noble Lords brought up and will make sure that I get back to them on all those issues. The noble Lord, Lord Touhig, asked whether Ministers will work with NHS England to commission an autism register in GP records. It is felt that a register per se is not necessary to their primary care work in supporting people with autism. GP practices already maintain registers for people with learning disabilities under the quality outcomes framework.

Commissioners are now beginning to realise that awareness, diagnosis and support needs to be of a high quality across the country. It is debates such as this today, though it was far too short, that keep autism firmly on the radar. I thank all noble Lords for their participation.

Sendai Framework for Disaster Risk Reduction

Question for Short Debate

5.58 pm

Asked by ***The Earl of Selborne***

To ask Her Majesty's Government what progress has been made towards implementing the Sendai Framework for Disaster Risk Reduction 2015–2030.

The Earl of Selborne (Con): My Lords, it is now a year since the *Sendai Framework for Disaster Reduction 2015-2030* was agreed in Japan and later endorsed at the United Nations General Assembly. Therefore, it seems appropriate to table this Question for Short Debate to review how we are doing on our share of the implementation.

The Sendai framework was the first of three landmark agreements made as part of the United Nations' post-2015 agenda. The other two were the sustainable development goals, finalised in New York in September last year, and the Paris climate change agreement in December. The Sendai framework builds on the legacy created by the Hyogo framework, which embraced the 10 years from 2005 to 2015. This emphasised disaster-risk reduction as a priority within regional, national and local agendas. The Sendai framework gives greater emphasis to the need to address disaster-risk management, to reduce existing vulnerability and to prevent the creation of new risks. In other words, the key message is effective risk management, which will in turn lead to risk reduction.

What Governments around the world are ultimately required to deliver by their citizens can be summarised in very simple terms as the delivery of health, well-being, resilience and security. All these depend on social, physical and natural infrastructures, and we are all critically dependent on these being maintained for the essentials of life. When they fail, whether by reason of, for example, epidemic, flooding, the collapse of a structure or any other such disaster, it is the national Government who will be held to account.

The Sendai framework does not in any way reduce the primary responsibility of each state to reduce disaster risk but recognises that co-ordination and partnership between regions and nations is essential for disaster-risk management. In order to reduce risk, we need to identify and roll out best practice, we need to promote the collection, analysis, management and use of scientific data, and we need to ensure that these data are available to everyone.

[The Earl of Selborne]

The United Kingdom has a lot to offer to the international community in the field of the assessment and management of risk. It is one of the few countries to have a publicly available national risk register, based on a classified national risk assessment, with a strong and deeply embedded civil contingencies secretariat and well-rehearsed disaster prevention and management protocols and procedures.

The Government Chief Scientific Adviser, Sir Mark Walport, in his first annual report published in 2014—that is, before Sendai—said that the United Kingdom should continue to develop the role for innovation, as well as evidence and risk evaluation, in the delivery of resilient infrastructure. He said that the United Kingdom would need further to develop the national risk register as a key part of the debate on national infrastructure and resilience investment. I suspect that our national infrastructure in respect of electricity generation in this country is now looking less fit for its purpose than it was when he wrote that in 2014, with margins between demand and supply now tighter than had been previously predicted. Of course, shortage of electricity would certainly risk disastrous consequences. Can the Minister tell us whether the national risk register has, indeed, been further developed and, if so, how?

Disaster experts are cautious of labelling any disaster a natural disaster, although clearly nature may be the catalyst which sets off a disastrous chain of events. Environmental hazards become disasters as a result of the risks and vulnerabilities that people are exposed to on a daily basis. As a result of technological change, environmental depletion and climate change, the complexity of the risks faced by humanity increases year by year. Policymakers must define an acceptable level of risk. Developed economies typically have regulation in place which is designed to protect their citizens and limit such risks, whether generated by environmental change or man-made disaster. However, this could be at the expense of other parts of the world where regulation may be less appropriate.

Looking back at what is now almost history, the Bhopal gas tragedy in India of 1984 was a notorious such example. The consequence of that disaster was political unrest generated not just by the explosion in the chemical factory but by the failure of the recovery and accountability process. It was such scandalous examples of disaster management that led the United Nations to convene the first world conference on natural disasters in Yokohama in 1994.

Disaster impacts are strongly influenced by such issues as poverty, inequity, poor urban planning and inappropriate land use. The Sendai framework recognises that essential to addressing these issues, which lead to communities' exposure to risk, is the contribution of science and technology. We are, of course, the leading European country in terms of scientific output and we are rightly proud of our contribution to generating scientific evidence, which will, in turn, underpin risk management. It is through mobilising the expertise residing in our research institutions and commissioning the appropriate research that we can make the greatest contribution to implementing the Sendai agreement.

I commend the initiatives of Public Health England that were listed in the helpful briefing pack produced for this debate by the House of Lords Library. It included a paper from PHE's global health committee which refers to, among other health disaster issues, its contribution to controlling the outbreak of Ebola in Sierra Leone. I hope that PHE is now adding an assessment of the contribution that UK science should make to the control of the Zika virus.

In answer to a Parliamentary Question from the noble Lord, Lord Crisp, in November, the Minister said that the Government were still assessing the full implications of the Sendai framework for DfID programmes. I wonder whether she is now able to give us any further information on DfID's response.

I have no doubt that in responding to the Sendai framework we will benefit greatly from our membership of the European Union, which in this respect has a supporting competence. Will the Minister confirm that in addressing this 15 year-old non-binding agreement, which recognises that each state has the primary role in reducing disaster risk, we benefit enormously from close collaboration with our fellow EU members and from the European Union's supporting competence?

In Europe, over 80% of current disaster losses are caused by weather-related hazards and these are expected to increase in frequency, yet only a minority of the flood risks, for example, can be attributed to climate change. The rest can be attributed to human behaviour, such as building in risk areas. Most so-called natural disasters are nothing of the sort. With effective contingency planning, risk assessment and risk management, we can enhance resilience. Above all, we need to identify clearly and explicitly how our impressive science and technology capacity in the United Kingdom can underpin our contribution to global risk disaster and risk reduction.

6.06 pm

Lord Hunt of Chesterton (Lab): My Lords, I congratulate the noble Earl, Lord Selborne, a very distinguished chairman of the House of Lords Science and Technology Committee, on having this debate at an appropriate time, one year after the Sendai framework, which is the result of steady progress over the past 30 years in reducing the impact of natural disasters.

There was a decade of natural disasters from the late 1980s to the 1990s. Then, as the noble Earl implied, there was the Yokohama meeting, which I attended as head of the Met Office, when the technical challenges were outlined. For example, some of the important developments were the advances in warnings for many kinds of disaster. At that time there was tremendous resistance to the sharing of data; some disasters could have been considerably reduced had there been a better exchange. By the time we got to Hyogo, 10 years later, some of this exchange of data was improved but there were also new technologies for the dissemination of data.

In the past few years we have moved on to the question of climate change effects. At the IPCC, in which Dr Murray was involved, there was great progress in understanding how natural disasters can become more severe and frequent with climate change. The Sendai meeting and framework began to focus on the

social and governmental role. One of the important points was that this has stimulated much more work in universities and institutions in the UK on social vulnerability and post-disaster resilience. I have a colleague here this afternoon from UCL's institute, which is a result of this movement.

I emphasise the continuing need to understand natural disasters, predict them and warn about them, realising that we still have a very big task, particularly with earthquakes. When Dr Wahlström came to London before the Sendai meeting, we discussed the question of major challenges to establishing improvements. I think it has generally been accepted in all fields of endeavour, including science and technology, that some of the greatest challenges can be overcome when there are targets—a man on the moon is one example, cancer is another—and meteorology is no exception. It has to be remembered that in the 1990s, textbooks in the United States said that it was impossible to improve the accuracy of forecasting for tropical cyclones, hurricanes or tornados. In fact, a few years later, there was very significant improvement.

There is still considerable uncertainty about earthquakes, which cause some of the greatest problems and really are national disasters—there is nothing that causes such disasters like the natural disturbances in the earth. Research groups in Russia and China and some run by private individuals in the United States are working on that problem, and I find it very disappointing that these most important events, in which tens or hundreds of thousands of people can die, are not mentioned as a target by the Sendai framework. Targets are really important.

The framework is very good at saying how we should use science and technology, but if we had this as a major United Nations goal and used all the technologies—I know about some of those in the defence sector—there could be improvement. All our newspapers today were covering Prince Harry, who is in Nepal supporting the people there following the recent earthquake. These new developments will come from integrating massive computational studies covering areas from the outer atmosphere to the bottom of the ocean and through the layers of the earth. Some of the physical processes are still quite uncertain.

The framework, quite rightly, points out how physical processes and social impacts from natural disasters differ between regions. The framework has some important recommendations about how these goals might be agreed and promoted through a committee of the United Nations natural disaster body or through its science and technology advisory group. I am very pleased to see that this advisory group has specialised groups in the different regions of the world, because one of the things we know is that natural and meteorological events, including pollution, flooding and many others, vary greatly from one region to another. There is much local expertise. I make this perhaps trivial point because many of the computer models used for climate are used the same way all over the world, and people now realise that that may not be the best way to do it.

In the past, the United Nations agencies had strong records in reducing certain risks, such as those in meteorology that I mentioned, but there are other geophysical risks that have had less resources focused on them. I hope that the UNISDR STAG will have the strength to divert resources to the critical areas, one of which remains hydrology and the question of floods. The other important point is about practice in other parts of the world: the Philippines, for example, has the most advanced system in the world, using modern communication methods and online computer modelling to see how floods move through areas and through different houses. Comparing how they are doing it there with, I am afraid to say, some of the ways that we are doing it here in the UK, could offer good examples of exchange from the south to the north.

I believe that the Foreign Office also has a role in co-ordinating UK representation at these agencies, and in that sense it needs to collaborate with the European Union. I continue to think that the proportion of funds devoted to water resources and flooding is too small. Having made these points, I look forward to hearing from the Minister.

6.13 pm

Lord Collins of Highbury (Lab): My Lords, I, too, thank the noble Earl, Lord Selborne, for initiating this extremely timely debate. As he indicated, the *Sendai Framework for Disaster Risk Reduction* is a 15-year, voluntary, non-binding agreement which recognises that the state has the primary role to reduce disaster risk but that the responsibility should be shared with other stakeholders including local government and the private sector.

Last week, as the noble Earl indicated, was the first anniversary of the framework, which was adopted in 2015 in Japan. Sendai also held the 2016 Symposium for Disaster Risk Reduction and the Future this month.

When I was thinking about this debate this morning, I was listening to Radio 4 and I heard Professor Jim Al-Khalili, presenter of "The Life Scientific", introduce the environmental scientist Professor Carolyn Roberts. In doing so, he mentioned that barely a month goes by without news of another catastrophic flood somewhere in the world: we had the Boxing Day tsunami in 2004, the flooding in New Orleans and Hurricane Katrina a year later, and the typhoon in the Philippines in 2013, with the role of climate change being strongly mooted. Jim also reminded us of the events here this winter when, once again, flood victims were caught in a cycle of despair and anger as they tried to make sense of why their homes were flooded and what could be done to prevent it happening again.

I immediately tuned in to the radio, bearing in mind the potential for the Sendai framework to structure how all communities, both locally and globally—I am sorry for the interruption, but I cannot decide which glasses to wear at the moment. I have a slight problem with cataracts and I am finding it difficult to focus. As I was saying, I tuned in to the radio, bearing in mind the potential for the Sendai framework to structure how all communities, both locally and globally, are able to respond and protect people when disasters occur, and for science and technology to contribute. Professor Roberts applies water science in particular to work out why such events occur and the role that we

[Lord Collins of Highbury]
humans play in them. One thing she mentioned that I thought had huge resonance for today's debate was her recollection of a local politician, who was responsible for planning policy in a council, asking what a flood-plain was. What this brought home to me—and to her; this is the point she was making—was the importance of bringing a better understanding of science to the public and ensuring that public policy development works hand in hand with scientific progress.

The Sendai framework recommends that national and local government work closely with the private sector in their area across the four priorities for action, benefiting from industry expertise—the examples given in the framework are insurance and risk sharing, as well as lessons in good practice such as resilient building codes, and resilient tourism and the business community.

My noble friend Lord Hunt of Chesterton has stressed how the Sendai framework and its priorities for action have been developed based on the 10-year experience of implementing the Hyogo framework and the ones that went before that. These priorities are key to enabling disaster management agencies to move beyond improved disaster management to address the underlying disaster risks. However, as my noble friend stated, it is also important that government agencies and the research community are encouraged to improve the technologies of prediction and warning, especially where the current methods fail, such as the warnings for earthquakes, as highlighted by my noble friend, and for certain kinds of typhoon, such as that which occurred in the Philippines.

I am also pleased to see that we have here today Professor Virginia Murray, head of extreme events and health protection at Public Health England. I read the extract from her excellent blog in the briefing that we received from the Library in which she illustrated how Public Health England works internationally alongside other Governments and in partnership with organisations such as the WHO, and, of course, collaboratively with DfID. She pointed out that through the Sendai framework Public Health England would be able to build a structured response using a greater level of detail and clarity, and to consider the potential for science and technology to contribute.

My noble friend also mentioned the role of the EU, which has, of course, strongly supported the Sendai framework's extension of the traditional focus on natural hazards to include man-made hazards and associated environmental, technological and biological hazards, which brings it in line with progress made at a European level in recent years. What contributions have the Government made to the development of the EU action plan on the implementation of the Sendai framework?

As Professor Murray highlighted, the Sendai framework also includes targets to reduce damage to infrastructure and disruption to basic services, including health and education facilities. In recent times we have seen a particular impact in Africa from epidemics and other risks. Some disaster experts have said that the lack of a firm commitment in the agreement to ramp up international aid for risk reduction would undermine poorer countries' efforts to make progress on the SDGs.

In February a special session on the gender-related dimensions of disaster risk reduction and climate change was convened in Geneva by the UN Committee on the Elimination of Discrimination against Women. Countries were urged to act on the emphasis that the Sendai framework placed on gender issues. What efforts are the Government making to reflect this and to work with disaster-prone countries to ensure that women are involved in the disaster risk decision-making process and resource management, and to ensure that they have access to social protection measures, education, health and early warnings?

As the noble Earl, Lord Selborne, has already mentioned, in response to a Written Question from the noble Lord, Lord Crisp, last November, the noble Baroness the Minister said that the department remained committed to supporting the most vulnerable countries to better withstand and recover from the impact of disasters. However, she indicated that DfID was still assessing the full implications of the Sendai framework for its programmes.

Disaster risk is costing countries more than $300 billion a year. If disasters strike in developing countries, they can wipe out 20% or more of GDP. Many experts argue that if we want to address sustainable development, disaster risk has to be incorporated in development planning. Evidence shows that Governments are failing to incorporate disaster risk in the planning of their economic development. What measures are the Government taking to address this, and will they highlight the importance of this issue at the next session of the Global Platform for Disaster Risk Reduction in 2017?

What efforts are the Government making to promote the need to integrate disaster risk reduction and climate change adaptation efforts, particularly given that 90% of disasters are now climate-related? Can the Minister indicate what the Government's current priorities are in the vital area of disaster risk reduction?

6.23 pm

The Parliamentary Under-Secretary of State, Department for International Development (Baroness Verma) (Con): My Lords, I, too, thank my noble friend Lord Selborne for securing this debate, and I thank all noble Lords for their excellent contributions. The debate has demonstrated that we did not need lots of speakers—its quality has been excellent. I share the same breakfast listening in the mornings as the noble Lord, Lord Collins. It was a really interesting programme this morning and I listened to it when I was stuck in traffic, trying to get to the department.

I see on a near-daily basis how the lives of poor people are threatened by the effects of disasters. A changing climate, combined with rising populations, urbanisation, environmental degradation, war and conflict, is challenging progress to end extreme poverty and is tipping more people into crisis. We know that early action and work to build the resilience of countries, communities and people can save lives when disaster hits. Indeed, early action and resilience building helps protect livelihoods, safeguards development gains and offers better value for money.

We have had a range of questions. I hope that I will be able to respond to some of them from my notes. I have also taken note of some of the questions that noble Lords asked, but if I fail to respond to any of them today I undertake to write to noble Lords.

Since 2010 we have significantly improved the quality and speed of our humanitarian response. We have prioritised disaster preparedness. In the new UK aid strategy, we identify strengthening resilience and our response to crises as one of our four strategic objectives. We are committed to doing more to strengthen the resilience of poor and fragile countries to disasters, shocks and climate change.

DfID and the Cabinet Office have worked with the UN Office for Disaster Risk Reduction on developing the Sendai framework. In March of last year my right honourable friend the Minister of State for International Development, Mr Desmond Swayne, spoke at the third UN world conference in Sendai. The framework is coherent with other international processes. It builds international co-operation and global partnerships, strengthens disaster risk governance and takes account of the particular needs of countries that are at risk of conflicts and insecurity as well as natural hazards. It ensures that development investments are disaster-proof.

Over the past five years since the publication of the humanitarian emergency response review, chaired by the noble Lord, Lord Ashdown, my department has focused on building the resilience of poor and vulnerable people to disasters. Here we have seen real leadership. The UK was the first donor country to define and frame disaster resilience, and we have successfully influenced the funding strategies of others. Internally, we have embedded disaster resilience in all our country programmes, integrated resilience in our work on climate change and improved the coherence of our humanitarian and development work.

I have some examples. In Ethiopia we contribute £276 million to a £2.2 billion programme that provides guaranteed employment for more than 8 million people on activities to stop soil erosion and preserve scarce water. This has transformed formerly famine-stricken areas of Ethiopia. El Niño has hit Ethiopia hard, but a combination of this kind of preparedness work and concerted action by the Ethiopian Government and donors has meant that there has been no repeat of the horrific famine of the 1980s.

The noble Lord, Lord Hunt, mentioned Nepal. Prior to the devastating earthquakes in April and May 2015, the UK was already supporting a five-year programme to build Nepal's disaster management system. This included measures to strengthen legislation on land use and building codes to retrofit key buildings such as hospitals to withstand earthquakes, to build the capacity of the Government and communities to organise, and to pre-position goods and train people to save lives in the immediate aftermath. So when the earthquake hit, the first relief was distributed within hours. When more relief was needed, the humanitarian staging area that the UK had built with the United Nations at Kathmandu airport helped accelerate the response by approximately three weeks. The experience in Nepal shows how the Sendai framework can be implemented and how it can directly save lives.

The UK is also leading the way in understanding and sharing what works best. The Building Resilience and Adaptation to Climate Extremes and Disasters programme, known as BRACED, will help more than 5 million people, especially women and children, cope with the impacts of extreme climate events by creating new coalitions of civil society, government, media, universities and meteorological offices to build community resilience, as the noble Lord, Lord Collins, alluded to in his opening remarks. Lessons from this will be used to improve local and national policies and build institutional knowledge.

But we know that timely responses depend on finances also being in place well before disasters strike. Here, the UK has a strong story to tell, with the Africa Risk Capacity programme using modern finance mechanisms to enable African Governments to obtain natural disaster insurance, reducing the losses incurred by extreme weather events and natural disasters, and helping protect livelihoods. After the poor rains in late 2014, the system paid out £18 million to Senegal, Mauritania and Niger, providing food for 1.3 million people and fodder for nearly 600,000 livestock.

Before I conclude, I will respond to some of the questions asked by noble Lords. My noble friend Lord Selborne asked about the national risk register. He rightly drew attention to the importance of the role that that plays in the discussion on national infrastructure and resilience investment. The national risk register and the national risk assessment are based on, and rooted in, scientific evidence. The Government Office for Science and the broad range of stakeholders that it represents are important partners in delivering a rigorous and evidence-based assessment of the hazards and threats faced by the UK.

My noble friend also asked about DfID building resilience to pandemics such as Ebola. The UK led the international response to the Ebola crisis in Sierra Leone, and we have committed £427 million. The response brought together 10 government departments and four other non-public bodies, along with non-governmental organisations and charities. While huge challenges remain to help Sierra Leone rebuild its economy, the rapid and flexible cross-government UK action helped to save several thousand lives and put a halt to the outbreak of the disease spreading further. We must also pay great tribute to the people of Sierra Leone themselves, who were on the ground working very closely with UK personnel.

The noble Lord, Lord Hunt, mentioned targets and earthquakes. Sendai is designed as a broad framework with guiding principles and priorities for action and increased strengthening of the role of the Science Advisory Group. Our expertise has long played a strong role and will continue to do so, but it is important to ensure that all forms of disaster are covered. We also need to make sure that we work with partners so that they will also be able to strengthen their systems.

The noble Lord, Lord Collins, mentioned gender, and how we are supporting and protecting women and girls in disasters. As the noble Lord is aware, it is a subject very close to my own heart and very much at the centre of all the programmes that DfID is working

[Baroness Verma]
in. We know that data are limited and that there is evidence that more women are likely to die after a disaster than men. Similarly, child sexual abuse has historically increased after emergencies, perhaps just because of the breakdown of social structures. The risks to survival of transactional sex are high, and the needs of women and girls are often overlooked during humanitarian crises. It is really important not only that we are only constantly mindful of that ourselves but that we remind donor partners with which we work and the countries in which we work that we should not overlook those challenging needs that particularly face women and girls. We are in a unique position, with both humanitarian operations and long-term development programmes, to address the immediate needs of survivors of disasters and those who are prey to sexual violence in emergencies. Ultimately, we need to tackle the underlying root causes of abuse so that gender inequality and discrimination are eradicated.

The noble Lord, Lord Hunt, asked about funding. As he is aware, we have scaled up our support to meet our share of the developed countries' commitment to provide $100 billion towards climate change activities. That is an increase of 50%, so our own contribution is $5.8 billion.

Lord Hunt of Chesterton: Does it focus enough on water?

Baroness Verma: My Lords, I hope that our response is comprehensive so that it takes into account all the issues that the noble Lord and indeed all of us should be concerned about on the effects of climate change. I am pretty certain that we will talk to colleagues to get a more detailed answer around the issue of water. While I was a Minister at DECC it was very much part of the wider debate, so I am pretty certain that it is not an overlooked subject matter.

Funding for work in response to climate change, for meeting our commitments and to meet other donors is done through the International Climate Fund. We work with our colleagues at DECC and Defra to make sure that not only do we reduce poverty and provide clean energy but we make sure that we are part of the economic growth agenda. Disaster financing should focus on the vulnerable, the poorest and those furthest away from help. It is likely that, while we are looking at development issues, we need to constantly make sure that humanitarian finance, which is currently under massive strain, is not overlooked and keeps pace with the rising need. Consequently, there is a need for Governments, businesses and individuals to build resilience against these disaster risks and develop rigorous disaster risk management strategies. Plans for risk financing, including insurance, should be an integral part of that.

I think I have run out of time, but I conclude by saying that the UK will meet its commitments under the new UK ODA strategy to strengthen resilience and our response to crises. The world humanitarian summit in May is a once-in-a-generation moment for the UK to showcase its experience and change the way that we work in the poorest and most fragile countries. As we come together to agree new ways of working to save lives and reduce hardship around the globe, the UK will play its role in making the summit a success. I pay tribute to my noble friend Lord Selborne, who reminds us of the work being done but also reminds us not to take our foot off the pedal in making sure that, as a lead development partner, we press other donors to implement and carry out their responsibilities, as the UK so successfully does.

Committee adjourned at 6.37 pm.

Volume 769
No. 130

Tuesday
22 March 2016

CONTENTS

Tuesday 22 March 2016

Grand Committee