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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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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

Thursday 23 February 2017

11 am

Prayers—read by the Lord Bishop of Southwark.

Royal Assent

11.06 am

The following Acts were given Royal Assent:
Commonwealth Development Corporation Act,
Cultural Property (Armed Conflicts) Act,
High Speed Rail (London–West Midlands) Act.

Terrorist Attack: Response
Question

11.06 am

Asked by ***Lord Jordan***

To ask Her Majesty's Government what steps they are taking to promote the work of charities such as citizenAID which seek to educate schools, universities, businesses and the general public on how to help the seriously injured in the event of a terrorist attack.

The Minister of State, Home Office (Baroness Williams of Trafford): My Lords, initiatives such as citizenAID are welcomed. Its work has been promoted by the police, who lead on communicating counterterrorism advice to the public. The Government continue strongly to support the established police guidance, which is "Run, Hide, Tell" during a terrorist incident.

Lord Jordan (Lab): I thank the Minister for her reply, but more must be done. The country's Security Service tells us that the question about the next terrorist attack is when, not if. Experience tells us that when it happens, the chaos and the programmed caution of the emergency services result in delayed treatment of people whose lives could be saved. Will the Government work with organisations such as citizenAID, which has brought together military and medical expertise and experience and drawn up guidance on what to do in a terror attack? If it were taught in schools' citizenship programmes and promoted widely through other means, it would enable people caught up in the tragedy of terror to make a crucial life-saving difference.

Baroness Williams of Trafford: As I said in my initial Answer, the Government welcome the work that citizenAID does. As the noble Lord said, it is made up of military and civilian doctors and gives very good advice on what the public can do, once they are safe, to help other people. I understand it has an app, which is readily available. In terms of PSHE, schools can decide in their areas what is important and a priority. For example, schools in rural Sussex may make decisions which are different from those made by schools in central London about what is important for their children in the lives they lead. We leave it up to schools. The Government certainly welcome the work that citizenAID is doing.

Lord Cormack (Con): My Lords, in expressing the hope that the police will become even more involved, would it be appropriate for us to send congratulations and good wishes to Cressida Dick on her appointment?

Baroness Williams of Trafford: My Lords, I am certainly very happy to send congratulations to Cressida Dick. I do not think I am the first Minister to do so, but perhaps I am the first Minister in your Lordships' House to do so. It is a very good appointment, and, of course, she is the first female Metropolitan Police Commissioner.

Baroness Walmsley (LD): Does the Minister agree that confidence that they know what they are doing enables people to step forward in these situations, rather like the rugby player who recently stepped forward to give first aid to a member of the opposing team? Does she therefore agree that it is in response not just to terrorism but to the ordinary traumas of everyday life that we should all have a look at the citizensAID training?

Baroness Williams of Trafford: The noble Baroness makes an important point. It is about the simple things, and the benefit of the citizenAID app is that there are very simple things that people can do, once they are in a safe place themselves, to help people and potentially save lives.

Baroness Jowell (Lab): My Lords, will the Minister accept that these responsibilities should be carried not by NGOs alone but also by government? I speak as the Minister who led the humanitarian assistance after 9/11 and after 7/7, during which an enormous amount was learned about how to provide the right level of support for bereaved families and survivors. It is vital that that capacity and capability exists within government, working with NGOs, if those bereaved and those who survived are to have a chance of recovering their lives.

Baroness Williams of Trafford: The noble Baroness makes a vital point. In any disaster that I can think of, whether flooding, a terrorist attack or anything else, it is through everyone working together, and that mutual assistance from agencies working together, that we get the best outcomes for our citizens in such awful situations. The noble Baroness is absolutely right.

Lord Marlesford (Con): My Lords, as we are talking about terrorism, may I take this opportunity to ask the Government when they expect to stop allowing themselves to be blackmailed by terrorists and their advisers into paying out large sums in order to protect our security services?

Baroness Williams of Trafford: I think my noble friend knows he is completely off the scope of the Question. I cannot talk about specific incidents because of course they are matters of national security.

Lord Reid of Cardowan (Lab): My Lords, of course prevention is always better than aid, assistance or cure. In view of the recent revelations about the threat posed by some of the people who came back from Guantanamo, do the Government now regret having watered down control orders and other supervisory measures immediately on coming to power in 2010?

Baroness Williams of Trafford: My Lords, some of the work that the Government have done in terms of disrupting journeys through the Prevent programme has been very effective, both in preventing people going to Syria and in preventing people's minds being poisoned by certain ideologies which run contrary to our rule of law.

Lord Rosser (Lab): The Question is about the Government promoting and supporting charities which give guidance to the public on how to react in the event of a terrorist attack, but we also need to support those trying to prevent terrorist attacks in the first place, and we too extend our congratulations to Cressida Dick on her appointment as the next Metropolitan Police Commissioner. Could the Government say whether they have had any concerns raised with them, other than in Parliament, about the actual or potential impact of cuts in police budgets—whether already implemented or now being required to be made in police budgets—in real terms on the effectiveness and thoroughness with which the police will be able to play their part in preventing and combating acts of terrorism in the future? If so, from what sources have those concerns come and what has been the Government's response to them?

Baroness Williams of Trafford: I can tell the noble Lord that £144 million over five years has been put into armed policing capability, which is obviously vital in situations such as this, to allow them, as he says, to respond more quickly in such eventualities. The number of armed police will increase by more than 1,000 over two years, and additional round-the-clock specialist teams will be deployed outside of London. In addition, there will be 40 extra armed police response vehicles on the street.

Tobacco Control Plan

Question

11.14 am

Asked by ***Lord Rennard***

To ask Her Majesty's Government whether they will maintain their commitment to reducing smoking prevalence by publishing the latest Tobacco Control Plan for England without delay.

The Parliamentary Under-Secretary of State, Department of Health (Lord O'Shaughnessy) (Con): My Lords, the Government remain committed to reducing the harm caused by tobacco. We should be proud of the progress we have made in reducing smoking rates to a record low in this country. Our new tobacco control plan will build on this success. We are at an advanced stage of development of the plan, and we will be publishing it shortly.

Lord Rennard (LD): My Lords, in the north-east of England smoking rates have fallen by about one-third in recent years, thanks in part to the very cost-effective mass media campaigns run by Fresh North East, the regional tobacco control office. Nationally, though, funding for such cost-effective campaigns has been reduced to less than one-quarter of pre-2010 levels. Can the Minister reassure the House that the funding for such cost-effective campaigns will be restored in the new tobacco control plan?

Lord O'Shaughnessy: The noble Lord is quite right to highlight the effectiveness of mass media campaigns, and they will continue to be part of the new tobacco control plan. These include Public Health England's Stoptober campaign and the health harm campaigns. The noble Lord gives us an example of an effective local campaign. I would also highlight the "16 Cancers" campaign in Yorkshire and Humber, which saw 740,000 smokers recalling the campaign and half of them taking a quit-related action.

Lord Faulkner of Worcester (Lab): My Lords, the Minister will be aware that in her first major speech as Prime Minister Theresa May committed the Government to fighting against the burning injustice that if you are born poor you will die on average nine years earlier than others. Bearing in mind that the difference in life expectancy is due to much higher rates of smoking among poorer people, will the Minister confirm that the target of reducing smoking among poorer people is absolutely at the forefront of the Government's priorities?

Lord O'Shaughnessy: The noble Lord makes an extremely important point. There are big variations in levels of smoking, not just by socioeconomic group. I was disturbed to see that 37% of people with mental health conditions smoke, which is twice the overall prevalence. We also know that there is a huge variation in the number of women who smoke when pregnant. Targeting that variation, which has a number of dimensions, will be a core part of the strategy.

Lord Patel (CB): My Lords, there are 4,500 admissions to hospitals per day of people suffering from smoking-related diseases, and over 80,000 people per year die from such diseases. I know the Government have stated their plan for a policy that will reduce this harm. In that context, does the Minister think there might be lessons for us to learn from Finland's plan to be tobacco-free?

Lord O'Shaughnessy: I will certainly look at what they are doing in Finland. I was not aware of that, and it is a very ambitious goal. As a former smoker, I have to say I know the benefits both in health terms and in my pocket from reducing smoking. It is essential that we continue on the trajectory of reducing smoking that has been going for a long time. England is a world leader in this area, and we should recognise that. There has been huge success but clearly there is a lot more to do.

Lord Ribeiro (Con): My Lords, in a recent survey the British Thoracic Society found that 72% of hospital patients who smoked were not asked if they wanted to

quit. Will my noble friend assure me that the promised tobacco control plan will ensure that hospital patients who smoke will get the support they need to quit?

Lord O'Shaughnessy: My noble friend makes an excellent point. Indeed, the Royal College of Surgeons of Edinburgh has just started a campaign to encourage clinicians to help their patients to stop smoking, and making sure that that happens is clearly going to have benefits for the kind of major surgery that some of the people who are suffering severe effects of smoking will need to have.

Lord Hunt of Kings Heath (Lab): My Lords, I noted that the Minister said the tobacco control plan will be published shortly and that it was in an advanced state of preparation. That was the same answer that his honourable friend the Public Health Minister gave in another place on 15 November 2016. The last tobacco control plan actually ran out at the end of 2015, so the new one is 14 months late. When exactly will it be published, and what has been the delay? Could the reason have been the decimation of the public health budget for local authorities, which has had a devastating effect, with reductions in preventive programmes at a local level?

Lord O'Shaughnessy: I understand the frustration at the delay in publishing the plan. That does not mean that action has not been taking place: all the action set in train under the previous plan has been taking place throughout that period. As I said, the new plan will be published shortly. I look to my noble friend Lord Ahmad, who has given several master classes in the use of words to describe "shortly" in different ways. I will save a few of those for any future Questions and stick with "shortly" for now.

Baroness Brinton (LD): My Lords, the most recent report on child uptake of smoking by area shows some alarming figures of how many children start smoking every day. Given that it has been 100 days since the Government said that they would publish a new report, 67 children a day in London have taken up smoking, which makes 6,700 children in London alone. Do the Government not recognise the urgency of the plan's publication, not just for the wider protection of our country but specifically for the most vulnerable of our children?

Lord O'Shaughnessy: I agree with the noble Baroness. It is worth pointing out that 8% of 15 year-olds smoke, which is obviously eight percentage points too high, but it is down from 15% in 2009, so things are moving in the right direction, although we are absolutely not complacent about it. We have taken action that is reducing the number of children who smoke. In particular, we have banned displays in small shops, which normalise that activity for children, who might be with their parents and see them—marketing is very clever at catching the eye. That is happening. As I said, we will be publishing the plan shortly and it will have reducing smoking among children as a key part.

Lord Lawson of Blaby (Con): My Lords, given that the Royal College of Physicians has agreed that electronic cigarettes are the most effective way of getting smokers away from the habit of smoking tobacco, will the Minister ensure that when the much-desired great repeal Bill comes along, dealing with the adverse effect of the tobacco products directive, which prevents the transition to e-cigarettes, will be a high priority?

Lord O'Shaughnessy: My noble friend is right to raise the issue of e-cigarettes. Something like half the 2.8 million current users of e-cigarettes are no longer smoking tobacco, so it has proved to be an extremely effective way of helping people to stop smoking. The UK has one of the most welcoming approaches to e-cigarettes in the world. We have a proactive approach of encouraging smokers to switch to vaping, and ensuring that that continues will be a part of the plan.

Baroness Farrington of Ribbleton (Lab): My Lords, I declare my interest. Will the Minister have regard to a comment from a grandson? I asked him whether he smoked. He said that most of his friends did, but he did not because he thought it was something old ladies do. He was very polite about it and said he did not want to be rude. Would it not be better to discourage young people by showing pictures of old ladies smoking, because none of the young people concerned want to look like old ladies?

Lord O'Shaughnessy: I would not like to comment on the particular instance to which the noble Baroness refers, but she is quite right about role models. Part of the importance of ensuring that there is no longer smoking in public places is that we do not want young people to think that it is normal, as it were, to smoke but something, whether it is for old ladies or not, that should not be done.

HS2: North of England and Scotland

Question

11.23 am

Asked by ***Lord Shipley***

To ask Her Majesty's Government what plans they have to ensure that HS2 will maximise links between cities in the north of England and with Scotland.

The Parliamentary Under-Secretary of State, Department for Transport (Lord Ahmad of Wimbledon) (Con): My Lords, HS2 will have a transformational effect on journey times between cities in the north of England and with Scotland. To build on the opportunities HS2 provides, northern powerhouse rail is being planned to spread connectivity across the north of England. In addition, the Department for Transport is working closely with Transport Scotland to study all options with strong business cases to further improve capacity, reliability, resilience and journey times between Scotland and northern England.

Lord Shipley (LD): My Lords, I thank the Minister for his reply and acknowledge the good work being done by various organisations, not least Transport for the North. But I should like to address a specific issue about HS2 and the eastern leg, which as currently planned fails to link Newcastle with Leeds. In addition,

[Lord Shipley]
Newcastle is the terminus for the HS2 rolling stock on the eastern leg and, as it is the terminus, all passengers on it will have to change trains to travel further north towards Scotland. Would it not be better to have HS2 on the eastern leg linking our cities properly in an integrated fashion that links rail with our cities?

Lord Ahmad of Wimbledon: The noble Lord raises an important point about connectivity. In my initial Answer I referred to the important work that was being done by northern powerhouse rail. In that regard, let me assure him that a single strategy is being worked out with northern powerhouse rail, the DfT, Network Rail and HS2 to produce a single strategy—not shortly, but by the end of 2017. That will include all major cities in the north, including Liverpool, Manchester, Hull, Newcastle, Leeds and Sheffield to ensure greater connectivity in that regard.

Lord Clark of Windermere (Lab): On what basis is the Minister saying that services from Scotland and the real north of England—shall we say Carlisle?—will actually be speedier? Is it not true that the HS2 rolling stock cannot run on conventional rails, and that the service after HS2 north of Manchester and Leeds to London will actually be slower than it is now?

Lord Ahmad of Wimbledon: On faster services from London to Scotland—and that includes to the cities of Glasgow and Edinburgh—once the second phase of HS2 is complete, we are talking of journey times of three hours and 40 minutes. The noble Lord is right to raise the issue of infrastructure, particularly in terms of the tracks themselves running in the northern part to Scotland. We are working with northern powerhouse rail, to which I alluded earlier, and indeed Transport Scotland to see what further work can be done to reduce journey times. The aspiration, of course, is to reduce the journey time to below three hours.

Lord Watts (Lab): Why have the Government delayed introducing a Bill to extend the track to the north-west?

Lord Foulkes of Cumnock (Lab): And Scotland.

Lord Watts: And Scotland.

Lord Ahmad of Wimbledon: I do not think that this is about delays. I am sure that the noble Lord heard the Lord Speaker announce the fact that today we received Royal Assent for the first part of HS2. It is important that work gets under way in that regard and we will bring forward legislation on phases 2A and 2B of Network Rail later this year, I hope.

The Lord Bishop of Chester: My Lords, currently there is an excellent two-hour direct service at 125 miles an hour between London and the city of Chester. Will being able to get to Manchester—wherever Manchester is—in an hour call into question the current excellent direct service between London and Chester?

Lord Ahmad of Wimbledon: I believe that Manchester will stay where it is. I look to my noble friend Lady Williams on my right, who knows Manchester very well. This is about being quicker and about improving capacity and connectivity. The building of HS2, along with the plans that are under way with northern powerhouse rail, will address both issues, which is extremely important for people not just in the south and the Midlands, but to the north and indeed for Scotland as well.

Viscount Ridley (Con): My Lords, further to the Question asked by the noble Lord, Lord Shipley, in what year will HS2 or its extension reach Newcastle, and how old will my noble friend be?

Lord Ahmad of Wimbledon: Crystal ball gazing is not my expertise, but it is important that this is a phased project. It is right to look at building the first phase of this project. I am being advised by certain noble friends that I should say "shortly". Perhaps I will not go to that extent, but I have already indicated that northern powerhouse rail, together with DfT, Network Rail and HS2 are already undertaking work, and we will produce a report towards the end of 2017 that will underline the importance of this connectivity.

Lord Rosser (Lab): My Lords, can I ask when the final route plans for HS3—

Lord Shutt of Greetland (LD): My Lords—

Noble Lords: Order!

Lord Rosser: Can I ask—

Lord Shutt of Greetland: Come on—get back to me.

Noble Lords: Order!

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, this is not the kind of behaviour we want to see during Question Time. We will go to the Labour Front Bench.

Lord Rosser: My Lords, can I ask when the final route plans for HS3 will be published, and when the hybrid Bill for the next stages of HS2 to Crewe, Manchester and Leeds will be published? I hope that the Minister will be able to answer that question, but of course if he cannot he could always say "shortly".

Lord Ahmad of Wimbledon: I will be the first to say that perhaps we are overusing the word "shortly" in this regard. On the first part of the noble Lord's question, about links between the great cities of the north, I have already indicated that a report on a single integrated strategy will be produced by the end of 2017. We hope that the Bill for the next phase of HS2 will be introduced later this year, as I have also already indicated. Once I have a specific date, I will of course share it with your Lordships' House.

UK Sport: Elite Sport Funding

Question

11.30 am

Asked by ***Lord Addington***

To ask Her Majesty's Government, in the light of recent decisions taken by UK Sport, whether they will consider a review into how the criteria for elite level sport funding are set.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, decisions on elite funding allocations are for UK Sport to make, not the Government. That funding must be invested strategically in the right sports, athletes and support programmes to deliver medal success. UK Sport's no-compromise approach delivered our greatest Olympic performance in a century at Rio 2016, making the country very proud. I hope that Team GB's amazing success in Rio will be repeated at Tokyo 2020.

Lord Addington (LD): I thank the Minister for that reply, but does he not consider that we should expand our base of elite, medal-winning sports and not simply the number of medals? For instance, if we have a sporting culture where we dominate one or two sports, we are in danger of stopping the encouragement of grass-roots participation across a much wider range of sports in which to win medals.

Lord Ashton of Hyde: Of course, that is exactly what the Government are doing. By spending about four times as much on Sport England, they aim to encourage activity and sporting achievement, which will lead to elite sport level. However, the remit for UK Sport is to win medals at the Olympics, and it has achieved that in spectacular fashion.

Baroness Grey-Thompson (CB): My Lords, I declare an interest in that I am chair of ukactive, but I was also a lottery-funded athlete so I understand the complexities between UK Sport and Sport England. For us, as a small nation, to win medals is amazing, but medals do not increase participation and inactivity costs our nation £20 billion a year. Wheelchair rugby came fifth at the Paralympics last year—an amazing achievement, but with no funding there is little chance of the team making the Paralympics again, which will destroy participation. Is it not time to look at a funding model that guarantees an opportunity to participate but goes beyond just winning medals? Does our nation not deserve more than that?

Lord Ashton of Hyde: My Lords, that is a very valid question for debate. In fact, my noble friend Lord Elton raised exactly that subject when we discussed this about two weeks ago. I am not sure that I agree with the noble Baroness that winning medals does not encourage participation. After each Olympics when we do well, there is a great resurgence in interest in sport. However, there is a genuine debate on whether we should concentrate on medals or broaden the appeal. Medals are not the only thing that matters, but they matter a lot to a lot of people. For the next Olympic cycle we have given UK Sport a remit to win medals, as it has in the past, but I accept that in future we may want to change that.

Lord Watts (Lab): My Lords, following on from the last question, do not all elite athletes have to start at the grass roots? What does the Minister think about the fact that any coach taking children has to pay £200 out of their own pocket to do the courses required?

Lord Ashton of Hyde: I agree that every elite athlete has to start at the grass roots. That is why the Government, using National Lottery funding as well, spend about four times as much on grass-roots sport as they do on elite sport, as I said. As a result, 340,000 more people play sport once a week than did so a year ago.

Lord Bradshaw (LD): My Lords, UK Sport, which funds our chase for medals, is funded by the National Lottery. Does the Minister know—perhaps he could write to me—what other national lotteries, such as the health lottery, contribute? They compete with the National Lottery. Do they send an equivalent amount of money to the courses that they purport to represent?

Lord Ashton of Hyde: First, it is not true to say that the National Lottery is the only thing that funds elite sport. The Exchequer funds it as well and increased its funding by about 29% in the 2015 spending review. As for the potential problems for the National Lottery from the health lottery, it is very important that people should be able to spend their own money on the good causes that they want to, be it health lotteries or sport. To put this in perspective, the health lottery had sales of £81 million in 2015 and, in the same period, the National Lottery had sales of £7.2 billion.

Lord Wigley (PC): My Lords, the Minister will recall the report from the committee looking into the legacy of the London Olympics, which emphasised the key role played in schools. In the present period of economic cut-backs, can he ensure that sporting facilities in schools are safeguarded?

Lord Ashton of Hyde: I think that is a matter for the Department for Education, but I will certainly take it on board. As we have said in the Government's sports strategy, which is under my department, through Sport England we are emphasising the importance of younger people getting involved. We have therefore extended the range of Sport England's responsibility for grass-roots sports, from the age of 14-plus down to five.

Lord Stevenson of Balmacara (Lab): My Lords, we have had two series of decisions by UK Sport concerning Paralympic and Olympic sport—they have done superbly well and the number of medals is extraordinary for the size of our country. But the noble Baroness, Lady Grey-Thompson, makes a very good point. In the first round of that decision-making process, we lost seven sports, mainly those engaging women and also team sports. In the current round we have lost other sports, two of which were Paralympic sports and one of which may disappear altogether. It is time for a review, and I hope the Government can confirm that they will do that.

Lord Ashton of Hyde: As I said, the remit that was given to UK Sport applies to this Olympic cycle up to Tokyo. There is no guarantee that it will be same for the subsequent Olympic cycle. There is a genuine debate on this, as I have acknowledged.

South Sudan: Famine

Private Notice Question

11.37 am

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government how they intend to respond to the unfolding famine in South Sudan.

Lord Alton of Liverpool (CB): My Lords, I beg leave to ask a Question of which I have given private notice. In doing so I should declare that I am an officer of the All-Party Group for Sudan and South Sudan.

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, the humanitarian situation in South Sudan is deeply concerning; 4.9 million people do not have enough to eat and famine has been declared in Unity state. The Secretary of State this week announced a £100 million package of emergency assistance that will feed 500,000 people. We are monitoring the situation closely and working with other donors to prevent the famine spreading to other parts of the country.

Lord Alton of Liverpool: My Lords, I thank the Minister for that response. Does he agree that the three-year civil war in South Sudan and the continuing conflict just north, in South Kordofan and Blue Nile in the Republic of the Sudan, have generated vast numbers of refugees and a consequential inability to grow and harvest crops, which should remain our priority in combating this man-made famine? What progress is being made in achieving this, obtaining access to closed areas in Unity state, and galvanising international efforts to save the lives of millions now at risk of starvation, malnutrition and famine?

Lord Bates: I am grateful to the noble Lord for raising that point and for his work in the all-party group, which produced a valuable report just yesterday on the general situation in the region. He is absolutely right: many of the crises that we face are not man-made, but this one most certainly is. I have just left an emergency planning meeting with co-ordinating partners on the situation in Somalia, where some 6 million people are at risk because of famine. We are doing the best we can there, but in South Sudan the frustrating thing is that, although we committed £100 million, the UN Mission in South Sudan is in place on the ground and many humanitarian workers are risking their lives to deliver aid. Unless there is implementation of the existing peace agreement, the future of the people in South Sudan, particularly women and children, looks increasingly bleak.

Lord Collins of Highbury (Lab): I congratulate the Government on their immediate humanitarian aid response and welcome the Secretary of State's commitment to engage with other donors, including the EU. This is all good news. However, in making that announcement, she referred to this crisis being caused by war and conflict. Last week, we debated Sudan in Grand Committee. The Foreign Office Minister, the noble Baroness, Lady Anelay, referred to our work in support of the African Union. Can the Minister reiterate what we are doing to build sustainable peace efforts and trade? This comes back to our previous point that development is about not just humanitarian aid but building peace and sustainability, particularly in Africa.

Lord Bates: The noble Lord is absolutely right and I appreciate his remarks. On the specific points that he mentions, we have supported and encouraged the work of the Intergovernmental Authority on Development—IGAD—which has led a lot of this work, and have worked through the UN Security Council on that. We have worked with international partners. We are part of the troika with Norway and the United States, which is key in intervening in this area. My noble friend Lady Anelay is looking at the work we are doing across the border, because, although some 3 million people are internally displaced, increasingly, as refugees flow across the border in search of support, that is destabilising other countries in the region. My noble friend Lady Anelay was in Uganda visiting one of the refugee camps. We have committed another £50 million of support in that regard. A huge amount has been done, but the UK cannot do this alone; the international community must step up to the plate. We need to see more action there.

Lord Chidgey (LD): My Lords, Radio Tamazuj in Juba reported on Tuesday that up to 5.5 million people are expected to be in food crisis in South Sudan by July. That is more than half the population. Pete Walsh, Save the Children's country director in South Sudan, says:

"While the threat of a famine … has been looming for months, the worst-case scenario has … become a devastating reality".

While the Government lead the response to Save the Children's campaign in many other ways, can the Minister tell the House that we consider that the lives of a million children facing death by starvation must be a priority? Will we invest particularly in nutrition centres and in improving farming methods to make sure that food with nutritious value saves them from severe malnutrition?

Lord Bates: The noble Lord, who knows a great deal about the African continent and has focused on this area, rightly puts his finger on the importance of nutrition. We had a very useful debate on that subject yesterday evening, in which we looked at the importance of that area. It is an area on which we are focusing our efforts and where we want to see further action. However, one of the great problems that we know of is that when there is a conflict situation, invariably it is in rural areas. People then leave those areas and go to urban areas, leaving the agricultural land untended and uncultivated. We are now coming to the peak growing season for food crops. Therefore, that movement of people has a double effect, which we must respond to.

Baroness Cox (CB): My Lords, is the Minister aware that people are already dying in large numbers in remote areas? For example, the Anglican bishop of

the diocese of Wau in Bahr-El-Ghazal has had to borrow money to buy food to save lives. He told me that he could not access DfID funding because the requirements are too bureaucratic and complex. What can be done to ensure that food reaches people in remote areas? Perhaps money can be made available through local NGOs, including the churches, which can reach all in need.

Lord Bates: I am grateful to the noble Baroness, who has worked tirelessly in this area of South Sudan. I will shortly meet the noble Lord, Lord Curry, and the Anglican international aid workers to see what more can be done. The Anglican Communion can be a real instrument for peacebuilding in that part of the world. We want to do whatever we can to help it.

Baroness Manzoor (Con): My Lords, I too congratulate the Government on the aid they are sending to Sudan. As we know, undernutrition and malnutrition disproportionally affect women and girls. Have the Government seen evidence that the aid they are sending is going to women and girls as well as men?

Lord Bates: That is a good point, and why we are deploying an additional 400 troops as part of the UN mission to ensure that aid reaches the people for whom it is intended. The £100 million announced yesterday will provide food assistance for over 500,000 people, nutritional support for 27,500 children, and safe drinking water for 300,000 people.

Lord Foulkes of Cumnock (Lab): My Lords, we cannot overstate the seriousness of the situation we face. As the Minister rightly said yesterday, this is only the second declared famine this century and we must do something about it. The European Union is the biggest donor of aid throughout the world. From my experience at DfID, may I make a specific practical suggestion? Why does our Secretary of State not ask for a special meeting of the development council, bringing together all the countries of Europe to consider what can be done, both bilaterally and multilaterally, before hundreds of thousands, if not millions, of people die?

Lord Bates: It is a very good suggestion. I will take it away and discuss it with colleagues and then write to the noble Lord.

Lord Popat (Con): My Lords, I recently had a discussion with President Kagame of Rwanda and President Museveni of Uganda. These two countries, particularly Uganda, have absorbed the highest number of refugees from South Sudan. What more support can DfID give them?

Lord Bates: I pay tribute to the work my noble friend does in that region as a trade envoy, which is important for the future. We are doing a great deal but more needs to be done. We know from these crises that the sooner the money gets there, the effect it has will be far greater than if it arrives two or three months down the line, so urgency is the message of the day.

Baroness D'Souza (CB): My Lords, as I understand it, some food is available—the problem is that it is too expensive for people to buy. Perhaps there is some mechanism whereby the UK Government, or indeed a collection of Governments, might intervene to stabilise the market or even to reduce the prices so that that food can be bought.

Lord Bates: The noble Baroness is absolutely right to raise that point. Inflation is now running at something between 500% and 800%, and that is where immediate cash transfers can come in. However, the Government of South Sudan need to take action themselves on controlling food prices, which has happened in other countries.

Housing and Planning Act 2016 (Permission in Principle etc) (Miscellaneous Amendments) (England) Regulations 2017

Motion to Approve

11.47 am

Moved by ***Lord Bourne of Aberystwyth***

That the draft Regulations laid before the House on 20 December 2016 be approved. *Considered in Grand Committee on 21 February.*

Motion agreed.

Scottish Fiscal Commission Act 2016 (Consequential Provisions and Modifications) Order 2017

Motion to Approve

11.47 am

Moved by ***Baroness Mobarik***

That the draft Order laid before the House on 19 December 2016 be approved. *Considered in Grand Committee on 21 February.*

Motion agreed.

National Health Service Commissioning Board (Additional Functions) Regulations 2017

Motion to Approve

11.48 am

Moved by ***Lord O'Shaughnessy***

That the draft Regulations laid before the House on 9 January be approved. *Considered in Grand Committee on 21 February.*

Motion agreed.

Health Service Medical Supplies (Costs) Bill

Third Reading

11.48 am

Moved by ***Lord O'Shaughnessy***

That the Bill be now read a third time.

Clause 9: Provision of information to Secretary of State and disclosure

Amendment 1

Moved by ***Lord O'Shaughnessy***

1: Clause 9, page 7, line 38, leave out "UK health service products" and insert "a particular UK health service product"

The Parliamentary Under-Secretary of State, Department of Health (Lord O'Shaughnessy) (Con): My Lords, there are two sets of amendments within this grouping. The first comprises small amendments relating to the circumstances in which the Government would be required to provide producers with an information notice. The second relates to the arrangements required for implementation of the legislation in Northern Ireland.

I turn, first, to Amendments 1 and 2. Amendment 1 clarifies that an information notice is required in respect of the costs incurred by a company in connection with the manufacturing, distribution or supply of a particular UK health service product. Amendment 2 is a technical drafting change to further clarify the intent of this clause and the type of transaction being contemplated.

On Report, I tabled amendments to the information requirements that would necessitate the Government issuing an information notice if they wanted UK producers to provide certain cost and profit information. This was in response to reasonable concerns raised by several noble Lords that attributing costs and profits to individual products, as opposed to simple aggregate-level data, would be burdensome for companies. The amendments that I have brought forward today reinforce these information notice procedures by clarifying that they apply to cost and profit information relating to individual products but not to aggregate-level data across a portfolio of products supplied by a company to the health service.

As I explained on Report, we already collect cost, sales and profit information on an annual basis under our voluntary scheme, the PPRS. This information is supplied at an aggregate level across a range of branded medicines supplied by a company to the health service. Clearly we need to be able to continue to collect these data in a routine way in order to maintain the voluntary scheme, and indeed to collect a similar type of routine aggregate-level company information in any future statutory scheme.

These amendments enable us to continue with the current approach to collecting company-level data in a non-bureaucratic way while, critically, ensuring that the information notice procedure, which was a concern of noble Lords, is focused on the area which we know is the greatest burden to companies—providing cost information on a product-by-product basis. I am pleased to say that my officials have discussed these amendments with the ABPI, the trade body for the pharmaceutical industry, which is content that they address industry concerns.

I now turn to Amendments 3, 4, 5 and 6. As noble Lords know, most of the Bill extends to England, Scotland, Wales and Northern Ireland, with some elements extending only to England and Wales or only to Scotland. A legislative consent Motion is required from Scotland, Wales and Northern Ireland for the matters in the Bill that are devolved.

I am bringing forward these technical amendments to address the fact that the Northern Ireland Assembly was not able to complete the passage of its legislative consent Motion on the Bill before it dissolved, although significant progress had been made, with the relevant committee having given approval. Our amendments therefore seek to change the Bill to enable the Northern Ireland components to be commenced separately through regulations. These components of the Bill will be commenced only after legislative consent has been secured.

Lord Lansley (Con): My Lords, I do not propose to detain the House. I merely wish to thank my noble friend the Minister for the further clarification that Amendments 1 and 2, in particular, give to Clause 9.

I was among those who raised a concern. Although the industry completely understood that in order to make the PPRS effective there was a requirement for a scheme for the acquisition of data in aggregate, as my noble friend described, the powers would have enabled there to be a lot of demands for information which went beyond what had previously been required and which had the potential to be very intrusive. Under those circumstances, an information notice system, with proper details supplied to companies and with a potential appeal right, was required. We discussed that and I am very grateful to the Minister for taking it on board and putting in place something which I think will give considerable reassurance to the industry that the scheme will not be as burdensome as it could have been.

Baroness Walmsley (LD): My Lords, we on these Benches are also happy to support the amendments. Like the noble Lord, Lord Lansley, I have no intention of detaining the House with long-winded thanks. However, I want to voice my recognition that the Minister, in his new role, has both understood and responded to the issues raised on the Opposition and Cross Benches about the shortcomings of the Bill, which had been through the House of Commons without anybody noticing or trying to amend its unintended consequences, rather like the Article 50 Bill that we debated in this House on Monday and Tuesday.

Lord Warner (CB): My Lords, I thank the Minister for listening so intently during the proceedings and for his response. I am also grateful to those on the Front Benches opposite for their co-operative approach—they are a shining example to their colleagues in the Commons of how to be effective in persuading the Government to change their mind. I hope the Minister's emollient approach will continue when the Bill leaves this place

in relation to the new clause that we have put in at the front of the Bill, despite the advice he was given. I hope that good will will continue to operate as the Bill completes its passage through both Houses of Parliament.

Lord Hunt of Kings Heath (Lab): My Lords, I too welcome the amendments. Clearly, the Opposition will support them. I must remind the House of my presidency of the Health Care Supply Association and GS1 UK.

First, I thank the Minister and his officials for their warm co-operation. The ability to have a number of meetings has been much appreciated. This has been a very good example of cross-House co-operation. Various noble Lords, including the noble Lord, Lord Warner, and the noble Baroness, Lady Walmsley, worked very hard together on the core issue of ensuring that NHS patients get access to effective new medicines. I say to the Minister that I hope Clause 3 will remain in the Bill when it comes back to your Lordships' House, if indeed it needs to come back—I take the point of the noble Baroness, Lady Walmsley, that this House has done the job it is here to do: it has revised and scrutinised the legislation. I would have thought that the other place should simply accept the Bill as it is, and I hope the Minister will be able to confirm that when he responds. I also thank my noble friend Lady Wheeler for her tremendous support, and Dan Stevens, our health researcher.

It seems to me that the Minister has shown himself adept at handling health legislation in your Lordships' House, and so we look forward to the next health Bill. If he is looking for suggestions, we are going to have the great repeal Bill and perhaps we can look forward also to the repeal of the Health and Social Care Act 2012. That would bring great joy to many.

Lord O'Shaughnessy: I am very grateful to noble Lords for their support for these amendments. I am also grateful to my noble friend Lord Lansley, one of the architects of this new approach to information notices; that was extremely useful and we have ended up in a good place. I am grateful to the noble Baroness, Lady Walmsley, who I have enjoyed getting to know through the process of this Bill. She is quite right to emphasise the vital role that this House plays through its proper constitutional role in revising legislation—I will not say anything more than that. I thank the noble Lords, Lord Warner and Lord Hunt, both of whom have been in my shoes in the past. Good will will certainly operate, and I hope that both noble Lords, and indeed the noble Baroness, Lady Wheeler, have found me to be open, open-minded and willing to work with them. Throughout the passage of the Bill I have been keen to ensure that it is a proportionate response to tackle this challenge, and I think we are all agreed on that.

To conclude, I am delighted that we have come this far on the scrutiny of the Bill and are now debating the final amendments to bring it to a close. As we end Third Reading I would like to take this opportunity to place on record my thanks to all noble Lords who have taken part in the debates, beyond those I mentioned just now, throughout all stages in this House. It is fair to say that the collected efforts of this House in bringing together different views have paid dividends in the improvements that we have seen. It has been a good example of the rigour and attention to detail that this House is known for.

I particularly thank the many officials involved in the Bill, who have worked not only to support me but to ensure that noble Lords are briefed and that any concerns are addressed, within what at times have been very tight timescales. They have done a tremendous job and I am sure the House will join me in paying tribute to them.

Although this may not be the final word on the Bill, I am convinced that the House is sending it back to the other place having been significantly improved in key respects.

Amendment 1 agreed.

Amendment 2

Moved by ***Lord O'Shaughnessy***

2: Clause 9, page 7, line 39, leave out from "transaction" to end of line 40 and insert "between the producer and a UK producer for that product)"

Amendment 2 agreed.

Clause 13: Commencement

Amendments 3 to 6

Moved by ***Lord O'Shaughnessy***

3: Clause 13, page 14, line 34, after "10" insert "and 11(19)"

4: Clause 13, page 14, line 38, leave out "make"

5: Clause 13, page 14, line 39, leave out paragraph (a) and insert—

"( ) appoint different days, or make different provision, for different purposes or areas, and"

6: Clause 13, page 15, line 1, at beginning insert "make"

Amendments 3 to 6 agreed.

Bill passed and sent to the Commons.

Neighbourhood Planning Bill

Report (1st Day)

Noon

Amendment 1

Moved by ***Baroness Cumberlege***

1: Before Clause 1, insert the following new Clause—

"Duty to uphold neighbourhood development plans

(1) In exercising functions under the Town and Country Planning Act 1990 relating to development plans, development orders, planning applications and planning appeals, the Secretary of State, or any person appointed by him to exercise such functions on his behalf, must seek to uphold any relevant neighbourhood development plan, and in fulfilment of that duty must not override the provisions in such a plan except where the land is needed in connection with a national infrastructure proposal.

(2) If it is deemed necessary to override a neighbourhood development plan and require the provision of additional housing or other development, the Secretary of State must have regard to the policies of the neighbourhood development plan, in particular, policies for employment opportunities.

(3) If a neighbourhood development plan has been overridden in accordance with subsection (2) it is the responsibility of the local planning authority, in consultation with the

local community, to decide where it is most appropriate to provide the additional housing, and their decision must be accepted by the Secretary of State except where the land is needed in connection with a national infrastructure proposal."

Baroness Cumberlege (Con): My Lords, I should first declare my interests. I have a legal case pending. I have taken advice from the Clerk of the Parliaments and I have been told that the sub judice rule does not apply in my case. My other interests are in the *Register of Lords' Interests*.

It is good to be back in your Lordships' Chamber. We spent four days banged up in Grand Committee—perhaps that is not parliamentary language, but sometimes it felt like that—where we probed, examined and debated the Neighbourhood Planning Bill. Now that we are on Report we can go further and are allowed to vote on issues of importance.

Although the Bill may appear modest, it affects every community in England. It reflects the foundations of our society, now and in the future. It is not only about building houses, although we know that they are very much needed. It is about building homes, strengthening communities and ensuring that we create better lives for future generations. The public, parishes and local community groups have been inspired by the Localism Act and have set about producing their neighbourhood plans. Throughout our debates we have agreed that this is not a nimbys' charter. On the contrary, neighbourhood plans have been drawn up by good people suggesting sites for new homes, conscious of the public good.

During the course of the deliberations, the Government's White Paper was published, as was promised by my noble friend the Minister. In the White Paper we are told on page 17 that the Government is making it easier for communities to get involved and shape plans for their area. A little earlier it says that they are to be put in charge. This is very good news—but the Bill as drafted does not echo these admirable sentiments. On the contrary, it creates a gulf between these fine words and the reality.

In my community—and daily we hear of others—the cherished neighbourhood plan, created, lovingly researched and compiled, is cut to ribbons, first by the examiner, later by the inspector on appeal and lastly by a Secretary of State who cannot resist the temptation to meddle in business which is not his domain. His duty should be to uphold the neighbourhood plan except in the most extreme circumstances.

Throughout all stages of the Bill I have been clear and consistent. As I see it, the Secretary of State for Communities and Local Government is charged to produce policies which he and the Government believe are right for the country. His policy is to build houses speedily and where they are required and to cut the red tape that thwarts developers from developing. He should demand that sites already granted planning permission should be used and that affordable homes must make up a large part of the building programme. That is his remit and I applaud it, but thereafter it is the local planning authorities that should fulfil the desires and petitions of the Secretary of State in the best way they can with the benefit of knowledge of their local area. Furthermore, individual parishes, town councils and community forums, which have even more intimate knowledge of the communities they care about, should then be given specific parameters such as the number of houses required in their parish or bailiwick. They have a key role in determining where, when and what homes are needed. That fulfils their part in the local plan which, as I have said, is encouraged in the White Paper.

Planning is a somewhat opaque discipline. I have said previously that it is unlike medicine, which I know a bit about and which has centuries of scientific research and data to build on. Planning relies on policies, opinions and a plan-based system. I have to say that it is a system which has worked reasonably well in the past. Through my amendments, for which I am grateful to have strong cross-party support, I seek to make the responsibilities of both central and local government crystal clear: each should respect the remit of the other. I have tried to work with my noble friend and his department to see whether we can reach some sort of agreement on this, but, although I have refashioned all my amendments, they are again up for debate because I honestly believe that the Government do not trust the people and are seeking to micromanage local planning matters.

If each side would just stick to their knitting, these amendments would not be needed. If planners fail to deliver, the wrath of the Secretary of State is justified. Where the Secretary of State interferes with the neighbourhood plan he gets, and deserves to get, the wrath and indignation of those of us who have drawn up plans and had them approved by their local community through a referendum. Subsection (1) of my proposed new clause sets out clearly that when the Secretary of State or those appointed by him are exercising their functions under the Town and Country Planning Act 1990 they,

"must seek to uphold any relevant neighbourhood plan".

In addition, they would have a duty not to override the provisions in the plan unless the land is needed for a national infrastructure proposal. By that I mean that the land is needed for, say, an airport expansion, a major highway scheme or a rail scheme of national importance—we discussed HS2 earlier.

In subsection (2) I have provided that, if that is the case, the Secretary of State should set out his requirement for further housing but that he,

"must have regard to the policies of the neighbourhood development plan".

In our case, not only were our policies ignored—worse, they were reversed by the Secretary of State. We did not want street lighting because we are in a rural village. We have always opposed street lighting but he has insisted that it should be in place. We did not want five-bedroom houses. I know that they are very lucrative for the developer, but we actually have too many. He has planned them in. We wanted a break between our village and the next, but the parish boundary was ignored. No wonder we are furious.

Ancient boundaries should be respected. Communities want to keep their historic identity. Under subsection (3) of the proposed new clause, if more houses are required, it is not for the Secretary of State to decide where they

should be sited but the local planning authority, with the local community. The Secretary of State should not meddle in the minutiae of local planning. He should stick to strategy. That is his remit.

My noble friend Lord Bourne has been very generous and considerate to all noble Lords who took part at Second Reading and in Committee. He has looked at our amendments, he has given his time and he has been very diligent in trying to meet some of our concerns—as has his department. His department has been very courteous and considerate throughout. But I urge my noble friend not to give up now but to think a little bit more about how our system works and where the responsibilities lie. Perhaps he would like to think again about my amendments and see what he can bring back at Third Reading. I beg to move.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, I will say a few words which I think will help the House in the context of my noble friend's amendment. I am very grateful to her for the time that she has spent with me and my officials and for her championing of neighbourhood planning. However, contrary to the advice that she has had, I cannot say anything about her neighbourhood plan. I wish I could because there are things that I would deploy but the matter is sub judice and subject to appeal.

As I said, my noble friend has been extremely generous with her time on this important matter, meeting me five times in recent days to scrutinise the current framework for neighbourhood examinations, and has put her arguments forward for their reform. I am grateful to my noble friend and the noble Lords, Lord Kennedy, Lord Shipley and Lord Stunell, for the time they have given to work with my department to identify possible solutions to address their concerns. They brought practical experience and wisdom, for which my department has been most grateful.

I will take the opportunity to set out what we are already doing in response to these concerns because that is relevant to this amendment and others. I also want to be clear that I am continuing to look further at this matter and will keep noble Lords informed. It may be helpful if I put this in context. We are consulting in the housing White Paper on what changes may be needed to ensure that consultation and examination procedures for all types of plan-making are appropriate and proportionate. This provides an opportunity for communities and others with direct experience of the examination process to inform any reforms. I take this opportunity to encourage contributions to our consultation. Building on our discussions with my noble friend, we are also considering what additional material to support this consultation could be made available on our website.

I have also been talking directly to examiners to understand what action they will take now, independently of government, to ensure that communities and others have confidence in the examination process. Indeed, I had the first of these meetings yesterday with representatives of the Royal Institution of Chartered Surveyors, which manages the neighbourhood planning independent examiner referral service, and with a number of examiners. The referral service is one of the main providers of examiners used by local planning authorities. I am pleased to inform noble Lords that, in response to our discussions, RICS has committed to producing procedural practice guidance on examination by the autumn for the examiners it works with. The guidance will provide clarity and reassurance that an open and transparent process will be consistently applied to the examination of neighbourhood plans. I will endeavour to supply additional detail to noble Lords who have participated in discussions on the Bill as to how that will pan out.

We will also amend planning guidance to clarify our expectations of local planning authority engagement with neighbourhood planning groups before and during the examination process. We have already made amendments to the Bill in Committee that will enable the Secretary of State to, for example, require authorities to set out how they will provide advice to neighbourhood planning groups on the relationship between a neighbourhood plan and the plans that the authority has prepared or is preparing.

My noble friend and other noble Lords have also highlighted the technical knowledge needed to prepare a neighbourhood plan and the challenges that groups can face without access to specialist skills. We confirmed in the housing White Paper that we will make further funding available to neighbourhood planning groups from 2018 to 2020 and we are continuing to develop the tools and support available to neighbourhood groups. We are already doing more to promote the availability of these tools and resources.

12.15 pm

In addition, noble Lords have highlighted the need for technical support for neighbourhood planning groups and the need for a "health check" before a plan goes to examination. Importantly, we are making it easier for priority groups to get technical consultancy support, including all groups using their plan to allocate housing. The health check is available to anybody, and it is available to priority groups without charge. A health check is designed to identify critical issues at an early stage so that these can be addressed, thereby reducing the risk of significant modification of a neighbourhood plan once it has been submitted to a local planning authority.

I want to set out the context in which we are seeking to address concerns that have been brought forward. Work is continuing: the department has spent a lot of time with my noble friend, working very constructively together, and will continue to do so. I wanted to put that in context and I am grateful.

Lord Shipley (LD): My Lords, I should declare at the start of Report that I am a vice-president of the Local Government Association. I pay tribute to the tenacity of the noble Baroness, Lady Cumberlege, and for her work on a range of amendments, but this one in particular because it is terribly important. It is about giving confidence to those engaged in neighbourhood planning that what they achieve will not be turned over by the actions of some other authority. We also know that where we have neighbourhood plans 10% more housing gets built, so

[LORD SHIPLEY]
having confidence in the system seems to me to matter a very great deal. It is just very important that neighbourhood planning groups understand that their neighbourhood plan can be defended from predatory actions by the local planning authority, the Secretary of State or the Planning Inspectorate.

A number of noble Lords know examples of where an adopted neighbourhood plan is under attack from the local planning authority. Therefore, making sure that we have the statutory position absolutely clear matters a great deal, and for that reason I am fully behind this amendment. I very much hope that the words of the Minister will assist us. There is probably a further conversation to have. I think the fact that the Government have withdrawn the Henry VIII clause, Clause 40, is material here. Although the Henry VIII powers in relation to compulsory purchase will stay, they will not apply any further to the planning parts of the Bill and that is therefore certainly a move in the right direction.

The Earl of Caithness (Con): My Lords, I apologise to the House for not having taken part in the Bill so far: every time I wanted to take part I have been in the committee upstairs, and when one has such a clash it is quite right that one should not come in, but today is a different story. First, I congratulate my noble friend Lady Cumberlege on what she has done. She has taken up a point and run with it against very formidable odds and I commend her hugely for doing so. She has a very strong point in principle. I also think that it was very important that my noble friend Lord Bourne got up at the beginning of this debate and said what he did.

Before I go any further I declare an interest as a member of RICS, although I have not practised for many years. I was delighted when my noble friend said that RICS is flexible about this and about amending the instructions it gives. I can only add to what the noble Lord, Lord Shipley, said: neighbourhood plans are terribly important because they involve the neighbourhood. If people give their time freely and voluntarily to take part in putting these things together and they get kicked in the teeth, we will not get them to come forward a second time. It is hugely important for the Government's policy, which I totally support, that the right support and instructions are given all the way down to the examiners and local authorities. This is not just about housing; in Hammersmith, there is a draft neighbourhood plan and a planning application which would drive a coach and horses straight through it.

These issues will affect the local community and if, having put all that work in, the community is seen to be ignored then the Government's policy will fail. I hope that my noble friend Lady Cumberlege does not press this amendment because it is a very welcome sign that my noble friend the Minister said he is still considering it. I hope that the House will support the principle of the amendment but also support what my noble friend on the Front Bench is doing in giving this matter further thought.

Lord Porter of Spalding (Con): My Lords, I speak in support of the spirit of what my noble friend Lady Cumberlege is trying to achieve. I have previously declared my interests in debate on the Bill, in being chairman of the Local Government Association and the leader of South Holland District Council. I said at Second Reading that I am not a fan of neighbourhood plans and nothing that I heard then or since would convince me that they are a good thing per se. But if we are to use a neighbourhood planning system, I certainly support the idea that when such a plan has been tested by the public whom it affects and by the local planning authority, and has been found to be in compliance with the NPPF, only in very extreme cases should it be overturned.

None of the proposals going forward, such as about training RICS inspectors to make sure they know what they are talking about, will suit what we need from this. We need an assurance from the Government that if the community goes through the pain of preparing a plan, that plan will be respected once it has been tested unless there is a major infrastructure need at a national level that would trump it. Revisiting how it is built will not give people any more confidence in a plan being respected once it has been done. The respect for the fact that it has been tested in public should be paramount. The Government really should decide whether or not they like neighbourhood planning and, if they do, they should find a form of words somewhere to insist that neighbourhood planning will be respected. I hope that my noble friend Lady Cumberlege does not press this to a Division because I would obviously go through the Lobby with the Government, on the basis that I do not think neighbourhood plans are the right thing to do anyway.

Lord Kennedy of Southwark (Lab): My Lords, I start my remarks by making my usual declarations. I refer the House to my register of interests and declare that I am an elected councillor in the London Borough of Lewisham and a vice-president of the Local Government Association. I too pay tribute to the noble Baroness, Lady Cumberlege, who has led on this issue with considerable skill right from the start of our deliberations. We are all grateful to her for that.

Everyone who has spoken, with the exception of the noble Lord, Lord Porter, has voiced support for neighbourhood planning. It is right for the Government to set out the policy and parameters—the broad aims of what they want—but it must surely be the job of the local community, local councillors, the parish and local planners working together to set out in the context of that overall policy what should happen locally. The noble Baroness's amendment would do just that, with a number of sensible safeguards that should give comfort to the noble Lord, Lord Bourne of Aberystwyth. The amendment would place a duty on the Secretary of State to uphold neighbourhood plans, with the proviso that they can be overridden only in exceptional circumstances. The proposed new clause sets out clearly the responsibilities and how matters of national concern would not be frustrated by the neighbourhood planning process, which is a very important part to have in it.

Subsection (2) of the proposed new clause makes it clear that where it has been deemed necessary by the Secretary of State to override the local plans in the requirement to build additional homes, it must be

done with regard to the local plan. Again this is a very sensible proviso, as surely we want any changes made locally to be done as sensitively as possible, and not to have some sort of fire sale where everything is up for grabs and no account is taken of the views of local people and the work that has gone into producing the local plan. It should not just be ignored in that respect.

Finally, subsection (3) of the proposed new clause makes it clear that it is the responsibility of the local planning authority, with the local community, to decide where it is best to have any additional required development. That is, as always, making sure the Secretary of State is setting out the broad policy parameters, but it is the local community, local councillors and the planning authority deciding the detail in the context of that broad policy aim.

I agree with many of the comments of the noble Earl, Lord Caithness. The noble Baroness made her case very well. I welcome the points made by the Minister in his helpful comments at the start of the debate, but I am not sure he has gone far enough. The noble Baroness referred to coming back at Third Reading. The Minister talked about policy and guidance and what they are doing in the department, but—perhaps he will come to this in a moment—I did not hear him say what, if anything, he will bring back at Third Reading. I look forward to hearing that.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who have participated in the debate on this amendment, particularly my noble friend Lady Cumberlege, who is rightly acknowledged to have worked with great skill, diligence and good humour on this subject. It has been a pleasure to engage with her in this area and to make some progress on the issues we have been looking at.

It may be helpful if I say a little bit to put the Bill in context before I turn to the amendment. It is almost five years to the day since the people of Upper Eden in Cumbria went to the polls to vote on the first neighbourhood plan. Since then, we have witnessed what some have called a quiet revolution around England with more than 2,000 communities taking the initiative to shape the future of their area through neighbourhood planning. During the passage of the Bill, we have listened to some passionate arguments seeking a stronger voice for communities in local planning decisions. Communities are at the heart of this Bill, and I have been keen to respond to that.

Last year, the Government committed to this legislation to give additional strength to neighbourhood planning because neighbourhood plans are a powerful tool that bring with them responsibilities, and it takes significant commitment and determination to produce a plan. I am very keen on this issue, hence my earlier comments about ensuring that there is proper preparation and help in putting together a neighbourhood plan, which I think is where some of the problems arise. I cannot say anything specifically about the situation of my noble friend because it is sub judice, but in general, I think having that assistance at a very early stage will help communities. We will do our level best to ensure that all communities going through this process are aware of the help that is available. As I have indicated, I am happy to continue to engage with my noble friend on this subject, and I will keep noble Lords informed of the progress of those discussions, which have been ongoing and fruitful in many respects. Much of what we are doing here we are able to do without legislative intervention.

There is no doubt about the importance of the issues raised by the amendment moved by my noble friend Lady Cumberlege and supported by the noble Lords, Lord Shipley and Lord Kennedy. However, it would fundamentally change our planning system by removing the ability of those taking decisions to exercise their judgment when considering the planning merits of the case and the evidence for and against a specific development proposal, and the Government could not support that. We need to remember that the essence of planning decisions, particularly those on individual proposals for development, requires choices to be made. There must be freedom for decision-makers to make such choices according to the circumstances of the individual case. I certainly support the ambition behind the amendment to reinforce the primacy of the development plan, which incorporates the neighbourhood plan but is not limited to it. However, this amendment would elevate the policies in a neighbourhood plan above any other policies in the development plan, regardless of the relative weight the decision-maker considers should be afforded to individual policies in the development plan. Furthermore, the amendment makes no allowance for whether the policies in a neighbourhood plan have been kept up to date to ensure that they remain relevant.

To reiterate the point I made in Committee, the law is already clear that decisions on planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

12.30 pm

Subsections (1) and (2) of the proposed new clause address decisions on planning applications taken by the Secretary of State and planning inspectors acting on his behalf. In Grand Committee, I committed to sharing details of the planning appeals recovered by the Secretary of State in the year ending March 2016—sometimes, as I listened to the debate, it seemed that the Secretary of State was being characterised as somebody throwing thunderbolts all around the planning system in England. I confirm that a dozen appeals were recovered under the neighbourhood planning recovery criteria in that year, and have been decided. In all those cases, the Secretary of State's decision was in agreement with the planning inspector's recommendations, and in nine of them, the decisions were decided in line with the relevant neighbourhood plan.

On proposed new subsection (3), we wish to ensure that plans start from an honest assessment of the need for new homes. We recognise that neighbourhood planning groups need clarity about what their share of local housing need is, and that this should be agreed locally. The housing White Paper sets out our proposals, on which we are consulting until 2 May, to change the National Planning Policy Framework to indicate that local planning authorities should provide neighbourhood planning groups with a housing requirement figure where this is needed to facilitate

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progress of neighbourhood planning. To be effective, plans need to be kept up to date. As plans age, the policies they contain may become out of touch with changes both in the local area and to national policy. Where neighbourhood planning groups have chosen to allocate sites for housing, one way they may wish to provide flexibility to respond to changing circumstance is to allocate reserve sites which could come forward at a later date, for example in response to changing housing needs or because other preferred sites are no longer deliverable. It is for local planning authorities and their communities to work collaboratively to produce updated plans that are complementary. Measures in the Bill will support this process and ensure that local planning authorities keep their plans up to date, offer a more proportionate procedure for updating neighbourhood plans and pave the way for more informed and equitable discussions between local planning authorities and their local communities.

The current legislative and policy package, together with the action we have taken through the recent Written Ministerial Statement and the measures proposed in the recent housing White Paper, put beyond any doubt this Government's commitment to a plan-led system with communities at its heart. As I have indicated, I am very happy—as are the department and the Government—to continue talking to see if there are ways we can improve on this, although we have gone a long way in the discussions, as I think will be reflected in subsequent groups of amendments when we come to them. With this clarification, I ask my redoubtable noble friend Lady Cumberlege to withdraw her amendment.

Baroness Cumberlege: My Lords, I thank all noble Lords who have taken part in the debate. I agree very much with my noble friend Lord Caithness about the start of the debate, when the Minister told us about the new help they are going to give to those making local neighbourhood plans. As has been said, they are volunteers, not experts in planning. The additional help he has suggested will be warmly welcomed, and I thank him for it.

To take this in sequence, the noble Lord, Lord Shipley, made such an important point. When we start with a new policy and legislation and are trying to do something really quite different—this is about ensuring that local communities are in charge and can shape their local areas—clearly, we have to retain the confidence of the public. However, some of the things happening at the moment are ensuring that we lose the confidence of local communities who have put their heart and soul into drawing up their neighbourhood plans, sometimes for as long as five years—in our case it was two and half years. It is terribly important that if we are doing something different, we keep our populations with us.

The noble Lord, Lord Shipley, referenced new Amendments 64 and 68, which come right at the end of the Bill. He is perfectly right on this. It is a major change and I thank my noble friend Lord Bourne again for his generosity and for seeing the sense of what we trying to do with those amendments—although we will of course be debating them later on.

I really thought my noble friend Lord Porter was going to be a lost soul, but I do not think he is beyond redemption. His position is sincere. He is of course using his integrity and telling us that he does not quite believe in neighbourhood planning, but I will bring him around. I still thank him very much for his support for ensuring that when neighbourhood plans are drawn up they are not overridden, and that they should be upheld by the Secretary of State. I want to believe in this wonderful new policy and legislation. The Secretary of State should be the guardian of neighbourhood planning, yet we see different things happening in the countryside, which is very distressing for some of us.

I thank the noble Lord, Lord Kennedy, whose support has been stalwart throughout. I think of the very interesting debates in Committee—or maybe it was on Second Reading—when he came back and back. I thank him for that.

I have been very tempted to test the opinion of the House—I feel strongly about this issue, and I have had a great deal of support from across all sections of the House—and I thought, "Today is the day when I will actually test the feelings of the House", but I have listened to my noble friend Lord Bourne and heard him say he is prepared to have another conversation with me. As I say, he has been very generous with his time and efforts in meeting all our amendments all across the House.

I live in hope. I am going to read *Hansard* very carefully and consider what he said. I think he strongly made the point about the primacy of the local planning authority as opposed to the neighbourhood plan, so I need to think a bit more about that. I am not one who gives up easily and I will think about what has been said. I sense from other Members of the House that they do not want this tested today, but there is always Third Reading. I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Clause 3: Status of approved neighbourhood development plan

Amendment 2

Moved by ***Baroness Cumberlege***

2: Clause 3, page 5, line 7, at end insert—

"(3C) A neighbourhood development plan may include a phasing condition on development which is agreed with the local planning authority."

Baroness Cumberlege: My Lords, the amendments in this group concern the position of the examiner. An awful lot of annoyance has been caused by some of the work that the examiners have been doing. I am sorry, these speaking notes refer to the wrong amendment. I apologise to the House.

Amendment 2 refers to the issue of phasing. I feel that phasing is very rational in planning, not just in a neighbourhood plan or a local plan. Phasing is relevant to the developers as well as to those making the plan. Although the Secretary of State may be under the illusion that building hundreds of thousands of houses as quickly as possible is a good idea and that local authorities' neighbourhood plans should not frustrate that, the reality is that developers are acutely sensitive to demand.

There is a strong need for affordable houses, but for 60%—which for the purpose of distinction I shall call unaffordable houses—the market fluctuates. Developers are well aware of that; they do not want oversupply; and they hold most of the cards. There is a wide difference between the need for homes and people's ability to pay for them; we know that. Throughout the neighbourhood planning scene, phasing is being ruled out by examiners. The political imperative is houses today at any cost. If achieved, that would end in tears.

I have previously mentioned the uncertainty that Brexit brings. A headline in yesterday's *Guardian* read:

"Concerns grow among top City bankers that losing access to the single market will force a wave of relocations and lead to the 'unwinding' of key businesses".

We also know that the future of interest rates is uncertain. Above all, if we get a lot of relocations, we could have negative equity in the housing market, and we know that that certainly ends in tears.

Developers and neighbourhood planners have a plan to fulfil by 2030, not until the next election. The Government have a plan to fulfil nearly a quarter of a million houses by the next election, but neighbourhood planners and developers have a longer-term view, and land banks for developers will be kept or released as the market dictates, not as the Government wish.

Local and neighbourhood planners are fully aware that to absorb newcomers takes time, and the impact needs to be assessed. If established residents feel that they will be overwhelmed, this can have serious consequences for a community. Newcomers and bricks and mortar do not build strong communities; communities that care for each other and cost less for the state to support take time to build.

Those involved in healthcare are all too aware that a quick cure for cancer does not involve giving the full treatment in one go. That would prove fatal. With a rush of injections, the Government are trying to solve the housing problem. The scramble for rooves is a folly. Common sense from neighbourhood planners and economic savvy from developers are both sensible. Phasing must be a key component of proper planning. I beg to move.

Lord Kennedy of Southwark: My Lords, Amendment 2 in the name of the noble Baroness, Lady Cumberlege, concerns phasing conditions on developments, as discussed on the first day in Grand Committee on the Bill. The amendment is sound, and we are happy to support it. It provides for communities to agree with the local planning authority a phasing condition on new developments.

The noble Lord, Lord Bourne, may tell us in a moment that this can already be done and that the local plan should contain a realistic timescale for delivering development and putting in infrastructure, that decisions should be evidence based and are largely for the local community to take. That is fine, but he must answer the question: if you put all that in place, what happens when it is all thrown out by the examiner? We will listen to his response on that point with interest.

I want more houses to be built, but I also want them to be sustainable and carbon-neutral. We must learn the lessons of the past, not repeat its mistakes. With that, I look forward to the Minister's response.

12.45 pm

Lord Mawson (CB): My Lords, I was not going to speak in this debate, but having listened to the noble Baroness, having spent a large part of my working life in housing estates in the East End of London and having been responsible as a clergyman for dealing with the families of people who suffered from the social and economic devastation of a lot of the housebuilding of the 1960s and 1970s, which has been an absolute disaster, I worry a great deal when I hear politicians on all sides talking yet again about building more and more houses without talking about communities and place making. I am speaking to enforce absolutely what the noble Baroness has said. It is really important that we do not yet again allow the machinery of government, which has not changed since those days, to continue to be in real danger of repeating, with the best will the world, all the same mistakes with developers—many of whom I worked with and who are good people, actually. It is really important that we talk about place making and communities, and not just about building houses.

Lord Bourne of Aberystwyth: My Lords, I thank my noble friend for moving the amendment in the second group, and the noble Lords, Lord Kennedy and Lord Mawson, for their participation.

I can reassure my noble friend that the Government agree that development is about far more than just building homes—a point that the noble Lord, Lord Mawson, has just made very forcefully. It is about creating communities, and the essence of this piece of legislation, as we all affirmed when it was going through Committee, is not just about building more houses, although clearly as a nation we need to do that, but about ensuring that it is done at an appropriate local level and giving strength to communities. That is the essence of this legislation.

The recent housing White Paper is clear that communities need roads, rail links, schools, shops, GP surgeries, libraries, parks, playgrounds and a sustainable natural environment. Without this infrastructure, no new community will thrive, and no existing community will welcome new housing if it places further strain on already stretched local resources. I agree with that general point. It is very central to the legislation.

A key benefit of neighbourhood planning is that it enables local communities to provide a long-term strategy for housebuilding so that they can manage when and where homes are built in their local area. Depending on the local situation, the process may include consideration of the likely impact of proposed site allocation options or policies on physical infrastructure, such as the local roads network, and on the capacity of existing services, which could help shape decisions on the best site choices. That provision of local infrastructure could well justify phasing the delivery of development. It may also require neighbourhood planning groups to consider phasing the delivery of development to ensure that they have a realistic plan for delivering their housing policy within required timescales with the right facilities available for the community.

At this point, I must thank the noble Lord, Lord Kennedy. We are beginning to know each other so well in these exchanges that he is able to speak not only for

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the Opposition but for the Government—I know he is after my job, but there are limits. Neighbourhood planning groups are already able to phase development. We would encourage that, although it has to be appropriate to the circumstances of the local community. It must be backed up by clear evidence as to why there should be a restriction on when a specific site or sites should come forward for development. It should be evidence based, and we would all accept that. This is because we want as a nation to ensure the proposals are deliverable.

I agree with all the sentiments expressed in the debate, but I remind noble Lords that this facility is available at the moment. Provided it is evidence backed, it makes sense and is what local neighbourhood groups should be doing. The Government firmly believe that these matters are best dealt with by local communities and their local planning authority working together, as they are best placed to make decisions that affect their local area. With that reassurance, I ask my noble friend respectfully to withdraw her amendment.

Baroness Cumberlege: My Lords, I thank the noble Lord, Lord Kennedy, for his support throughout this. It seems to me that phasing is common sense. It does not have to be something that is scientific; it is very specific. I agree with my noble friend that it is up to local people. I am anxious to ensure that there is freedom with the Act, within planning appeals and applications, and that there should be an opportunity for phasing when the local community feels that that is right.

The noble Lord, Lord Mawson, has had real experience of huge developments across the country. He brings a very special quality to those developments in that he understands communities in a way that many of us do not; he knows the real detail. I have heard him speak on many occasions, and he is ensuring that what is happening works well. The noble Lords, Lord Kennedy and Lord Mawson, are right that we have to learn from the past and from when things have gone wrong.

I am grateful to my noble friend Lord Bourne and think that he does feel that there should be opportunities for this phasing to take place, where the local communities want it. I would like some more assurance, perhaps by letter or however he wants to communicate with me, that we can ensure that phasing is available to local communities. Phasing is not part of the way in which some of these neighbourhood plans are now being drawn up, because it is felt not to be appropriate. If we could have some commitment from the Government that it is appropriate, it would give a lot of comfort to a lot of people.

Amendment 2 withdrawn.

Schedule 1: New Schedule A2 to the Planning and Compulsory Purchase Act 2004

Amendment 3

Moved by ***Baroness Cumberlege***

3: Schedule 1, page 43, leave out lines 24 to line 8 on page 44 and insert—

> 12_ In exercising the powers conferred by sections 61E, 61F, 61G, 61K, 61L, 61M and 71A of, and paragraphs 1, 4, 7, 8, 10, 11, 12 and 15 of Schedule 4B and paragraphs 3 and 11 of Schedule 4C to, the Town and Country Planning Act 1990, and sections 38A, 38B and 122(1) of the Planning and Compulsory Purchase Act 2004, the Secretary of State must—
>
> (a) require the local planning authority to provide the qualifying body with reasonable assistance to secure that, as far as possible, the development goals of that body can be drafted in terms that meet the basic conditions in paragraph 8(2) of Schedule 4B to the 1990 Act;
>
> (b) enable the qualifying body to brief an appointed examiner on the broad goals of the neighbourhood plan proposal, in order that the qualifying body may take into account any initial views of the examiner before submitting a final proposal to the local planning authority;
>
> (c) provide the qualifying body and the local planning authority with the opportunity to attend and contribute to any meeting called by the examiner;
>
> (d) require the examiner to—
>
> (i) provide the local planning authority and qualifying body with a draft report and recommended modifications to the draft neighbourhood plan only if necessary to secure compliance with the four basic conditions;
>
> (ii) consider any representations made by the neighbourhood plan body with a view to better achieving the goals of that body;
>
> (iii) provide a final report, taking account of the responses of the local planning authority and neighbourhood plan body to the draft report, and giving clear reasons for any points which the examiner is not minded to accept."

Baroness Cumberlege: My Lords, the amendments in this group concern the examiner. The examiner comes into the scene quite late on when a neighbourhood plan is being drawn up. The examiner looks at the plan; he arrives; and in our case he did not talk to anybody. We were told that he had driven around the area, but we did not know that. We never saw him, met him or explained to him what we were trying to achieve. He disappeared and left us with sweeping changes to the years of work that had been undertaken by good people in the community—people who were the first to admit they were not professional planners. But our examiner was never seen. People say that their examiner did not understand. We hear people say that. The question is how to get this to work in a much more inclusive way, because the volunteers who make the development plan need to talk to the person who is examining it. The examiner needs to talk to the community to understand what it is trying to achieve.

There was a problem in our community because our village was at the vanguard of making a neighbourhood plan. When the examiner came in and made these enormous changes, of which we knew nothing until we received the written material that he gave us, we were completely dumbfounded. This was not the neighbourhood plan that we wanted to put to the public. It was a plan that was written by the examiner, who deleted pages and pages of our plan which we felt were informative and useful to the local community when it came to vote in a referendum.

I have probably been unfair and too hard on examiners, but I think that they have been tied up in a process that has not been inclusive and which Ministers, not least my noble friend, have recognised as unsatisfactory.

Of course examiners must respect planning policy in law and need to make sure that neighbourhood plans are sound and respected, and they do that. However, they do not take on the wishes and aspirations of the community. The makers of the plan have their expectations and it is right that the examiner should at least hear them and meet the community that is drawing up the plan.

The amendments that I am putting forward in this group are designed to bring mutual understanding and realise the aspirations of both parties. I am very pleased that my noble friend the Minister has encouraged me to negotiate with his department, following our debates in Committee. We may well see that we have a basis for agreement on these terms. His department was very kind to me and gave me a flow chart that was hugely helpful, showing how the process should work.

The first part of what I am trying to achieve is a pre-submission health check, which is offered through the department and done by an experienced examiner, drawn from a pool of examiners. This examiner will not be involved later on, but is there to make an initial assessment—a health check—concerning the ideas that are being put forward by the neighbourhood plan makers. Secondly, I think that there needs to be a clearer duty on the local planning authority to assist the qualifying body—the neighbourhood plan makers—with drafting, so that there is much less need for modifications later in order to satisfy the basic conditions. We have had an earlier debate on modifications and I have not put down an amendment on this occasion because I accept what my noble friend the Minister said about that issue. The third thing that is needed is a provision requiring the examiner to meet the qualifying body in advance of submitting a draft plan to the local planning authority. The purpose of this is to help avoid the need for technical modifications later and after the plan is submitted to the local planning authority and public representations are invited.

The fourth element is a duty on the examiner: where he is minded to delete or amend a housing or economic development policy, he should seek to reach agreement with the local planning authority and the makers of the neighbourhood plan about alternative locations and about the phasing of the plan. The fifth is a provision requiring the examiner to share a draft report, with proposed modifications if he feels that they are necessary. He should be open to suggesting alternative ways of meeting the problems identified, before signing off the examination. This is of course very common practice in the finalising of local development plans. Lastly, I think that there should be a duty on the examiner that, where there are concerns that remain about the drafting, he should seek to find alternative wording to achieve the aims of the plan-making body, rather than recommending crude deletions.

I have had a lot of discussion on this and I have very much welcomed the advice that I have had from my noble friend Lord Bourne and his department and I think that, if he were to consider some of six elements that I have put forward, we could come to some really good agreement at Third Reading. I beg to move.

Lord Shipley: My Lords, I want just to add a brief comment, but not to repeat what the noble Baroness, Lady Cumberlege, has said, about the importance of this group. Broadly speaking, the impact of Amendments 3 and 4 is to get people talking, relating to each other and understanding the variety of views that they may have. In Committee, I was struck by the amount of discussion that we had around the tendency towards desk-based decision-making in the planning system, either in terms of examination or in terms of planning appeals by the Planning Inspectorate—and so I think that this will help. The wording in Amendment 3 of proposed new paragraph 12(c), encouraging the qualifying body and the local planning authority to have an,

"opportunity to attend and contribute to any meeting called by the examiner"—

the terms of how a meeting can be called are fairly well defined—will really help, I think. When people talk to each other it becomes much easier to understand points of view.

The other thing that I recall from Committee which relates to Amendment 4 concerns the use of language. It is very difficult for lay people who are constructing neighbourhood plans to understand fully the implications of some of the professional wording. The Minister has taken this problem on board. Having the assistance of the Royal Institution of Chartered Surveyors and other professional bodies will help in this regard. Through talking and listening we will get a better definition of neighbourhood plans that will stand the test of time.

1 pm

Lord Mawson: My Lords, I was not going to intervene but this is a very important conversation in relation to this microexperience and the behaviour of the examiner, who I am sure is a very good and honourable person. However, this is not just about him or her building a relationship with the people on the ground who know the detail of the situation. I suspect that this is a clue to much wider things going on in our society. I have seen this all over the country and am experiencing it in 10 towns and cities in the north of England in which I am actively involved. Lateral conversations are taking place between the Government, civil servants, policymakers, academics and so on. Those conversations are profoundly out of date and do not cut through into real situations with real people, real places and real relationships. The modern world in which we live is all about people and relationships. It is not about systems, process and policy. I suggest that if government could find a way to encourage far more of these kinds of relationships to develop in relation to this microproblem, we might find a way to take the communities of this country into the new more entrepreneurial world we need to build within which they are active partners, not people who simply have something done to them.

Lord Kennedy of Southwark: My Lords, Amendments 3 and 4 in the name of the noble Baroness, Lady Cumberlege, carry on the same purpose of the amendments we have so far discussed today, which is to protect as far as possible the views and decisions

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that have been agreed locally. Where they are challenged, reviewed or modified, as far as possible the broad principles of what has been agreed locally should be kept on the table and changes that are deemed necessary should be sought within that framework and everything should not be thrown out and not taken account of. That is the broad thrust of these amendments.

These amendments seek to give local people a voice in a part of the process that can often appear very remote and where they may feel that they are powerless to affect the decisions that are being taken over decisions they have reached over a long period, working with the community, and over which they feel considerable ownership.

We all agree that we need more housing. I think that is something we can all agree on. But surely it must be better if we can agree on getting the homes built where we need them. Therefore, Amendment 3 seeks to include in the Bill a procedure whereby the local neighbourhood forum or parish council has the ability to appraise the examiner of what it is seeking to do and has the right to attend and contribute to any meetings that the examiner calls locally. It goes on further to require the examiner to provide a draft report and to have to consider any representations that are made before issuing the final report. I think that is a very sensible way of doing business which must surely lead to fewer disputes and fewer situations where local communities feel that they have put a lot of work into developing a neighbourhood plan only for it to be torn up, and they have had no ability to influence that process. Therefore, I certainly support these amendments.

As regards the points made by the noble Lord, Lord Mawson, I say to him that I grew up on a council estate in Southwark in the 1960s and 1970s. Therefore, I have some understanding of council housing and of some of the problems that have arisen. I am keen that we should build communities when we build new houses and that we do not make the mistakes that were made in the past. There was a lot of expectation and hype about the White Paper but then it seemed to disappear with a bit of a whimper. We will see what comes back on that but we need to look at building more council housing. I am not sure that we got that in the White Paper. Living in London, I know about the affordable rent model. I have told the House many times that when I walk to the station to come to the House of Lords, I look in my local estate agent's window and am shocked that people pay considerably more in rent than I pay for my mortgage on my little terraced house—indeed, something like twice as much. I do not understand how people can bring up their families when paying those levels of rent. I think back to the rent that my parents paid. They were still able to afford to send their children on school trips, look after them properly, buy them clothes and pay for the family to go on holiday. It is very difficult for families to do that now, especially in property hotspots, particularly London. I hope that I am wrong about the White Paper and that a lot of social housing will be built. However, that is not evident to me from what I have seen so far.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who have participated in this part of the debate. I shall deal briefly with the noble Lord's slightly off-piste points about the housing White Paper. It is open for consultation until 2 May. My honourable friend Gavin Barwell, the Minister of State in the other place, is going round the country publicising it. There is rightly a lot of interest in it as it deals with a lot of things, including the issue, which is part, but not the whole, of the solution—that is, building more council housing. In the last year for which records are available, we have already built almost as much as was built in the 13 years of the Labour Government, as the official statistics will bear out. That is not to say that we should not do more. Many issues are dealt with in that radical White Paper, which I know the noble Lord approves of.

I once again thank my noble friend Lady Cumberlege for tabling these amendments. As a department, we have worked with her on much of what is in them. I thank the noble Lords who have participated in this debate. I thank the noble Lords, Lord Kennedy, Lord Shipley and Lord Mawson, for their important contributions.

Throughout our debate today, and those in the other place, many who have spoken have drawn on their own direct experience of working with communities in support of neighbourhood planning. Noble Lords will know, as I have said, that I cannot comment on the specific situation mentioned by my noble friend because the issue is sub judice. However, I can comment more generally.

We have provided communities with the tools to shape the development and growth of their local area. My noble friend has rightly challenged us to ensure that this opportunity is reflected in communities' experience on the ground. We are very much in agreement that communities should not feel divorced from decisions about the neighbourhood plan that they have worked so hard to prepare, and that they should be alerted at an early stage if there are fundamental flaws with it. If that is not happening, then clearly a better dialogue is needed. I am a strong believer in dialogue. We have engaged in productive dialogue with noble Lords on this area, particularly with my noble friend, between Committee and Report. We are open to finding an appropriate solution. Part of that solution is ensuring that communities have access to the support and technical advice necessary to prepare a neighbourhood plan. Indeed, that is central. We have touched on this already today in considering the first group of amendments, when I set out what we were doing with regard to neighbourhood planning.

In Grand Committee, I set out the significant increase in grants and the range of technical support and advice now available through the Government's support contract. As I have already said today, this support includes a "health check" of a neighbourhood plan before it is submitted by an experienced examiner prior to the plan going forward to the local planning authority. Priority groups can access this without charge. Other groups will be subject to charge but can, of course, pay for that out of the allocation that they get from the Government, as it were, in relation to registering as a neighbourhood group, so those grants can be

used to pay for a health check. I encourage neighbourhood groups to do just that. I think it is the start of the process of understanding what admittedly can sometimes be very opaque language which is not always accessible to any of us, frankly, except people who are expert in planning law. My noble friend made that point forcefully and correctly.

On the details of my noble friend's Amendment 3, local planning authorities are already under a duty to provide support to neighbourhood planning groups. Measures in the Bill will ensure that this advice is clearly set out in one place, in their statement of community involvement—there is a government amendment to that effect. We expect authorities to work collaboratively with neighbourhood planning groups and seek to resolve any issues to ensure that the draft neighbourhood plan has the greatest chance of success at independent examination.

While I am sure my noble friend did not intend it, the amendment would significantly expand the assistance authorities must provide to include matters unconnected to preparing a neighbourhood plan or neighbourhood development order—for example, environment impact assessments. We could not support that. I am sure that that would be an unintended consequence of the amendment.

Noble Lords have heard concerns about the neighbourhood planning examination procedure. I and my officials have welcomed the opportunity to discuss this further with my noble friend and with the noble Lords, Lord Kennedy, Lord Shipley and Lord Stunell. We are consulting in the housing White Paper, which has been given a good build-up by the noble Lord, Lord Kennedy, on what changes may be needed to ensure that consultation and examination procedures for all types of plan-making are appropriate and proportionate. This provides an opportunity for communities, and others, with direct experience of the examination process to inform any reforms. This consultation runs up to 2 May.

My noble friend has raised a matter of great importance but one that requires careful consideration. We need to guard against introducing changes that may have unintended consequences. For the same reason, while I welcome my noble friend's championing of this issue, I fear that the practical effect of the amendment, as drafted, would be to introduce a number of changes that the noble Baroness almost certainly did not intend and which the Government cannot support.

By way of example, an examiner can only recommend modifications to a neighbourhood plan or a neighbourhood development order that are necessary for the plan or order to meet a set of basic conditions set out in the legislation and other legal tests—or to correct errors. There are currently seven basic conditions. The amendment as drafted refers to only four basic conditions, with no description of which ones are to be considered. Therefore, the examiner would not know which four of the seven current basic conditions they need to provide recommendations on following the examination of the plan. One consequence could be that development could be permitted through a neighbourhood development order that has a negative impact on, for example, a listed building or the character or appearance of a conservation area because the examiner was unclear what was within their remit to make recommendations on, and what was not. As I say, I am as close to certain as I can be that that was not intended.

With the assurances I gave previously on the continuing discussion on how we can improve the planning process and what we have already done on ensuring that health checks are there and that the RICS will produce the guidance, and so on, I respectfully ask my noble friend to withdraw her amendment.

My noble friend's Amendment 4 also seeks to improve the neighbourhood planning examination process. While the Government take very seriously the need for all those with an interest in a neighbourhood plan to have confidence in the process for examining a plan, we cannot support this amendment. By requiring an examiner to recommend alternative sites for housing and other developments, the amendment as drafted could reduce the opportunities for the wider community to influence decisions on where development will be. Therefore, counterintuitively, this would not be supportive of local decisions or of localism. This could risk undermining public support for a plan which will still need to be successful at referendum before it can come into force. It also requires an examiner to take decisions based on what may well be incomplete or otherwise imperfect information; for example, further assessments may be necessary to determine whether the development of alternative sites may have significant environmental effects or whether the sites can be delivered.

The amendment, as drafted, would significantly extend the matters that an examiner can consider and therefore also matters on which they base their recommendations for modifications. It would enable examiners to modify neighbourhood plans and neighbourhood development orders "for other reasons"—as set out in proposed new paragraph 10(3A)—which would significantly extend the matters that an examiner can consider and base their recommendations for modifications on. Currently, as I have said, examiners can only recommend modifications that they consider necessary to ensure that a neighbourhood plan or an order proposal meets the basic conditions and other legal test, or to correct errors.

Again I am mindful of the discussions we have enjoyed hitherto and therefore suspect that my noble friend did not necessarily intend to broaden the discretion of examiners in this way. The Government cannot support this, and I respectfully ask my noble friend not to move Amendment 4, as well as to withdraw Amendment 3.

1.15 pm

Baroness Cumberlege: My Lords, I thank noble Lords who have taken part in the debate. I was interested in what the noble Lord, Lord Shipley, said about listening to people. As a councillor—I have been a parish, district and county councillor—I know that you resolve matters only when you see the people who are complaining about a certain issue, and you have to dig quite deep to find out exactly what their concerns are. That is so true of building a neighbourhood plan, where the examiner is concerned.

[Baroness Cumberlege]

The noble Lord, Lord Shipley, is also right about the words we use. We had a debate last time in Committee on the word "modification", and we have had debates on "substantial" and other words. I appreciate that it is difficult for my noble friend Lord Bourne to have a definition that will hold water in all sorts of different circumstances. However, where the neighbourhood planners are meeting the examiner, those are the sorts of things they can discuss, and each can understand what the other means when they use certain words.

The noble Lord, Lord Mawson, is absolutely right about building relationships with people to achieve what you want to achieve. In this new entrepreneurial world, that is the only way forward. I think about what we are doing in the National Health Service with long-term conditions and maternity services. We are giving people their budgets to spend as they wish, because we believe that those people know best the care that they want. The results are amazing. Therefore we have to trust the people and think carefully about the way we involve them in all sorts of aspects of government, including planning. What the noble Lord, Lord Kennedy, said about disputes and the unhappiness they can cause was so true. Do let us iron them out before we get too far down the line.

My noble friend Lord Bourne rightly said that my amendments are faulty. I absolutely accept that. I am not a planner; I have not had the Local Government Association and various others behind me. Probably, these words are not quite right. However, I think that my noble friend understands that we can go further on this. I was interested that in our discussion in Committee he said that he accepted that something must be going wrong with some of the plans that have been produced. He said:

"I am happy to look at that to see how we might address it. The general position is satisfactory, but I accept that something can obviously be done to make it more watertight".—[*Official Report*, 31/1/17; col. GC 214.]

That has been his view throughout the discussions we have had and the discussions I have had with his department.

We therefore need to go further on this. We need to ensure that at Third Reading we get something in the Bill that is more watertight and which ensures that the work of the examiner is respected. As the noble Lord, Lord Mawson, said, they are honourable people, but they are working in a difficult situation. They are too constrained. We therefore need to open this up and ensure that planners, local people and the examiner get together to iron out some of the difficulties that there are. They need to see each other, talk to each other and take the measure of each other. With the generous undertaking my noble friend made, I beg leave to withdraw the amendment.

Amendment 3 withdrawn.

Amendment 4 not moved.

Clause 7: Content of development plan documents

Amendment 5

Moved by ***Lord Beecham***

5: Clause 7, page 8, line 14, at end insert—

"(1CA) The development plan documents must contain references to—

(a) a threshold for social and affordable housing in the area;

(b) the impact of the proposals in the documents on energy efficiency in dwellings and infrastructure in the local area;

(c) flood protection for the local area;

(d) the impact of the proposals in the documents on air quality in the area;

(e) the provision of green spaces and public leisure areas; and

(f) education, health and well-being needs of the population."

Lord Beecham (Lab): My Lords, this is the second last amendment to Clause 7. It is striking that in a piece of legislation called the Neighbourhood Planning Bill only seven pages out of 49 relate to neighbourhood planning. Perhaps at Third Reading the noble Lord might care to move that the title of the Bill should be somewhat different, because most of it relates to a wider issue.

Having said that, Amendment 5 proposes that a series of issues should be reflected in development plan documents. In Committee, the Minister stated that all these matters are covered by the National Planning Policy Framework, but in fact they are not. There is no mention in the NPPF of social housing, although the word "affordability" comes into it, and there is no mention at all of education, so in that respect the noble Lord was mistaken.

In any event, I argue that it would be sensible to include within the development plan specific reference to these requirements. Members of the public will not be terribly familiar with the National Planning Policy Framework, and I venture to think that some Members of your Lordships' House—including, I confess, me—are not necessarily fully au fait with its provisions. What is the problem with setting out in what is to be a local document the matters that ought to be considered and then dealing with them? That seems a perfectly sensible way to go forward. I hope the noble Lord will reflect on that and agree that, after all, it makes some sense.

I also want to speak to Amendment 8, which deals with two-tier authorities—a county council and a district council. The object of the amendment is to try to ensure that there is a good working relationship between the two authorities. Where a district council does not carry out its planning responsibilities, it is perfectly reasonable for the Secretary of State to have the power to invite the county council to get involved. However, the amendment sets out some conditions relating to that and, in particular, will protect the lower-tier planning authority provided it can demonstrate that it is dealing adequately and efficiently with the timetable for the preparation of the plan. Conversely, if it requires another planning authority to become involved, the provisions of the amendment will not be invoked.

I think we have to tread somewhat carefully around the relationships in two-tier authorities. I hope that the Minister will accept that the amendment will assist better relationships by ensuring that the position of

the district council will be respected unless it demonstrates a failure to respond adequately to the requirements of the situation. I beg to move.

Lord Shipley: My Lords, I support Amendment 5, which contains an admirable list of the documents that a development plan should cover.

I shall speak to Amendments 7, 8 and 8A. Amendments 7 and 8A relate to the same issue in Clause 9 and Schedule 2. We had a longish discussion in Committee about the capacity of a county council to undertake the planning function where it was felt that a district council had not been fulfilling its obligations. I have thought very carefully about this and have concluded that Amendment 8, which stands in my name and that of the noble Lord, Lord Kennedy, and to which support has been given by the noble Lord, Lord Beecham, seems a reasonable compromise. It provides a procedure that can be followed and it would probably command broad support in the country. Therefore, I hope very much that the Minister will feel able to accept Amendment 8, or at least come back at Third Reading with something similar.

Lord Lansley (Con): My Lords, perhaps I may interject on this group, although not in relation to Amendment 5. I am sure that the noble Lord understands that, if one were to incorporate that amendment as it stands, one would in effect create in statutory form a small subset of factors which might and should be taken into account in determining a local planning authority's strategic priorities but which in no sense encapsulated what those strategic priorities might be. The alternative seems to be to incorporate pretty much everything in the National Planning Policy Framework into a statutory provision setting out what the strategic priorities should be. I think that the legislation is right as it is: it is the job of the local planning authority to set its strategic priorities, and those should be set out through the consultation and then through any subsequent process of approval of the development plan.

However, I want to talk about Clause 9 and Amendment 8 in particular. I would have thought that the Secretary of State would invite a county council to take over the development plan process from a district council only in extremis. I cannot quite see how the Secretary of State could enter into such a plan other than in the most extreme circumstances. The county council is not in any shape to do this. I think that my own county council would be horrified at the prospect of that happening. If district councils are told that if they do not get on with it, this will happen, they will regard that as an empty threat. There is even a fear that if district councils which resisted completing their development plan process—there are very few of those because they know how important the plan is for the local community—thought that they could hand the responsibility over to the county council, that might be an attraction rather than a deterrent.

Therefore, I am not sure that I see the purpose of Clause 9. If the Government feel that they need a toolkit, including a measure that they could take in extremis, it must be set out as that. However, your Lordships will recall that Schedule 2 says that the Secretary of State can do this in circumstances where he or she,

"thinks that a lower-tier planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document".

That is far too sweeping. So I apologise to my noble friend on the Front Bench, but I rather like Amendment 8. It helps because it sets out straightforwardly that this should happen where the development plan process is not making, or could not make, progress because there is no timetable or capacity and the authority is not trying to attract the necessary capacity. I do not think that Amendment 8 could be incorporated into the Bill, not least because it should include the words "in the view of the Secretary of State"; otherwise the questions of whether the authority had a satisfactory timetable, or whether it was thinking of inviting a district authority to do the job, would become completely open to argument. The Secretary of State must have the power, and it must be the Secretary of State's view that the local planning authority is not doing what it ought to do by reference to a timetable or to alternative capacity.

In responding to this short debate, will my noble friend say that he will at least take this amendment away and look at it with his colleagues to see whether there is a mechanism—acceptable to the Government at Third Reading—for demonstrating that the Government would enter into a process of this kind only in extreme circumstances?

1.30 pm

Lord Porter of Spalding: Like my noble friend Lord Lansley, I will speak to Amendment 8, not to support it but as an opportunity to highlight the fact that county councils would probably be very unwilling to pick up the planning authority responsibility on the basis that they do not have sufficient funds at the moment to deliver adult social care. Why, therefore, would they try to take on planning, which is already subsidised by council tax payers by about 30%? That would leave county councils with less resources to provide the services they currently need to provide, which are already not given sufficient resources.

I cannot understand the Government's obsession with getting a local plan in place. When we drafted the *National Planning Policy Framework* it was a stand-alone document that would give pro-development councils sufficient protection where development took place in their own area. A local plan is needed purely so that councils can reduce the amount of development they will take, not increase it. If the Government's intention is to try to speed up planning and build more homes—something that everybody supports—that will not necessarily be assisted by having a local plan in place. I do not see the attraction, yet we keep going back to focus on local plans. They are not necessary in a pro-development area. Pro-development councils will get sufficient protection from the NPPF; that is how we drafted it.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Lords who participated in the debate on the amendments in this group. I turn first to Amendment 5. I thank the noble Lord, Lord Beecham, for raising an issue that is, I acknowledge, of some importance. I checked the NPPF and he is right that social housing

[Lord Bourne of Aberystwyth]
does not have a separate section, although it is covered by affordable housing. He is wrong in relation to education; it features in paragraph 72, which covers education facilities in schools and so on. However, let me turn to the substance of the amendment. I thank my noble friend Lord Lansley for his participation. There is a fundamental difference in approach. We believe that these matters are more properly addressed in national planning policy, independently of where the list takes us, whereas I think the noble Lord wants them to be included in the Bill. The Government could not support that. We believe it is best left to local authorities to decide their priorities, and I therefore ask the noble Lord to withdraw his amendment.

I turn now to Clause 9 and the amendments relating to the provision to ensure that the Secretary of State could, in extremis, ask county councils to step into a void to help prepare a local plan. I stress the word "ask"—this is not an imposition; they would be invited. The Secretary of State currently has the power to intervene in a development plan document, so there is nothing new here. Noble Lords seem to think that this is some radical departure from previous practice, but that is not the case—it could happen now. All the Bill does is provide the Secretary of State with a further, more local option for getting a plan in place.

In February 2016 we consulted on our proposed criteria for making decisions on whether to intervene in plan-making. Those criteria are: where the least progress in plan-making had been made; where policies in plans had not been kept up to date; where there is higher housing pressure; and where intervention would have the greatest impact in accelerating local plan production. We also proposed that decisions on intervention be informed by the wider planning context in each area, specifically the extent to which authorities are working co-operatively to put strategic plans in place and the potential impact that not having a plan has on neighbourhood planning activity. We also made it clear that authorities would have an opportunity to put forward any exceptional circumstances before we took a decision on whether to take intervention action. In other words, there is necessarily a dialogue here: this is not something that just happens out of the blue. The housing White Paper—an important document which has already been mentioned—confirmed that the Government intend to make a decision on intervention on the basis of these criteria. As I have indicated, that consultation closes on 2 May. If noble Lords or others want to influence the process, there is an opportunity to do so.

As I said, this proposal supplements the Secretary of State's existing intervention powers to provide a more local solution and provides an important backstop to ensure that communities are not disadvantaged because their district council has not put a plan in place. It would happen only in the rarest of circumstances, but we believe that it adds to the range of powers that the Secretary of State has and offers an alternative to the direct power he would have at a more local basis. I stress again that it is only an invitation: a county council is quite open to say no and would be reimbursed for the costs if, in extreme circumstances, we should get to that position. It is for county councils to decide whether they wish to accept the Secretary of State's invitation. Where they choose not to, the only remaining alternative would be for the Secretary of State to intervene more directly. On that basis, and with the reassurance that this is included in the consultation on the White Paper, I ask noble Lords not to press their amendments and that Clause 9 stand part of the Bill.

Lord Lansley: Before my noble friend sits down, will he undertake to at least look at defining rather better the circumstances in which he and the Government think it appropriate to invite a county council to take on these planning powers? The broader intervention powers that are currently available do not necessarily translate well to the circumstances in which a county council could, in effect, create a capacity to do this. There would have to be a pretty substantial problem with a district planning authority for a considerable period, and the county council would have to go to a lot of trouble and expense to put a plan in place. Therefore, it must be only in extremis. Schedule 2 does not explain that it is in extremis. My noble friend has said it, but he has not explained it. Perhaps he might yet, in Schedule 2, set out rather better why it will be only in exceptional circumstances.

Lord Kennedy of Southwark: Before the noble Lord responds to that, could he also say a little about the reimbursement process? Who will do the reimbursing? Will it be the district council that has had a plan taken off it? How then does it agree any dispute over who pays what and how much it will cost? Who will arbitrate that? We may find that a district council is very cross to have a plan taken away from it and will then dispute the amount to be paid to the county council. It seems to me that the noble Lord has opened a can of worms.

Lord Porter of Spalding: Following on from that point, on the basis that district councils are not getting paid for carrying out the plan in the first place, it cannot possibly be them that reimburses a county council—it must be the Government. If the Government are now prepared to pay for planning, perhaps those districts that do not yet have a plan will consider asking their county council to take it on so that the Government actually pay for it.

Baroness Scott of Bybrook (Con): My Lords, I cannot help but stand up at this moment. It seems to me that the solution to this whole problem is unitary authorities.

Lord Bourne of Aberystwyth: My Lords, in response to that last intervention, the answer is no. However, if my noble friend would like to table a debate on that issue, I am sure we would be only too delighted to respond.

I am very grateful to my noble friend Lord Porter for his advertisement of the LGA's position on this. He is, I know, immensely pleased with what is in the White Paper on planning fees.

In response to the point on reimbursement, I do not think it is opening up a can of worms. Reimbursement

is something everybody understands. However, when it comes to opening cans of worms, the noble Lord opposite is an expert.

Let me respond to the very valid points from my noble friend Lord Lansley. The power will be used only in extremis but I come back to the point that it is already an existing power for the Secretary of State to take. It is not new and did not come out of the blue. It will be used only in extremis and there will be discussions on that. All we are doing is extending the range of options the Secretary of State has. At the moment, he can intervene directly. This power would mean that he could intervene directly or ask a county council—I repeat: ask—whether it can carry out the plan using its local knowledge and expertise. If a county council has not got that local knowledge or expertise, I am sure that no Secretary of State would want to ask it and would take the power directly.

As I said, noble Lords and others can raise this issue as part of the consultation on the White Paper. We have no intention of altering the position in the Bill but it is open as to how this plays out in the regulations that will follow. The consultation is now open and I know all noble Lords will wish to advertise that. It would be good if people could respond to that by the deadline of 2 May.

Lord Shipley: My Lords, there was a brief debate a moment ago about who would pay the bills where a county council undertook the work. I raised this matter in Committee. On page 47, lines 31 to 40, the Bill makes it absolutely clear that the lower-tier planning authority must reimburse the upper-tier county council. The difficulty with this paragraph to the schedule is that nothing is said about who decides what is a reasonable level of costs, what is included in the costs and what costs the county council might be entitled to ask for.

Therefore, for the avoidance of later difficulty—presumably the Government plan to deal with this matter in guidance, or possibly in regulations more formally—it might be helpful to have the Minister's reaction now as to who determines what is a reasonable charge for the district council to pay.

Lord Bourne of Aberystwyth: My Lords, I am grateful to the noble Lord, Lord Shipley, and I apologise to my noble friend Lord Porter and the noble Lord, Lord Kennedy. It is indeed the district council that pays for this—that is absolutely right—on the basis that they have been funded for it. Perhaps I may write to the noble Lord, Lord Shipley, on the issue of determining what is reasonable—it may be a matter of dispute but it happens all over the place—place a copy in the Library and send a copy to all Peers who have participated in the debate.

Lord Kennedy of Southwark: We do not want the county council network deciding on arbitration.

Lord Beecham: My Lords, I am still recovering from the shock of the support of the noble Lord, Lord Lansley, for anything I have said in this Chamber, particularly on this occasion. However, I am grateful for his support.

I am not sure where the Minister is leading us on situations where county councils are involved or invited to become involved, because it is not clear what happens if they decline.

Lord Bourne of Aberystwyth: My Lords, it is very clear. The option is available at the moment for the Secretary of State to take direct control. That is the only other alternative to getting a more local solution. That is why this has been included.

Lord Beecham: That is an option of what might be called undemocratic centralism, which is not to be relished.

The Minister made a correction regarding education, which I said was not included in the national policy framework. He is right to say that it is found in paragraph 72. As it describes providing healthy communities, I assumed that it was to do with health matters but clearly it extends beyond them. However, I still believe that the noble Lord, Lord Lansley, and I were right in suggesting that these matters should be referred to in the local plan. I cannot see any difficult in doing that. I regret that the Minister does not seem to be persuaded of the validity of that argument. However, in the circumstances, I beg leave to withdraw the amendment.

Amendment 5 withdrawn.

1.45 pm

Amendment 6

Moved by ***Baroness Cumberlege***

6: After Clause 7, insert the following new Clause—

"Planning appeals

Where an application for planning permission has been refused by the relevant local planning authority, on the grounds that it is not in accordance with adopted local development plan documents, including adopted neighbourhood plans, and the applicant appeals the planning decision, the Secretary of State must uphold the decision of the local planning authority unless it contravenes a development scheme of national importance."

Baroness Cumberlege: My Lords, the amendment is self-evident. It harks back to my opening remarks and seeks to clarify the respective responsibilities of the Secretary of State and local neighbourhood planners. It is all a matter of trust.

I was appalled by the figures that my noble friend gave in a previous debate on the number of appeals being made. Our planning is in danger of becoming rule by appeal inspectors who overrule democratically elected councillors. I trust the Minister will uphold democracy over the ruling of inspectors. The inspector's role is to examine whether the decision of a local planning authority is clearly at variance with its own policies. However, inspectors are now venturing into making planning policy, overruling totally legitimate plans.

Unusually, I am delighted that my amendment is grouped with others. Amendment 6A, tabled by the noble Baroness, Lady Pinnock, and the noble Lord, Lord Shipley, is eloquent, and I totally support what

[Baroness Cumberlege]
they are trying to do with it. As a farmer's wife I know what it is like when you have a building on land that you want to reclaim and that it is very difficult to do. In our case it was only a couple of cottages. However, it is not practical to think that we can build on great swathes of open land and then reclaim it in time. That will not happen. Amendment 40, tabled by the noble Baroness, Lady Parminter, and the noble Lord, Lord Shipley, is comprehensive and well thought through. It goes into some depth and has true clarity and also has my full support.

In Committee, we debated the question of appeals, and in replying to the debate, my noble friend Lord Bourne said,

"we place great importance on local development plans. They provide the local community's vison of how it sees its area developing. It is right that they should be given the weight they deserve within the planning appeals process".

He went on to say:

"As I have said, where a development plan's policies are material to an appeal, a decision must be taken in accordance with the development plan, unless material considerations indicate otherwise. This does not mean that a planning appeal that is not in accordance with the local development plan will always be dismissed. It means that the appeal should not normally be allowed and that the planning permission should not normally be granted".—[*Official Report*, 31/1/2017; col. GC 203.]

There is leeway in this amendment and the ones proposed by the noble Baronesses, Lady Pinnock and Lady Parminter, and the noble Lord, Lord Shipley. We have to be careful that we do not have planning by appeal, a phrase that is used around the country at the moment. I beg to move.

Baroness Pinnock: My Lords, I draw attention to my entries in the register of interests as a councillor in the borough of Kirklees and as a vice-president of the Local Government Association.

I support wholeheartedly Amendment 6, which has been moved by the noble Baroness, Lady Cumberlege. My Amendment 6A simply adds detail to the broadness of her amendment in relation to planning appeals.

Noble Lords will recall that in Committee I raised the issue of the importance of enabling development on contaminated brownfield sites by the provision of a government fund for remediation. Since that time we have learned from the housing White Paper that action may be in progress on that. However, in the Minister's response to my amendment in Committee, he reiterated the Government's commitment—I am pleased about this—that brownfield sites should have development precedence over greenfield sites. I want to explore further that commitment because experience and evidence point in a different direction.

In the National Planning Policy Framework of 2012 the Government introduced the concept of a five-year housing land supply within any local authority area. Initially the concept was to be gradually introduced in order to give time for councils to develop new plans to take this requirement into account. But that transition did not really happen and from the start, green belt land, urban green space—which is the equivalent of the green belt within an urban conurbation—and even land in areas of outstanding natural beauty became vulnerable to developers seeking to build on attractive sites; that is, attractive to residents who wanted to retain them as green spaces, and also very attractive to developers who wanted to build on them.

The CPRE commissioned an analysis of the outcomes of planning appeals and the results were published in September 2014. It found that of around 270 planning appeals between 2012 and 2014 lodged in areas that did not have a five-year housing land supply, three-quarters were granted despite their allocation in the existing planning policy of the local council as green belt, urban green space or an area of outstanding natural beauty. I repeat, three-quarters of those appeals were granted, and that equates to rule by planning appeal, as the noble Baroness, Lady Cumberlege, said earlier. It certainly seems to be the case. This demonstrates conclusively that a local planning authority which does not have a five-year housing land supply is vulnerable to developers who will cherry pick green belt or greenfield sites because the land is easier to develop and the value of the properties is thereby enhanced.

The Government have also commissioned their own report. The Local Plans Expert Group published its findings in March last year. The report states that Section 78 appeals, which are appeals against determinations by local planning authorities,

"by developers bringing forward new evidence"—

mainly the lack of a five-year housing land supply—

"leading to extensive dispute and the release of unplanned sites … brings the local plan process into disrepute".

And so it does, because the third piece of evidence I have is from my own experience in my authority where, this year, planning consent for two sites that had been allocated as urban green space—which is precious to those living in built-up areas because such sites are their only green areas—has been granted on appeal because the report of the Planning Inspectorate deemed that a five-year housing land supply is more important than land being allocated as green belt or urban green space. As the Government's report states, local people feel that they are powerless, have no say in local planning, and are wondering about the point of going through the long-drawn-out process of developing a local plan for the planning committee. The decision is taken out of their hands and sites are allocated without any reference to the need for infrastructure in the form of school places and so on.

I ask the Minister to give me confidence that, as the amendment seeks, equal weight will be given to the fundamental policies of either a five-year housing land supply or designation as green belt or urban green space. I would prefer the weighting to favour allocations as green belt, urban green space and areas of outstanding natural beauty. They should be paramount to other uses because in any local authority area there is plenty of land that is not designated, including in my own authority where reserve sites are still available. But no, developers go and cherry pick the green belt sites. As noble Lords can tell, I am extremely cross about what has happened. Again, I hope the Minister will be able to say that green belt and its equivalents will be given greater priority and that applications from developers will have to be refused when other sites are available. I look forward to his response.

Baroness Parminter (LD): My Lords, Amendment 40, tabled in my name, is included in this group and carries on the theme of many of the amendments before us, which is how to give communities confidence that the work and effort they put into a local plan will be taken seriously. In so doing we would encourage more widespread planning in local communities, which is something we want to see. The Minister has suggested that the Bill and the ministerial Statement produced before Christmas are sufficient. Although I acknowledge that they are a step in the right direction, I and others who spoke in Committee did not and still do not believe that on their own they are sufficient. Let me make it clear: a neighbourhood planning body has no right of appeal if the local authority approves an application contrary to the neighbourhood plan or if the development would comprise fewer than 10 homes, which in rural areas means the majority of applications. Their only recourse is to go to judicial review. However, these are neighbourhood planning bodies. They are not all parish councils and they do not have substantial budgets, while of course the judicial review process is costly and largely procedural anyway.

I echo others in saying how helpful the Minister has been in his communications on these matters and I accept the sincerity of his belief that the measures in the Bill are sufficient. I would give him the benefit of the doubt if I knew that the department will be monitoring local planning authorities which do not respect the wishes set out in neighbourhood plans. This is a new process, but when in the future we get new planning Bills, which we surely will as a result of the housing White Paper, noble Lords need to have evidence if the welcome intentions in this Bill are not being delivered. We could then seek to ensure that there is a proper system of review along the lines that I have proposed in the amendment if neighbourhood plans are not being given the weight that they deserve. Here I should say that I am most grateful for the support of the noble Baroness, Lady Cumberlege. The time and effort that is invested in neighbourhood plans means that communities have the right to expect them to be taken seriously and we should address the concerns of those who feel that they are simply being ignored and that there is nothing they can do.

I know that the Minister will not accept this amendment, but I would ask him to say in his response whether the Government will commit to asking local planning authorities to notify DCLG when they decide on an application which is contrary to the views of a post-examined neighbourhood plan.

Lord Porter of Spalding (Con): My Lords, I should appear to be sympathetic to anything that seeks to push power back into the hands of local planning authorities as regards their ability to reject a planning application and the Secretary of State having to support the decision. But I am worried about anything that would compel that, on the basis that if developers were not able to appeal to the Government to revisit the decision, they would go through the courts, at which point a council would not only have to employ planning people to deal with a planning appeal, it would have to pay for a barrister as well. So while I am sympathetic to the fact that planning applications which have been refused for non-compliance should not be routinely overturned, I would rather see the Government take a firmer hand with the Planning Inspectorate to ensure that when it does intervene in a case, it does so in a way that has been properly tested by the Secretary of State. I said on the last occasion that people in the outside world are saying that some planning inspectors have gone feral, and that position still pertains today. So rather than compelling the Secretary of State to support a refusal by a council, we need to encourage him to take a firmer grip of the Planning Inspectorate to make sure that in all cases it operates in the way the Government have sanctioned and not in a way that it chooses to sanction for itself.

Lord True (Con): My Lords, I apologise to noble Lords for appearing late but I have been performing duties for what I declare as an interest, as leader of a local authority which is a London borough. On my way to the Chamber I was listening to the remarks of my noble friend Lady Cumberlege on the annunciator and I have considerable sympathy with the spirit and thrust of all she has been arguing for in this Bill and indeed in the amendment before us. I rather agree with what my noble friend Lord Porter has just said, and I will come back to that in the question of the real non-accountability of the system operated by the Secretary of State in terms of the inspectorate, where there are overturns. I am really addressing my remarks to Amendment 6.

2 pm

One of the problems with the current system is that there is a lot of strain in it. I am very grateful to my noble friend on the Front Bench for the discussions that we have had on a vexed issue I brought before your Lordships on a previous Bill in relation to the automatic granting of permission to convert offices into residential property. I hope that I will not have to trouble your Lordships' House with this matter, but I give notice that I may have to do so on the second day on Report. If we are not able to reach a satisfactory agreement on it, I will table an amendment which seeks to control the unlicensed passage of offices into residential property, but I hope that we may be able to make progress on that.

I mention it simply because the system is strained. When the Government intervene, when laws are passed, when expectations are given through neighbourhood planning and when the system becomes confused, people look for excuses and for slight ways not to twist the system but to mould it. People write to me and say, "Your people can't give planning permission here without looking for an underground watercourse", and so on. There is a lot of suspicion in the system, not in terms of the way it is necessarily operated by any individual local authority, but in the way the system as a whole seems to operate. We need clarity at every level.

I have huge sympathy with what my noble friend Lord Porter has said. I have equal sympathy with what my noble friend Lady Cumberlege has said. There must be some ground between where she is and where the Government have been formerly in terms of the absolute "must" in the amendment, which states that, "the Secretary of State must uphold the decision of the local planning authority unless it contravenes".

[LORD TRUE]

We have to acknowledge that there have been circumstances, because of the strains in the system that I have described, where local authorities have been slightly unreasonable in the way they have applied the law. There are legitimate appeals, so I think the amendment is correct in spirit but too absolute in its wording. I hope between now and Third Reading it might be possible for my noble friend on the Front Bench to give further encouragement to my noble friend Lady Cumberlege that one can find the right way forward.

As for distrust in the system, I do not disparage the professionalism of the inspectors in Bristol. However, do your Lordships think that the people that I and many other noble Lords in this Chamber represent are delighted when some written judgment comes down from Bristol? They really want to know a bit more about who has done it and why. I would like to shine the light a bit more on some of the individuals involved. I say "individuals", because I know from my own local authority that some inspectors are very swift to overturn decisions and some are much more cautious to overturn decisions. I would not use the word "feral", as used by the chairman of the Local Government Association—my noble friend Lord Porter—but let us say that there are differences in behaviour, as there are between animals and people.

I would also like to shine a little more accountability on the operation of this system. There are occasions where people sit in public hearings, but it is done in writing very often and is remote, and there is no remote democratic connection to suggest that the Secretary of State is theoretically responsible. This is why my noble friend's amendment—and I apologise to the noble Lord, Lord Shipley, for speaking before him; I did not realise he was going to intervene—says that,

"the Secretary of State must uphold the decision of the local planning authority unless it contravenes a development scheme of national importance".

We have to look at that, but that decision-making—that final thing—is not transparent or accountable enough, and the practice and behaviour of the inspectorate is not understood enough. This results in people feeling locally—both in neighbourhoods and in local authorities—that they are being overturned by unaccountable authorities, often at the behest of very powerful and, as they feel, well-connected developers. There definitely has to be a change somewhere, so I support the spirit of these amendments, but I think some of the wording needs to be negotiated and I hope that will be possible.

Lord Shipley: My Lords, my name is attached to all three amendments in this group; I will try not to repeat what other noble Lords have said because I think there is a degree of unity on a number of aspects. The aims of Amendment 6 are very important. Maybe the wording can be looked at, and maybe the Government can come back at Third Reading. The amendment would give people in local authorities confidence that the Secretary of State is not simply going to operate within the appeals system, which rides roughshod over a local planning authority and an area with a neighbourhood plan.

My noble friend Lady Pinnock made a very forceful case for Amendment 6A. I remain very concerned by the Government's decision to have a three-year housing supply requirement where there is a neighbourhood plan area, but a five-year housing supply requirement where there is not. Can the Minister say something further about this? Had the proposals in this amendment applied, then in some of the instances my noble friend mentioned, a three-year housing supply requirement may have resulted in a different outcome to the planning application.

Amendment 40 is terribly important. I am very grateful to the noble Baroness, Lady Cumberlege, for her support for this amendment because it is extremely well drafted—I do not claim any personal credit for that at all. It defines what the problem is and what the solution may be. My noble friend Lady Parminter made it clear that it is a problem when a local planning authority goes against an adopted neighbourhood plan. I listened very carefully to the Minister's reply to the first amendment. He made it clear—if I heard it right—that a local planning authority could make a decision which was contrary to the adopted neighbourhood plan, which forms part of the local development plan. I support my noble friend Lady Parminter in that the Government should monitor where this happens. However, I want to add one thing. Where the local planning authority owns the land in question, the Secretary of State should have an automatic right to call that application in. In other words, there is a subtle difference. Monitoring and notifying the local authority if it does not own the land and seeing whether the law needs to be changed is one thing, but where it does own the land, that should be a matter for automatic call in. I would be grateful for the Minister's observations on that.

Lord Bourne of Aberystwyth: My Lords, I thank all noble Lords who have participated in a far-ranging debate on many important issues covered in this group. I turn first to Amendment 6, in the name of my noble friend Lady Cumberlege and the noble Lord, Lord Shipley. This is an area of importance. Planning inspectors are appointed by the Secretary of State to decide planning appeals on his behalf. They are not, as perhaps the impression was created at times, random individuals making arbitrary decisions. I wholly accept that there is an element of mystique here and that it would be good if we were able to demystify it. It is a bit like debates we have had recently in relation to judges: these people are taking decisions at arm's length, based on a body of law and in accordance with legal procedure. They are properly qualified and should be supported. Planning inspectors make decisions in accordance with the national planning policy and the development plan, which includes, of course, any in-force neighbourhood plan, unless material considerations, which we touched on earlier, such as those relating to nationally significant infrastructure projects, indicate otherwise.

Amendment 6 would create a situation where all appeals which are contrary to the local development plan must be dismissed. Amendment 6A would prejudice proper consideration at appeal of how national and development plan policies should be applied. I do not accept that it is helpful for planning inspectors to be

told, in advance of any deliberations, what their conclusion should be. I accept that that is probably not the intention of the amendment, but it is dangerously close to the effect the amendment would have. Nor should we tell planning inspectors how to exercise their discretion in terms of the weight attached to particular matters in the consideration of an appeal. I would also guard against what would appear, to some extent at least, to be the inconsistency of arguing, as at times we have been, understandably and correctly, for proper local planning procedures and localism and then, when we do not like it, saying that the centre needs to intervene and this is what the Minister must do. We have to consider a proper balance here. That said, I understand some of the issues that have been raised and I assure my noble friend Lady Cumberlege and the noble Lord, Lord Shipley, that the White Paper commits us to taking forward a proper procedure and giving proper weight to planning appeals. I accept that there is something to look at here and we are continuing to look at these issues with my noble friend.

I turn to Amendment 6A and some of the questions raised by the noble Baroness, Lady Pinnock, in relation to brownfield land and the green belt. She will know, because we discussed this in Committee, that there is a lot in the housing White Paper about the green belt. A lot of things are currently being processed in relation to brownfield land and I assure noble Lords that we are bringing in regulations this April—it may be later but I will correct that, if I am wrong, in a letter to noble Lords—for brownfield registers, which every local authority must complete and which will include appropriate brownfield sites identified for possible housing. We expect that housing to be delivered and there will be percentages, which, again, I will outline in the letter, that have to be delivered within this Parliament, up to 2020. So there is much happening there. We have provided loan funding for developers, through the home building fund, which has an emphasis on brownfield land as well.

Furthermore, as the White Paper makes clear, constraints on development on green belt land remain constant. The White Paper, which I do not have in front of me, says that before even looking at green belt land you have first to consider denser provision of housing which may be appropriate. We know that London, for example, is the least densely occupied capital city in western Europe. I think that Madrid is four times as densely populated. Denser housing does not sound attractive but in terms of where we are it could well be an attractive option that we should look at. Also, building on brownfield land is identified in the White Paper, as is co-operation with other local authorities to see whether something can be done if there is not sufficient housing supply in one area. So we do regard green belt land as sacrosanct. If I may, I will pick up more details on that in a letter to noble Lords, because I had not anticipated this and some of my figures may not have been absolutely accurate in relation to brownfield and green belt land.

2.15 pm

Turning to Amendment 40, in the name of the noble Baroness, Lady Parminter, and the noble Lord, Lord Shipley, Clauses 1, 2 and 3 of the Bill, together with provisions in the Housing and Planning Act 2016 and the recent Written Ministerial Statement on neighbourhood planning address the concerns which the noble Lords raise, making this amendment unnecessary. The Written Ministerial Statement referring to a three-year supply is to deal with the specific problem where a neighbourhood plan has identified sufficient housing and that has not been taken up in the local plan. I do not think that there is any inconsistency here but it is a fairly technical issue and, again, I shall set out in a letter why that is the case. I do not think that there is any discrimination on this point—it is to deal with the specific problem where there are neighbourhood plans and they need this relief. There was a wide, cross-party welcome for this on that basis.

The amendment seeks to make it a requirement that neighbourhood planning bodies are consulted on future planning applications in their area. I can confirm that the changes brought in by Section 142 of the Housing and Planning Act 2016, together with the new Clause 2 in the Bill, render this amendment unnecessary. Additionally, existing legislative requirements, in Regulations 25 and 25A of the Town and Country Planning (Development Management Procedure) (England) Order 2015, set out that once a parish council or neighbourhood forum has been notified, the local planning authorities must not determine the application before they have heard from either the parish council or neighbourhood forum to confirm they will not be making representations, or that their representations are received and, in both cases, that the statutory 21-day period has elapsed. Local planning authorities must take into account any representations made by the parish council or neighbourhood forum.

Finally, the amendment would require local planning authorities that are minded to grant planning permission against the recommendations of a neighbourhood planning group to consult the Secretary of State first. It is already the case that anybody, including neighbourhood planning groups, can ask the Secretary of State to call in any planning application. In my letter to noble Lords on 7 February I gave more details about the policies of the Secretary of State in this regard. For the avoidance of doubt, I can confirm that each request is considered on its individual merits and the Secretary of State's policies do not preclude him from calling in or recovering any application for his own determination, should he deem it appropriate. The noble Baroness, Lady Parminter, may have been referring to appeals; that is a different position and I accept that there, the only remedy would be judicial review.

The critical point, which I made in Grand Committee and I make again, is that this amendment sends the wrong message. We need to trust locally elected decision-makers and professionally qualified planning inspectors, rather than insist that difficult decisions on the planning process are taken by central government. The essence of what we are trying to do here is localism and trusting localities. I appreciate that there is work to be done on that—as my noble friend Lady Cumberlege will be the first to say, and I agree—but we are engaged in that process.

[Lord Bourne of Aberystwyth]

The noble Lord, Lord Shipley, raised the point about local planning authorities and their own facilities, which I know has been an issue. As I say, the Secretary of State has a discretion to call in any power. Local authorities should have Chinese walls in place; they should make sure that they are not in any way making a decision about their own property without a proper Chinese wall between those selling the property, as it were, and those making the decision. Again I will cover how that Chinese wall operates in the system: I think there are appropriate safeguards, although I appreciate that this is a very material point, but I will cover that in a letter ahead of Third Reading. With the assurance I have given to my noble friend Lady Cumberlege and the promise of a letter taking up those points I have not addressed in the debate, I ask my noble friend to withdraw the amendment.

Lord True: Before my noble friend sits down, I will say that I am grateful for the measured tone of his response. As this is Report I will not take up the point raised by the noble Lord, Lord Shipley—although I would not always assume that the Secretary of State will be friendlier to local interests than a local authority that owns the land.

The Minister gave a partial response on the point about the accountability of inspectors. He referred to the mystique of the system and said, quite rightly, that inspectors are highly professional. The difference between the inspectorate and the judiciary is that the judiciary is subject to testing by a higher instance, but in this case it is a one-off shot. It need not necessarily be in the context of the time between now and Third Reading, but it would be helpful to have some reflections from my noble friend on how one might shine a little more accountability on the system, because there is divergence of practice. My local authority had considered publishing league tables but we thought that it would not encourage an enthusiastic or friendly approach from some of the inspectors named. If might be interesting if the Minister could reflect on how there could be greater accountability.

Lord Bourne of Aberystwyth: I thank my noble friend very much for that point and I apologise for not picking it up in my earlier response. I will go away and reflect on it. Certainly, it would be helpful if we could give more information about how this process operates—how people are qualified, what the training is and so on. Perhaps we could do that on the website. I will look at that and I thank my noble friend also for the constructive discussions we have so far had on the issue of permitted development, which I know is of concern to him.

Baroness Cumberlege: My Lords, I thank those noble Lords who have taken part in this debate. I particularly value the support from the noble Lord, Lord Shipley.

It was interesting that the noble Baroness, Lady Pinnock, talked about green belt land. My experience has been with areas of outstanding natural beauty, which in a way have a synergy with green belt land, and it seems that those areas are not designated easily. It takes a lot of effort to get the designation and they should therefore be treated with real respect. I was also interested in what she said about the urban green spaces. In my area I know that they are much cherished by local people, who are forced to live in small and crowded accommodation. They can go to those spaces and there is some relief—relief for all generations but particularly for young children and, I think, for boys who want to kick about a football and all the rest. If we build on all those areas, we will have much more trouble with our future generations.

I was interested in what my noble friend Lord Bourne said about London and how it is not a very densely populated city. We should rejoice in that and think of all the wonderful parks we have, and the gardens shared by inhabitants in the area. When you fly over London, you see in its centre these wonderful green areas. I am sure that my noble friend does not think we would want to build over them all. For me, they are precious—but more precious are the small, green urban spaces, which really affect the people who live in difficult circumstances and find in them a relief or a way out.

The noble Baroness, Lady Parminter, was so right: we need the evidence and to know what is going on. It is so easy to continue with policies that are really not assessed. We need some assessment to ensure that what we are doing is the right thing. My noble friends Lord Porter and Lord True were interesting on the role of the inspector. The system is strained and once we get real strain, we get confusion. That is not good for government; government needs clarity.

I very much accept the view that the amendments I tabled can be mightily improved and I appreciate that those who are in the business as council leaders and so on feel that the language is too strong. Perhaps we should avoid "must" and say "have regard to". We need to make sure that what we are doing allows some flexibility.

The noble Lord, Lord Shipley, again talked about how we have had some difficulties with the three-year supply, the five-year supply and all the rest. In summing up, my noble friend Lord Bourne said that there were issues which needed demystifying. We need to do that and to think about the role of inspectors. I look forward very much to what the Minister can tell us in more detail about their role and whether guidance is considered inappropriate—although we use it in a lot of other instances. I accept that inspectors are professional people and clearly need to come to their own conclusions—but not in a vacuum. We need to consider carefully what happens when these appeals are allowed outside the neighbourhood plan and are called in by the Secretary of State. What has been carefully crafted is then blown to pieces. So I am grateful to my noble friend for the assurances he has given and I look forward to further negotiation on this aspect of the Bill. I beg leave to withdraw the amendment.

Amendment 6 withdrawn.

Amendment 6A not moved.

Clause 9: County councils' default powers in relation to development plan documents

Amendment 7 not moved.

Schedule 2: County councils' default powers in relation to development plan documents

Amendments 8 and 8A not moved.

Amendment 9

Moved by ***Baroness Gardner of Parkes***

9: After Clause 12, insert the following new Clause—

"Public consultations

(1) A local planning authority must extend the length of any public consultations regarding a planning application if any public, or bank holidays fall within the consultation period by one day for each public or bank holiday."

Baroness Gardner of Parkes (Con): This is in some ways a minor amendment but in other ways a hugely important issue for ordinary people who are faced with a situation where things around them can change without their ever being aware that something was going to happen. I spoke on this at the last stage of the Bill, so I do not intend to take a lot of time going into it again.

It was interesting that in this morning's paper there was quite a large article about ordinary working families—OWFs. The headline was:

"OWFs (ordinary working families) get May out of a JAM".

The article goes on to say that the Prime Minister's earlier comment was about those who are "just about managing", the JAMs, and now everyone in Whitehall has been told that that must not be used any more. They have to be called OWFs, which is interesting because my amendment is geared to ordinary working families—and all sorts of ordinary families, whether they are working or not.

Your choice of holiday time has changed nowadays. I remember factories closing for the whole month of August. Everyone had August defined as the holiday time, but programmes have changed and it is all a different world now. But your choice is still governed by one big factor, which is school holidays. You are not allowed to take your children out of school at any other time; in fact, we read all the time in the press about someone being fined for taking their child away for a holiday at some other stage. So August is very much a traditional holiday time for families of all sorts. Years ago, when I was in dental practice, the people in the East End of London used to go hop-picking in Kent as their big holiday. That does not happen any more because it is now all done by machinery but that was everyone's big holiday for the year—and most of my patients were in that category.

Home ownership, which we are all busy promoting for everyone, makes us much more concerned about what happens around us. There is nothing worse than to go away, however briefly, and return to find that things have just been nodded through in your absence. The other unfortunate issue is that it certainly gives opportunities for corruption. Whether it really is corrupt in all cases is a different matter, but the loophole is certainly too open for people to exploit those times when they know that locals will not be around to take an interest and say what their views are.

Amendment 9 is so clear that it does not need any explanation. In Committee, the Minister said that very many local authorities already implement an extra day for a public holiday period. They are the good ones. I hope that this amendment will address the less good ones.

I have gone on for quite a long time about Amendment 10 because it speaks for itself. To give an advantage to anyone to feel that they might be able to sneak something through because everyone is concerned with other things in life—this applies particularly during holiday periods—is an important issue. I beg to move.

2.30 pm

Lord Beecham: My Lords, I support the noble Baroness as an ordinary working Peer. I hope that the Minister will feel able to accept the amendment. I am not quite sure what the position is in relation to Amendment 38 and whether the noble Baroness intends to move it.

Baroness Gardner of Parkes: I do not.

Lord Beecham: In that case, I will simply commend these amendments.

Lord Tope: My Lords, I, too, support the intention of the noble Baroness, Lady Gardner. She is right that probably all good planning authorities do this already and take it into account. Perhaps where it does not happen it is more by accident than by intent. One of the more serious points behind this is that we know that there is, sadly, a deep-rooted distrust of planning authorities. Whereas something may have happened by accident, the public are only too ready to believe that it is a conspiracy. This is a fairly simple measure. Amendment 9 certainly is. On Amendment 10, we may need to consider a little more what constitutes the holiday period. The intention of these amendments is very good and would perhaps go some small way to restore public trust in the planning process or at least to weaken the distrust in that process. So I hope the Government will take seriously these two amendments and look at how the intention can be met.

Lord Swinfen (Con): My Lords, I, too, support these amendments. They appear to be drafted in favour of the person who has made the planning application, but let us not forget that council officers also need family holidays, and they may not be there to consider the application and to give it the proper consideration that it requires—or not all of them, or not the relevant individual. So this amendment, although simple, is very sensible.

Lord Bourne of Aberystwyth: My Lords, I thank my noble friend Lady Gardner of Parkes for tabling these amendments and the noble Lords who participated in the debate: the noble Lords, Lord Beecham and Lord Tope, and my noble friend Lord Swinfen.

In relation to Amendment 9 relating to public holidays, as I indicated in Committee, I have sympathy with it. It seems to be a common-sense provision. I am more concerned about Amendment 10 in relation to August and Christmas. It makes assumptions about holidays which, while often true, may not always be true. There are other holiday periods. So I am more concerned about that, but I am very happy to talk to my noble friend about it.

[Lord Bourne of Aberystwyth]

I will undertake to implement the provision in relation to public holidays by the end of this year. I would like to be able to talk to local authorities about it. With the firm undertaking that we will implement this in relation to public holidays later this year, which we can do by secondary legislation, and my offer to talk to my noble friend about August and Christmas, which I want to have a discussion about because the amendment raises wider issues, I hope that she will withdraw her amendment.

Baroness Gardner of Parkes: Will the Minister clarify when he will talk to me about this? Is he planning to talk prior to Third Reading or at a later stage?

Lord Bourne of Aberystwyth: My Lords, I had not given it much thought; obviously I have quite a lot on between now and Third Reading. On the basis that my noble friend has the undertaking that we will definitely do what she wants us to do in relation to public holidays by the end of the year, the discussion is less urgent because this would not be something that we would do at Third Reading. However, if my noble friend particularly wants to meet before Third Reading—we do not have a date for Third Reading yet, with any certainty—I would be happy to do so.

Lord Swinfen: Before my noble friend sits down, what is the difficulty? Surely all the planning authority has to do is to stick a red marker on the planning application that says, "One extra day is allowed". It is a matter of practicality and a bit of common sense.

Lord Bourne of Aberystwyth: The difficulty relates to the other amendment. It is only fair that we inform local authorities and have a discussion with them by the end of the year. I do not think that that is unreasonable. If my noble friend is asking about the other provision, it raises other concerns. The other provision is a common-sense provision, but I would like to make sure, in accordance with my approach, that we have an appropriate dialogue with those who are affected.

Baroness Gardner of Parkes: I welcome what the Minister said. It sounds as if he is thinking kindly of Amendment 9, which is so clear-cut that I cannot imagine anyone opposing the idea. But the holiday issue is important to families and, as has been said, to officials in the various authorities. Will the Minister clarify whether, if he brings this out in secondary legislation, we could hope for it to be looked at a bit more rapidly? As he knows, I have been quite disappointed at how long things have taken in relation to the Housing and Planning Act 2016. It went on interminably without us ever seeing any regulations. So if he proposes to deal with this through secondary legislation, I would like an assurance that it will be fairly soon—and if we could have a quick word before Third Reading, that would be helpful, too. Perhaps he could confirm that.

Lord Bourne of Aberystwyth: My Lords, I have given an undertaking to take this away and implement it by the end of the year. It could be that we could expedite it before that, but I have given a very firm undertaking to act on it. I do not think that I have been slow at all. I note what my noble friend said about the Housing and Planning Act, but that was not discussions that we had; I was not involved in that legislation.

I am also very happy to take away the other issue and have a look at it to see whether there is anything we can do in relation to it. However, as I think my noble friend will accept, there are other considerations about when people go away—Easter and so on—so there are broader concerns. My noble friend is right that it is a common-sense provision; it may be that we can expedite it more quickly than the end of the year, but that is the undertaking I will give. I am very happy to meet her in short order when we can both find time in our diary to have the discussion, if that is acceptable to her.

Baroness Gardner of Parkes: I am sorry to have made a bit of an issue out of all this, but the Minister has been very good in clarifying what he has said. I pin my hopes on him doing what he said and beg leave to withdraw the amendment.

Amendment 9 withdrawn.

Amendment 10 not moved.

Amendment 10A

Moved by ***Baroness Parminter***

10A: After Clause 12, insert the following new Clause—

"New town local planning authority powers

Where a new town development corporation is established by an order under section 1 of the New Towns Act 1981 (designation of areas), on request of the local planning authority the Secretary of State must delegate to the authority the powers to appoint the board and to approve expenditure in applying the compulsory purchase provisions and subsequent development of the new town and its administration."

Baroness Parminter: My Lords, with the leave of the House, in the unavoidable absence of my noble friend Lord Taylor of Goss Moor, I move the amendment standing in his name. The amendment introduces the principle of localism to the New Towns Act to enable the delivery of the highest quality new garden villages and towns by locally accountable elected local planning authorities rather than, as at present, any such development corporation being established on the initiative of a local authority and agreed by the Secretary of State.

Garden towns and villages are local solutions to the pressing need in so much of the country for homes, but by using the uplift in land values generated by development not purely to line the pockets of the few with fantastic wealth but to deliver great, thriving, 21st-century villages every bit as well served as the best historic communities. Already, 14 are being supported by Government, but the success of that programme will be greatly enhanced by the ability of local authorities to ensure quality by using the New Towns Act to guarantee that new garden villages and towns all meet the policy objectives of the Government. But local authorities will adopt this opportunity only if they know it is locally controlled. Local communities would accept no less. In the age of localism, why should they hand control of finances, planning, ownership of the land and its long-term value to the Secretary of State?

A similar amendment was moved by my noble friend Lord Taylor in Committee, where it received cross-party support. It also gained clear support and a positive response from the Minister at that time. Since then, we have had the Government's White Paper, and the Government have made a clear and unambiguous commitment to localise the New Towns Act powers, exactly as proposed by this amendment. Mindful of the fact that this has cross-party support, I genuinely welcome that and beg to move.

Lord Best (CB): My Lords, I have not declared interests during the course of the Bill so far, so declare that I am a vice-president of the Town and Country Planning Association and a vice-president of the Local Government Association.

In the debates on what became the Housing and Planning Act 2016, the noble Lord, Lord Taylor, and I jointly proposed an amendment, which the Government supported, to make it easier for new corporations to be set up to establish new settlements, along the lines of the old new towns but probably rather smaller—garden villages or garden towns they are sometimes called. This takes the story to its next stage, as the White Paper from the Government promises to do. It would allow local authorities to have significant influence over the new corporations set up to create new communities. Local authorities would be able to appoint the board and approve their budgets.

Sadly, without this kind of measure, a lot of local authorities will not think it worth while establishing new corporations for this purpose. This amendment would take away a deterrent to local authorities embarking on this road, fearful that the Secretary of State will dictate what happens in their area. It would instead replace the Secretary of State with the local authority having considerable influence over the new corporation.

Why are we making such a fuss about this? Why do we need these new settlements? From the perspective of local communities, in order to make sufficient land available for a five-year supply of all the new homes that we are going to need, you sometimes get the choice between 25 homes in 100 or 200 different villages or small towns, and one major development of 5,000 homes—perhaps not quite as much or perhaps a bit more—in one place. Apart from anything else, this means that instead of the hassle of having 200 local community groups opposed to the 25 homes in their village, you have one group. That group probably is opposed to the very large development, but at least the opposition to the development is concentrated in one place, instead of the development disturbing an awful lot of local communities. Putting a number of the homes that we need in one place is in itself helpful to local authorities and to their communities.

That is a negative. The positive is that having a properly planned new settlement or community, where you have a master plan that ensures that all the facilities that you need—transport, schools and the rest—are all in one place, is itself a really good way to try to achieve this enormous number of new homes which we know the country desperately needs to end housing shortages.

I can speak with a bit of experience here because one of my duties for nearly 20 years at the Joseph Rowntree Foundation was looking after the model village of New Earswick, created by our founder, Joseph Rowntree, in 1904. We can look back over 100 and something years to see whether a garden village really works. I can tell your Lordships that this kind of planned community of more than 1,000 homes, with two schools, shops and a wonderful arts and crafts folk hall and community centre, 100 years on, is the way that you get all the things that you need to build a proper, strong community, rather than packing in 25 more homes at the end of the village, which causes nothing but disruption.

This amendment would put local authorities more in charge and would therefore make it much more likely that we will see these new settlements and communities created in the future. I strongly support it.

2.45 pm

Lord Porter of Spalding: I also support the amendment, although no one should panic—I might not vote in a Division, if it gets pushed, unless I am instructed to. But it just makes sense.

We know this will not fix the whole housing shortage, but it will be a useful tool to help that happen and we need to encourage councils to do this. While the control of these developments rests with the Secretary of State, it will be very difficult to persuade local councils and the communities that they represent that this is the right way to do it. By pushing power closer to the councils, and therefore to the people they represent, this amendment will make it more likely that more of these will come through. The noble Lord, Lord Best, tried to do this in a positive way, and the really positive point is that we can actually capture the value of the land. The land will give us the ability to make the communities truly sustainable: it will give us the money to make sure the roads, the water supply, the gas supply and the electricity supply are all right. In some areas, if probably not my own, the broadband might even be all right as well on the back of this.

I gave evidence to the Public Accounts Committee yesterday. One of the other witnesses was from Shelter, and he pointed out that one of the flaws in this argument is that we may need to revisit the compulsory purchase rules, because even when you compulsorily purchase land for a new town settlement, the land uplift still goes to the current landowner. If the Government are seriously interested in this, I would urge them to look also at reforming the compulsory purchase rules relating to new town settlements.

Lord Teverson (LD): My Lords, I also very much support this amendment from my noble friend. I declare that I have chaired two small commercial development companies in the south-west, but that makes me even more in favour of the amendment and of giving local authorities control.

Down in Cornwall, where I live, the eco-town around St Austell, where I was a local councillor for a short period of time, which we unfortunately failed to deliver, showed how full local authority involvement—although it was not as full maybe even then as I would have

[LORD TEVERSON]
wanted it to be—meant that we could start to get local buy-in and make these things happen by involving local communities and ensuring they were connected in the right way. I am sure that empowering local authorities will make the process a lot better.

However, dissociating myself from some of the comments of the noble Lord, Lord Best, I would say that some of the best developments in the far south-west have been in villages, particularly in areas of community land trusts. Small extensions make shops, pubs and schools more viable and make sure there are young family elements to those villages as well. I see no conflict between the two. What we want to produce through this amendment is public buy-in, so there are not these large objections from local people and so that we can move ahead, not just with small developments but with these new garden developments—effectively, properly, environmentally and quickly.

Lord Kennedy of Southwark: My Lords, I will be very brief. We discussed this amendment in Grand Committee. There was cross-party support for it then, and as we have heard, there is support for it today. The Minister was supportive of the aims of the amendment when he spoke in Committee, but it would be good when he responds if he could go a bit further. The amendment is about putting power over expenditure and the appointment of board members in the hands of local authorities. It is about localism and has lots of support around the House. It is a good thing to do. It may be that the Minister cannot accept the amendment as it is now, but maybe he could outline a bit more how he intends, or hopes, to bring what is asked for in the amendment into effect.

The Archbishop of York: My Lords, I spoke at Second Reading about building flourishing communities, not just houses, and emphasised the contribution of affordable housing and green spaces to communal life. If land has been compulsorily purchased, surely the powers need to be given back to the local community to decide what kind of housing will go there. The Government have been very good at taking measures to increase the supply of affordable housing. However, the number of completed social rented homes has decreased from just under 40,000 in 2010-11 to just 6,550 in 2015-16, and affordable housing completions more generally, including other tenures, are at the lowest level for 24 years. The recent government housing White Paper showed a greater focus on homes to rent and it is important that that includes genuinely affordable social homes to rent, which is the only affordable housing tenure suitable for those on the lowest incomes.

Affordable housing not only benefits individuals who would otherwise be unable to secure a home but contributes to the diversity of local places, encouraging interaction across social boundaries. Securing a mixture of tenures in local development enables different types of people to meet each other every day, rather than being shut behind gates. Derwenthorpe in York, a development by the Joseph Rowntree Housing Trust, is a good example of integrated housing provision on one large estate. Why was it done? Because the local authority had some say. The amendment would allow us to ensure that the example of Derwenthorpe can be replicated in many different places, so I support it.

Baroness Young of Old Scone (Lab): My Lords, I had not intended to speak on the amendment, but my degree of rage is rising so I feel I need to say something. I declare an interest, because the very phenomenon that has been described—reducing the number of people who could object to the creation of a vibrant, attractive and charismatic garden city that nevertheless ruins one village next to it—is precisely the situation I find myself in in North Bedfordshire.

I make one plea in all of this. There can be an unholy alliance between the proposers of such a development and the local authority, because it plays very much to the business of achieving housing targets in a publicly very sellable way and reduces the angst felt in many communities across the whole of the planning authority's patch, where previously the proposals to meet housing targets would have been infill, edge-of-village development and attempts to boost the viability of smaller settlements within the planning authority's area, of the sort the noble Lord, Lord Teverson, talked about. I sound a note of caution about the unholy alliance that can arise, because it can be seen as the line of least resistance.

Having been involved in a similar development in Cambridgeshire, in Cambourne, where there was a considerable commitment to get the design of the settlement right ab initio on a greenfield site, I believe there needs to be a clear view of how the promised benefits touted at the beginning of the planning process actually get delivered over a substantive period. The experience is that they can gently dribble away during the course of many successive years until the settlement is complete.

Lord Lansley: My Lords, the noble Baroness mentions Cambourne, which of course was in my former constituency. The benefits did not dribble away; they disappeared because the noble Lord, Lord Prescott, when Secretary of State, imposed a density requirement on building so the masterplan could no longer be effected. That is why the change from the original planning had such a material impact on the environment in the village.

Baroness Cumberlege: My Lords, we have had examples of new developments that were produced centuries ago, in the 1800s or whatever, I think we should look to today. Poundbury near Dorchester is a very interesting new development. Of course, it has a very distinguished landowner, and I am sure he or his people negotiated extremely well with the local authority. My nephew lives there, so I know it quite well. There is a variety of housing there, which is a good start for a community. It was phased—it was grown over time. Critically, it has employment; it is not a dormitory. It has Dorset Cereals and all sorts of different employment opportunities. It is not all on an industrial estate that is marked "Industrial Estate" on a map. It weaves through the whole of that village and community—that growing little town. We must think seriously about this issue in our planning; otherwise, as I have said before—I apologise for repeating it—we

are going to have a Secretary of State not for communities but for dormitories. We should avoid that. We should be building proper communities, and proper communities have employment.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who have participated in the debate. I thank the most reverend Primate the Archbishop of York for his very helpful tour d'horizon. Something occurred to me regarding what he said and the recent work on the bridge at Tadcaster. He rightly talked about the mixture of tenures that is in the White Paper, affordable housing and a sense of place and community. We have broad support for this amendment. I thank him most particularly.

I thank the noble Baroness, Lady Parminter, for moving the amendment so effectively in the absence of the noble Lord, Lord Taylor, who, unavoidably, is not in his place today. I am sympathetic to the case she made and to the points made by the noble Lord, Lord Best, about the importance of garden villages and towns. We have of course initiated a programme extending to 10 garden towns and 14 garden villages. I thank my noble friend Lady Cumberlege, who rightly said that there are examples such as Poundbury that should act as signposts for what we can accomplish.

I think there was general support for this measure. I understand the points made by the noble Baroness, Lady Young—I applaud her for the work she has been doing on ancient woodlands—who said that it has to be done with consideration and sensitivity. I support the concept, as do the Government, as outlined in the White Paper. We are strongly of the view that this should be put in local control, so I am very sympathetic to the amendment. I would like to discuss the matter further between now and Third Reading with the noble Lord, Lord Taylor, and indeed the noble Lord, Lord Best, because they have great experience in this area—with an undertaking that I would really like to do something on this, as would the Government, and return to it at the next stage.

This has been a particularly enlightening debate. There was clear support across the Chamber for taking action; there are lessons that need to be learned, but strong examples of what can be achieved. I hope that, with that assurance, the noble Baroness will withdraw the amendment. However, I would be very happy to discuss the issue further with the noble Lords, Lord Taylor and Lord Best, and indeed any other noble Lord, with a view to coming back on Third Reading with at least a report on the discussions, and perhaps firmer action based on them.

Baroness Parminter: I thank noble Lords from all Benches, including the most reverend Primate, for supporting this very important amendment. It is quite radical: the Treasury is allowing an uplift in land values to deliver thriving communities every bit as good as those in other parts of the country, to which the noble Lord, Lord Best, referred. Garden villages and towns will be an important tool in delivering the housing that we need in future, as will good-quality neighbourhood plans. They can work together in the right places—a point well articulated by my noble friend Lord Teverson. I am most grateful to the Minister for his commitment to further discussion with my noble friend Lord Taylor and the noble Lord, Lord Best, between now and Third Reading. We hope that will result in a firm commitment to an amendment. On that basis, and on that basis alone, I beg leave to withdraw the amendment.

Amendment 10A withdrawn.

3 pm

The Deputy Speaker (Viscount Simon) (Lab): In calling Amendment 11, I must advise your Lordships that if it is agreed to, I cannot call Amendments 12, 16 to 18, 21 or 33 due to pre-emption.

Clause 13: Restrictions on power to impose planning conditions

Amendment 11

Moved by ***Lord Kennedy of Southwark***

11: Clause 13, page 13, leave out lines 26 to 33

Lord Kennedy of Southwark: My Lords, Amendment 11 in my name and that of the noble Baroness, Lady Parminter, deletes the proposed new powers for the Secretary of State to set conditions on the granting of planning permission. This matter was discussed at some length in Grand Committee, and I did not feel then and still do not feel that the noble Lord, Lord Bourne, has made a convincing case for why the powers should be granted. We have had little evidence to date that they are necessary. If there was a major problem, I suspect we would have heard a lot more about it outside the Chamber. I see little evidence and, if I was wrong, I would expect to have had emails, letters and requests for meetings from builders, trade bodies and others trying to convince me and tell me why I was wrong and why they needed the changes. I do not recall one organisation getting in touch about the problems and why the powers need to be taken by the Government.

Planning conditions and pre-commencement planning conditions imposed by a local authority must always be reasonable, necessary and help to deliver sustainable development; there is no point delivering development that is unsustainable. We would just be creating a problem down the line for others to deal with because we did not have the foresight or ability to face up to the challenges before us.

I think it was the noble Lord, Lord True, who is not in his place, who said in Committee in the Moses Room that he feared the department was bringing out a dreadnought to deal with problems on the local public pond. I agree, and I have heard nothing so far from the Minister—perhaps I will in a moment—to convince me otherwise.

Far too much planning legislation from this Government has been about centralising power, agreeing what can or cannot be done by regulations and with the power to impose conditions. I remind the House that this is the sixth piece of planning legislation in six years. It is just not the case that local authorities are against development; there is no evidence to support that. There is ample evidence to suggest that local authorities are best placed to make decisions about sustainable development, consulting local people within the framework. The framework is quite

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properly set out by the Government, but it must be a framework, not a straitjacket that prevents local authorities playing their full role. I beg to move.

Lord Young of Cookham (Con): My Lords, the co-pilot is in charge of this part of the Bill. I am grateful to the noble Lord, Lord Kennedy, for revisiting an issue that we spent some time on in Committee. Amendments 11 to 14, tabled by the noble Lords, Lord Kennedy and Lord Beecham, and the noble Baroness, Lady Parminter, either remove subsection (1) from new Section 100ZA, and corresponding subsections (2) and (3), or apply exemptions to how the power is to be exercised. I will deal with Amendments 12 and 14 separately, but Amendments 11 and 13 together, as they deal with leaving out the whole of the wider power.

Amendments 11 and 13 would remove a key measure from the Bill, which is designed to put on the statute book what is already best practice in the appropriate use of planning conditions. The power under subsection (1) would allow the Secretary of State to ensure that certain conditions were not imposed, in certain circumstances, where this is appropriate to ensure that conditions meet the policy tests for conditions as set out in the *National Planning Policy Framework*.

Conditions which fail to meet the tests in the framework can cause unjustifiable delays and costs to the delivery of new development. The noble Lord, Lord Kennedy, asked for further evidence of the misuse, or potential misuse, of preconditions. This issue has arisen frequently during our debates. It is not a recent issue, and the claims date back several years. The Home Builders Federation has seen instances where unnecessary or unreasonable pre-commencement conditions have been imposed on development—for example, full details of a play area which, while commendable as a condition in general, could easily be discharged at a later stage. This is not just an issue with larger housebuilders. Small builders have also expressed dissatisfaction with the use of conditions. Research by the National House Building Council in 2014 found that 33% of small and medium-enterprise builders identified the planning process and conditions as the largest constraint to delivery. As well as issues with the time to discharge, 29% of respondents thought that the extent of conditions was an issue. If we are serious about increasing housing supply, we need to do all we can to support the builders.

Government planning guidance provides examples of specific circumstances where conditions should not be used, such as conditions which place disproportionate and unjustifiable financial burdens on an applicant. Removing subsection (2), as proposed by Amendment 13, would remove an important constraint on the regulation-making power in subsection (1). Subsection (2) ensures that the Secretary of State may make provision in regulations only if such provision is in pursuit of the policy tests. In effect, it places each of the policy tests in paragraph 206 of the framework on a statutory footing.

As with subsection (2), leaving out subsection (3), as proposed by Amendment 19, would also remove an important constraint and safeguard on the power in subsection (1). Subsection (3) requires that before making regulations under subsection (1), we must carry out a public consultation. This would afford the opportunity for local views to be put forward as part of the process for determining how the power will be exercised.

The Government published draft regulations in December to illustrate the proposed use of the regulation-making powers in Clause 13. The draft regulations have informed our debate by clarifying how the power might be used.

In Committee concerns were raised about the potential for Clause 13 somehow to act as an anti-localist measure. I should clarify that we intend to use the powers in Clause 13 to restrict local authorities' ability to impose those conditions in regulations, already identified in planning practice guidance, which fail to meet the well-established policy tests in the NPPF. A reasonable local authority would not seek to impose such conditions.

We recognise that an opportunity for users of the planning system to comment on the proposed regulations would be beneficial. Therefore, subject to the Bill receiving Royal Assent, we will consult on the draft regulations.

I can also confirm that, following the recommendations of the Delegated Powers and Regulatory Reform Committee, and in the light of concerns raised by noble Lords, about the intended use of the power in the Bill, we have tabled a government amendment that would apply the affirmative procedure to the exercise of the power in new Section 100ZA(1). This will ensure the necessary parliamentary scrutiny of how the power is exercised.

The effect of Amendments 11 and 13 would be to miss this opportunity to elevate best practice on the use of planning conditions. I hope that I have justified why the regulation-making power is integral to ensuring a robust and sustainable planning system. Therefore, with the reassurances I have provided on further safeguards on the exercise of this power, I ask the noble Lord to withdraw his amendment.

On Amendment 12, I reiterate what my noble friend said in Committee. There are good intentions behind the amendment, which is intended to ensure a local voice in judging local circumstances and the impact of planning decisions. That is absolutely the Government's aim. The Government intend to use the power in new Section 100ZA to prevent the use of unreasonable and unnecessary conditions which are already well established in the Government's planning practice guidance as not meeting the tests set out in the *National Planning Policy Framework*.

In response to the Committee debate held on 6 February, my noble friend wrote to noble Lords, providing further information on the policy objectives for the power to make regulations under subsection (1) of the new Section 100ZA. It will not restrict the ability of local authorities and neighbourhood groups to prepare local plans and neighbourhood plans and it will not restrict their ability to determine applications for development in accordance with those plans.

Subsection (1) of the clause will ensure that the well-established policy tests for conditions are adhered to. These tests are reflected in the wording of

subsections (2)(a) to (d) of the new Section 100ZA and constrain the use of this proposed regulation-making power and ensure that conditions imposed on a grant of planning permission make the development acceptable in planning terms; are relevant to the development and to planning considerations generally; are sufficiently precise to make it capable of being complied with and enforced; and are reasonable in all other respects. In other words, the Secretary of State may make provision in regulations only if such provisions are in pursuit of these policy tests.

While I am confident that the constraints referred to above are sufficient, I do understand the concerns expressed about the use of this power, and that it may somehow prevent local authorities being able to use their discretion in carrying out their planning duties. However, we believe that it would be detrimental to the planning process for regulations made under the new Section 100ZA(1) to provide for local authorities to make exceptions to the prohibition of the use of certain conditions. I cannot foresee a situation where a local authority would want to make a local exception to regulations under subsection (1), especially if this would have the effect of allowing the imposition of the types of conditions that are already well established in government guidance as being contrary to the national policy tests. In fact, during our consultation on this measure, local authorities agreed overwhelmingly that conditions should be imposed only if they passed each of the national policy tests.

As a further assurance for local authorities and other interested parties, subsection (3) of new Section 100ZA includes a requirement to carry out a public consultation before making regulations under subsection (1), so this will provide an opportunity for local views to be put forward and given full consideration in advance of making regulations. In addition, the Government have tabled an amendment that would require any regulations under subsection (1) to be approved by each House of Parliament. I hope that, for the reasons I have set out, noble Lords will not press that amendment.

The Government's position on Amendment 14 remains as it was in Committee on the Bill, and in another place, where it was tabled. I am not sure that the noble Lord, Lord Kennedy, particularly pressed Amendment 14. If the House will permit, I might skip the relevant pages because they are broadly similar to an argument deployed by my noble friend in Committee.

I emphasise finally that if subsection (2) was left out of the clause, it would remove a vital constraint on the power in subsection (1) so that it can only be used to ensure that any conditions imposed meet the well-established policy tests for conditions in the *National Planning Policy Framework*. In effect, subsection (2) places each of the policy tests in paragraph 206 on a statutory footing. As noble Lords are aware, further safeguards on the use of this power are provided. Before making regulations under subsection (1) we are required to carry out a public consultation, as set out in subsection (3), and the Government have now brought forward an amendment which would require the approval of both Houses of Parliament. I hope that, for the reasons I have set out, the noble Lord will withdraw his amendment.

Lord Kennedy of Southwark: I thank the noble Lord for his response and will happily withdraw my amendment in a moment. I still do not think that the case has been made very well. We heard from the noble Lord about a playground somewhere, and we had a list of statistics, but I still do not see the clearly overwhelming case for why this is needed. It may only be me—maybe other noble Lords are getting all these emails, requests for meetings and stuff from developers, but I certainly am not. As I am opposing the measure I would have thought that they would want to convince me that I am wrong. As many noble Lords know, when issues are brought forward, members of the public and campaigners are always very happy to press noble Lords. I am sure that our inbox is full of all sorts of things at the moment concerning legislation going through this House—but certainly this is not one of them.

I do not think we have heard a very convincing case from the Government on why this is necessary. As the noble Lord, Lord True, said, a dreadnought to deal with a problem in a local public pond is quite a good example of where we are. I do not think that it is necessary. The noble Lord said he gave some statistics on how local authorities want to impose conditions unnecessarily. They do not want to impose such things. Certainly, I sit on a planning committee in a local authority in London and I have never tried to impose unreasonable conditions on any development. Most cases are dealt with by the officers. Anyway, I am clearly not making any progress on this matter, so I am happy to withdraw the amendment.

Amendment 11 withdrawn.

Amendments 12 to 14 not moved.

3.15 pm

The Deputy Speaker (Baroness Fookes) (Con): I call Amendment 31. I am so sorry, I turned over two pages. I was not trying to hurry the House unduly. Amendment 15.

Amendment 15

Moved by ***Lord Beecham***

15: Clause 13, page 14, line 5, at end insert "including in terms of sustainable development and public interest"

Lord Beecham: My Lords, I can reassure the Deputy Speaker that I shall not take long. The amendment deals with restrictions on planning conditions set out in Clause 13, and in particular the new provision which will incorporate into the Town and Country Planning Act new Section 100ZA which deals with restrictions on the power to impose planning conditions.

Amendment 15 is basically a simple amendment that adds something to the conditions that will apply to those regulations. For example, the Bill refers to them as having to be,

"necessary to make the development acceptable in planning terms …relevant the development … sufficiently precise to make it capable of being complied with and enforced … reasonable in all other respects".

The amendment simply adds,

"sustainable development and public interest",

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to the criteria for making those regulations. I hope that the Minister will feel able to accept that and I beg to move.

Lord Young of Cookham: My Lords, I am grateful to the noble Lord for moving his amendment. I do not think there is any disagreement between us on the objectives that planning decisions should be acceptable to local people and that planning development should be sustainable.

Amendment 15 covers similar ground to that of the previously discussed Amendment 14, in that it is also intended to ensure that these measures do not have an adverse impact on sustainable development. Sustainable development is at the very heart of the planning system, as reflected in the *National Planning Policy Framework*, and I can assure noble Lords that Clause 13 will contribute to this goal.

My noble friend has written separately on this matter, as promised, to the noble Lord, Lord Kennedy, in Committee, giving reassurance of our commitment to see that development that takes place is sustainable and in line with the well-established policy tests in the NPPF. Clause 13 will not impact on local authorities' ability to seek to impose any necessary conditions and appropriate protections for important matters such as heritage, the natural environment and measures to mitigate the risk of flooding. That ability will be maintained, as well as the ability of local people to make representations to the local planning authority on how a development proposal will affect them.

If the amendment were introduced, it would add to the list of constraints on the Secretary of State's regulation-making power in subsection (2) of new Section 100ZA by explicitly requiring the Secretary of State to take account of sustainable development and the public interest in deciding whether it is appropriate to exercise the power in subsection (1), as the noble Lord explained.

As my noble friend said in Committee, and I say again now, both sustainable development and the public interest are already relevant planning considerations in the NPPF, and I can reassure the noble Lord that these matters are already captured in subsections (2)(a) and (b) of the clause we are discussing. This includes the need to consider the presumption in favour of sustainable development which drives planning policy, plan-making and decision-taking—and local views, which are already central to the planning system.

In terms of taking account of the public interest, and that planning decisions and conditions are acceptable to local people, we continue to ensure that the planning system is centred on community involvement. It gives statutory rights for communities to become involved in the preparation of the local plan for the area, and any neighbourhood plans—including strengthening their powers in this area through the Bill—and to make representations on individual planning applications, and on planning appeals, in the knowledge that the decision-maker will give these representations full consideration. I hope that, for the reasons I have set out, the noble Lord might feel able to withdraw his amendment.

Lord Beecham: My Lords, I am reassured up to a point, but I would have thought it would be better to have these as statutory protections rather than protections contained in the *National Planning Policy Framework*, which does not have quite the same statutory impact. However, I recognise that the Government's intentions are good, even if they may not quite be embodied in a statutory form. In the circumstances, I beg leave to withdraw the amendment.

Amendment 15 withdrawn.

Amendment 16

Moved by ***Lord Beecham***

16: Clause 13, page 14, line 5, at end insert—

"(2A) Regulations under subsection (1) may not be made in respect of the granting of planning permission for Environmental Impact Assessment development.

(2B) In subsection (2A) "Environmental Impact Assessment development" has the same meaning as "EIA development" in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011."

Lord Beecham: My Lords, Amendments 16 and 17 in this group are connected to issues of major concern. They seek to protect communities from extremely controversial decisions in areas with which we are becoming increasingly familiar; for example, fracking and other processes which impact on the environment. Fracking, I guess, is currently the most controversial of these. Similar concerns around minerals, waste development and the like are covered in Amendment 17. The intention here is to make it clear that the regulations which are otherwise authorised by this part of the Bill would not extend to these very controversial areas. In other words, there would have to be primary legislation to embark on changing the position on these particularly controversial areas. Some danger, I think, is sensed at the moment about the Government's enthusiasm for fracking; their overriding of local authority concerns, for example, in Lancashire, is very controversial. These amendments are designed to constrain the exercise of those powers, which we may see more of under the Bill, in such decisions taken by government over the wishes of local communities, and effectively outside the normal planning process. I hope the Government will rethink their position on these matters. I beg to move.

Lord Young of Cookham: My Lords, I am, again, grateful to the noble Lord, Lord Beecham, for explaining the reasons behind his amendment and understand the concerns he has expressed about those confronted with substantial developments involving minerals and other raw materials.

Amendment 16 would allow exemptions to be made to any regulations brought forward under new Section 100ZA(1) for certain types of development. In this case, the amendment relates specifically to the environmental impact assessment of development. As the noble Lord explained, environmental impact assessments are demanded of development likely to have significant effects on the environment. These assessments are a way of ensuring that local planning authorities, in deciding such applications,

are in full knowledge of the likely significant effects, and take these into account during the determination process.

I recognise that the noble Lord's amendment appears to stem from a wider concern about the measures—that they might in some way weaken existing environmental protections. I confirm that the Government intend to use the power in new Section 100ZA to prevent the use of unreasonable and unnecessary conditions, which are already well established in the Government's planning practice guidance as not meeting the tests set out in the NPPF.

A local authority will still be able to impose planning conditions necessary to be able to grant planning permission for environmental impact assessment development, provided that those conditions meet these six tests. The Secretary of State may make provision in regulations under new subsection (1) only if he is satisfied that such provisions are in pursuit of these policy tests.

That is why, as set out in the draft regulations we published in December, we are proposing to prohibit the types of conditions set out in guidance as failing to meet the policy tests. I hope this will reassure the noble Lord, Lord Beecham. I should like to be very clear that our guidance currently advises that these types of conditions should not be applied to any grant of planning permission, whether an environmental impact assessment is required or not. We cannot foresee a situation where a local authority would want to impose such conditions on any planning permission. As a further means of assurance, we propose that these regulations will be subject to the affirmative resolution of both Houses of Parliament, which will ensure appropriate levels of scrutiny.

Amendment 17 is similar. It exempts minerals or waste development from new subsection (1). The arguments for rejecting Amendment 17 are broadly similar to those against Amendment 16: the Bill will not impact the ability of local planning authorities to impose planning conditions to ensure the necessary protections to achieve sustainable development, provided they meet the well-established policy tests.

I also emphasise that our guidance currently advises, as I have just said, that these types of conditions should not be applied to any grant of planning permission, as they clearly do not meet the national policy tests in the NPPF. We cannot foresee a situation where a local authority would want to impose such conditions on the grant of any planning applications. We therefore do not see a need to make exceptions, as the amendments seek to do, for EIA development, minerals and waste applications, or any other type of development. With those reassurances in mind, I hope the noble Lord will withdraw his amendment.

Lord Beecham: My Lords, I am grateful to the Minister for his reply. I am partly reassured by reference to the affirmative procedure being applied in these cases, which allows greater parliamentary scrutiny. In those circumstances, I beg leave to withdraw the amendment.

Amendment 16 withdrawn.

Amendment 17 not moved.

Amendment 18

Moved by ***Lord Stunell***

18: Clause 13, page 14, line 5, at end insert—

"(2A) No regulations shall be made under subsection (1) that would have the effect of preventing a local planning authority from requiring a condition that would otherwise be in conformity with the national planning policy framework."

Lord Stunell (LD): My Lords, in moving Amendments 18 in my name and that of my noble friend Lady Parminter, I will also speak to Amendment 25.

The whole of Clause 13 is somewhat out of place in the Bill. For the most part, the critics of the Bill, such as they have been, have looked at where it either goes slightly too far or does not go quite far enough. This clause does something completely different, which is entirely out of the context of the rest of the Bill. It has a very strong power for the Secretary of State to interfere with, change, direct or—as it puts it—"regulate" the kind of planning conditions local planning authorities can use.

New subsections (1) and (2) particularly do that. In Committee, the Government introduced a number of amendments, which were welcome but which essentially introduced the word "relevant" before a number of phrases, which might, in any case, have been superfluous and certainly did not affect the application of new subsections (1) and (2). In Committee, I asked the Minister to set out the Government's intentions with Clause 13 as a whole and its two separate contexts. The first is a general capacity for the Secretary of State to introduce additional regulations on local planning authorities for every stage of the planning condition process. Within that, there is a subsection dealing with pre-commencement conditions. Amendment 18 deals with the generality and Amendment 25 with the specific case of the pre-commencement conditions.

3.30 pm

The Minister responded to a number of questions in Committee. In response to my direct question of whether the Government have any intention of introducing limitations on local authorities as regards introducing planning conditions—which they would otherwise have been able to put into force as a result of the National Planning Policy Framework—the Minister's reply, as I understood it, was that there is no intention to restrict the capacity of local authorities to put into force relevant conditions that are themselves in conformity with the National Planning Policy Framework. I suggested to the Minister at that stage that redrafting to simply say that might make it much simpler and less challenging for those of us reading the legislation—and Amendment 18 says just that. The limitation on the Secretary of State when introducing his regulatory powers is that none of those powers can cut into the NPPF or reduce the capacity of local authorities to put in conditions, as long as they are in conformity with the NPPF. In other words, Amendment 18 puts in plain language what I understand to be the Government's real intent.

If the amendment is to be resisted, there will linger in the mind the thought that it may be the intention of this Government—or a future one—to have in hand a

[LORD STUNELL]
reserve power that would allow them to cut back or to change the NPPF. If that is their intention, it is for one thing extremely premature, as there is a review of the NPPF going on at the moment, and it would also be very damaging to the credibility of the NPPF that has built up on the basis of it being a sound document with very broad consent. There is currently very little dispute as to its relevance and applicability.

So far, the ministerial response to the drafting has been that, despite being a wide-ranging text, it is really meant to deal only with pre-commencement conditions. That was the point made repeatedly in Committee—I will come to Amendment 25 in a moment. It was asserted that there was no intention to cut away at the NPPF or to limit its use by LPAs when they put down conditions, and that it was entirely appropriate for them to refer to the NPPF in its entirety when deciding whether a condition was relevant. If all that is true, then my Amendment 18 is the one that the Government should adopt, because it places in the Bill precisely what the Government say the Bill is supposed to deliver.

There is a third argument that has been put forward, which is, "Trust me". It was deployed by the noble Lord, Lord Young, when responding to Amendment 11, and I have to say that I can think of no better noble Lord in the whole House to be deployed to reassure us and say "Trust me" than the noble Lord, Lord Young. I thought he did so with customary eloquence and conviction. But the fact of the matter, sad as it is to report, is that the noble Lord will not necessarily, in perpetuity, be the one who exercises the relevant powers and issues the relevant regulations. Some of us would be quite happy—within certain limits, anyway—to say that he should be, but the reality is that we are putting in place legislation that can be operated by anybody whom Her Majesty the Queen subsequently decides to appoint.

Amendment 18 is superior to the Government's text and delivers what the Government say they want this particular clause to deliver. I thought that the noble Lord, Lord Young, in doing an excellent job, explained that there was to be the most convoluted, circular and complex process to achieve exactly what I am asking for—a process where we can be satisfied because there would be all sorts of references, the possibility for people to write to other people and to hold inquiries, and the possibility for this House and the other House to look at it twice. Why do all that? Why not simply say that the regulatory powers are limited to preventing local authorities from breaking the bounds set by the NPPF? I urge the Government Front Bench to take another look at that.

Amendment 25 relates particularly to the vexed issue of pre-commencement conditions. The noble Lord, Lord Young, produced the outstandingly shocking news that developers do not like planning conditions. I would not have thought it difficult to get a developer to write a letter to say, "I do not like planning conditions", but developers are not always the best judge of what makes a sensible planning condition. A developer in a rush may find a pre-commencement planning condition that says, "You must carry out a proper archaeological survey" as nothing but a waste of time and money—it is only a pile of old stones. If a local authority cannot impose a pre-commencement condition relating to archaeological investigation as a result of some ministerial direction—well, I am sure that the Minister will reassure us that this is not the intention. He will say, I predict, that archaeology will still be permitted to be set as a pre-commencement condition, which I am pleased about. I could ask a whole lot of other questions and I am sure that he would say exactly the same to all of them: "The Government have no intention of introducing regulations". When we get to the bottom of it, we will find that the line he has drawn is the line set by the National Planning Policy Framework. This is precisely why Amendment 25, tabled by me and my noble friend Lady Parminter and supported by my colleagues, simply says that, in relation to pre-commencement planning conditions, the Secretary of State can only make regulations that would limit any condition that goes beyond the very reasonable constraints set by the National Planning Policy Framework.

It may be that the Minister's brief has a bullet-point, one-line zinger that shoots down both of these amendments—no doubt I shall hear it in due course. But every time this has been discussed—at Second Reading, in Committee, and indeed earlier today in relation to previous amendments—the Government have found it exceptionally difficult to show, on the one hand, why they need this power and, on the other, that they absolutely do not intend to interfere with the operation of the NPPF. This is a very narrow line, and I do not believe that I can be certain that the present text does not stand anywhere near that line. I offer to the House that Amendments 18 and 25 do stand exactly on that line, exactly where the Government say they want to stand, and exactly where I and my colleagues believe that they should stand. I beg to move.

Baroness Parminter: My Lords, as these amendments are also in my name, I want to add that I think that they are an incredibly eloquent solution to the position that the Government now find themselves in, for which I commend my noble friend Lord Stunell. As we have heard from noble Lords around the House, there has been no real evidence put by the Ministers of the problem that these pre-commencement condition limitations are seeking to solve. We have had single citations from developers and development organisations, but there has been no clear indication of the scale of the problem—no indication at all. It is, I am sure, no surprise to noble Lords to find out that, when the Government consulted on this matter, there was not a majority in favour of pushing ahead with these proposals. Only a minority of people supported them.

In Committee, I spoke about the need to ensure that the housing we build in the future is truly sustainable, particularly from the perspective of dealing with flooding issues. I have genuine concerns that if the Bill goes ahead in its present form the limitations on pre-commencement clauses will limit the ability of local authorities to ensure at an early stage in the planning process that the homes of the future that we need are robust and do not add to flood risk. I contend that as regards not only flood risk but also risk to our natural environment, heritage and culture, the Bill does no

more than respond to protests from developers, and will constrain our ability to build the homes that we need in the future.

My noble friend's amendment is absolutely right and is a very clever way of ensuring that the Government achieve what they want to do, which I am sure we all agree is reasonable—namely, to ensure that unreasonable pre-commencement condition clauses are not put forward and that we focus on ensuring that anything that comes within the scope of the National Planning Policy Framework is deemed to be suitable. That seems to answer all the questions that noble Lords might have about that. Therefore, on that basis, I fully support these amendments.

Baroness Cumberlege: My Lords, I strongly support these amendments. If my memory serves me right, in Committee we voted against what was then Clause 12 standing part of the Bill. Clearly, that was not acceptable to my noble friend Lord Bourne. In the intervening period a lot of thought has gone into how we arrive at what the Government are trying to achieve. The noble Lord, Lord Stunell, put forward a case that was persuasive, clear, simple and elegant. As a latecomer to this debate on neighbourhood planning and local planning, I have learned a lot about the NPPF. I say with respect to the most reverend Primate the Archbishop of York that it is the bible of planning. It is the document that everybody looks to. The most reverend Primate whispers at me. I will seek absolution later.

This measure is a very clever way of meeting everybody's needs. When one takes part in a Bill such as this, it is interesting to note where the traffic comes from in terms of the people who write to you and all the rest of it. I have not had any developers write to me but I have had correspondence from a lot of other people. As I say, this measure is a very clever way of trying to find a way through this issue. I hope that my noble friend—in this case it is my noble friend Lord Young, of whom I am an admirer, possibly a groupie, I do not know—with his intellect, and with the great intellect of my noble friend Lord Bourne, will say that we can find a way through this. This measure is probably the very best way we could find of doing so.

3.45 pm

The Archbishop of York: My Lords, first, I apologise to the noble Baroness, Lady Cumberlege. I was whispering to her because the spirit was on me, and was saying, "Preach it, sister, preach it", as she referred to a document as a bible.

Clause 13 concerns pre-commencement planning conditions. This is the most controversial aspect of the Neighbourhood Planning Bill as it attempts to ban pre-commencement planning conditions without the developers' agreement. This has been done on the basis that such conditions slow the development process, but I remain concerned that it could lower environmental protection and other standards. This is at the heart of the Bill. Amendment 11 was very graciously withdrawn because it would have neutered the entire Bill. I do not know why Amendment 12 was not pressed as it goes in almost the same direction as Amendment 18, but be that as it is.

The change we are discussing shifts the balance of power towards the developer. I know that this is a very technical issue and that there are arguments on both sides. However, I support Amendment 18 because it seeks to give local authorities exemptions to the regulations framework, particularly in regard to conditions that ensure conformity with the national planning framework. The Government's proposed arrangement in which local authorities can only refuse planning permission entirely may lead to some authorities compromising on important environmental regulations in order to get a development off the ground.

The noble Lord, Lord Stunell, eloquently explained Amendment 18, and was supported most eloquently by the noble Baroness, Lady Cumberlege. That amendment would ensure that regulations would not prevent a local planning authority imposing conditions on a grant of planning permission that are in conformity with the National Planning Policy Framework. If we do not allow that subsidiarity in every local authority, I am afraid that we will lose some of the best planning regulations. Therefore, I support this amendment because what it seeks to do is in keeping with the National Planning Policy Framework. It simply says that these regulations will not prevent local planning authorities imposing conditions on developers which they consider necessary in the interests of the environment, the development and sustainability. Therefore, as I say, I support the amendment too.

Baroness Andrews (Lab): My Lords, I will try not to embarrass the co-pilot any more but he is a reasonable man, and these amendments seem to be reasonable. They attempt to help the Government to make clear what is genuinely not clear at the moment.

On the principle of pre-commencement as set out in the Bill's requirement for a written consent, the question of evidence is important—that is, whether the lack of that at the moment is generally slowing down the planning application process. I am not convinced, and clearly few other noble Lords across the House are. There is clearly a lack of detail about how this will actually be applied.

However, I am more concerned about the unintended consequences that might occur as a result and the confusion inherent in the situation. I would like to know from the Government whether it is correct—and therefore Amendment 18 would genuinely help—that the Government intend to stick to the NPPF. If that is the case, Amendment 18 would ensure that pre-commencement conditions in line with the National Planning Policy Framework could still be imposed. That is all that we are seeking to do to establish some clarity. If that is not the case and the Government want to go further, we should know exactly what they want to do, how they see any extension of that process working, why they think it is important to do it, what effect it will have, what problem it will solve and what benefits it will bring.

To come back to archaeology, which is a key area and an exemplar of what might happen, there are concerns among the archaeological and heritage bodies about the clause. Of course, for most applicants the archaeological work is done in advance of development work to mitigate risks—we all know that; we have

[Baroness Andrews]
been over it many times in this House. The archaeological bodies are concerned that it would potentially allow less scrupulous developers to try to avoid paying for archaeological work by refusing to accept a pre-commencement condition. That means that, essentially, they could just walk away and nobody would benefit, which seems a rather draconian situation.

I know that the Minister is inclined to say that that should be governed by regulations and guidance, but an awful lot goes into guidance and regulations in this Bill, and something as crucial as being clear about the status of the NPPF in relation to pre-commencement orders should be established in the Bill if there is any difficulty around what is intended.

Lord Lansley: My Lords, pre-commencement planning conditions arise in both this group and the subsequent one. Clearly, we have entered into the debate on this group, so perhaps it might be simpler if I speak now rather than in the debate on the subsequent group. I will try not to detain the House for too long, but there are essentially three good reasons why we should proceed in the way the Government propose, by seeking written agreement with applicants before the planning permission is granted.

First, I draw attention to my interests in the register. I am chair of the Cambridgeshire Development Forum, and in that context I am reminded partly by this debate that, on the last occasion that our forum met—quite contrary to the way in which the noble Lord, Lord Stunell, represented the views of the development sector—the head of the historic environment team for Cambridgeshire came to the meeting, made a full presentation on what that team does and why it does it, and responded to questions. They agreed to work on a collaborative basis, because the development community appreciates that satisfying the needs of the historic environment is an essential part of their responsibility. However, I will come back to that as an example in a minute.

The second thing is that we have to remember that at the back of this is the fact that local planning authorities have an obligation not to grant planning permission in circumstances that would be contrary to the National Planning Policy Framework if an applicant would not agree to a condition that was implied by it. We are having a debate that is not based in reality. The implication is that the applicant does not sign up to this pre-commencement planning condition, and therefore planning permission is granted without it. That is not the situation. I am afraid that these two amendments in particular seem to have ignored that local planning authorities would be quite within their rights—and indeed are required by the legislation—to proceed on the basis of the NPPF. If they fail to do so and grant planning permission, they will be in dereliction of their planning responsibilities.

I come back to three points. I do not mean to steal the thunder of my noble friend on the Front Bench, because his thunder will be better than mine, but, first, this is about creating an expectation. The Government are promising to issue guidance. This is driving towards the situation where a written agreement with applicants will direct them towards trying to anticipate and meet the proper expectations of a local planning authority and a local community in advance, and to proceed probably by way of a draft set of conditions associated with a planning application in the first place, which would relieve the pressure on local planning authorities. It is also perfectly clear from local experience that it would also assist local planning authorities, which are short of experienced planning officers. It is the inexperienced planning officers who tend to put forward long—and often arguably unnecessary—sets of planning conditions. Experienced planning officers recognise what is required and are then likely to get to a better result more quickly. It will therefore enable that to happen more directly.

Secondly, it will avoid the ambush—the sense that at the last minute conditions can be applied, and the applicant has very little opportunity to respond or to decide whether they can proceed with a planning application on the basis of something that is applied at the last minute.

The third point is really important. It has come to my attention that pre-commencement planning conditions can create a problem because often, like other conditions, they have yet to be drafted after planning approval is granted. We are trying to avoid delay—we are trying to build the right housing in the right places as quickly as possible. Drafting the conditions after planning approval is granted causes unnecessary delay, and seeking written agreement to the conditions with an applicant in advance will ensure that we get rid of that delay.

Finally, we need to minimise the number of pre-commencement planning conditions. There is always a debate about whether something is pre or post commencement. If the number of pre-commencement planning conditions can be minimised, that too will help with the difficulty of discharging the conditions. Where there are a lot of consents, discharging the conditions is often a considerable source of delay in moving from planning approval to the point where build-out actually starts on site. We want to see those starts on site taking place. For all those reasons, I feel that the Government have a perfectly reasonable basis for proceeding in the way they have set out in the Bill.

Baroness Young of Old Scone: My Lords, I too commend the trustworthiness of the noble Lord, Lord Young, mainly because we Youngs are totally trustworthy.

I must admit that when I read this whole section on planning conditions, my brain began to hurt, and I think that the noble Lord, Lord Lansley, has just made it hurt even more. Achieving the desired outcome through a series of double negatives seems incredibly tortuous. Considerable anxiety has been raised about this whole area by a variety of groups from different ends of the spectrum—planning groups, environmental groups and heritage groups. It does appear to be complicated. It seems that the Secretary of State can say no to local authorities saying no, but he cannot say no to local authorities saying no unless that fulfils the NPPF. That is a very tortuous way of going about things. I think that these two amendments are extremely elegant and send a very clear signal to both developers and planners, providing reassurance to those concerned with the environment and heritage. I believe the amendments should be supported.

Lord Shipley: My Lords, I agree that Amendments 18 and 25 are important, although the comments of the noble Lord, Lord Lansley, largely related to Amendment 25, and perhaps to some others that we will deal with later, on the subject of pre-commencement conditions. Those comments were very similar to ones that I recall him making in Committee. I repeat what I said on that occasion, which is that I find the case exaggerated. I do not find the evidence base that the Government came up with for the problems requiring this solution to be as great as they imagine it to be, and I have heard nothing further to convince me that that is the case.

Clause 13 is simply one clause, but almost a third of the amendments tabled to date relate to it. Twenty-four amendments to Clause 13 have been tabled by noble Lords, and that suggests to me that there is something structurally wrong with it. Therefore, I hope that the Minister will feel that there is a great deal of merit in Amendments 18 and 25.

In response to another comment from the noble Lord, Lord Lansley, I would just say that I do not think that a local planning authority should have to negotiate a written agreement with a developer on a matter which is in conformity with the National Planning Policy Framework. It seems that there is a basic principle there that the Government should surely support, and it is spelled out in Amendment 18. I think that a local planning authority should have the right to impose a condition if it is in line with the National Planning Policy Framework. Therefore, I hope very much that, when he replies, the Minister will tell us that he agrees with the wording of the amendment.

Lord Young of Cookham: My Lords, I am grateful to all noble Lords who have taken part in this debate—particularly to the noble Lord, Lord Stunell, who may have endeared himself to me by saying that I could be trusted above every other noble Lord in the Chamber. However, I am not sure what the reaction of other noble Lords might have been to that. He also implied that I might not be in government for ever. That is a question which my wife sometimes asks me. I first joined the Government in 1979 and have left it four times, each time thinking it was the last time but each time, back I come. If the noble Lord, when he was a Minister in the DCLG, was given a one-line zinger to deal with any amendments, he was more fortunate than I am this afternoon.

Perhaps I may try to address some of the issues, which to some extent go broader than Amendments 18 and 25. First, I reassure noble Lords that this clause will not stop local authorities seeking to impose planning conditions that address any specific issue—the natural environment, heritage, archaeology or flood mitigation—where those conditions meet the policy tests in the National Planning Policy Framework. Those protections remain in place and changes to the Bill are not needed to maintain this position.

4 pm

The noble Lord, Lord Stunell, considers Clause 13 to be slightly more radical than I do. It is designed to do two simple things. First, it guarantees that applicants have the opportunity to discuss pre-commencement conditions with the local authority before they are imposed on a grant of planning permission. This simply builds on best practice set out in government guidance, and many local authorities already do this. Secondly, the Secretary of State would be able to make regulations setting out what kinds of conditions may or may not be imposed and in what circumstances. The intention is to prohibit those conditions that are already strongly discouraged in the *National Planning Policy Framework*. Again, the vast majority of local authorities are already following this advice. Were we to seek to add to this list in regulations, that exercise would be subject to parliamentary scrutiny and a full public consultation, open to all interested parties, would be carried out before making the regulations. We have already published draft regulations, in December, to demonstrate the intended use of this power to enable noble Lords to scrutinise the detail.

In response to a number of points, particularly those made by my noble friend Lord Lansley, we have tabled government Amendment 31, which we will come to later, placing a new duty on the Secretary of State to issue guidance on the operation of Section 100ZA and any regulations made under it. That is in answer to calls made by noble Lords during the debate—and to responses to the consultation—to improve the use of planning permissions and provide guidance on how the measures would work in practice. Noble Lords were clear that statutory guidance was essential to make sure that the new measure operates as intended and does not, as some noble Lords have feared, lead to any unintended consequences or delays. I hope noble Lords will recognise that that is an important contribution to the debate.

The noble Lord, Lord Stunell, asked why the Government will not refer to the NPPF in the Bill. As I think I said in an earlier debate, subsection (2) reproduces paragraph 206 of the NPPF which sets out the national policy tests on the imposition of conditions.

The most reverend Primate asked whether subsection (5) shifted power from local authorities to developers. The decision on whether to grant planning permission remains with the local authority. If an applicant disagreed with any proposed condition, the local authority could simply refuse permission.

I turn more specifically to Amendments 18 and 25, both of which deal with the ability of local authorities to impose conditions if those conditions would otherwise be in conformity with the *National Planning Policy Framework*. I believe that both amendments are unnecessary: the first, as it appears to duplicate the drafting of the Bill at subsection (2) of new Section 100ZA, and the second because it would undermine and weaken the duty on local planning authorities to discuss and seek agreement on pre-commencement conditions with applicants before they were imposed on a grant of planning permission. Perhaps I will deal with that in more detail, in view of the concerns expressed.

Amendment 18 seeks to ensure that the Secretary of State cannot prevent local authorities attaching conditions to planning permission where those conditions meet the policy tests in the NPPF. As I said when dealing with an earlier amendment, the wording in subsection (2) already constrains the proposed regulation-making power so that provision may be made only

[Lord Young of Cookham]
where it is deemed necessary to ensure that any condition imposed on a grant of planning permission accords with the policy tests in paragraph 206 of the NPPF—namely, that planning conditions should be imposed only where they are,

"necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects".

The regulation-making power in the Bill, and the constraint on that power as provided by subsection (2), significantly strengthens the well-established guidance on the appropriate use of planning conditions, as set out in the framework.

Amendment 25 would remove Clause 13(5) and replace it with a duty for local planning authorities to seek the written agreement of applicants only where those pre-commencement conditions proposed as part of the grant of planning permission do not conform with policy set out in the NPPF. Although I understand the reasoning behind it, unfortunately the amendment simply would not solve the problem. It would allow local planning authorities to continue to impose pre-commencement conditions without the agreement of the applicant that they are necessary and reasonable.

Of course, the NPPF should always be adhered to but evidently there are occasions when conditions are imposed that, despite the good intentions of the local planning authorities, fail to meet the six tests as set out in the framework. That is why all applicants should be given the opportunity to agree to any pre-commencement conditions.

Furthermore, the amendment as drafted suggests that the local planning authority should be able to impose conditions which fail to meet the policy tests in the framework provided that they have the written agreement of the applicant. Of course, under no circumstances do we expect conditions to be imposed which do not pass these tests and conform to national policy. Based on those arguments, and despite the flattery deployed by the noble Lord, I invite him to withdraw his amendment.

Lord Stunell: I thank the Minister and noble Lords who have contributed to the debate. I thank particularly my noble friend Lady Parminter, who spoke strongly in support of the amendment, and the noble Baronesses, Lady Cumberlege, Lady Andrews and Lady Young, about whom I need to be careful that I get my designation right. I was delighted—it was certainly a first—to receive the blessing of the most reverend Primate the Archbishop of York for the amendment.

The noble Baroness, Lady Andrews, challenged the Minister to, in essence, say whether the NPPF is a yes or a no. I think I heard him say that it is a yes because subsection (2) is taken from the NPPF and therefore that is all we need. The noble Lord, Lord Lansley, referred to inexperienced planning officers—in an earlier debate we could have referred to inexperienced planning inspectors, but I am sure we would have been described as out of order—but the professionals provide professional support to those taking the decisions in local planning authorities, and the local planning authorities are entitled to take the professional advice they receive and to use their judgment.

It would be helpful for members of local authority planning committees to have in front of them legislation which states what the Government want. If the Government want a restriction on local planning authorities—or, if you like, a strong reminder to local planning authorities that they cannot go beyond the boundaries of the NPPF—then why not say so and enable the legislation to be used effectively? If many outside organisations and many Members of this House can fundamentally misunderstand the intention of the Government because of the language in the Bill as it stands, is it any wonder that a number of councillors sitting on planning authorities all over the country have exactly the same problem? We know that they become frightened when uncertainty comes into the system, and the planning regime is so draconian and difficult for LPAs at the moment that they are exceptionally cautious.

Something that clearly references the NPPF, with which they are familiar, as the touchstone for their decision-making is surely preferable to something as circular and difficult to understand as the language the Minister has put in front of us—or, perhaps I should say, as his explanation has sought to transpose into a more benign meaning than many of us believe it has.

The noble Lord, Lord Lansley, referred to the pre-commencement provision in subsection (5). I draw his attention to what it actually states:

"Planning permission … may not be granted subject to a pre-commencement condition without the written agreement of the applicant".

It is not about consultation with the applicant—rather, it provides that a condition cannot be imposed,

"without the written agreement of the applicant".

So the applicant has the whip hand and is the person who quite reasonably does not want burdensome conditions. But is the judgment of what is burdensome to be left in the hands of the applicant or should it not rather be in the hands of the NPPF? Amendment 25 would make it so that the decision-making is limited by the NPPF and not by the preference of the applicant who may or may not have benign intentions and a deep-seated sense of civic pride and social obligation.

The problem that the noble Lord, Lord Lansley, identified is that pre-commencement conditions lead to delays in issuing decisions because of delays in drafting. I am certainly not going to say that there are never delays in drafting but it is not clear to me that pre-commencement conditions are a major contributor. However, if that is so, the solution has to be feeding through the results of the Government's decision to allow planning authorities to put extra resources into the planning service so that the delays can be overcome. There is no point in using primary legislation that overturns a fundamental approach to planning as a solution to delays in drafting conditions. That really is entirely disproportionate.

I turn now to the Minister's response. He was good enough to say that he would provide more guidance but no zingers. I understand that he has done his best with the brief that he has got, and as he reminded me, his brief is probably not quite as elegant and substantial as he would like; I know that feeling. However, having

heard the debate and given the breadth of support across the Chamber, I wish to test the opinion of the House.

4.12 pm

Division on Amendment 18

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O'Cathain, B.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Palmer, L.
Patel, L.
Pearson of Rannoch, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Redfern, B.
Ridley, V.
Rock, B.
Rogan, L.
Seccombe, B.
Sheikh, L.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Skelmersdale, L.
Slim, V.
Smith of Hindhead, L.
Stedman-Scott, B.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Swinfen, L.
Taylor of Holbeach, L. [Teller]
Wasserman, L.
Wheatcroft, B.
Young of Cookham, L.
Younger of Leckie, V.

4.23 pm

Amendment 19

Moved by ***Lord Kennedy of Southwark***

19: Clause 13, page 14, leave out lines 6 and 7

Lord Kennedy of Southwark: My Lords, these amendments concern Clause 13, which we debated in previous groups, and the restrictions on the powers to impose planning conditions. There have been a total of 24 amendments to this clause—some of which we have already debated—which deleted or added words or otherwise amended it. That is 24 amendments to this one clause, out of a total of only 77 amendments to the whole 44-clause Bill on

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Report. That highlights, as other noble Lords have said, the problem that some parts of the House have with the clause.

My noble friend Lord Beecham referred in a previous debate to the title of the Bill: it is the Neighbourhood Planning Bill but very little of it is actually concerned with neighbourhood planning. As we have heard, it is far more about the Secretary of State taking powers to direct, order and intervene in local decisions. For me, that is not very localist and does nothing to enhance, support or encourage localism. The amendments in this group have to be seen in the context of all the amendments to the clause.

Amendment 19 would delete the section on public consultation. Amendment 20 would add a provision whereby consultation has to include local authorities. I am sure the Minister will tell me shortly that of course it will include local authorities, but it is not in the Bill and we think it belongs there. Amendment 21 seeks to build in an appeals process.

Amendment 26 refers to "a mediation system". When I raised this issue in Grand Committee, I did not get a particularly favourable response from the Government and I have put the amendment down again. We need to have some system for dealing with these matters but, as I say, I did not get a wildly favourable response from the Government then.

Amendment 27 would give local authorities another option in dealing with these matters. It would set out in the Bill a default position, so that if an applicant has not responded to the council's pre-commencement conditions, they would be agreed by default. The amendment is an attempt to help move the process on. We all want to get homes and properties built quickly, without having to sit there when things have not been agreed. If, after a certain period, the council's default position were to be agreed, that might encourage people to talk and seek early agreement.

Amendment 28A would require that regulations be made by statutory instrument, and that there should be a consultation period.

This is the final opportunity at this point for the Government to explain why Clause 13 is necessary. The case has not been made today, or in Grand Committee. I have not heard any noble Lords talk about receiving representations to that effect, but perhaps the Government can tell us more about those they have received. What is the pressure behind the clause? We have not really seen the evidence.

Finally, Amendment 34 seeks to help the Government by requiring that an independent report be commissioned and brought to Parliament; then, we would finally be able to set out the robust evidence that is necessary. I beg to move.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): I must advise the House that if Amendment 19 is agreed to, I am not able to call Amendment 20 for reasons of pre-emption.

Lord Young of Cookham: I am grateful to the noble Lord, Lord Kennedy, for speaking to his amendments. He said that the Government had not set out the purpose of the clause. In response to the noble Lord, Lord Stunell, in the debate that we have just had, I set out the two main objectives of Clause 13. I hope that, on reading *Hansard*, noble Lords might find that that was a succinct explanation of why we believe that the clause is necessary. The policy was announced in the Budget last year and confirmed in the Queen's Speech, and we have set out the case on several occasions during the passage of the Bill.

There are a substantial number of amendments in this group and if I am to do justice to them all, I am afraid that it may take a moment or two—although less time than when the speaking note was originally drafted. I will begin with Amendment 19, tabled by the noble Lord, Lord Kennedy, and the noble Baroness, Lady Parminter, which would remove subsection (3) of new Section 100ZA. This amendment would therefore remove an important constraint and safeguard on the power in subsection (1), much the same as Amendments 11 and 13, which we have already discussed. Subsection (3) requires that, before making regulations under subsection (1), the Secretary of State,

"must carry out a public consultation".

This would afford the opportunity for local views to be put forward as part of the process for determining how the power will be exercised.

4.30 pm

Amendment 20 seeks to amend subsection (3) of the clause so that public consultation must explicitly include local authorities. As the Minister said in Committee, we believe that the amendment is unnecessary as this clause already ensures that appropriate consultation is carried out. We have not heard from any authorities about difficulties in responding to previous planning consultations. We will continue to ensure appropriate levels of publicity as we consult, as well as sufficient levels of accessibility to enable all parties who may wish to provide a response to do so.

When we recently sought views on the detail of the conditions measures in our public consultation, 40% of the 194 responses received were from local authorities, so I do not think that there is any difficulty when we consult in making sure that local authorities are included—and, of course, they are welcome to respond. I think that the Minister wrote to that effect in his letter in response to specific points raised during the third day in Committee. We will carry out a full public consultation and all interested parties, including local authorities, will be welcome to respond.

On Amendment 21, as I believe we said in Committee, I do not believe that such an appeals process is necessary, for reasons similar to the reasons why I believe that Amendment 12 is unnecessary, in that we intend that regulations made under subsection (1) will prohibit conditions which clearly do not meet the well-established national policy tests. As I have mentioned, subsection (3) of new Section 100ZA includes a requirement to carry out a public consultation before making regulations under subsection (1). In addition, we have tabled an amendment that requires any regulations made under subsection (1) to be approved by each House of Parliament.

Amendments 22, 23 and 28 seek to remove one of the key provisions of Clause 13: namely, the opportunity for applicants to agree pre-commencement conditions

before they are imposed on a grant of planning permission. These amendments would remove subsections (4), (5) and (6) of new Section 100ZA respectively. I cannot support them. They would severely impact on the ability of the measures in Clause 13, which are intended to tackle the misuse of pre-commencement planning conditions. They would, in fact, be fairly fatal amendments.

Amendments 22 and 23 seek to remove subsections (4) and (5) from the clause. I understand that it is seen as a controversial part of the Bill, but our intentions are merely to elevate current best practice, as already set out in the Government's planning practice guidance. Subsection (5) encourages dialogue between an applicant and the local authority, increasing the prospect of an early agreement about the conditions that should be applied to a grant of planning permission.

Amendment 28 would remove the ability of the Secretary of State to prescribe circumstances under which the written agreement of the applicant need not be sought to the imposition of pre-commencement planning conditions. This is an important feature of new Section 100ZA as it ensures necessary flexibility in the process. We have tabled a government amendment requiring a consultation in advance of making regulations under this section. Subsection (6) allows the Secretary of State to prescribe that a local planning authority can impose a pre-commencement condition without the agreement of the applicant in circumstances where the proposed default period of 10 working days has expired. The introduction of a default period was strongly supported by respondents to the consultation on these measures.

Amendment 24 seeks to remove subsection (5) and to replace it with a new subsection which would require local planning authorities to seek the written agreement of the applicant in advance of imposing pre-commencement conditions on the grant of planning permission, but only where it is reasonably practicable for them to do so. I understand the intent and I agree that such a process should not be onerous or disproportionate for planning authorities. We have been clear from the outset that these measures are intended to improve the use of conditions by local planning authorities. However, the amendment might introduce complexity and uncertainty into the process. Much would depend on the circumstances in play at the relevant time. It could even take away the opportunity for applicants to engage with local planning authorities about proposed pre-commencement conditions. The Government's view is that this amendment could do away with some of the benefits to be achieved from this measure.

I turn now to Amendment 26. A dedicated mediation system is not necessary, and indeed may be counterproductive. My noble friend Lord True spoke in Committee about the problems of setting up a national mediation system, a big risk being that,

"everything would automatically go to some sort of statutory arbitrator".—[*Official Report*, 6/2/17; col. 300.]

This in itself could clog up the system, leading to unintended consequences, including accusations of overregulation. If a developer refuses to agree with a particular condition, and the local authority, having considered it, deems it necessary, the authority can refuse to grant planning permission. We do not think that failure to reach an agreement between applicants and local authorities will become routine. Applicants want to receive planning permission so they can get on with building their scheme, and local planning authorities want to bring forward the sustainable development needed in their area, so both parties are incentivised to reach an agreement.

New subsection (5) merely seeks to guarantee that the applicant is consulted on pre-commencement conditions before they are imposed. As at present, applicants would still have the ability to appeal to the Secretary of State against a planning decision. Following the response to our consultation, we are of the view that it would be appropriate to introduce a 10-working day default period, after which the applicant's agreement would be deemed to have been given if they had not responded. This could also act as a further incentive for parties to engage earlier in the process and discuss proposed conditions.

Amendment 27 would place the proposed default period, after which the agreement of the applicant would be deemed to have been given if no response had been received, in the Bill. We propose for this default period to be set out in regulations, and a draft of these regulations has already been made available. New subsection (6) affords the Secretary of State flexibility in the future around the need to seek written agreement to pre-commencement conditions. However, as illustrated in the draft regulations we published in December, the Government currently intend to use this power to introduce the proposed default period.

The DPRRC also recommended that regulations made under new subsection (6) should be subject to consultation. We have listened to this, and subsequently have tabled Amendment 29. The introduction of a default period after which the agreement of the applicant is deemed to have been given was overwhelmingly supported in our consultation. As I have said, Clause 13 as currently drafted provides the power, under new subsection (6), to create that default period, which we intend to bring forward.

I turn to non-government Amendments 28A and 32, and government Amendments 29, 31, and 33. I am grateful to the noble Lords, Lord Kennedy and Lord Beecham, for tabling Amendment 32, as it gives me an opportunity to comment further in light of what I said in Committee, where I promised to give it due regard on Report. This amendment follows on from a recommendation of the DPRRC and raises the important issue of the parliamentary procedure that should apply to any regulations made under new Section 100ZA. This amendment would apply the affirmative procedure to regulations made under subsections (1) and (6) of new Section 100ZA.

I also thank the noble Lord, Lord Beecham, for his Amendment 28A, on the important issue of public consultation on any regulations made under new subsection (6). In its report of 27 January, the DPRRC recommended that the affirmative procedure should apply to the exercise of powers conferred by new Section 100ZA(1), and that the negative procedure should apply to exercises of the power conferred by

[Lord Young of Cookham]
subsection (6), so long as the Secretary of State is required to consult before making such regulations.

I explained previously the constraints in place to prevent the exercise of the power going beyond the stated aims of the Bill. However, I fully appreciate the DPRRC's concerns in this matter, and to this end, the Government have tabled Amendments 29 and 33 to fulfil its recommendations on parliamentary procedure. To further explain these powers in the Bill for the benefit of users of the planning system, we have also tabled Amendment 31, which proposes a duty on the Secretary of State to issue guidance on the operation of Clause 13 and any regulations made under it. I hope that government Amendments 29, 31 and 33 sufficiently serve the purposes of Amendments 28A and 32.

Amendment 34 would prevent new Section 100ZA from taking effect until an independent report on the evidence base for the changes the Government propose had been completed and presented to Parliament. The issue of evidence has arisen frequently during our debates. In our first debate today I referred to evidence of problems that has come from the National House Building Council, small builders and others. I do not think the Government can accept the amendment because we believe the case for the clause has already been made.

I hope I have been able to reassure noble Lords about any remaining concerns they might have, and that the noble Lord, Lord Kennedy, will be able to withdraw his amendment. In due course I shall move Amendments 31 and 33.

Lord Kennedy of Southwark: My Lords, I am not disputing for one minute that the Government have said what their intention is, or at least that they have sought to do so, but they have failed to set out the evidential basis to demonstrate why the clause is necessary. That is the issue that we are disputing. The Government have had the opportunity to do so at Second Reading, in Committee and repeatedly today, but we have still have not had it. So I contend that the evidence for what they seek to do is weak. There is no pressure for it that I can see; I do not recall any great mass of support from the government Back Benches to claim that the clause is necessary and has to be delivered. I think it is a classic example of a sledgehammer to crack a nut. However, it is quite clear that I have not convinced the Government, nor have we done so in previous debates on this issue. I therefore reluctantly beg leave to withdraw the amendment.

Amendment 19 withdrawn.

Amendments 20 to 28A not moved.

Amendment 29

Moved by ***Lord Young of Cookham***

29: Clause 13, page 14, line 15, at end insert—

"(6A) Before making regulations under subsection (6) the Secretary of State must carry out a public consultation."

Amendment 29 agreed.

Amendment 30 had been retabled as Amendment 28A.

Amendment 31

Moved by ***Lord Young of Cookham***

31: Clause 13, page 14, line 29, at end insert—

"(8A) The Secretary of State must issue guidance to local planning authorities about the operation of this section and regulations made under it.

(8B) The Secretary of State may, from time to time, revise guidance issued under subsection (8A).

(8C) The Secretary of State must arrange for guidance issued or revised under this section to be published in such manner as the Secretary of State considers appropriate."

Amendment 31 agreed.

Amendment 32 not moved.

Amendment 33

Moved by ***Lord Young of Cookham***

33: Clause 13, page 14, line 36, at end insert—

"( ) In section 333 of the Town and Country Planning Act 1990 (regulations and orders) after subsection (3ZA) insert—

"(3ZAA) No regulations may be made under section 100ZA(1) unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.""

Amendment 33 agreed.

Amendment 34 not moved.

Consideration on Report adjourned.

House adjourned at 4.43 pm.