

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### NEIGHBOURHOOD PLANNING BILL

*Second Sitting*

*Tuesday 18 October 2016*

*(Afternoon)*

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#### CONTENTS

Examination of witnesses.

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

Written evidence reported to the House.

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**Saturday 22 October 2016**

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**The Committee consisted of the following Members:**

*Chairs:* † MR PETER BONE, STEVE McCABE

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

**Witnesses**

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

Jonathan Owen, Chief Executive, National Association of Local Councils

Carole Reilly, Head of Neighbourhoods and Housing, Locality

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

Colin Cottage, Chairman, Compulsory Purchase Association

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

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

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

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

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

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

## Public Bill Committee

Tuesday 18 October 2016

(Afternoon)

[MR PETER BONE *in the Chair*]

### Neighbourhood Planning Bill

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

#### Examination of Witnesses

*Ruth Reed and Jonathan Owen gave evidence.*

2 pm

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and perhaps persuade some communities, including some of the more deprived ones, to see the benefits of having a plan in place.

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

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

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

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

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

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

**Kit Malthouse:** But would you extend that—

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

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

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

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

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

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

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

**Ruth Reed:** Yes—

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

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

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

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

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

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

**Jonathan Owen:** The pump-priming funding provided by the Government to support neighbourhood plan development has been an element that has encouraged parish councils to get involved, and it has driven neighbourhood planning of the 2,000 plans that have been produced. Parishes have led 90% of them, so they

are embracing that opportunity, and I would like that to continue. The element in the Bill requiring planning authorities to identify the kind of advice that they would provide to groups and draw up neighbourhood plans is helpful. Where it falls a bit short is where it does not set out what is required or expected by the local planning authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Jonathan Owen:** Well, I think you are right—cynicism is a very real risk. That is why we need to ensure that we build a system where the role of neighbourhood plans is clearly spelled out and we are not raising expectations unreasonably, so that, together with local plans, they

provide a really robust framework to support communities to have control over their areas and get the right kind of development.

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

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

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

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

**The Chair:** In 10 seconds, please.

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

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

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

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

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

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

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

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

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

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

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

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

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

### Examination of Witnesses

*Carol Reilly and Matt Thomson gave evidence.*

2.31 pm

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Q94 Chris Philp:** What is the definition of “strategic” in that context?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

There is a problem about funding for implementation for forums, so while my first reaction would be to say that CIL is an issue, it and the new homes bonus scheme only channel funding to areas where there is growth already. If we look at those forums in deprived, urban

areas, where CIL is set but set at nought, 0% of nought is still nought, so it makes no difference. These issues could be helped in terms of big-picture stuff. A national policy that tried to balance regeneration and planning would be really helpful so that people can understand what a neighbourhood plan can do for an area where there is actually not a lot of housing demand—there is not a problem because there is not a shortage—but where there is a shortage of employment. Using your neighbourhood plan to understand employment space and encourage and generate that would be great.

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

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

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

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

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

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

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

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

**Carole Reilly:** In urban areas?

**Jim McMahon:** In urban areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**The Chair:** Order. On the point of bonkers, I am afraid we are going to have to stop. I have stretched it as much as I possibly could. I really apologise, because we

could have gone further. Thank you for being excellent witnesses, but we have to move on. We will now hear evidence from the Compulsory Purchase Association, the Royal Institution of Chartered Surveyors, the Royal Society and the Royal Town Planning Institute—for Members, page 32 of the brief. For this session we have until 4 pm.

### Examination of Witnesses

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

3.1 pm

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

question of whether policy should be interpreted so as to prevent them. The starting point will be that they should not be applied.

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

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

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

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

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

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

**Q111 Chris Philp:** No, elaborate now, please.

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

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

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

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

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

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

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

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

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

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

There is one area of difficulty: the danger that authorities may use powers to acquire land compulsorily when it is only required on a temporary basis. That interferes with

long-term prospects for development by landowners, whose development plans are quite often disrupted by compulsory purchase on a temporary basis. That needs to be considered to ensure that authorities only acquire land on a temporary basis when it is required temporarily.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Q117 The Minister for Housing and Planning (Gavin Barwell):** I want to probe a little bit more on the issue of temporary possession. You expressed a concern in relation to uncertainty about the length of time that temporary

possession might last. In the Bill as drafted, acquiring authorities will have to specify the total period of time for which they are taking temporary possession, and owners—freeholders and leaseholders—can serve a countering notice placing limits on that. How are you suggesting the Bill needs to be developed further to give even greater certainty? We have tried to address that in the drafting.

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

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

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

**Colin Cottage:** That is correct.

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

**Gavin Barwell:** Thank you.

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

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

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

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

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

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

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

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

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

Successive proposals to change legislation have all brought about additional burdens on local planning authorities without a consequent increase in the resourcing available to them. To draw that point to one of the proposals in the Bill that is about conditions, the assumption that underlies the legislative provisions, as explained by the consultation issued by the Department for Communities and Local Government, is that there is an ongoing dialogue between applicant and planning officer about the planning application, including the suite of conditions

that will accompany it if the proposal is deemed to be capable of being improved. Very often, that is not the case.

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

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

#### Examination of Witnesses

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

3.43 pm

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

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

**Tony Thompson:** I am Tony Thompson, DCLG planning.

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

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

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

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

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

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

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

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

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

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

**Gavin Barwell:** If I may respond first to what you said, Mr Bone, I completely understand your sentiments. Obviously, we had a significant change of Ministers in July, so we wanted to take the opportunity to ensure that we could use the Bill as a vehicle for any other changes we might want to make to legislation. We are very conscious of the experience last year—or this

year—with the Housing and Planning Act 2016, when a large number of Government amendments were tabled late on in the progress of the Bill. In this Bill, we wanted to ensure that any Government amendments were tabled before Committee consideration began. In an ideal world, obviously, they would have been part of the Bill by the time it was introduced, but I think people will understand why that was not possible. We have sought to ensure that people have as much time as possible to scrutinise the amendments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Q126 Jim McMahon:** We have heard a lot—I think it was raised in almost every evidence session today—on the concern about resource in our planning teams. It is

not only about the number of people to administer the process and existing applications but about the quality of expertise within teams as well, and reference was made to archaeological support and conservation specialities within those teams, too. This could be a significant new burden for local authorities at a time when they are struggling to keep their heads above water. What plans do the Government have to address that concern?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**John Mann:** Yes.

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

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

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

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

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

**Q131 Chris Philp:** When is the White Paper due?

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

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

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

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

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

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

**Q134 Chris Philp:** The Minister is quite right to say that any extra money raised by way of fees should fund incremental extra levels of resourcing, and not simply replace money from general subsidy. To that point, do you agree that we might learn some lessons from the

way in which business improvement district funding works? Extra money comes in by way of the business rate supplement but the local authority has to agree the existing level of service provision in writing in advance, and it cannot reduce that. The extra bid funding provides for incremental service levels. Could a similar approach be adopted in this situation? You would agree with the council, before they levied extra fees, that there are 30 people working in the council's planning department and that the extra fees must lead to incremental hires on a cost basis. Would that be a way of avoiding the problem?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

That is where the issue is. I do not think it is so much about the conflict between the local plan and the neighbourhood plan; it is about when you either do not have a local plan, or you have one that has not met the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Gavin Barwell:** Where there are both?

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

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

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

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

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

**Q149 Kit Malthouse:** The final question from me is on whether you might consider including within the Bill a general anti-abuse clause on five-year land supply and the situation we outlined, where you can have a developer

who gets permission on one site, fails to develop and challenges on another site on the basis that the five-year land supply has lapsed.

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

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

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

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

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

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

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

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

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

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

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

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

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

that have been converted would not have come forward. Now, they are not all as good quality as Green Dragon House, so I am perfectly prepared to accept that there are challenges here.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

remaining parks or green belt, people have actually said that this is a better option. It is near where the infrastructure is—the East Croydon station route into London and all those kinds of things.

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

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

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

4.45 pm

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

**Written evidence to be reported to the  
House**

NPB 01 National Association of Local Councils  
(NALC)

NPB 02 Compulsory Purchase Association

NPB 03 Brethren's Gospel Trusts Planning Group

NPB 04 Royal Institute of British Architects