

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### LEVELLING-UP AND REGENERATION BILL

*Fourth Sitting*

*Thursday 23 June 2022*

*(Afternoon)*

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Examination of witnesses.

Adjourned till Tuesday 28 June at twenty-five minutes past Nine o'clock.

Written evidence reported to the House.

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

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**Monday 27 June 2022**

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

*Chairs:* † MR PETER BONE, SIR MARK HENDRICK, MRS SHERYLL MURRAY, IAN PAISLEY

† Andrew, Stuart ( <i>Minister for Housing</i> )	† Norris, Alex ( <i>Nottingham North</i> ) (Lab/Co-op)
† Atherton, Sarah ( <i>Wrexham</i> ) (Con)	† O'Brien, Neil ( <i>Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities</i> )
† Dines, Miss Sarah ( <i>Derbyshire Dales</i> ) (Con)	† Pennycook, Matthew ( <i>Greenwich and Woolwich</i> ) (Lab)
Farron, Tim ( <i>Westmorland and Lonsdale</i> ) (LD)	† Smith, Greg ( <i>Buckingham</i> ) (Con)
Fletcher, Colleen ( <i>Coventry North East</i> ) (Lab)	Vickers, Matt ( <i>Stockton South</i> ) (Con)
Gibson, Patricia ( <i>North Ayrshire and Arran</i> ) (SNP)	
† Henry, Darren ( <i>Broxtowe</i> ) (Con)	Bethan Harding, Adam Mellows-Facer, <i>Committee Clerks</i>
† Kruger, Danny ( <i>Devizes</i> ) (Con)	
Lewell-Buck, Mrs Emma ( <i>South Shields</i> ) (Lab)	
† Maskell, Rachael ( <i>York Central</i> ) (Lab/Co-op)	
Moore, Robbie ( <i>Keighley</i> ) (Con)	
† Mortimer, Jill ( <i>Hartlepool</i> ) (Con)	† <b>attended the Committee</b>

**Witnesses**

Andy Street CBE, Mayor of the West Midlands

Nicholas Boys Smith, Founding Director, Create Streets

Lizzie Glithero-West, Chief Executive, Heritage Alliance

Adrian Dobson, Executive Director of Professional Services, Royal Institute of British Architects

Dr Richard Benwell, Chief Executive, Wildlife and Countryside Link

Carolyn McKenzie, Chair of the Energy and Clean Growth Working Group, ADEPT

Paul Miner, Head of Policy and Planning, CPRE

Dr Hugh Ellis, Policy Director, Town and Country Planning Association

Gavin Smart, Chief Executive Officer, Chartered Institute of Housing

Kate Henderson, Chief Executive, National Housing Federation

Will Tanner, Chief Executive Officer, Onward

Alex Morton, Head of Policy, Centre for Policy Studies

## Public Bill Committee

Thursday 23 June 2022

(Afternoon)

[MR PETER BONE *in the Chair*]

### Levelling-up and Regeneration Bill

2 pm

**The Chair:** We are now sitting in public and the proceedings are being broadcast. Members may remove their jackets if they want to because of the temperature in the room. Good afternoon, everyone—I am not filibustering for any particular reason, other than we do not seem to have our guests at the moment. Andy Street, the West Midlands Mayor, will be our first witness.

I should remind Members to limit their questions to something vaguely to do with what the Committee is considering. This is of course the only time the Ministers have fun during the whole of the proceedings, because they get to ask questions and do not have to answer them. Next week, it is their turn to be scrutinised.

With that, someone should press a button and Andy Street should appear—[*Interruption.*] I tell you what we will do: we will go into private session and talk about the questions. We skipped it this morning, but we now have some time to do that. We will sit in private until somebody tells me the technology is working.

2.1 pm

*The Committee deliberated in private.*

#### Examination of Witness

*Andy Street CBE gave evidence.*

2.5 pm

**The Chair:** We are now in public session. Good afternoon. I can see Andy Street, Mayor of the West Midlands. Welcome to you. For the record, will you say who you are?

**Andy Street:** With pleasure, Chair. I am Andy Street, Mayor of the West Midlands, as you said.

**The Chair:** Thank you. We will go straight to the Opposition. Shadow Minister.

**Q117 Alex Norris** (Nottingham North) (Lab/Co-op): Thank you, Mr Bone, and thank you, Mayor Andy Street, for your time this afternoon. It is much appreciated.

I will start with a simple question: with the experience you now have of being Mayor of a huge part of the country, and of the powers you have been exercising, what do you see next for the powers of the West Midlands Mayor?

**Andy Street:** Thank you for the question. I think there are two ways of answering it. In some of the areas where we have been exercising powers already, we are looking for them to be deepened—so housing, transport and skills. Then, of course, in some policy areas, we

have not had any powers and are looking for them, and we might talk about inward investment as an example of that.

The other way of answering the question is to talk about the fiscal deal. At the moment, we have really been applying to Government for funding and then allocating it using all our knowledge—the whole idea that decisions taken next to people are better—but we have not had our own fundraising power. There is a real moment as to whether this next trailblazer devolution deal is going to begin a process of fiscal devolution.

**Q118 Alex Norris:** Thank you, that is really helpful. I am hoping that you might pull back the curtain, in so far as you are willing to, on the operations of a combined authority. Your membership is very big, so how does that work in practice? How do you work with those who have democratic mandates and with others who have been selected, because they are involved with your local enterprise partnerships? I believe you also have a trade union representative—I would always suggest that people join trade unions, because it seems a good idea to me. I wondered how that works in practice, how you try to build consensus and how you work with your combined authority?

**Andy Street:** Yes, you are right—interesting question. The remarkable thing about this area of the country—I think what I am about to say is true, and it is in contrast to every other combined authority—is that we are completely balanced politically: 14 Conservative MPs, 14 Labour MPs, four Labour councils, three Conservative councils and a Tory Mayor. That means that there has to be a model of working across party and consensually.

The way the decision making works is that our board takes the decisions. That is the seven local authorities, obviously balanced. The executive will be responsible for all the preparation of all the policy areas, all the proposals, but it will be that board that formally takes the decisions. One thing that I often talk about and am very proud of is that every single major financial decision that we have taken over the past five years has been taken unanimously by that board, across party. So, actually, an enormous amount of work has to be done to find what we might call regional interest and that consensual point, rather than—dare I say it on this call—the more conventional Westminster approach, the partisan approach.

**Q119 Alex Norris:** Moving on, there has been some interest, in both oral and written evidence, in clause 140, on compulsory purchase orders. Do you think that the powers go far enough? If not, what more would you want to see, perhaps in a Government amendment? Would it be an opportunity to address the issue of hope value in the legacy of the Land Compensation Act 1961?

**Andy Street:** To be very honest, you are taking me beyond my level of knowledge with that last clause. I do not see it as a critical part of this Bill. I am quite comfortable with the CPO powers that we have at the moment. We use them infrequently, but when we have needed to use them, they have been powerful. We have also used them almost as a deterrent. I am not sitting here thinking that that is the thing that I must get out of

this legislation. That is not a dodge of the question; it is my honest view. But I am not equipped to give you a detailed answer on that bit in your question.

**Q120 Alex Norris:** That is absolutely fine. I appreciate your candour. I have just one very quick one to finish, Mr Bone. The written evidence for this Bill is starting to trickle through. There seems to be more with particular reference to the West Midlands. Obviously, we had the chief executive of the combined authority here on Tuesday. We seem to have had more interest in police and fire functions in the West Midlands than on any other issue. Some of that evidence is contradictory. Can you express your definitive position, as Mayor of the West Midlands, as to what the future is in this area, what level of interest you have, and how that might be shared, or not shared, with other Mayors that you work with?

**Andy Street:** I think the reason you have had a lot of interest in this is that we are in a different position to the other very large combined authorities. It is interesting why that has come about. You thanked me for my candour earlier on; I will give you my candour again on this. The situation here, unlike in Manchester, London and Leeds, is that the Mayor does not have the police and crime commissioner responsibilities. It was obviously imposed—I shall use that word—on those three areas through their deals. When our deal was struck, it was subject to local agreement. Despite a public consultation that came out overwhelmingly in favour of a merger of the two roles, the board decided that that was not what was going to happen. I regret the fact that that board decision was split on party lines. I said earlier that we always try to find consensus, but this is the one issue where we did not find it. That is, I think, why you have had input, because it remains a contentious issue. My personal view is, as it has always been, that there is enormous advantage to the model of one single accountable person. There is clear evidence that that has worked in other areas, and where we have not yet achieved that, we are slightly weaker for it.

Having said that, we have done two things here. Both the police and crime commissioner and myself, although from different parties, have committed that we will work as effectively as we can together. The second thing is that I have always committed that, so long as the rules were the same, we would not reopen this issue. Of course, the Bill changes the rules, and therefore it will, potentially, give an opportunity for this issue to be reopened. Hence the correspondence you have received.

**The Chair:** For the Government side, I call the Minister.

**Q121 The Minister for Housing (Stuart Andrew):** With permission, Mr Bone, I shall ask the first question, and then Minister O'Brien has some further questions to ask.

Good afternoon, Andy. It is good to see you and thank you for giving up your time.

**Andy Street:** You, too.

**Q122 Stuart Andrew:** You have been quite a champion of brownfield sites and regeneration, particularly with a focus of trying to preserve many of the greenfield areas in the West Midlands. There are a number of planning

reforms in the Bill. Do you see those as potentially helping you in your aim to deliver the housing that the West Midlands needs and, in particular, to level up the parts of the region on which you are really keen to focus?

**Andy Street:** I will give you a straight answer to the question in one moment if I may, Mr Andrew, but let me give a bit of general context. This, I think, is a very good example of where the combined authority has been able to demonstrate the fundamental principle that each can achieve things that individual local authorities working on their own probably would not have done. Of course, the critical point is that we achieve it by working with our local authorities, but we can clearly demonstrate that we have brought additional firepower.

The stats are very clear: we have hit our housing target in this region over the last four or five years, and we had, pre pandemic, doubled the number of homes being built every year in this region. One way that we were able to do that is, of course, working with central Government by deploying the brownfield land funding that the Department for Levelling Up, Housing and Communities had allocated to us in various tranches. We have made the existing system work, and very clearly we probably would not have had a negotiation—for example, Walsall or Wolverhampton separately—with DLUHC had we not existed.

Coming to your question, we are doing this against a good backdrop. We hope we will win further funding in due course to advance this even further, but on the reforms in the paper—it is a general question—essentially I would be supportive of them because they do bring simplicity to the operation. I do think that one of the challenges we constantly face is the time difficulty in drawing these items to a conclusion.

**Q123 The Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities (Neil O'Brien):** Thank you, Andy, for joining us. The Bill makes various provisions to speed up and to simplify the creation of new combined authorities and to make it easier, as we have just discussed, for Mayors to take on PCC powers. It also makes it easier to create combined authorities in two-tier areas through the combined county authorities clauses. Do you think the extension of mayoral combined authorities to more areas of the country is a good idea, and what would your advice be to places that are setting up new combined authorities?

**Andy Street:** The answer to the first question, in one word, is yes. Let me explain why, and this is something that Minister O'Brien and I have talked about for probably a decade, since we were both in previous roles. If you look at the economic history of this country and compare it with other, similar countries, we definitely have a weakness in the out of London areas. There is nothing original there; we know that. Of course, part of the answer is to try to address that in what you might call areas of sufficient scale. I think the thing that the combined authorities have done, as you could argue that the more successful and bigger LEPs did as the precursor to it, is begin to think about economic policy at an appropriate spatial level, or what the books would probably call a natural economic area—a travel-to-work area or whatever. That, I honestly think, has been one of our great successes. Transport policies do not stop at the end of Birmingham when it moves into Solihull, as

Gill's market does not stop at the end of Wolverhampton when it moves into Dudley. We have been able to think about these determinants of economic success across the appropriate geographical area. In our case, that is not yet fully complete, and if you look around the country, you see that other combined authorities are more clearly incomplete in that sense. I would argue that they should be encouraged to expand to fill their natural economic areas.

In terms of the advice, I think there is one simple word: you have to make sure that everybody is up for it. I do not believe this should be imposed. I do not think this should be about unwillingness. I do believe there needs to be a sort of buy-in to the core principle that the very first question is that everybody has got to be prepared to compromise and make this work for it to be a success.

**Q124 Neil O'Brien:** Thank you. I have a very brief supplementary. One of the levelling-up missions that this Bill puts on a statutory basis is to increase the public domestic R&D spending outside the greater south-east by a third over the spending review period, and one of the institutions helping us to drive that is the new innovation accelerator in the West Midlands. How, other than through the legislation that we are passing, can we achieve that goal of driving high-quality public investment in R&D outside the golden triangle, and what role do you think the innovation accelerator can play?

**Andy Street:** Brilliant. I actually think this is probably one of the single most important parts of this Bill, and I am not sure it has had—what is the word?—the celebration it probably deserves. If you look at the long-term determinants of inequality, the intensity of R&D in an area is absolutely critical. You only have to look at the states of the Union and at an area such as Massachusetts and its leadership in R&D in medtech to see how Boston has become the most successful city in that sector by a country mile.

We have had a lopsided country in terms of public R&D—not just a little lopsided, but hugely lopsided. If you look at the West Midlands, we are very successful at drawing in private R&D, and we are very weak at drawing in public R&D. Our ratio here is four to one. It is definitely the worst in the whole country. It is ironic, isn't it, because the private sector sees the opportunity and the public sector has not seen it in the same way? So for the Government to commit to tilting that and leveraging in even more private sector cash on the back of that is very important.

What has got to happen to do it? Frankly, we have got to change our approach to some extent. There is a whole piece here about cluster theory. Our public R&D has been incredibly focused in a very small number of research councils and research universities, which are basically around our automotive sector. We need to continue to play to that strength, but then to balance that by looking at the medtech sector, the fintech sector and clean growth. That is where we will be putting our focus in the innovator accelerator, so that it is a catalyst for us to improve our performance in new, adjacent sectors. So that diversification approach is a very important sprat to catch a mackerel—that's what I call it.

**The Chair:** I call Rachael Maskell.

**Q125 Rachael Maskell (York Central) (Lab/Co-op):** Thank you, Mr Bone. I would like to ask about site viability and how the legislation can help, particularly with brown site regeneration developments, and about how the aspiration of local communities around economic generation—particularly on the back of talking about cluster economies—can lead to that opportunity to build out, versus the demand to get viability on the site and capital receipts, with people therefore opting for high-cost housing, which often does not meet the needs of the community.

**Andy Street:** It is a really interesting question. I think the trade-off you are implying comes most acutely in the dispersal of public land and indeed any land where the public sector has to offer a subsidy. So what we have just done recently is launch what we call our “public land charter”. It is looking at some of the principles that will apply to how that is disposed. I am pleased to say that the Cabinet Office was very involved with us, as were some of the big private sector landlords and our local authorities. What we have come down very firmly on is this whole notion of an economic assessment that addresses what we might call the “greater good”—just as you have described, long-term value to the regional economy, not just the short-term transactional value. So we are trying, in terms of the principles by which we will guide the use of the funding we have to make this happen, to address exactly the point that you are drawing out.

**Q126 Rachael Maskell:** I really appreciate that answer; it is incredibly helpful. If I may, I will just ask a further question about that. How do you believe the infrastructure levy will help with bringing forward affordable housing and vital infrastructure on to sites? Do you have any concerns over the timing of the delivery of those funds?

**Andy Street:** I do not know the answer to this. I was honest enough to say earlier that I was not sure, but I am genuinely not on this one, because the huge advantage of the current variable system is that it can be waived where it is going to make a difference. I do worry, if I have understood the proposal correctly, about the absence of that ability. I know that that is not transparent and it does not pass some tests, but I think there is clear evidence that it can be used judiciously, for and against, when there is a marginal development. So my straight answer is that I do worry about that, but I can see, on the other side, the simplicity argument, which, as I said earlier, was valuable. I think that that is what has to be weighed.

**Rachael Maskell:** Thank you.

**The Chair:** Thank you. I call Greg Smith.

**Q127 Greg Smith (Buckingham) (Con):** Thank you, Mr Bone. I have asked this question of a number of the witnesses. There has been a controversy in recent years on the assessment of housing need for an area and who should decide what the housing need is for an area when it comes to the development of neighbourhood plans, local plans and so on. Where do you think is the most appropriate level for housing need to be assessed to put into local plans? Should it be national Government? Should it be principal planning authorities? Should it be—as in the West Midlands, which you are the Mayor of—mayoral areas? Or should it be at a lower tier?

**Andy Street:** Thank you for that question, because this process is pretty bust; it is lovely that the Housing Minister is in the room for this debate. The answer to the question of where is that I have no difficulty with it being assessed by the upper tier planning authority—so, in our case, the met authorities. But I do not think that that is really the problem. The problem is that something systemic is incredibly wrong. We followed up the detail of this using Coventry as the case study, where the system of assessment through the Office for National Statistics has churned a number that is clearly nonsense. It shows that the growth of housing needs in Coventry will be more than 30% over 10 years. In the rest of the West Midlands, the average is about 11%, so you think, “This isn’t right” and you follow the story through. We have had a number of incredibly helpful and very honest conversations with the ONS, which has acknowledged in a letter to me that the number is wrong and is getting more wrong, as the assumptions that it made are not playing out over time. But when the wrongness—if that is not poor English—of the number is revealed, there is nothing in the current system that forces the local authority to review its plan, so there is a huge misstep in the process between that calculation and the actions that are then taken.

I have not raised this issue with the current Housing Minister, but I had lengthy correspondence with the previous Housing Minister. I believe it is an area of huge potential improvement, but the system is clearly broken, and I would be very happy to furnish members of the Committee with all the detail on Coventry, which was such an obvious outlier. Let us be clear that the consequence is that the city council is pursuing a policy that it has to pursue because of the numbers—I do not doubt the council’s internal working—and it is digging up the green belt around Coventry on the basis of spurious calculations.

**Q128 Greg Smith:** I am very grateful for that answer, which I recognise from my own constituency and the wider county that it sits in. On the basis that the system is broken, the Bill would seem like the obvious legislative vehicle to fix it. I am trying to tease back to my original question, which was about who should decide and using what data. What would be your best suggestion? I appreciate that there will be no magic bullet, but what would be your best solution for deciding a new system of determination?

**Andy Street:** I have no difficulty with the ONS, which is clearly the most objective, calculating the numbers—there is no question about that. I have no difficulty with the city council then being guided by that number, but the point in the middle is that there has to be a way that that can be challenged. There has to be a way to know whether it is on target and then it has to be reviewed, and the council has to have an obligation to review its plan if the numbers are wrong. It is not about who does the calculation; it is about the consequences of that calculation and feeding it through the next stages.

**Q129 Greg Smith:** I appreciate that the use of the word “target” is controversial in this debate, but would there be benefit in making any figure that is calculated by the ONS and propagated by central Government locked in as advisory, as opposed to a set-in-stone number?

**Andy Street:** I still do not think that hits the point. The point is: whether it is fixed or a target, if the number can be challenged and proven to be wrong, what is going to happen? I can see where your logic is going—if it is only advisory, a council has more room for manoeuvre—but I think there is something even more fundamental, which is that there has to be a way of testing that number and then making sure that, if it is acknowledged by the ONS not to be accurate, it can be reviewed.

**Greg Smith:** That is very helpful. Thank you.

**The Chair:** We have unfortunately almost run out of time. I was tempted to see whether the Housing Minister wanted to come back and chat to our witness, but he seems to be pointing to the fact that time is up. Or does he want to use the remaining minute?

**Stuart Andrew:** The time is up.

**The Chair:** The time is up, I am told. Thank you so much for coming, Mr Street. Your evidence was extremely clear and very helpful to the Committee.

**Andy Street:** Thank you very much.

#### Examination of Witnesses

*Nicholas Boys Smith, Lizzie Glithero-West and Adrian Dobson gave evidence.*

2.29 pm

**The Chair:** Thank you, Nicholas, for waiting so patiently. You are here and alive.

**Nicholas Boys Smith:** I am certainly alive.

**The Chair:** We now move on to the fourth panel. I will not list everyone’s names, because I am going to ask them to introduce themselves. I will first ask the witness who is with us in the room to introduce himself.

**Nicholas Boys Smith:** My name is Nicholas Boys Smith. I am the founding director of the social enterprise Create Streets. I think it is probably also relevant to say that I was previously the co-chair of the Government’s Building Better, Building Beautiful Commission.

**The Chair:** I ask the lady on the Zoom call to introduce herself.

**Lizzie Glithero-West:** I am Lizzie Glithero-West, chief executive of the Heritage Alliance, which is the umbrella body for the independent heritage sector, with over 180 organisational members.

**The Chair:** And the gentleman on screen.

**Adrian Dobson:** Good afternoon, everybody. My name is Adrian Dobson. I am the executive director of professional services at the Royal Institute of British Architects.

**The Chair:** For the benefit of the Committee, I am told that we have until 3.10 pm with this panel. Who would like to start? The Housing Minister seems most keen.

**Q130 Stuart Andrew:** Thank you, Mr Bone. There has been quite a bit of criticism that much of the development that we see around the country is the same wherever you are, and that there is a lack of imaginative design. Some would describe those developments as uninspiring places to live. How important is it to improve the design of new developments for the people who live there and to encourage more support for development in communities?

**Nicholas Boys Smith:** I assume that question is for me. Thank you, Minister. That is a very profound question, and I do not mean that in a sycophantic way. The current percentage of British people who trust planners to make their local neighbourhood better is in medium single figures, and for those who trust developers, it is in low single figures—between 4% and 7%. Despite the widely accepted desperate need for new housing, the instinctive assumption of most neighbourhoods, most of the time—sorry, this is a bit of a coda, but we have the lowest houses to households ratio in the western world—is that new development will make places worse. That informs the politics of all large developments and most small ones.

That is new, and it used not to be the case 50, 70, 100 or 200 years ago. It is something that is particularly prevalent in this country. Until we fundamentally fix the instinctive assumption that people have—before they learn more—that new development will worsen your bit of the world, the caught-between-the-horns nature of the politics of housing will never go away. As elected Members of Parliament, you do not need me to tell you that. This is not a criticism of the Bill, but it will not fix that—no one bit of legislation or set of actions can—although some elements of it are relevant.

I will say one final thing before I shush so other people can come in. This is not just about support for new housing, important though that is. Provably, where we live has very measurable and, in some large degree, quantifiable and predictable consequences for the lives we lead, our personal health, our mental health, how many of our neighbours we know and how much we walk in our daily existence, rather than just jumping in a car to go to the shops. It has very profound consequences, not just for spatial development patterns, but for the depth with which we tread upon the planet.

**Q131 The Chair:** Lizzie, do you want to come in on that?

**Lizzie Glithero-West:** Very briefly, because I am sure that Adrian will have some points on this. From the perspective of heritage and the environment, the Bill and the things around it—I support the point that this is not just about the Bill, but about the policies around it—should support sustainable reuse of buildings. Some of the best new homes are not necessarily new built; they can be renovated. Something that would be on our list for the Government to think about alongside the Bill would be the incentives to encourage reuse rather than demolition and new build.

We welcome the possible introduction of design codes, which would allow for developments that could recognise the local vernacular. Design codes should offer sustainability, safety and quality. There is a big point about the protection of designated heritage assets, as well as non-designated heritage assets, which are not necessarily included in the

Bill. Some provisions could be made, either within the Bill or around it, to incentivise repair and saving buildings, and using them as a way to keep the character of a place rather than just resorting to new homes and new buildings.

There are two things that we could look at in particular. The first is removing the permitted development right for demolition, which is a problematic loophole at the moment; it incentivises flattening beautiful buildings that may not be listed. Secondly—I can presumably talk about this in more depth later—we could look at the VAT on the maintenance of current buildings. That is normally 20%, which is completely contrary to the 0% rate for new build and incentivises the wrong solutions for the environment as well as for local communities.

**Adrian Dobson:** The Building Better, Building Beautiful Commission highlighted the value of good design, presumably in part because communities are more likely to accept well designed buildings. It also highlighted a lack of resource within the planning system, particularly in design expertise. The Bill itself places a lot of emphasis on local design codes. I am sure the Committee will want to talk about that; it is something that excites quite strong opinions both ways. Some people see local design codes as a way of establishing good basic principles, greater certainty around development and the ability to reflect local needs, but some people see them as potentially stifling innovation. That would be one way of addressing the issue.

I think it is important for us to think about design as not just being skin deep, although it is about appearance. Good quality design needs to address issues around sustainability, quality of build and the health and welfare of the people who use the buildings. When we talk about the Bill, there are perhaps some contradictions at the moment. There is possibly a contradiction between emphasis on local design codes, but growth in permitted developments. They seem to contradict each other slightly, and that might be one thing to think about. Also, there is a tension in the Bill between national development management policy and its relative weight against local development plans. Again, that might be part of the area of debate on the issue.

To follow up on something Lizzie said about the sustainability and embodied carbon aspects, we probably ought to be making more presumptions on reuse, retrofitting and alteration of existing building stock, and not just looking to new build as the solution to those issues.

**Q132 Stuart Andrew:** Looking more broadly at heritage, there have been a number of calls for the strengthening of measures. Do you think the Bill goes far enough in answering the calls that the sector have been making for some time?

**Lizzie Glithero-West:** We believe that heritage is at the heart of the levelling-up and place agenda. We are really pleased that heritage is in the Bill and has its own chapter—chapter 3. There is a lot to welcome in the Bill. Given that heritage has not recently had any distinct legislation of its own, as we had hoped to have with the draft Heritage Protection Bill of 2008, nor is it likely to, it is important for us to take any opportunity to address some of the legislative aims of the sector and policy makers. Many of those aims had cross-party support. This Bill is one of those significant opportunities. There is always more to be done around heritage protection, but several elements of the Bill, and some further measures



we have sent in a briefing to the Committee—I can unpack that, if it would be helpful—address some of those long-awaited calls from the sector.

We strongly support clause 185, which would make historic environment records statutory. That has been a long-term ask from the sector, and it features in our heritage manifestos. The sector is delighted that this has made it into the Bill, and I congratulate those working on that behind the scenes. We strongly support clause 92, which extends the protection of heritage assets. We suggested a limited number of key additions to the heritage assets list that would ensure that protection was clearer and more comprehensive, and those are outlined in our briefing.

Given the presidency of COP26 last year and the recognition of the climate emergency, we hope to see more action from Government in parallel with the Bill, or possibly within it—for example, the mention of permitted development that I made earlier for demolition—to encourage the use of current building stock over a presumption to new build. We hope that will be picked up in tandem.

Clauses 93 and 94 are also welcomed by the sector. Clause 93 makes stop notices, which have long been available within the wider planning system, applicable to heritage consent regimes. There is strong support from some in the sector for clause 94, which says that urgent works can be required in certain cases where listed buildings are occupied.

I think clause 95 is the one that you are probably referring to. There is general agreement from the sector that there needs to be a better system for the protection of buildings that are being considered for listing. The whole sector recognises that interim protection of heritage during the listing process is important. There are different views in the heritage sector on the proposals in the Bill to address that. Many in the sector welcome the removal of compensation in clause 95 and would go further by asking for a duty on local planning authorities to serve a building preservation notice where they believe criteria for listing can be met.

A significant minority, however, have concerns about the removal of compensation from those wrongly served a BPN, which could result in delays and losses. There is a concern that that would set a precedent for other compensation clauses. The organisations that I mentioned would rather have a system of interim protection akin to that in Wales. It is important for the whole sector that there is clarity on the approach taken in any transition period until the Act is fully effective. There are other bits I would like to mention, but they are not necessarily directly on the heritage angle and are particularly in relation to the replacement of environmental impact assessments and strategic environmental assessments. We can come on to those if the Committee would like to touch on them later.

**Q133 The Chair:** Nicholas, did you have anything that you wanted to add?

**Nicholas Boys Smith:** I will make a quick point linking to the wider discussion on levelling up. The danger in the years to come is that as public sector money rightly supports the regeneration and investment in left-behind towns and places, in areas with low land value, that could actually lead to the reduction in quality

of the urban realm and thus the reduced liveability of lots of historic but low-value places—the Grimsbys, the Hulls and the Stoke-on-Trents of this world. It is very important that the Bill focuses on the protection of heritage.

I think it will be very important in the years to come to think hard about how we protect, as we do not do quite so well at the moment, late Victorian and early 20th century heritage. At the moment, the ability to list gets much tougher for the late 19th century. This is not something that needs to be done through the Bill; it could be done through secondary legislation or guidance. We should make sure that as lots of money and focus goes on to levelling up places, we do not, as we have too often in the past, erringly do great harm to areas with unlisted and perhaps not very fashionable early 20th century-style places.

The quality of the urban infrastructure and realm of many of our left-behind towns is fantastic. They are often post-industrial towns with much lower levels of listing than the Salisburys and the Winchesters of this world; that is no disrespect to Salisbury or Winchester. There is a quite urgent need to face into that. Doing so would have the added advantage that more of our housing requirement could hopefully come in a more sustainable pattern from these rather under-utilised, under-invested-in and under-lived-in towns in the midlands and the north.

**Q134 The Chair:** Adrian, did you want to add anything?

**Adrian Dobson:** I return to capacity and expertise, because the Bill puts more and more pressure on stretched planning departments. We know that they struggle to compete for resources with other frontline services, and yet the care of these heritage assets requires more expertise both within planning departments and among the professionals who carry out the work. To pick up on the last point about the huge volume of pre-1945 housing stock that we have, all of that will have to be improved and have its insulation improved. There are risks that if that is not handled sensitively and with the right expertise, we could damage the very environment we are trying to protect. It is just that issue of how we lever that, whether or not from the private sector, and how we get that sensitivity and expertise from the conservation architects and conservation specialists.

**The Chair:** I should have said to the witnesses at the beginning that you might be surprised that you are getting questioned by the Minister, but the advantage of these evidence sessions is that we can have a wider debate and get more information, which feeds into the process later on, so Ministers are taking the chance to get your evidence for that purpose. We are now going to go to the shadow Minister.

**Q135 Alex Norris (Nottingham North) (Lab/Co-op):** Thank you, Mr Bone, and thank you to our witnesses this afternoon. Your time is much appreciated. I also want to turn to heritage. It is an area of the Bill about which there is a high degree of consensus on its importance. As you say Lizzie, it is important that it is seen as a levelling-up issue and a place issue, and I think that gives us exciting scope to build on. I will turn

[Alex Norris]

to clause 92, and I will go to you first, Lizzie, but I hope the other panellists might put their views in, too. I will just ask you to expand on your written evidence, in which you say that there is scope to go a little bit further. What sorts of things did you have in mind?

**Lizzie Glithero-West:** We are very pleased to see the list of assets. While this table does cover many of the key asset groups we would expect to see—it has been pointed out that the inclusion of registered battlefields could be a little clearer—it would be good to address a couple of gaps at this stage. To be clear, they are not major gaps, and we really welcome this clause being in the Bill.

One such gap would be around the setting of conservation areas. A number of my members are supportive of the idea of inserting a clause to allow the protection of a small number of nationally important archaeological sites that cannot now be designated because they lack structures. These are things that would have gone into other Bills. It is a very small number of sites, but they are very important. They cannot currently be designated but they could be designated, so there is a great opportunity to address that.

The point about setting is around conservation areas and the impacts of, for instance, tall buildings nearby and so on. Our briefing refers to that not currently being in the Bill. The other thing we would like to probe a bit for parliamentarians is how these designations will interact with other natural environment designations—for example, ancient trees, ancient woodlands, veteran trees and ancient hedgerows. There is such a symbiotic relationship between the natural and historic environment. Often, a few different designations will be in the same area, and it is important that there is clarity around that. It has also been noted that there should be consideration of maritime archaeology—perhaps looking at the Protection of Military Remains Act 1986 in addition to what is already in this list.

One other point I want to make is about the clarification of some of the wording. If the wording has been chosen to align the Bill with the national planning policy framework, it should be noted that the NPPF talks about preserving and enhancing significance, which is subtly but importantly different from preserving and enhancing assets. A related amendment should replicate the intent of the NPPF, which would ensure that the process of undertaking archaeology, which, by its nature, can be destructive but enhance knowledge and significance, is covered by the duty and not inadvertently excluded. The concern from some in the sector is that unless enhancement of significance is properly defined, it could lead to unintended consequences. Those were the main points on my list. I hope that is helpful.

**Alex Norris:** That is very helpful. Do the other panellists have anything to add?

**Nicholas Boys Smith:** I will make a point very quickly; I will not comment on those detailed points. This does not actually need to come through primary legislation, but, building on what I was saying earlier, there is an important opportunity and need in the criteria for listing, as set out by the Department for Digital, Culture, Media and Sport and Historic England, to put more

focus on issues such as townscape quality, pride in place and local popularity as well as—not instead of—issues of architectural importance.

An architectural historian might say about a building, “Oh, there are 50 of those around the country” or “Well, that is the 15th of those, and there are earlier ones over there.” Actually, if that were a town hall, it would be very significant to the people living in that town. It comes back to the wider debate about levelling up and pride in place. There is an important need to gently weave those things more clearly into the guidance for listing, but as I say, that does not actually have to come through the Bill. I do not get invited to this kind of thing every day of the week, so I have taken the opportunity mention this today.

**Adrian Dobson:** I do not think I have anything to add on this particular point.

**Q136 Alex Norris:** Turning to clause 93 on the stop notices, are you confident that they are rigorous and strong enough to beat back unscrupulous developers? Lizzie, you mentioned your concerns about the period between now and Royal Assent; I think you were making a point about greater risk. Could you cover that in your answer? I am interested to hear the views of all the panellists on that.

**Lizzie Glithero-West:** It is a very short answer from me. Clause 93 is supported by our membership. Private owners of heritage will want to be sure that it is very clear, but the clause is welcome. My only point would be that in any transitional system between Bills, you want to ensure clarity and that there is no confusion.

**Adrian Dobson:** I have just a general point. One of the challenges for the planning system is that, inevitably, things get concentrated on development management and that can be, initially, at the expense of what you might call proactive planning and also enforcement activity. There is just a concern that the proactive planning and enforcement activity can become the Cinderella element of the planning system if you are not careful.

**The Chair:** Nicholas?

**Nicholas Boys Smith:** I think I am done on heritage.

**The Chair:** Anybody else?

**Q137 Rachael Maskell:** Thank you ever so much to the witnesses. In representing York, I certainly understand the importance of archaeology, so I emphasise the point that has been made. Will you elaborate further on whether there are any omissions from the Bill or anything that could be added to help protect our archaeology? If I may, I will go to you, Ms Glithero-West.

**Lizzie Glithero-West:** Excellent—yes, of course. I have mentioned a list, particularly in relation to clause 92. There is always more that we can do. It is not an omission but an opportunity—that was the point about sites without structure and the list that is in our briefing.

What I would like to turn to, which is very much related to this—and which is less an omission and more an area that we think needs scrutiny—is the environmental outcomes reports. We are pleased that the relevant clause recognises that “environmental protection” should

include protection of the cultural environment and landscape, as well as the natural environment. The historic environment often forms part of the habitat for nature, and it is vital that that symbiotic relationship is recognised. It is important to archaeology, which I know is your area, too.

However, we have some questions about how the proposed EORs will differ from the current environmental impact assessments. It is good that cultural heritage is included, but we need a bit more information on how they will work, and it is important to ensure that the definition of cultural heritage in the Environment Bill is not used in this legislation. We were not happy with the Environment Act, because it excluded built heritage. If that were translated across to this Bill, that would become problematic for heritage and archaeology.

There are particular concerns about an inadvertent drop in the protection currently offered by EIAs and SEAs—strategic environmental assessments. The sector seeks reassurance that that will not be the case. Those concerns arise, as it is difficult to see the detail. We are concerned that the delivery through regulations might mean that there is not the same opportunity to scrutinise the details as would be the case through primary legislation. We want to ensure that the new EORs have the same scope as the current EIAs, which include protection of cultural heritage and landscape. We want those aspects to be given the same weight as the natural environment.

Also, there is a question about clarity. It would be useful and helpful to have clear confirmation that cultural heritage includes underwater cultural heritage—that is particularly important for archaeology as well—and clarification of what “relevant offshore area” will mean in the context of the Bill.

Rachael, I hope that that is a couple of points in addition to the points about clause 92.

**Rachael Maskell:** Thank you.

**The Chair:** Nicholas, do you have anything to add?

**Nicholas Boys Smith:** Again, I could add something on wider things, but not on that particular point.

**The Chair:** Adrian?

**Adrian Dobson:** Interestingly, Lizzie has made the connection between the new, so-called EORs and their impact on the heritage environment, and she has made the point that there is a lot of detail still to be developed. I think you could apply that to the Bill generally, so I just make a plea for the various sectors—the heritage sector and the architectural sector—to continue to be engaged, because there is a whole level of detail that we cannot really comment on today, because the ambitions and powers are there, but quite how they will be evolved and enacted is not so clear.

**Rachael Maskell:** Thank you very much.

**The Chair:** I call Greg Smith.

**Q138 Greg Smith:** Before I ask my question, I should say this: it is not an interest to declare, but I should say for transparency that when I was a councillor in Fulham, Mr Boys Smith was one of my ward residents and he is known to me.

**Nicholas Boys Smith:** Many years ago.

**Greg Smith:** It was many moons ago, but I thought I should put that on the record for transparency.

We have been looking at what the Bill is seeking to do in terms of protecting heritage and identifying that which makes a place within the planning system. For rural communities, one of the defining characteristics, certainly of every village that I represent, is the farmland and the food production that goes on in that village. It is the farmers who maintain the hedgerows, the beauty of the place, and so on. Therefore, can I explore with you, in the spirit of protections for heritage, place, and identity for a locality, how much, in a rural setting food, production and agriculture should equally be protected or at least considered as part of the planning process? Perhaps we could start with Lizzie.

**Lizzie Glithero-West:** I am just pondering that for a moment. Your question is on the balance of the production of food versus land being taken out of production—is that the nature of the question?

**Q139 Greg Smith:** That is certainly part of it. To clarify, it is equally the case that a lot of rural communities would not look the way they do if it were not for farmers maintaining the hedgerows, looking after the land and maintaining the footpaths that people use for leisure. If you are going to identify the characteristic and heritage of a place, as well as the physical architecture, in a rural community, it must surely equally apply to that which makes the countryside happen—if I can boil it down to its lowest common denominator. My question is, to what extent, on top of architectural heritage and so on, should that equally be considered in the planning process?

**Lizzie Glithero-West:** I feel I am perhaps leaning into a discussion about the Environment Act, but it is absolutely a part of levelling up. As archaeologists, we do not see a dichotomy between the natural environment and the historic environment. In fact, none of our landscape is purely natural in that sense. Hedgerows and features in the landscape—often scheduled ancient monuments—can provide homes for biodiversity. The two need to be thought about together. It is actually really fundamental in the roll-outs of the Agriculture Act and the Environment Act. Heritage is a pillar at the heart of the 25-year strategy and it is so important that it remains so, hence some of our concerns around the Environment Act.

We absolutely believe in public value for public goods. As some of those public goods would be around the preservation of heritage, which then goes on to support rural communities and biodiversity, it is all part of character of place to be able to use those assets; they are at the heart of place both in the town and in the rural landscape. A lot of the measures we are talking about today contribute to that.

We would like to have seen more in the Environment Act. We were concerned about some of the definitions, and that heritage was removed from some of those protections. The future farming regime and how farmers are paid for public goods will be fundamental to the point you raised—that although those features in the landscape and these places often might not be seen as valuable for food production, they are incredibly important for rural tourism, local communities, biodiversity and heritage.

**Q140 Greg Smith:** Thank you. I appreciate that answer. Before I bring in the others, I appreciate that there will be crossover with the Environment Act and the Agriculture Act. However, I am looking at this very much through the lens of the Levelling-up and Regeneration Bill, and planning reform. Mr Boys Smith, you were indicating that you would like to come in.

**Nicholas Boys Smith:** Yes. I can come in with passion and, perhaps, too much aplomb. One of the most consistent, heartfelt and distressing pleas that I have heard, that the Building Better, Building Beautiful Commission has heard and that is shown in evidence more widely is that people feel that new housing is done at them, not with them, and that it is of everywhere, not of “here”. That theme emerges in every piece of research I have done or read, even if it is expressed differently.

At one of the very first co-design workshops I ran, a marvellous lady from the West Indies—I forget which island—said that she wanted places with a heart and places that could not just be anywhere. You hear the same thing in the Cotswolds, Buckinghamshire or York. It comes up time and again. We know from neuroscience that people need and want that sense of place—a place that is their home in the world. It is unquestionably the fact that we are not currently providing that. That is something that is particularly heartfelt in your type of community, Mr Smith.

Why is that? There are several reasons. One is that although our policy on design quality and on the nature of developments we create is often quite aspirational and sounds nice, it is not cutting through in reality. If you look at the houses and the types of place we create, they are pretty similar from Cumbria to the Cotswolds—to take two random places beginning with c—or from Berkshire to Buckinghamshire, or wherever. They are very standard typologies, done with very similar highways rules.

We were doing a design code for a housing association that wanted to do houses that fitted in with rural communities. The highways rules and expectations for parking and for splay circles—things that sound technical and boring—meant that they could not. We desperately need to empower people’s preferences—it is right to do this; the NPPF has already made some good moves—for the types of places that they pay a premium to live in, so they must value them. The best way to achieve that is to stop banning the types of village centre that we have essentially banned. That does not quite answer your agriculture question directly, but it does indirectly.

If we are able to stop villages growing carcinogenically, by which I mean you have a village centre and then sprawl being—rude word—into fields around, we could perhaps allow a secondary village centre, which is perhaps more nature-similar and linked, and accept that perhaps some of the houses or flats in the village or town centre have fewer cars and are a little bit tighter together. Lots of the types of traditional village or small town street, you just could not build, although it is getting easier now. Until recently you could not build at all, but thanks to recent changes, it is getting easier.

We need to allow a visualised expression of local character to more axiomatically set local standards and expectations, as defined by local people—not by me or you or the council, although it might have a role. That becomes absolutely essential and it will allow us—again, you can see the premium in the numbers—to develop at

slightly higher densities. I call it gentle density, which, again, people will pay a premium for. It does not need to be spewing out into field after field. If we can, we should create a type of walkable, attractive, gentle density, and the focus on design codes linked to the NPPF and the new national model design code in the Bill makes that more possible. It will not solve all the challenges, because they will be existential and go on forever, but it is the best and most credible route.

**Greg Smith:** Thank you. Adrian, do you have a view on this?

**Adrian Dobson:** Just to reiterate the point about density. Higher densities can be acceptable. If they are designed in the right way, that is very valuable. The Town and Country Planning Act 1990 has served us quite well in many ways, although criticisms of it could be made. We have some slight concerns about over-centralisation. The concept of local plans and local design codes, where good designers can respond to that local context, is one of the traditional strengths of the UK planning system.

**Nicholas Boys Smith:** Can I constructively, in a good and friendly fashion, disagree with that point? Is that allowed? I don’t want to be out of order.

**The Chair:** We encourage you!

**Nicholas Boys Smith:** It is constructive and friendly, Adrian; it is not meant to be unfriendly. I agree with the principle of what you say, but I think the reality is different. If you do a comparative analysis of the power and strength of our local plans compared with equivalent documents in other countries, our local plans are incredibly weak. They are policy documents that are verbalised and in practice allow you to do almost anything most of the time. Let me paint a picture. In Sweden, in much of America and in parts of France, and in different ways in Holland or Denmark, it is much easier for someone almost to pick a house out of a catalogue provided by a much wider range of providers, rather than being reliant on a small number of house builders who produce far too high a proportion of our homes.

We are living in a—am I under parliamentary privilege? I don’t know. I am not sure whether I am allowed to say “cartel”. We are certainly living under a massively overly concentrated market, because the local plan has not managed to set regulatory clarity. A lack of regulatory clarity, although associated with nationalised development rights, is a major barrier to entry, and it is exactly how it is operated. I agree with what you say in principle, Adrian, but sadly not in practice. I hope that was okay, Mr Bone—sorry.

**Q141 The Chair:** We have time just before the end to ask each of our witnesses to say briefly what they think we should have asked and did not. This is your opportunity to influence the Committee before we go into the detailed discussion of the Bill. I will start with Adrian.

**Adrian Dobson:** Thank you, Chair. I disagree and agree at the same time. I think all the witnesses agree that design is highly important. I have tried to say please let us not think of it as just skin deep. We need to create buildings and public spaces that address sustainability, build quality, safety and welfare, and that are responsive

to local need. I would still make the point that it is at that local authority level that you can get the best response to local context. At the micro level—neighbourhood plans and, although we have not talked about them, street plans and so on—we have not had a good record of really making that work in the UK, so it is at that local authority level that we can be most effective.

Really though, the Bill's ambitions can be met only if we have proper resources. Design expertise in particular is just not there in local authorities. That is not a criticism; it is just a reflection of the facts. In fact, we do a monthly economic survey of our members, and although at the moment the biggest barrier to projects proceeding is probably inflationary costs in construction products, in every survey we do the time it takes to navigate the development control process is always a halt on development.

Finally, we have not really talked about it but the Bill has lots of ambitions on climate change and sustainability, and there is obviously a lot of movement in the right direction generally from Government, but this is another one of those areas where there is not much detail about how that will actually be realised. I just make that point as my third one.

**The Chair:** Thank you. Lizzie, as I said to Adrian, what would be the one point you would want to make? *[Laughter.]*

**Lizzie Glithero-West:** I suppose it would be that this Bill is part of a wider jigsaw of the Government's levelling-up agenda. Building on "Building better, building beautiful" and other reports, what does the Bill not do that the Government also need to think about in tandem? I have touched on it already, but this Bill is one component of thinking about a fiscal and legal framework to incentivise heritage and reuse at the heart of place.

I touched on them briefly, but there are two key things, one of which could be picked up in the Bill, and I encourage the Committee to be thinking about it. The removal of permitted development for demolition is truly damaging to really valuable recyclable stock. Associated with that we really welcomed in the "Building better, building beautiful" report the strong recommendation that the fiscal regime for repair and maintenance needed looking at. That is a really significant change that the Government could now effect that would incentivise repair. It would also boost productivity, and there is some great research behind that. The Federation of Master Builders and Royal Institution of Chartered Surveyors looked at a temporary five-year cut and estimated a £51 billion economic stimulus from construction and repair around that. Of course, it would also help the Government to meet their net zero targets as well.

In the context of the Bill, I would strongly encourage policy makers to consider those two points.

**The Chair:** Briefly, Nicholas.

**Nicholas Boys Smith:** Briefly, did you say? I will make one point, into which I will weave three themes, quickly. *[Laughter.]*

**The Chair:** In 90 seconds.

**Nicholas Boys Smith:** One of my favourite quotes from the "Book of Common Prayer" is that we should be "godly and quietly governed". That is probably an

old-fashioned quote these days, but Mr Kruger may like it. The way we currently run planning is not quiet. We put a disproportionate amount of the process and the political difficulty—and my golly it is difficult—on the development control system or process, and not on politically acceptable local plans. My ultimate plea to Ministers, shadow Ministers and Members on both sides of the House is to work together to try and bring the democracy forward into the plan-making process and to rely less on the hard-to-avoid, personal, difficult and emotional debates that will then happen around individual development decisions.

That is not necessarily politically easy, because the whole process around it and around civic society is to worry about the individual planning applications. We actually have to allow more power and more popular process on the local plan, to express that visually and typographically, and to think about sustainability not just in terms of the energy and use, but the lifestyles that we live and the longevity of buildings. More beautiful buildings get reused and last longer, and their embodied carbon is recycled. I think, "Pull the democracy forward," is my plea to you all.

**The Chair:** Thank you all very much. I very much appreciate your evidence. That ends this session, and we will now move on to our fifth panel.

#### Examination of Witnesses

*Dr Richard Benwell, Carolyn McKenzie and Paul Miner gave evidence.*

3.10 pm

**Q142 The Chair:** One of the witnesses is in the room with us, and the others are on Zoom. Starting with the witness in the room, could you say who you are and who you represent?

**Dr Benwell:** Good afternoon, and thanks for having me. My name is Richard Benwell, and I am the chief executive of Wildlife and Countryside Link, a coalition of 65 environmental charities.

**Paul Miner:** Good afternoon, everyone. My name is Paul Miner, and I am the head of policy and planning at CPRE, the countryside charity. I am a chartered town planner.

**Carolyn McKenzie:** I am Carolyn McKenzie, director of environment at Surrey County Council. I chair the energy and clean growth working group at the Association of Directors of Environment, Economy, Planning and Transport.

**The Chair:** Thank you. The witnesses can expect questions from Ministers because the object of this Committee is to gather evidence to influence our detailed consideration of the Bill.

**Q143 Matthew Pennycook (Greenwich and Woolwich) (Lab):** I thank the witnesses for their attendance, which is appreciated. I have a general question to start, and then a few specifics. Do you think the Bill is a missed opportunity to respond as needed to the climate and environment emergency? If that is your view, in what ways would you like to see the Bill overhauled to that end?

**Dr Benwell:** It is definitely not a missed opportunity yet, because we are only at the start of the process. I would say it is a huge opportunity to tackle two important environmental problems associated with planning and levelling up.

The first of these is environmental inequality. We think of the levelling-up agenda as being about economic inequality, but we live in a country of really deep environmental inequality. We have probably all heard the statistic that there are 40,000 premature deaths a year from air pollution, but it can vary street by street, let alone town by town. It goes deeper than that, because there is environmental inequality in things like access to natural green space, which has been brought to the fore over the past couple of years when so many people have depended on it. Those inequalities are, again, really deep. People from the lowest socioeconomic backgrounds are nine times less likely to have access to high-quality natural green spaces, which is hugely important for our physical and mental health. People from ethnic minority backgrounds are twice as likely to live in places that are bereft of access to natural green space.

At a wider level, there are deeper environmental inequalities still. Think, for example, of folk living in areas where degraded uplands mean that water flows more quickly over surfaces, flooding homes and businesses. Think of the same in urban areas, where densification and the use of impermeable surfaces is increasing flood risk and other environmental risks. There are huge levelling-up aspects to environmental inequality, which this Bill is an opportunity to fix.

Secondly, the planning system can help us environmentally through its impact on nature. We know that more than 40% of species are in long-term decline, and 15% of species here in Great Britain are at risk of extinction. The last “State of Nature” report made it clear that planning and unsustainable development play a big role in that. The Bill is a chance to make sure that, in future, the planning system is not imbalanced as it so often has been in the past when it focused on things like housing numbers alone. We need to balance that with the need for spatial planning and careful development that contributes to nature’s recovery. At the moment though, those opportunities have not been realised. On the contrary, some provisions in the Bill will do quite the opposite and bring in new environmental risks.

I will quickly address how to grasp those opportunities. It would be excellent if, among the levelling-up missions set in clause 1, you included access to a healthy natural environment. I was really surprised to see that the levelling-up White Paper’s list of capitals included human capital, financial capital, intellectual capital and social capital but not natural capital. Not to list environmental capital as one of those fundamental assets reflects a 1980s philosophy, really. So we should have access to a good-quality natural environment as a levelling-up mission, and a duty on public bodies to help people achieve that with access to natural green space.

On improving the planning system, there are some obvious missed wins there, such as making sure that planning and development decisions are in line with section 1 of the Environment Act 2021 and section 1 of the Climate Change Act 2008, to meet our carbon budgets and halt nature’s decline by 2030. You could go further, with things like implementing the findings of

the Glover review to improve the contribution of national parks to restoring nature here in the UK. So there are some really missed opportunities for positive planning.

On the negative side, I do not know whether we will touch on this later, but although the environmental outcome reports proposed in the Bill sound positive in principle for the natural environment, the way they are framed risks undermining some of our most important conservation laws. Those clauses and that part of the Bill need some attention to make sure they do what I think they are intended to do, which is to add a new layer of protection, not to weaken our long-standing, important environmental protections in this country.

**Q144 Matthew Pennycook:** Many thanks. Ms McKenzie and Mr Miner, do you have anything to add?

**Carolyn McKenzie:** The earlier speaker made some really good points; I back up all those points, but I will not reiterate them. At the local level, it is very much about integration across different policies. There is some really good stuff in the Bill, but integration across all the different policies will be key. This is not just about the big infrastructure, such as wind farms or EV charging; it is about making sure that environmental considerations are integrated across all projects in infrastructure and all levelling-up projects, because a pound spent on levelling up can deliver on your outcomes for net zero or biodiversity, and investment in net zero and biodiversity can deliver on your levelling-up ambitions as well.

In addition, although there is a real need for some of the big infrastructure projects, if I take a look at Surrey as a whole and our net zero emissions, the biggest proportion of those emissions, 41%, is down to private sector transport, and 31% to 33% is down to domestic housing. Those local actions—local public transport and active travel to get people out of their cars, and remote working, as well as tackling retrofit—have the potential to not only reduce emissions, but to drive jobs and growth and tackle inequalities, because inequality is hugely linked to the environment: a lot of our poorer communities have the poorest environments. The one thing I will repeat from Richard’s comments is that there is a lack of recognition that a healthy environment for all is really important when it comes to having a healthy economy and a healthy social area as well.

The last point I would like to make is about taking a place-based approach. Funding is often fragmented, competitive, and focused on specific things like EV cars or renewable energy. At the county level, we are very much looking at a place-based approach where we can link things together and look at a community as a whole. If we could link all that funding together and have a pot that delivers on an evidence-based approach that says what is needed in the area and links up all of our ambitions around health, economy, social and environment, that would be a lot easier, and we could make funding deliver more than the separate, individual pots could. Having place-based funding that is based on local evidence of need would be really helpful.

**Paul Miner:** I should say at the beginning that I am speaking today on behalf of CPRE, the countryside charity, and point out that CPRE is leading the Better Planning Coalition, which includes a wide variety of environmental, social and community organisations that have come together to put forward a shared view on how we can improve the Levelling Up and Regeneration

Bill and make it stronger for people and nature more generally. We are working in a number of key areas. Climate change is one of them.

In CPRE's view, at the moment the planning system has an institutional weakness in dealing with climate change. There is a duty on local authorities in the Planning and Compulsory Purchase Act 2004 for their development plan document—so local plans essentially—to contribute towards the mitigation of and adaptation to climate change. However, that duty is not strong enough. It does not consistently influence local authorities or planning inspectors examining plans or appeals. The Bill merely reiterates this existing and insufficient duty. We have seen, for example, recent planning stats reports for 24 recently adopted local plans that show only one mention of climate change for 24 of boosting housing supply. The priorities of the planning system have become massively skewed and unbalanced.

We want to see in the final version of the Bill some additional clauses that apply the climate change duty both more meaningfully, so that it clearly reiterates the national commitments made in the Climate Change Act 2008, but also applies the climate change duty to national planning policy as well as just local plans. It should also apply to decision making on specific planning applications, as well as just in the making of local plans. We also need to see more detail about what the duty means both in terms of mitigation, achieving Climate Change Act targets on budget and climate budgets, and in terms of adaptation, relating it to relevant statutory risk assessments and compliance. The coalition is coming forward with some further ideas on this, which we are very keen to discuss further with the Committee in due course.

**Q145 Matthew Pennycook:** There were lots of very general points there; I want to get into the specific. I would like to ask you two questions, so I ask the witnesses to be as brief as they can to ensure I can do that. Dr Benwell, you mentioned environmental outcome reports. What is the panel's view on them as a replacement for environmental impact assessments and strategic environmental assessments? To an extent, can you give a considered view given the lack of detail in the Bill as to what they will look like in practice?

**Dr Benwell:** We cannot give a complete view, because so much is proposed to be done in regulations and that itself is a problem. The idea of taking a more outcome-based approach to environmental impact assessments is a good one and there are definitely areas where environmental impact assessment and strategic environmental assessment can be improved. So things like making sure that you get the thresholds right to include all potentially environmentally damaging plans; that could be improved. Things like making scoping decisions mandatory; that could be improved. The problem as we see it with the environmental outcomes proposed in the Bill is that the outcomes set can simply be spliced in in place of existing environmental requirements. We do not know that those will be robust enough.

For example, in the environmental impact assessment process, if anything proposed in a plan or a project is likely to cause significant harm to the environment, there is a duty to avoid, mitigate or compensate for that potential harm. In the new system, if an environmental outcome is set that, for example, talks about a general outcome of improving the abundance of species at the

national level, any sort of project that claims to be doing that nationally could ignore local impacts. It could ignore the impacts on particularly important sites and species at the local level. That could be extremely damaging for things like sites of special scientific interest and UNESCO sites, which are afforded their main protection through the planning system and through the EIA and SEA.

I should point out that these clauses will affect not just the EIA and SEA; it is really important to note that the habitats regulations and the habitats regulations assessments are also affected. If you look at clause 127, you will find an extraordinary provision that says that anything done in an environmental outcomes report can be treated as satisfying any existing duties under the habitats regulations assessment process. That process, which is what protects our most internationally important wildlife sites from harm, is even stronger than the EIA and SEA, because under the habitats regulations process, before a site can be affected by a project that causes significant harm on site or by contiguous activities, the developer must prove that mitigation is in place to avoid that significant harm, or that there are imperative overriding public interest reasons to proceed and compensatory measures are in place.

That is a really high legal bar to protect our most important sites and species of international significance. Under the Bill, the Government could put in its place a more parochial and limited environmental outcome, such as saying that the best available technology has been used to reduce water pollution, or that overall national trends will be going in the right direction. That would weaken and undermine the extremely important protection provided by the habitats regulations. You do not often see a clause in a Bill that says that anything in regulations can be treated as satisfying existing legal duties, or indeed that anything in them can amend, replace or repeal any of the most fundamental parts of the habitats regulations that we have come to rely on for decades. The concept is quite good, but the way in which it is being applied brings serious risks of undermining long-standing environmental rules that would potentially create huge uncertainty in the planning system, because developers and conservationists alike have become used to operating under this system.

**Paul Miner:** I agree with Richard about the environmental dimension of the environmental outcomes reports. It is also worth the Committee considering that under the current system, local authorities have to do a sustainability appraisal, looking not only at environmental factors but at social and economic factors.

To pick up on what Richard and Carolyn pointed out, there is quite an important issue about the effect of the planning system on human health. It seems particularly strange that in a Bill about levelling up we are not using the outcomes reports as a means of embedding the Government's levelling-up objectives in the planning system. For example, the levelling-up White Paper calls for measures on increasing healthy life expectancy and regenerating town centres, but those will not be assessed at all through the planning system under environmental outcomes reports, whereas they would have been under the current system of sustainability appraisals.

**Carolyn McKenzie:** I agree that taking an outcome-based approach allows us to be more flexible and achieve more, but it depends on how narrow the outcomes are,

which is Richard's point. It would be really good to ensure that the outcomes in the Bill match the performance targets and indicators that the Department for Environment, Food and Rural Affairs is currently consulting on under the Environment Act 2021. They need to link up so that we have one set of environmental indicators that all sectors and all areas are delivering on.

To pick out one example, there is no mention of natural capital in the Bill, as Richard pointed out. How can we put in an outcome relating to natural capital, which could be really important for health, attracting businesses to areas or carbon sequestration? That is a key element of levelling up, so I urge caution in ensuring that any new outcomes link directly to the Environment Act and the 25-year environment plan.

**Q146 Matthew Pennycook:** Finally, do you believe that clause 117 could potentially lead to an erosion of existing environmental protections? Do you believe that clause 120 provides adequate protection? Will it ensure that, at a minimum, there is no regression from existing protections? If not, how would you ideally like to see the Bill strengthened?

**Dr Benwell:** I should have brought my copy of the Bill. There are actually some very good bits in clause 117. The Government have done quite a good job of writing in the mitigation hierarchy, which is welcome to see. The problem is linked through to clause 127, which allows everything in preceding parts simply to replace existing environmental law. It would be much better if the Government came forward with fully worked-up proposals for how to strengthen the existing system of the EIA and SEA, rather than taking the approach of giving themselves the powers to take out layers of environmental law and put in something different.

You mentioned clause 120, the so-called non-regression clause. It is obviously a good thing to have a commitment not to weaken environmental protection, but I am afraid that the efficacy of such a clause is really in doubt, for a number of reasons. First, it is the Secretary of State in whose opinion environmental law has to be maintained at an equal level. That is a highly subjective opinion left in the hands of Ministers—and, just to emphasise, not a court in the land would challenge that on the basis of ultra vires without it being patently absurd. Courts are really deferential to decision makers, so if a Minister were to say, “Yes, this is equivalent,” that statement would have to be really, really daft for a court to challenge it. So we think that that kind of non-regression provision is unlikely to be robust.

Secondly, the other noteworthy part of the non-regression provision is that it talks about overall levels of protection. That is where we come back to the idea of talking about the environment in aggregate and those big broad trends of species-level data, which is really important—like Carolyn, I think that we should be linking back to the Environment Act targets—but it is not sufficient. We must keep in place the rules that protect the particular, the peculiar and the exciting at the local level that matter to important people, and those local populations of species and habitats that are so important. Otherwise, we get into a runaway offsetting mentality where the assurance that things will be better overall can be taken to obscure a lot of harm to the natural environment at the local level.

So there are some good things in clause 117 and some nice sentiments in clause 120, but overall they do not give the reassurance that would be provided by simply taking time to work up provisions in full and bring them forward in primary legislation rather than giving Ministers the power to swip and swap through regulations.

**Paul Miner:** I have nothing further to add on this question.

**Carolyn McKenzie:** I have nothing further to add other than to reiterate the local element. You do get lots of peculiarities in different areas, and they can be lost, so we must make sure that they are not.

**Q147 Neil O'Brien:** This question is directed at Paul in the first instance. The Bill contains a number of measures from the infrastructure levy to strengthening compulsory purchase order powers, high street rental auctions and heritage protections that are intended to drive more brownfield, urban regeneration. It also contains measures to create more combined authorities with transport and regeneration powers as part of building on the Government's urban uplift and shift towards a regeneration-led approach to planning and housing. What assessment have you made of the advantages in embodied carbon of building reuse and of denser, better public transport-connected cities in reducing pollution? What is your take on that model of development?

**Paul Miner:** We think that a brownfield-first approach to new housing and commercial building development can have a number of benefits. We have seen constantly over the years that there is enough brownfield land available for over 1 million new homes in any given year, and this supply of brownfield is constantly replenishing as more sites come forward, and it is possible to build at higher densities.

We think there are a number of clauses in the Bill that could help with brownfield regeneration, such as those relating to changing compulsory purchase order powers, as you have mentioned, and the infrastructure levy. Getting local plans in place more quickly will also help to bring brownfield sites forward. So we see a lot of benefits to a brownfield-first approach.

However, the problem we have consistently had over the past 15 years, under both Conservative and Labour Governments, is that it has been easier for large housebuilders to bring forward speculative developments through the planning system, often not contained within local plans, than to be able to get these schemes through at appeal. We think there are a number of measures the Government need to look at.

Some of these may involve legislation but more involve changes to policy to give councils more power to set targets for the amount of housing needed in their area, to make sure that housing targets reflect what is likely to be built in the area, as opposed to what house builders say when they claim to be meeting housing targets that they then do not build, and to identify local needs for affordable homes. In many areas of the country they are crying out for affordable homes, but the kind of housing that is being built is not meeting those identified needs.

We recognise that there is a lot in the Bill that is helping to bring forward the benefits of a brownfield-first approach, in terms of, as you say, embodied carbon, saving precious agricultural land and regenerating communities in need levelling up. At the same time, we think there is scope to do much more.



**Q148 Neil O'Brien:** Let me extend that question to Carolyn.

**Carolyn McKenzie:** To build on what Paul has said, I think the circular economy is missing from the Bill. There is not much that is looking at what can be reused, recycled or reclaimed. It is about the new, and sometimes that is not the best way to go. Specifically around things like housing retrofits, it is about repair and regenerate rather than new housing. There is not that look at retrofitting that there should be, bearing in mind that the majority of housing we have is already in existence.

**Q149 Neil O'Brien:** One of the other things the Bill does is take forward measures to widen and deepen the devolution agenda by making it easier to set up new combined authorities, for authorities to join them and for them to gain new powers. How would you like to see the devolution agenda drive positive environmental outcomes? Is it primarily through helping towards our transport mission and better public transport? Is it through the housing quality mission? Or is it something else entirely? How do you think the devolution agenda can best serve a wider environmental agenda? I put that to Carolyn first.

**Carolyn McKenzie:** The first thing would be to actually have a mission in the Bill that relates to environmental outcomes, as the Bill does not have such a mission in there. Even though there has been some commitment to sustainable and non-competitive funding, if there is no mission then you cannot link that back. When you have funds such as the shared prosperity fund, which will take regard of the environment, if there is no mission you cannot just say, "Well, this is a priority." So having a mission on the environment would definitely push this along.

There is a need within devolution to be clear about people's roles. At the minute, everything that is done around climate change is done by local authorities, both at county and district level, because they have been driven to do so by the public through climate emergencies. It is not because we are being asked to do it. That drives action, absolutely, but it drives different types of action—inconsistent action—and the data is different so you cannot compare.

Also, when you get things like covid coming along, or Ukraine, or inflation, the risk of dropping down the agenda is really high, so that sustainable approach to funding is needed, rather than there being small pots of funding and grant-based funding, which can change and is short-run and competitive. That approach is not great for really putting down the foundations and encouraging local authorities to work with partners and to partner up. We are looking at working with the private sector, residents and other public sector bodies to really partner up their funding with our funding, to get more bang for our bucks and to achieve more through things like volunteering to plant trees, which involves health and social, and tackling fuel poverty, which keeps people out of hospital as well as reducing carbon emissions. As I keep saying, that integration is really key.

Again, when we look at things to spend money on, we really need to look at what is needed at the local level. There are lots of things that will be consistent that people need to spend money on, but there will be lots of differences and nuances at the local level that will make

it better spent. I reiterate again that 41% of Surrey's emissions—we are not unusual among other authorities—are down to the private car. With little or no funding for public transport, it is a really difficult target to hit to get people out of the car. You can get people to change to electric vehicles, but that has an equalities aspect to it: not everybody drives and not everybody can afford it. Public transport and good safe routes for walking and cycling are really crucial, as is the housing side, again.

**Q150 Neil O'Brien:** Thank you. Paul, on the transport powers that are devolved through devolution deals, as well as getting more people on to public transport, which is good for the environment, what is the potential impact of improved public transport in driving more brownfield regeneration rather than sprawl? You must have done quite a lot of work on this kind of thing.

**Paul Miner:** Yes, we have done plenty of work on that, which we can send to the Committee. In particular, we produced a report a few years ago on public transport-oriented development, which showed that you could get much higher densities in urban areas that were already served by an intensive public transport network. In turn, that mutually reinforced and made sustainable public transport improvements within that area. There is certainly more on that that we could send to the Committee, which we would be very happy to do.

In addition to Carolyn's point, I also want to say something very quickly on the rural aspect as well. Cornwall in particular is a possible trailblazer on rural devolution, in terms of what it has been able to do to integrate its transport network—that is in trains, ticketing and single points of information. It has also done some great work in terms of setting housing policies and on retrofitting rural housing stock. It does seem to be an exciting model that others could look at.

**The Chair:** Richard, we have not forgotten you; we will ask you to comment in a second.

**Carolyn McKenzie:** The key point on that is that there are so many different actors and so many different funds in respect of devolution. It is about looking at how we co-ordinate that. I am proposing to my authority to look at taking a lead climate change authority approach, similar to the lead local flood authority approach, so that we can actually co-ordinate, get the data down, look at what is relevant for the local level and deliver on that. We can then use that data to influence the funding that we bring in or to influence Government funding pots, so it is appropriate. That co-ordination element among all the different sectors is really key. At the minute, it is not there around environment. There are lots of different people and lots of different areas to come from.

**The Chair:** Richard, you have been very patient.

**Dr Benwell:** Thank you, Chair. I have been expansive on other questions, so it is no problem.

I will make two points very quickly. First, it would be great if we could always preface "brownfield" with "low-biodiversity value". My friends at Buglife would send a plague of spiders my way if I did not point out that sometimes brownfield can be really important for nature. That has a really important link through to localism, because it is often local communities—our

brilliant heritage of amateur ecologists—who know about these things. It is really important for the planning system to keep being able to investigate and interrogate what is on individual sites.

It was welcome, in this version of the Levelling-up and Regeneration Bill, to see the move away from the previous proposals in the planning White Paper, which would have taken a broadbrush zoning approach, taking away some of the granularity of local information. It is really important that we keep doing those site-based surveys and that, as we move to digitisation, for example, we do not do everything from a laptop computer and assume that there is nothing important there.

Quickly, on another aspect of devolution, on the environmental outcome reports, it is noteworthy that the outcomes can be set for the devolved nations as well, after consultation. I do not know anything about devolution politics, but it would be great if it can be clear that whatever is set by Westminster is a base, not a cap. If other countries wanted to move further and set bolder outcomes, it would be unfortunate if a new power that enables those things to be set from Westminster prevented Wales, Northern Ireland or Scotland from being able to go further if they wanted to.

**Q151 Rachael Maskell:** Communities are facing multiple challenges, and not just on flooding but on drought. How could the legislation be strengthened to mitigate those climate risks?

**Dr Benwell:** It would be wonderful if climate and nature were at the forefront of the Bill. A modern planning system ought to have environmental recovery embedded in its very purpose. Some of the things in the Environment Act 2021 moved us forward in thinking about compensating for environmental harm, and indeed things like biodiversity gain set a precedent, but actually some of those big sectors have a role not just in offsetting the harm that they do, but in contributing to improvement.

I know that there is some suspicion about purpose clauses in Bills, and that those are not something we do in UK law, but what you could do is to set a requirement that plans and individual decisions are compatible with nature's recovery under section 1 of the Environment Act and with climate change mitigation under section 1 of the Climate Change Act 2008.

More locally, you could take a real step forward by bringing into statute some of the things that the Government have already promised. For example, we have this excellent commitment to protect 30% of land and sea for nature. Would it not be great if the Bill were to bring that into statutory form by setting an aspiration, or a requirement on Ministers, to ensure that all sites of significant importance for nature are properly designated by 2030; and to bring in some of the exciting new proposals for things like a wild belt, a new planning designation not just to protect what we already have for nature, but to provide areas where nature could recover?

On your question about the growing environmental risks that come from climate change and nature degradation, that comes back to the question of natural capital. Really, we ought to be thinking about levelling up not just geographically, but temporally: we ought to be thinking about the concerns of future generations. This is about making sure that geography does not define destiny. If you are more likely to be flooded, less likely

to breathe clean air, or going to be in a place where you cannot access clean rivers or access a positive natural environment, there ought to be something of the past; that the length, quality and happiness of your life are defined by the physical environment around you. Surely that gap, having natural capital and a healthy natural environment as one of the missions that came in the White Paper, should be filled by a clear duty in the Bill—to set that as one of the missions, when they are formally set in statute.

My final point is that with some of the questions about, for example, flood risk mitigation versus housing development and space for agricultural land, there are inevitably trade-offs. It is really difficult. We know that if we are to meet net zero, a third of that effort has to be delivered by nature-based solutions—so, finding space for land to sequester more carbon through better agricultural soils, and through more trees and wetlands.

If we are going to do that at the same time as ensuring that we have space for business and development, and space to grow enough food, we have to improve how we do spatial planning and we have to make those trade-offs explicit, and a planning system that is still weighted towards housing numbers over those other considerations is one that will never make those choices properly. A spatially explicit planning system that has nature's recovery and climate change mitigation at its heart is one that would make a real boon of this Bill.

**Rachael Maskell:** May I have a supplementary question?

**The Chair:** I am afraid that we are going to be caught by the clock, because I now have another Member who wants to come in. Paul and Carolyn might want to come in too. We could have gone on with this session for ages. Quickly.

**Q152 Rachael Maskell:** I will be brief. There has been a lot of talk about brownfield development first, and I understand that, but if we are talking about levelling up—you referred to the whole wellbeing of an individual—should we not also be looking at how brownfield could perhaps be swapped with some greenfield, in order to ensure that we do not build such density in urban areas, which is actually quite harmful to personal wellbeing and health?

**Dr Benwell:** It is hugely important, and we need to make sure that those existing green spaces are not just little patches of grass that are full of litter and dog mess. They need to be thriving natural abundant places that people can go and enjoy and find solace in nature. You are absolutely right; we need a system that can identify those spaces that really matter to local communities, whether they be notionally brownfield or not. We have seen an 11% loss in urban green space over the past 15 years. Were that trend to continue, you would find more people left bereft of nature. You would find productivity falling and ill health growing, so these things are hugely important. Things like—

**The Chair:** Sorry, I am just going to have to stop you there and move on.

**Q153 Sarah Atherton (Wrexham) (Con):** Dr Benwell, you spoke about bolder outcomes in devolved Administrations, so you will probably know about this. The Welsh Government have introduced phosphate mitigation targets in areas of special interest, which

covers my constituency. In practice, that has halted all development for many months, including care home extensions, and the impact is delayed discharges from care. A homeless hostel has not been built. It has been left to the local authorities to scramble around with developers and Natural Resources Wales to find a way forward. That still has not happened, so how could the Bill square that?

**Dr Benwell:** This situation that we have got to, where I think 70 local authorities are facing moratoria on development because of nutrient loading, is a real problem, but it is a problem because in some ways the system is working. We have allowed ourselves to reach a threshold where our rivers are facing ecological destruction because we failed to halt diffuse pollution from agriculture and to halt run-off from urban areas. We need to find a way through it, absolutely, and there are a couple of ways to do that.

In the short term, we should make sure that developers have options to mitigate and compensate for any additional load that they would put on those water bodies—that is absolutely crucial. We have seen some brilliant examples around Poole harbour, where developers have been allowed to invest in treatment wetlands or to work with farmers to reduce artificial inputs of fertiliser—nitrate and phosphate—to reduce that load on the system so that you can go forward and provide that infrastructure and development that you need, but not in such a way that we leave our rivers and streams ecologically dead.

In the long term, we need to move to a more systematic approach, where we take these problems into account in advance and we permit plans and projects only when they are within a nutrient budget in the system. It is about having a catchment-level nutrient budgeting plan that says, “This is what is currently in the system and what it is adding to our waters; this is what we can bring forward; and this is what we have to take out of the system.” Other countries have done that really successfully, and it has enabled development to take place in a way that does not take them over those critical environmental thresholds.

So we should not knee-jerk and get rid of the rules that are in place, because they are serving a vital ecological function, but we should help developers to do their bit by taking away aspects of the problem. In the long term, we need to use things such as environmental land management to help pay farmers to shift towards more agroecological systems. We need to help developers to come forward with permeable membranes and reduce the load on the sewerage system so that they are not contributing to the problem.

**The Chair:** Paul, did you want to add anything—in 60 seconds?

**Paul Miner:** Just to go back to Rachael’s initial question, one area of the Bill that gives us real cause for concern, in terms of local authorities’ ability to adapt to climate change, is the proposal on national development management policies. We think that, as the clauses are currently drafted, it will make it more difficult for local councils to have what is known as Merton rule-style policies, requiring a higher amount of renewable energy generation in new developments compared with the national building regulations. Similarly, on biodiversity net gain, the national policy is to ensure 10%, but some local authorities want to go beyond that. They would

not do so if we had a national development management policy that told them to keep to what is nationally mandated.

We therefore think that clause 83 needs to be changed so that it just says that local authorities should be able to decide applications in line with both local and national policies, but not always have to give supremacy to national policies. We hope the Committee will look further at that in due course. We know that, for many members of the Committee, it is a major cause of concern, which they have raised already.

**The Chair:** I am really sorry to our witnesses. We could have gone on for much longer, but time has beaten us. We must move on now to our sixth panel. I very much thank the witnesses for their evidence.

### Examination of Witness

*Dr Hugh Ellis gave evidence.*

3.56 pm

**The Chair:** As there is only one gentleman on this panel, it is easy for me to ask him to introduce himself.

**Dr Ellis:** Good afternoon. My name is Dr Hugh Ellis and I am director of policy at the Town and Country Planning Association.

**The Chair:** For your benefit, Sir, the purpose of this Committee is to gather evidence to help us when we consider the Bill as we go through it line by line next week. One advantage of this Committee is that the Minister gets to ask questions. That is the only fun that he will have in this Committee, so I think we will start with him.

**Q154 Stuart Andrew:** Thank you very much, Mr Bone.

Dr Ellis, thank you very much for your time this afternoon. Could you perhaps tell us what your organisation and its members think about many of the reforming aspects of the planning system that are contained in the Bill?

**Dr Ellis:** I think they regard it, and we regard it, as a mixed picture. We welcome the issues on hope value and on development corporations, and strengthening the development plan is certainly welcome. But then there are a series of issues on which we need some serious reassurance. There are just three. First, how can we drive delivery and does the Bill do enough on that. Secondly, democracy and public trust are absolutely critical to everyone because, as we have already heard, there is a lack of public trust in the system. Finally, there are the really positive measures that could be taken on climate change.

Briefly, I will throw one more in. When we write legislation on planning and when planners think about the future, we often have a tendency to think about it through our lens. I think it would have been great to see more creative, local community solutions in the Bill, particularly on the cost of living. The planning system has enormous potential to be a solution for things such as local food growing and local flood defence. It would have been great to see some concrete measures enabling that kind of activity from the bottom up.

**Q155 Stuart Andrew:** Given that about 39% of England is covered by up-to-date local plans at the moment, do you think that the measures in the Bill will make it easier, or is there anything else that should have been included to try to progress these plans; to give confidence to communities about what will be developed in their areas?

**Dr Ellis:** The primacy of the local plan is really important. We are very worried about the relationship with national development policies and whether that masks a centralising tendency. Local and neighbourhood plans are so important in giving certainty to communities. As is often the case, we are making some changes to the process of planning reform—that is nothing new—but the fundamental issue is about resources. Most people who talk to us about planning and the delivery of local plans would say, “Well, if we had more resources we could deliver them more quickly, and if we had more certainty we could also do that.” So we should not get too hung up about changing the law.

We have divided the local plan into several pieces now through this Bill: we have said there is a local plan, then a supplementary plan, and then a strategic plan, and two of those are voluntary and one is not. In that sense, we have created that framework. The answer is that it all depends: it depends on resources and on how much power the Secretary of State wants to take to the centre on the content of local plans. We have an honest concern that if you want to rebuild public trust, you need to handle those powers with extreme caution.

**Q156 Stuart Andrew:** Do you welcome the strengthening of neighbourhood planning and the neighbourhood statements included in the Bill to try to engage more of that community involvement?

**Dr Ellis:** I think we do. We are obviously desperate to preserve the rights to be heard. That is an important point. We are losing some rights to be heard and communities really need them. The TCPA fought for them from the 1960s onwards so that people had a right to be in the inquiry of a plan. Our planning system is very asymmetrical; the development sector is very dominant in that process.

A lot of people are sceptical about the idea of neighbourhood planning. I admit my own scepticism about it, because plans are often happening in places with more social and economic capital than others and we absolutely have to address that, but they are proving powerful—I speak as an ex-parish councillor, so I have served my time on this. Whether the statements get us over the line in creating something simple and meaningful is the challenge we want to see explored through this Bill’s progress. Will those statements actually have weight? Yes, you have to have regard to them, but what exactly will that mean in detail? Local and parish councils are denigrated, but they do have a powerful and meaningful role in the planning process.

**Q157 Stuart Andrew:** Finally, we have heard time and again about complexity and bureaucracy in the development of local and neighbourhood plans. What has been the reaction of your association’s members to the digitisation of the planning process in the Bill?

**Dr Ellis:** There are two sides to that reaction. First, what is not to like about digitisation? There are some very archaic practices in the planning process and it

would be great if we could catch up and have the resources to digitise. That will make information more accessible. It is also really important that we are able to integrate environmental data, because there are competing datasets out there. One of the most important recommendations is that we sort of need a national laboratory for that spatial data, as that would simplify the process no end.

But digital data goes so far. There is an issue about digital exclusion that worries us for communities. We can have as much digital information as we like, but we also need access to the arenas where decisions are made, so there is a twin relationship between understanding what is going on and being able to do something about it. That is where rights to be heard, which we are so exercised about in the planning process, are so important.

**The Chair:** I call the shadow Minister, Matthew Pennycook.

**Q158 Matthew Pennycook:** Thank you, Hugh, for giving up your time to speak to us. I want to start with some of the measures you have spoken about in terms of local planning. The TCPA is on record as having concerns about some of the centralising thrust of the Bill. What impact do you believe clauses 82 to 84 and schedule 7 could have on public participation, trust and confidence in the planning system, and how would the TCPA ideally like to see them amended?

**Dr Ellis:** There are two issues. One is about rights to be heard. We have decided now in the Bill to call several documents “development plan documents,” which has a specific legal meaning and a specific legal way. So the strategic plan, the supplementary plan and the local plan are now all development plan documents. If a development plan document is being prepared, it has legal weight in planning, and the quick answer is there therefore must be a right to be heard. On the strategic plans, the Bill currently says that it positively excludes the right to be heard at an examination. That seems to us wholly wrong and unnecessary. If people want to, we should give them the opportunity turn up at an inquiry and test the evidence.

To be clear, even if the criteria are set nationally, green belt allocations will probably be set in those strategic plans. In other words, the issues that people really care about have to be debated in an arena where there is a right to be heard. That would be an easy modification to make, and I so hope that Ministers will seriously give it consideration.

The other issue is centralisation. That worries us even more, because nationally described development management policy has a new legal status. There has been some debate about that, and we are absolutely convinced that it does have a new and special legal status as national policy described in law. The clauses elevate that policy so that where there is a dispute, it is resolved in favour of the national policy.

There are no limitations on what the Secretary of State can include in that national development management policy; nor is there a robust process of parliamentary scrutiny, which there is for national policy statements in major infrastructure. That has to change. If the Government are determined to have such a policy, parliamentary scrutiny and public participation in setting it are crucial.

**Q159 Matthew Pennycook:** The Bill proposes the abandonment of the duty of co-operation. What do you think are the likely consequences of that proposal for strategic planning and the delivery of new homes?

**Dr Ellis:** Simply, there will not be any. The duty to co-operate was a problematic measure—a stop-gap measure—inserted after the abolition of regional planning. You would expect me to say this, and it may not be popular, but regional planning in this country was critically important to our future. I understand and have to accept that there was insufficient public support for it. Again, it simply did not have the right kind of governance, but it was important.

Put simply, for the reasons you have heard, which I will not repeat, it is absolutely essential that we have bigger-than-local decision making. That enables communities to make decisions; it does not trump them. If you want to preserve the east coast from a sea level rise of 1.5 metres by the beginning of the next century, which is predicted by the Environment Agency, you cannot expect 33 district councils between the Humber and the Thames to do that on their own, so it is very important that we get that right.

Removing the duty to co-operate and replacing it with a policy imperative just makes a situation even worse. Devolution could help, but of course, that is an ad hoc process; we do not yet know who wants to do devolution. I am sat in Derbyshire, and I have no idea whether Derbyshire wants to be a combined authority or not. It is vital that we have that strategic tier.

**Q160 Matthew Pennycook:** Part 6 of the Bill aims to standardise the range of powers available to each type of development corporation, and gives local authorities the power to request their formation. Are those measures likely to have much of an impact? If not, how might the Bill be strengthened to ensure that development corporations can contribute more effectively to delivery?

**Dr Ellis:** Development corporations are really welcome, but it is worth remembering that when you have effective planning, which links planning to delivery—that is what a development corporation does; you can really drive change—the most important thing is that their governance needs to be modernised so that they are genuinely accountable and participative. The purpose of a development corporation is to draw on what Oliver Letwin recognised in his review: the critical role of the public sector as master developer in de-risking development.

Much of the challenge in why we are not delivering the homes that we consent in the planning process is because the private sector has limited incentive to deliver beyond certain levels, based on absorption rates. Development corporations can do that. It is worth reflecting on the fact that, within 20 years of the war, we consented 33 new towns, which housed 2.8 million people and paid for themselves. That record is largely forgotten but still very powerful.

The answer is that the challenge in giving the powers solely to local authorities is that they work only when Government stand behind them. I think it is the Government's role in housing that we need to draw out. They need to be more muscular in supporting local authorities. The experience from the locally led development corporation in north Essex illustrates that point.

**Q161 Matthew Pennycook:** In our previous session, we had an interesting and thoughtful discussion with witnesses about how the planning system might help us to respond to the climate and environment emergency. I will finish with a question that I asked in our second session. You will know that nowhere in legislation is the purpose of the planning system set down. Do you think there is any value in more clearly defining in legislation the aims of the planning system on climate change and other issues? Is the Bill an opportunity to do that, and if so, what would that look like?

**Dr Ellis:** I think there is a huge opportunity to do that. It is essential that the Bill contains a purpose for planning if you want to recreate public trust by making it clear in statute what the system is for. It is interesting that there are currently four outcome duties in law on planning, but there is nothing in the Bill equivalent to what we see in Bills on social care or in national parks, where there is a clear sense of what planning is meant for.

If you want this new journey—we all do—to benefit the future of England, you need to need to set down that purpose around sustainable development. That is an inclusive goal; we are already internationally signed up to it, and for me, it is the only development goal that is credible for the future of this nation. Underneath that, I would quickly say that it is heartbreaking to see the potential that planning has to deal with climate change mitigation and adaptation and the dysfunction that we are currently presented with.

I have just seen an inspector remove a net zero policy from an area action plan for a new development in West Oxfordshire. That tells you that Government policy urgently needs to be reviewed. The whole sector has been calling for an urgent ministerial statement to clarify how net zero is delivered. We really cannot wait for the NPPF review at the end of 2024 for that; it must happen now. On adaptation, the issue is even more serious, in terms of having to begin to think about shifting population off the east coast, the challenges of surface water flooding, the endless flooding in Calder valley and how plans need to grasp the allocation of land for natural flood defence.

I know that I cannot go on, but all I can see is huge potential. We need to bind the planning and climate Bills together. The climate Bill must have specific requirements on the sixth carbon budget, and stronger requirements on adaptation, specifically around water and flooding.

**The Chair:** I call the Minister.

**Q162 Neil O'Brien:** Through the devolution agenda, we have devolved powers at scale over things such as transport and regeneration, giving places the power to create things such as development co-operations. Through this Bill, we will make it easier and quicker to set up new combined authorities, particularly in two-tier areas, and make it easier for them to widen and take on new powers. There are also a range of measures in the Bill to drive more brownfield regeneration—the infrastructure levy, CPO reforms, high street rental options, street votes, heritage protections, and so on.

As we negotiate devolution deals with areas such as Derbyshire, where we are in talks at present, how do we best bring together the new instruments and new combined

[Neil O'Brien]

authorities to achieve everything we potentially can through spatial planning to drive the kind of join-up you have been arguing for in this session?

**Dr Ellis:** That is a complex question, but time is short. The single biggest issue is with trust and public consent—whether the people of Derbyshire understand the benefits of the combined authority. I am tempted to say, at the moment, that they do not. People have talked in the past about double devolution, and I think that is still important. You have two problems going on; you have the fantastic opportunity that devolution presents to empower local authorities and collections of local authorities, but then you have an important issue about the citizen and trust within communities, and how they relate to that.

In thinking about the devolution agenda, it is important to show regard and care to things such as parish and town councils—that lower tier—and what powers they might get. Otherwise, all that happens is that you shift the trust problem down a notch. The opportunity is there when resources and powers are provided for places to begin to set a new course that tells a story about that place. That is desperately needed in this country.

My only fear is that we need coverage across most of England—we do need that—and the ad hoc nature of this is giving different powers to different areas. The status of the strategic plan in Liverpool, legally, is different to the one in Manchester, which is different again to the London plan. That might be fine, but it also creates levels of legal uncertainty. There is a tension between those things, but I would continually emphasise the point on community trust and what communities can do, as well as what local authorities can do.

**The Chair:** Thank you, Mr Ellis, for your clear and concise evidence. We very much appreciate it. We must now move on to our seventh session of the day.

#### Examination of Witnesses

*Gavin Smart and Kate Henderson gave evidence.*

4.14 pm

**The Chair:** I have in front of me a gentleman and a lady. Would the lady like to introduce herself for the record?

**Kate Henderson:** I am Kate Henderson, chief executive of the National Housing Federation. We are the voice of housing associations in England.

**Gavin Smart:** My name is Gavin Smart. I am the chief executive of the Chartered Institute of Housing, which is the professional body for people working in housing in the UK.

**The Chair:** Thank you. We are going to take questions from members of the Committee, starting with the shadow Minister.

**Q163 Matthew Pennycook:** May I start with the infrastructure levy? We touched on it with an earlier panel, and I will ask almost the same question that I put to witnesses earlier. The potential for local authorities to set multiple levies and threshold rates—no doubt by

a cumbersome examination process with some of the issues around viability that already exist—strikes me as not too dissimilar from CIL, so I am trying to get from witnesses a sense of whether you think that is fair. If that is not a fair assessment, what clear advantages, if any, do you think the levy will provide for? How do you see it operating in practice on complex brownfield sites? Finally—and particularly importantly, given the thrust of the Bill—given the ability to vary rates, will the levy do much for levelling up? Will local authorities in areas with low land value not just set low levy rates that do not lead to much in the way of public gain?

**Gavin Smart:** The levy is certainly similar to CIL, but I believe it is managed in a way that CIL is not. I share some of your concerns about the impact of the levy on lower-value sites. One of our concerns is that we are currently struggling to deliver the housing that we need, particularly affordable housing and social rented housing. Whether a levy on a lower-value site will be able to deliver the resources needed to support the delivery of new homes for social rent is a significant concern.

The other issue that I would raise with respect to the levy is that we are very aware of the role that, historically, section 106 planning gain has played in the delivery of affordable housing and social rented housing. About half of affordable housing is delivered in that way. Although there are commitments from the Government that affordable housing delivery will be maintained, we are anxious to understand the detail of that, because section 106 has been such an important part of the delivery mechanism.

**Kate Henderson:** Thank you for the opportunity to speak to the Committee today. We really support the Government's ambition to address regional inequalities in our towns and cities' economies through levelling up. It is also very good to see housing and planning as part of the Bill, but we share concerns around the impact of planning reforms on the ability to deliver much-needed affordable housing.

When it comes to the infrastructure levy, we are really looking at four areas where we would like to have a bit more detail and some assurances. The first is the issue of protections for the delivery of affordable housing. The second is around the importance of on-site delivery of affordable housing. The third is around the risk to viability, and the fourth is that we would like to see an exemption from the levy for sites that are 100% affordable.

**The Chair:** We are going to carry on, but we are having a slight problem with your sound and picture, Kate. If it breaks down, we might turn the video off and just have your audio, but we will see.

**Q164 Matthew Pennycook:** Kate, may I pick you up on the first point you raised: the potential impact of the levy on affordable housing supply? In responding to the publication of the Bill, the NHF stated on your website—I hope I have got this right—that it was pleased that the Government had written into the Bill a mechanism

“to ensure affordable housing levels will be maintained, with current levels as a minimum.”

Correct me if I am wrong, but I assume that you were referring to proposed new section 204G of the Planning Act 2008, which is discussed in schedule 11. I wanted to probe why you think the language in that clause, or

anything else the Government have said in relation to the Bill, is anywhere near robust enough to guarantee the maintenance of current affordable housing levels. I read the language, which is

“must have regard...to the desirability of ensuring”

as quite weak in terms of ensuring that we see that affordable supply of housing come forward.

**Kate Henderson:** My starting point is that we really welcome the Government’s commitment to ensuring that as much affordable housing will be delivered. As Gavin Smart mentioned, at the moment section 106 planning obligations deliver around 50% of all affordable housing in England. It is vital that what replaces it delivers, ideally more, but at least as much. We are pleased that there is that reference in schedule 11, in proposed new section 204G, around having a mechanism to ensure that affordable housing levels will be maintained at current levels, but what we would like is a greater commitment and assurances from the Committee and ideally in the legislation about what we mean by current levels of affordable housing delivery.

There is a risk that in some areas minimum affordable housing requirements, which should be based on objectively assessed need, are actually being delivered by what is coming through the planning system now, and that is not enough in some areas and we do not want that under-delivery to be baked in. We would really like clarity from Ministers that, to protect affordable housing delivery, current levels will be based on current targets for affordable housing, which should be based on objectively assessed need.

**Q165 Matthew Pennycook:** That is really helpful, thank you. It seems—how do I phrase this?—that it is not entirely explicit on the face of the Bill, but we have got a sense from what Ministers have said on this on previous occasions and what they are saying generally that they see a continued use for section 106 on certain sites. Do you think the Bill is an opportunity to reform and strengthen the operation of section 106 agreements? If so, how might the legislation be amended to that end?

**Kate Henderson:** I think the Bill suggests that section 106 agreements will be retained for larger sites. I do not think we have necessarily determined the size of those sites yet and potentially that will come through in secondary legislation.

What we are learning from section 106 is that there are some really important considerations. We have been having positive conversations with the Government about this, particularly around the delivery of on-site affordable housing. The Government are bringing forward a new infrastructure levy. That levy has got to ensure that we get inclusive, mixed communities—that we get the integration of different housing types and different tenures, and that they are built to good, high standards. We know that mixed communities are far more successful than exclusively, for example, poor ones. We want to have the affordable housing integrated in.

That is one of the really important lessons from section 106—when it works well, you get an integration of your housing all on site and you get other good on-site infrastructure delivered at the right time as well. That helps with public acceptance of development, particularly at scale.

I think we would want to see in the design of the new levy that early engagement with housing associations is there absolutely at the outset and that on-site delivery is considered the default position when it comes to significant sites. We would really like to ensure that local authority use of contributions for purposes other than affordable housing would have to come after the agreed level of delivery of affordable housing on site.

**Gavin Smart:** I strongly agree with Kate, particularly around needing to be sure that we are not baking in low levels of performance on the delivery of affordable housing. We need to be sure that the expectation of the continuation of delivery of affordable housing is at a sensible level, supported by some sort of assessment of need. Like Kate and anybody involved in the delivery of affordable and social housing, we are acutely aware that the key benefit of section 106 has been the delivery of on-site in-kind provision that delivers the mixed communities that we all know work. It actually helps a scheme’s viability, because it means that developers know a proportion of the scheme they are developing will be sold immediately on completion to a landlord who will immediately fill it with tenants. That helps with speed of completion at the site.

The most important point is that levies do many things, but what they do not do is give you actual physical buildings; they give you an amount of money. If you are struggling to find a site to deploy that money, they do not perform in the same way as section 106 reforms. So we have concerns about the levy and that is why we welcome the fact that, although what we mean by larger sites is not yet defined, the Government are signalling that they want to retain section 106 for larger sites. That is important. I think it will help delivery and help to build mixed communities.

**Q166 Matthew Pennycook:** Final question. Assuming the Government do not fall in the coming months, and the Bill becomes law and is implemented, you know that the infrastructure levy will be rolled out—the Minister has made much of this—on a test and learn basis. What is your understanding of how that will work and progress? Do you foresee any challenges once the Bill has come into force, where that infrastructure levy is not operating around how the new provisions in the Bill interact with the existing system as we transition towards the levy?

**Gavin Smart:** First of all, there is more flexibility in setting the levy than we previously expected. That is welcome because we want local authorities to be able to respond to the facts on the ground. However, like many public policy problems this is a matter of trade-offs. You do not want such complexity in the system that we are down to negotiating levies on individual sites, so it is about getting the balance right.

More important, something that I think is a bugbear of every attempt at planning reform is that, although we all believe that no planning system is perfect so it is always worth looking at how you can improve it, the other issue with planning policies is whether they are properly resourced enough to enable the local authorities that are operating them from London. Certainly, we have a concern that it might prove challenging for local authorities to be able to manage the complexity of negotiating a large number of different levies in different places. We know that elsewhere in the planning system local authorities can be outgunned by the development

industry in terms of capacity. That remains a concern, because we think that overall capacity in local authority planning is stretched.

**Kate Henderson:** We think the test and learn approach is really to be welcomed. Alongside that, obviously we would want to see a transitional approach. Test and learn is particularly important when we are looking at viability and the delivery of much-needed affordable housing. It is really important, given that development and land values vary greatly from site to site and place to place, that we get the levy set at the right level to ensure viability, to ensure delivery, and to ensure we are creating great communities that include much-needed affordable housing. We have advocated a test and learn approach and it is really positive that the Government are looking at that. We would want to be a part of that approach to make sure we are able to get affordable housing, and that we have the good working relationships between local authorities, developers and housing associations on-site working with the community—

**The Chair:** We are having slight problems with the sound. We will just give it a second. Do you want to carry on?

**Kate Henderson:** I was just saying that we are very, very keen that, as test and learn is rolled out, housing associations, working with councils and developers, are part of that programme, so we ensure we set the levies at a level that enables the delivery of great places with high-quality affordable housing on site in mixed communities. Doing that in a phased way to make sure it is working, while retaining parts of the old system as this is transitioned out, sounds like a sensible, pragmatic way forward.

**Q167 Stuart Andrew:** I thank you both for your time this afternoon. We know that protracted section 106 negotiations can sometimes result in a reduction in the amount of affordable housing from what was originally intended to be delivered. We are introducing the right to require, so we can get as much, if not almost all, of our ambition to achieve that. Are there any specific points you would like us to look at as we develop that side of the policy? More broadly, how do you see the proposals on access to information on land helping housing associations to look at opportunities to deliver more affordable housing?

**Kate Henderson:** Taking the second part first, transparency on land ownership is hugely welcome, as are the clauses in part 7 on compulsory purchase. I know this is not the same thing, but they are interlinked. Being able to access land at the right price to capture that land value is a really important mechanism for ensuring that we are able to deliver affordable housing. The best section 106 agreements do that because they understand the infrastructure need in a local area and those policies are in the local plan, so that when you go in for your planning application it is all costed in. I think the main principle of the infrastructure levy is that the cost of the levy is costed in so it can be factored into the price, which factors into what you are willing to pay for the land.

Land transparency is welcome, as is part 7 on compulsory purchase, regeneration and the enhanced role of Homes England, not just as a housing agency but as an agency involved in regeneration and place making.

**Gavin Smart:** I support much of what Kate says. I do not want to repeat her, but I have a couple of observations. Some of this is about the creation of a new planning system and some of it is about the resourcing of local authorities. Some of what characterises good section 106 negotiations is the ability to negotiate effectively. It is quite hard to design either a section 106 or a levy system in which developers may not come back, either legitimately or less legitimately, to argue that the situation has changed and needs to be looked at again. We have to accept that as a fact of life in these negotiations. It is not done until it is done.

I agree with Kate that land transparency is very helpful. Considering whether compensation needs to be paid in quite the same way as it has until now, and addressing hope value, is a very sensible proposition that we would support.

**Q168 Rachael Maskell:** In areas of high land value, how do we bring forward sites that are not built just for investment—Airbnb, asset homes and second homes—but are built to meet local need? What measures would you add to the Bill?

**Gavin Smart:** I do not know about adding measures to the Bill, but it is about the quality of local plans and the quality of local decision making. Going back to Kate's point, it is about making sure we are operating on an objective assessment of need. We need to be sure that in our plans we are delivering the housing that is required for the whole community, rather than simply housing that can make the best return. In that sense, the planning system is something of an intervention to prevent what one might describe as a kind of market failure, which is that the housing market will not deliver the housing we need without being provided with a degree of direction. It is as much about what happens in implementation as what is actually in the Bill and the quality and strength of local plan-making behaviour.

**Kate Henderson:** There are already tools in the planning toolbox that enable local authorities to deliver different types of development that are right for their area. One example is rural exemption sites. I know your constituency is in York, so you are not necessarily rural, but our rural areas often have high land values and pressing affordability issues. The rural exemption policy enables affordable housing to be developed in perpetuity. A local landowner might be more likely to put forward a piece of land for affordable housing if they know it is going to stay in the community, for the community, so there are policies such as those that can be used. I agree with Gavin: it is really important that the local authority has a good evidence base of what is actually needed, so that when it is making decisions on schemes coming forward, there is an opportunity to argue for the social mix that it wants to see, including affordable housing.

I also think there is a role for different actors in the housing market: who is actually coming forward with proposals? What is the role of Homes England in terms of its land assembly role and its partnership role with local authorities, and how do we get HE more in the mix in its place-making role, as well?

**Q169 Rachael Maskell:** How do we ensure the viability of a site for development? Are measures just too short term, and should we be looking longer term? Is there



anything we can put in the Bill to ensure we do that, to get the right kind of housing into the future? I am particularly cognisant of the comment made about maintaining the target of housing developed, as opposed to looking at what is actually needed within a particular community, the type of affordability or social housing.

**Kate Henderson:** That is a great point: the point about how we define current levels is vitally important. The commitment to deliver and protect housing delivery at current levels should reflect objectively assessed housing need for affordable housing, so having that in the Bill would be hugely welcome, ensuring that we enshrine that protection for the delivery of affordable housing.

On the practicalities of viability, this is not about legislation; there is a really important resource point. Local authorities need to have the skills around the table that put them on an equal footing with the private sector when they come in and negotiate on viability, which has been a real challenge for overstretched, under-resourced local authorities in some parts of the country. They have not been able to have an equal footing in those negotiations on viability. That is not about the legislation piece, but about how we upskill and empower local government to make sure they are getting the best possible deal for the community.

**Gavin Smart:** Without wishing to repeat myself, I support what Kate said. When working up an objective assessment, need is a very important place to start from, because it gives robustness to local planning. I have made the point about local authority capacity already, but Kate is right that they need to be able to compete on an equal footing with the developers they are negotiating with. That is where the really hard discussions about scheme viability take place, and you want local authorities to be approaching that with the same skillset, the same ability and the same resource, because if they are not, it is not an even playing field. Many developers are very socially responsible, but those who choose not to be can use the viability assessment process to drive affordable housing out of new housing schemes, which is not something that we would want to see.

**Rachael Maskell:** Thank you.

**Q170 The Chair:** Witnesses, you have been very good and very kind and answered all the questions; now it is your chance, just before we finish. The Members around this table will deal with line-by-line consideration of the Bill next week, which will in due course become an Act of Parliament. I will start with you, Kate: what is the one thing they should do, and what is the one thing they should not do?

**Kate Henderson:** The thing that would be fantastic would be to have real protection for affordable housing delivery on the face of the Bill, defining what current levels are. If I am allowed, rather than saying something that they should not do, I am going to ask for a second, which would be exemption from the levy for 100% affordable housing schemes.

**The Chair:** Thanks, Gavin?

**Gavin Smart:** I am going to copy Kate: it would be invaluable if we very specifically defined the affordable housing levels that we expected to see. At the moment, we do not have a definition of what we mean by

affordable housing, so it would be extremely helpful to have that in the Bill. I would back Kate on exempting affordable housing from the levy, because that would enable us to deliver more of it. That would be useful, because we are running well short of the levels of social and affordable housing that we currently need. In fact, we are losing homes at a rate.

**The Chair:** Thank you very much. You have been excellent witnesses. We will move on to our eighth panel, who will appear not on screen but in front of us.

### Examination of Witnesses

*Will Tanner and Alex Morton gave evidence.*

4.40 pm

**The Chair:** Gentlemen, thank you so much for coming today. We should be able to hear you, and you will not freeze mid-frame, which is welcome. For the record, could you state your name and who you represent?

**Alex Morton:** I am Alex Morton, the head of policy at the Centre for Policy Studies think-tank. Slightly related to this, a few years ago I worked in No. 10 doing housing and planning issues.

**Will Tanner:** My name is Will Tanner. I am the director of Onward, another centre-right think-tank, which was established four years ago, in 2018. Similarly to my fellow witness, I was in the No. 10 policy unit until 2017.

**The Chair:** Gosh. Is the Minister starting this one?

**Neil O'Brien:** What fun.

**The Chair:** What fun you will have, Mr O'Brien.

**Q171 Neil O'Brien:** Thank you, Mr Bone. May I apologise, as I will have to leave a few minutes before the end of the session?

Alex and Will, thank you for joining us in person. The Bill takes forward the devolution agenda by making it easier and quicker to set up new combined authorities, particularly in two-tier areas. It also contains a number of powers to speed up and improve regeneration, from the infrastructure levy to compulsory purchase order powers, high street rental auctions, street votes, heritage protections and land market transparency. How can we use both the devolution agenda and these new tools best to drive urban regeneration and more brownfield development—the kind of development that a lot of people want to see? How can we build on what we are doing in the Bill and make the powers that we are creating work most effectively? I will pick first on Will and then go to Alex.

**Will Tanner:** First, thank you for having me. It is a very important question, and the Bill goes some way towards answering it. The Bill tries—if I may infer Ministers' intentions from it—to establish a much greater level of strategic authority in the planning system to bring together different elements that are important for regeneration and economic development in local areas. That includes building some of the institutional framework in the form of both more and stronger mayoral combined

authorities or equivalents in counties and giving them clearer incentives to intervene and bring land together with other forms of intervention—I point to the infrastructure levy in particular in that regard, not just at mayoral level but below—as well as creating much greater transparency in information to allow the system to work more effectively and generate more community buy-in. That is both at a national level through the levelling-up mission framework that the Bill sets out, setting a clear direction on where the levelling-up agenda is due to go, and more information for consumers of the planning system through the digital planning framework and, indeed, through greater powers to require information on behalf of local authorities such as owners of high street shops and other parties locally.

**Alex Morton:** I am a little more sceptical on parts of the devolution agenda. It has worked very well in some places, such as Manchester, but less so in others. London has probably one of the biggest housing backlogs, and obviously it has had a Mayor for a very long time.

For me, the most interesting and best thing about the Bill is the focus or push around trying to make local plans more delivery-oriented, moving towards a system of local plans as delivery mechanisms and not huge, long lists of policies by moving some of that policy up to a national level. It would be good to discuss that further. I think that is the right aim, but there are some difficulties in how that is planned to be done. The shift away from a five-year land supply is also welcome.

Listening to people earlier, what often came up is planning issues x, y and z. Really, planning is just to deliver enough land, so that enough homes are built, we meet housing delivery targets and we do not have a housing crisis. Almost everyone else has a strong interest in planning doing mixed communities, planning doing sustainability, planning doing an ageing society and planning doing obesity. Planning is not really meant to do all those things; it is not some kind of titan that can hold the world on its shoulders. The whole point of planning is that there are sufficient land released to a different mix of developers who will build enough homes so that we do not have a housing crisis. If the Minister is inclined to put in place some kind of definition of what planning is, I would say that planning is designed to make sure that we build sufficient homes of sufficient quality in the right places—full stop. If the planning system could just focus on doing that, we might have less of a housing crisis, with everyone shoehorning everything else under the sun—important and noble though those other things are—into the planning system.

**Q172 Neil O'Brien:** Thank you. Can I press Alex on street votes? Is this something you welcome? What observations, if any, do you have about how we could potentially make a success of that policy?

**Alex Morton:** I think street votes are a very good idea. They are a way to try and encourage communities. They are not a solution to everything—I think we have to be honest about what street votes are. Street votes are in areas where there is high demand in housing and you have relatively low density—particularly Metroland, for example, in London—where you might be able to persuade people to replace a certain amount of terraced housing with four or five-storey terrace streetscapes, which would be quite attractive. That could be a good way in lots of high-demand areas, without building on green belts and

green fields, to get a recycling of space. That used to happen. For most of our city's history, that densification process was natural. You had a single landowner usually—sometimes aristocratic, sometimes merchants, sometimes commercial holdings—who would buy blocks, demolish them and build them up. You have to do that now in a way that is consensual and fit for the 21st century.

Street votes are a way to try to get people together and say, “Look, we can all, on our street, agree that we can build up another few storeys. We will all benefit from this. This will mean that we do not have to build on greenfield sites on the edge of London.” I do not think we should be too optimistic about it in the next, say, five years solving the south-east's housing crisis. However, it has to be something that the Government moves at great speed on, to try and put pilots in place to get this going, so that if it can work—I think it should—we can then roll it out on a wider scale. That said, I do not think, sadly, that it will alleviate the pressure on green fields in the next five or 10 years, but it is a thing we need to do now if we are to stop building on more and more of our land surface.

**Q173 Neil O'Brien:** I have one last question, for Will. One of the things the infrastructure levy does is have the neighbourhood share, in the way that CIL does, but CIL only applies to a certain number of authorities. How might that connect to the work you have been doing on what you called double devolution and neighbourhood-level governance?

**Will Tanner:** I thoroughly welcome the commitment to maintain the neighbourhood share within the new consolidated infrastructure levy. As you say, the infrastructure levy is compulsory rather than optional and it will apply everywhere, so it represents an opportunity to share a considerable amount of revenue directly with communities where the right governance exists. Parish and town councils only cover about 37% of the English population at current levels—about a third of local authorities are fully parished—so only a relatively small number of places will be able to take advantage of this at first. The inclusion of the neighbourhood share will create a very strong incentive for local areas to put in place strong, hyperlocal governance to control local decision making and some local services within a general power of competence that exists for parish and town councils.

We know from our research that there are strong benefits from that. If you look at rates of volunteering, rates of group membership or rates of local philanthropy, all those things are higher in areas where parish and town councils exist. So I am very supportive of the Government's efforts to try and create a stronger incentive for places to put in that local governance and to benefit from the gain from development. I would also suggest that it should create a stronger incentive for places to become more welcoming of development as a whole and therefore embrace new housing.

**Q174 Neil O'Brien:** On CPO powers, which the Bill streamlines by speeding up the process and simplifies by taking out bits of the process, while also potentially enabling the capturing of more value for the community and for wider infrastructure projects, with implications for consent and regeneration, what observations, if any,

do you both have about the plans in the Bill on CPOs and how we make a success of them? Shall we go to Will first, then Alex?

**Will Tanner:** As the Minister will know, Onward's first ever paper looked at this issue in some detail. As the Committee will know, at the stroke of a planner's pen, the value of a piece of land can go up 100-fold. There is an opportunity for the UK to do much more to capture the gains from development in a way that other countries, such as the Netherlands, do more systematically. The Bill goes some way towards doing that through the simplification and clarification of when local authorities can use CPO powers, which will hopefully make CPO more widespread.

I think the greatest opportunity lies in the clarification of what constitutes fair market value. That is a relatively contested area of policy; there are lots of different views from different areas. I thoroughly welcome the proposed Law Commission review into this area of legislation more generally, because I think legislation has spread over a number of years. However, there is an opportunity for the UK to more systematically capture those gains for development, and allow local authorities to buy and assemble land—especially with regard to ransom strips and small plots that hold up development—to capture those gains for public benefit. So I am supportive in principle but keen to see a bit more detail.

**Alex Morton:** I support the idea of streamlining CPO. I would be quite nervous, as a small “c” conservative and a small “l” liberal, about the measure to have a direction from the Secretary of State setting out the value of land. As Will has just suggested, there is a potential area in terms of ransom strips or other areas. If that was narrowly defined in legislation, so that, for example, on brownfield sites where there is multiple land ownership, there may, in exceptional circumstances, be a direction by the Secretary of State, that would be quite different from the current powers, which look like they could be abused by a future Government that was not sympathetic to property rights.

There is a case, with some ransom strip owners and some landowners who hold out and are unreasonable, for there to be some kind of change to get those people. But that is a big shift in property rights, which should probably be set out in primary legislation and very tightly circumscribed to small areas of brownfield land where there are multiple landowners, or be more tightly defined than the current situation, which I think could be abused—probably not under this Government, but under a future, more radical Government that did not support property rights.

**The Chair:** Mr Pennycook.

**Matthew Pennycook:** No questions.

**The Chair:** Ah, right. We come to Mr Henry.

**Q175 Darren Henry (Broxtowe) (Con):** Turning to CCA England Mayors, I think Onward has written a report about England's Mayors and their potential. The Bill recognises that the more power you give to these local leaders, the more accountability measures you need to bring into place. Do you feel that the Bill goes far enough with things such as audit committees for us to be able to hold local leaders to account?

**Will Tanner:** I support the measures in the Bill to extend the mayoral devolved model to county areas. Up until now, the mayoral model has, as you know, been largely ascribed to urban areas. I think that is a missed opportunity for historic counties in England. I particularly welcome the removal of the requirement for constituent authorities to consent to combined county authorities, so that counties cannot be held to ransom by districts within their area. I also recognise that the Bill goes some way to introducing stronger accountability for those combined county authorities.

However, in our recent paper, “Give Back Control”, we argued for a significant extension of the mayoral model. I see the provisions in the Bill as a starting point to extend the breadth of coverage of mayoral combined authorities, but I think there is a further step to deepen the powers and responsibilities of those authorities, both in cities and county areas. I would argue that that should be done in a number of ways. First, by giving much greater financial control to Mayors through a single mayoral settlement, rather than a panoply of different funding pots. That is not necessarily something for legislation, but it is a matter for Government, and the Treasury in particular. There should be the extension of further powers—this would be a matter for legislation—over local transport, local energy systems and other matters to give Mayors more ability to join up local services on behalf of their constituents.

Alongside that, we should have strengthened mayoral scrutiny panels, on which MPs as well as local councillors could sit, to join up the scrutiny of Mayors around the country—or indeed governors, as they may be called—so that they are held to account for those additional powers. I think Mayors have been successful to date, but there is much more they can do. Looking at international models, the mayoral model in this country has quite a long way to go to replicate the success of other countries.

**Q176 Darren Henry:** Have you got a country in mind that is doing it really well?

**Will Tanner:** I would point to the United States as a good example of where you have much greater levels of local and regional state-led control. The UK is almost uniquely centralised as a country, compared to other countries in the OECD. Just 5% of taxation is raised locally in this country, which is a third of the rate in France and a sixth of the rate in Germany. Just a quarter of that revenue raised is spent locally, compared to about 75% in Canada, for example. This country has a very long way to go on devolution, despite some of the advances made under this Government and indeed previous Governments.

**Alex Morton:** I would argue that devolution, or any kind of power structure, tends to work best when there is clear accountability. One of the problems that is beginning to emerge in this country is that you have Mayors, local enterprise partnerships, parish and town councils, district councils, county councils and combined authorities—and on top of that, you have PCCs. The problem comes when people do not know who is responsible for what, and I think that is increasingly becoming a problem for lots of local voters. They cannot see how this quite works.

I am sympathetic to some of the arguments that Will and others are putting forward around trying to get more powers lined up, but I think the thing that is

pushing back increasingly is that it is harder for me as a voter, getting on with my daily life, to know exactly who is responsible for what if something is broken. Is it my parish, my district or the Mayor? Then there are unaccountable bits such as LEAs. I spoke to a businessman who said, “I was thinking of investing in the north-east, and my people gave me a whole long list of people I should meet—elected officials—but they couldn’t quite tell me who did what, because it wasn’t very clear. For me, as someone who is thinking about making an investment in the north-east, I would rather have one or two people who have very clearly defined responsibilities for those purposes.”

Part of this is the depressing politics of, “It’s always easier to add an extra layer of politicians than it is to remove another one.” There is sometimes an argument to get rid of some powers and move them up, but it is often the case that what happens is that some powers get shifted up and that layer has to be left in place. Then you end up with a very confused accountability line for voters, businesses, the Highways Agency—the list goes on and on. Everyone who has to interact with them is not sure who they should be talking to, on what and why.

**The Chair:** I am going to call Greg Smith, but I will put the witnesses on notice that, at the end, I will give you the opportunity to change the course of history by telling the Committee what it should be doing.

**Q177 Greg Smith:** I am going to throw something of a curveball, because it is the sort of question that I am hopeful the think-tank world might have a view on. Throughout a lot of the evidence that we have heard during previous sessions on this Bill Committee—Alex, you talked about the south-east housing crisis in one of your answers—we have this presumption that building is the only answer to the question. From my constituency casework and from prodding around the issue, I have a theory that we do not really have a very good grasp on the gap between supply and demand, particularly in London and the south-east, where house prices are so much higher.

As we are looking at a Bill that essentially enables greater house building in our neighbourhood planning, can you offer a view on whether factors such as stamp duty, particularly at the punitively high rate that George Osborne imposed as Chancellor on the top end of the market, have had a disproportionate effect on movement within the housing stock we already have in this country? If people are not moving up to the very top tier of housing—the very large family homes and so on—there is a domino effect all the way down to the bottom of the market for people who are trying to get into starter homes and one or two-bedroom flats. Do you know of any assessment, either by your own think-tanks or across the think-tank world, that could answer that question? Just how big, in reality, is the gap between supply and demand? What other factors within the state’s control could we look at to take those barriers away?

**Alex Morton:** We are doing a paper called “The case for house building”, which may not be to your taste; it will argue that, unfortunately, supply is an unavoidable part of any solution. It is frustrating that many other factors, such as interest rates, immigration and stamp duty, are contributing to the housing crisis, but the

unavoidable reality is that supply affects price—there is no market in which supply does not have an impact on price. Throughout most of human history, the average cost of a house has been close to the build cost. If you really want to be technical, it is the capitalised future stream of rental income—house prices sometimes get out of line because there are asset price bubbles—but if you work out the rental stream of the average property over 30 years, it should be close to the build cost. Anything above that is fundamentally caused by an imbalance between supply and demand.

Ian Mulheirn has very eloquently made the case that we should not focus only on supply. I totally agree, but I think there is sometimes a desire to wish away the problem. Having said that, I empathise quite a lot with politicians, because it is annoying that other issues are contributing. I would argue that immigration is probably the quickest and shortest lever you could pull; I am thinking of the Chesham and Amersham by-election, for example, in which a party that strongly supports more immigration and more refugees was somehow arguing that there could be no building in any kind of southern constituency.

However, that does not get us away from the fact that for a long time we have not built enough houses for the people who are already here. We can see that in levels of homelessness and overcrowding, particularly for people at the bottom of the market who are really suffering and cannot have families. It is just unconscionable not to do something about that. So yes, cut stamp duty; yes, reduce immigration; but unfortunately there is just a big backlog. We will have a report out soon on this.

**Q178 Greg Smith:** Just to clarify the question that I am trying to get to the bottom of, my point is not that there will not ultimately be a gap between supply and demand; it is about the effect of factors such as stamp duty on supply. How much are the barriers to movement in the housing market dampening supply?

**Alex Morton:** We have done a couple of papers on this. There is a clear link between the number of transactions and the speed at which house builders can build out, as I think you have been hearing from other witnesses. The number of people who are prepared to buy new build is relatively constant; Help to Buy has shifted that, but absent Help to Buy, it is a relatively constant number. If transactions increase, so will the number of houses built. I can send you our paper “Stamping Down”, in which we talked about how reducing stamp duty would boost transaction levels. For me, part of the problem is that even if we get housing up to 300,000 for some years, we should be doing that along with other measures—we might then be able to start taking our foot off the pedal in about 10 years’ time. The backlog is so large that we should do all these things. Worrying too much about the exact mix is almost dancing on the head of a pin. We need to reduce demand and increase supply now, and then in five or 10 years, having done those things, we can review where we have got to.

**Will Tanner:** I agree with quite a lot of what Alex has just said; I think it is about both supply and demand. I take a lot of Ian Mulheirn’s arguments, particularly about the role of interest rates, but I agree with Alex that we have not built enough homes for a very, very long time. We did a report called “Stamping out a bad tax”—another variation on the word “stamp”—that

looked at abolishing stamp duty because, as a transaction tax, it has distorted effects within the market, in exactly the way you describe. There are ways of paying for that through second-home taxes and taxes on enveloped dwellings and the like. It is possible to do that in a fiscally neutral way, but it would be wrong for me to suggest that that will solve the housing crisis in one fell swoop. Ultimately, we need to do a number of different things. Over the last 10 years or so it has been easier for politicians to do demand-side changes to the housing market than to do supply-side changes, and that has led to some of the backlog that Alex talks of.

I would argue that some of the things in this Bill, particularly around compulsory purchase, land assembly, spatial planning and the role of development corporations, potentially unlock considerable amounts of supply. That is why this Bill is an important addition to the housing and planning system—it potentially fixes some of the roadblocks to supply over a number of years.

**Q179 The Chair:** I am going to go to the final question. Alex, what is the one thing that this Committee could do to improve things?

**Alex Morton:** I think we have covered most things that I had down. The one element that we have not touched on is the goal of streamlining planning and local plans. Perhaps more should be being pushed down than up. By that I mean I would that rather local plans were a series of site allocation policies and strategic policies around transport, and then local people should have a greater say on what happens on those sites, whether through neighbourhood plans or the neighbourhood priority statements that the Government are already trying to do. There is an argument that if development is happening in your community, and you can shape how it looks and what infrastructure and other benefits come with it, you are more likely to be in favour of it, or at least not hostile.

Therefore, rather than trying to have a system that says, “Let’s strip out all the local plan policies”—which I think is absolutely necessary, and the Government are absolutely right to proceed, because local plans take far too long and are out of touch by the time they are finished—you could create processes around how we get on sites, particularly larger sites, where they have been allocated, and how we engage with the community as part of that local planning process, so that, at the end of it, you have a local plan with a list of sites and some overlapping strategic policies, and then local people get to choose things like design or what benefits come with it. That would be a good way to square the circle

around streamlining, without running to this argument that you are centralising and taking powers away. I don’t think the Government is trying to do that; I think they are genuinely trying to fix the housing crisis, but I understand why MPs are saying that, and I think that could be an alternative way, as the Bill develops, to get there.

**Will Tanner:** The area where I think the Committee could make a real difference is around the levelling-up missions and the overarching framework around the Bill. I am not sure the Minister will necessarily thank me for saying this, but I think the reporting requirements and the architecture around the levelling-up missions could be strengthened considerably in two primary ways.

First, we have seen through the Office for Budget Responsibility and the Climate Change Committee the importance and strength of an independent body to hold the Government to account for delivering against its own targets, and I think the levelling-up missions would benefit from that level of scrutiny and accountability. At the moment there is a bit of a risk of the Government setting out its own interpretation of progress rather than us having an independent view. Bluntly, the Government should welcome that as a way of ensuring that the whole of Government is driving towards the same end. There is a bit of a risk at the moment that the Department for Levelling Up becomes the sole vehicle for driving levelling-up policy.

In a second but similar way, I think there is a missed opportunity in terms of not aligning that reporting framework against a Treasury set of fiscal events. Ultimately, levelling up is so interdependent with tax and spend policy that if the Treasury is reporting at different times, particularly around changing tax measures or making large public spending decisions through the spending review, there is the risk that levelling up falls through the cracks of the way the Government makes major decisions, rather than being completely aligned as a whole of Government mission, as I understand both the Prime Minister and the entirety of Government believe it to be. That would be my systemic change.

**The Chair:** Thank you for your excellent evidence today.

*Ordered,* That further consideration be now adjourned.—(*Miss Dines.*)

5.9 pm

*Adjourned till Tuesday 28 June at twenty-five minutes past Nine o’clock.*

**Written Evidence Reported to the House**

LRB01 Community Rights Action

LRB02 West Midlands Police and Crime Commissioner

LRB03 Historic Houses