Vol. 771
No. 141

Monday
25 April 2016

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

This issue of the Official Report is also available on the Internet at
www.publications.parliament.uk/pa/ld201516/ldhansrd/index/160425.html

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

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

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

House of Lords

Monday 25 April 2016

2.30 pm

Prayers—read by the Lord Bishop of Leeds.

Deaths of Members

Announcement

2.36 pm

The Lord Speaker (Baroness D'Souza): My Lords, I regret to inform the House of the deaths of the noble Lord, Lord Walton of Detchant, on 21 April and of the noble Lord, Lord Peston, on 23 April. On behalf of the House I extend our deepest condolences to the noble Lords' families and friends.

Retirement of a Member: Lord Inge

Announcement

2.36 pm

The Lord Speaker (Baroness D'Souza): My Lords, I should also like to notify the House of the retirement, with effect from today, of the noble and gallant Lord, Lord Inge, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I should like to thank the noble and gallant Lord for his much valued service to the House.

Young People: Mentoring

Question

2.37 pm

Asked by ***Baroness Pidding***

To ask Her Majesty's Government how many young people they expect to benefit from the Prime Minister's commitment to expand the mentoring programme for disengaged young people.

Baroness Evans of Bowes Park (Con): My Lords, we are committed to delivering a new generation of high-flying mentors from the world of work to support young people who are at risk of underachieving. The Careers & Enterprise Company will recruit volunteer mentors and launch a fund to scale up schemes that link mentors and young people. By 2020, we want 25,000 young people a year to benefit from such a mentor. We have committed £90 million to transforming careers provision over this Parliament, including £20 million for mentoring.

Baroness Pidding (Con): My Lords, the postcode lottery of careers provision means that access to the best support too often depends on where you live and which school children attend. What will the Government do to address this problem?

Baroness Evans of Bowes Park: My noble friend is absolutely right, and to address this issue the Careers & Enterprise Company published a detailed analysis last October which showed exactly where young people need further support and where there needs to be improvement in careers and enterprise provision. Following that, the company launched a careers and enterprise fund, for which the winning bids were announced in March, and 75% of funding will go to those areas which were highlighted as most in need of improved support.

Baroness Royall of Blaisdon (Lab): My Lords, I warmly welcome any expansion of much needed mentoring for young people. Can the Minister confirm that this will include emphasising the importance of democratic engagement? I am sure that all noble Lords will be concerned about voter registration levels among young people, especially with regard to the EU referendum, which is about their future. Will she agree to meet Bite The Ballot, which was recently championed by President Obama, to discuss how it might work with the mentors on the issue of democratic empowerment?

Baroness Evans of Bowes Park: We certainly consider mentoring, in a whole range of ways, to be extremely important, which is why we will be launching a £12 million government fund to extend and scale up proven schemes that link mentors with young people. We will launch this scheme later in the year and announce further details. We would welcome organisations that are involved in mentoring across an entire spectrum bidding for this funding, because we believe that it is extremely important for young people to have role models in a variety of areas to help ensure that they reach their potential.

Baroness Benjamin (LD): My Lords, charities such as Barnardo's—I declare an interest as a vice-president—work with troubled teenagers and know that mentors, through support and guidance, can transform the life chances of children in care and children who have been abused. Can the Minister indicate how the new mentoring programme will complement other support for the most vulnerable, including access to emotional well-being services?

Baroness Evans of Bowes Park: As I said, later this year we will launch a new £12 million fund, through which we will look to provide funding to help scale up already proven mentoring programmes, and I am sure that a number of those the noble Baroness mentioned will be included. We are also planning to launch a high-profile campaign to raise awareness of the impact of mentoring among not just young people, but organisations, charities and businesses. We want to ensure that 25,000 young people who are most at risk of dropping out of education or underachieving have access to a mentor.

Baroness Lister of Burtersett (Lab): My Lords, what effect are cuts in youth services having on engaging disengaged young people?

Baroness Evans of Bowes Park: As I said, mentoring and providing advice and support for young people is clearly a priority as we are putting £20 million into mentoring. We are trying to make sure that excellent schemes that have been proven to have a real impact on young people's lives are able to access new funding so that young people can fulfil their potential and get the support, help and guidance from inspirational mentors that we know can make a significant difference.

Baroness Howarth of Breckland (CB): I welcome all that the Government are doing on mentoring, but what are they doing to ensure that the quality is monitored? The expansion is large and rapid, which can sometimes cause serious problems with quality. How is it to be measured?

Baroness Evans of Bowes Park: As I said, this new fund will be about scaling up proven mentoring schemes, so quality will be at the very heart of ensuring that young people get access to the kind of schemes that make the most difference for them. However, we also need to make sure that these schemes are available in areas where provision is patchiest. The analysis that I talked about earlier, identifying areas of the country where real support is needed—and needs to be improved—means that we can encourage proven schemes to expand into those areas, so that all young people have access to that kind of support.

Baroness Fookes (Con): For how long will each young person have the benefit of a mentor? What many of these young people lack is consistency over a period of time.

Baroness Evans of Bowes Park: My noble friend is absolutely right. We want to help tailor the support that young people get, so the exact support given and the length of the mentoring contract will vary depending on a student's needs. The support will also be provided in different ways—for example, as one-to-one sessions, group working and work experience. The time over which a young person will need support will vary, and the mentors will work with young people in a whole range of ways so that the support can be properly tailored to what can best help them.

Lord Watson of Invergowrie (Lab): My Lords, the Minister will be aware of the excellent report published earlier this month by your Lordships' Select Committee on Social Mobility, ably chaired by my noble friend Lady Corston. One of its recommendations was that teenagers should be offered face-to-face careers advice, with responsibility for that taken away from schools. Given that, to protect their budgets, some schools have been promoting their own sixth-forms over other routes into employment, and have been criticised for that by the chief inspector of Ofsted, will the Minister tell noble Lords whether her department intends to act on that recommendation?

Baroness Evans of Bowes Park: I too pay tribute to the extremely thoughtful report from the Select Committee. Of course, we have already strengthened statutory guidance to ensure that the independent careers advice provided is presented in an impartial manner and includes information about a range of education and training options. However, I agree with the noble Lord: we need to go further. That is why the Government intend to bring forward legislation to require schools to allow other education and training providers the opportunity to talk to pupils in their premises, so that young people get the range of advice they need to make the right choice for themselves in where they want to take their future careers.

Baroness Sharp of Guildford (LD): My Lords—

Lord Tebbit (Con): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, I am going to make an executive decision: we will move on to the next Question.

Education: Secondary Schools

Question

2.44 pm

Tabled by ***Baroness Massey of Darwen***

To ask Her Majesty's Government which areas of England will be most affected by shortages of places for secondary school pupils in September, and how they intend to tackle the number of secondary schools that are above their capacity.

Baroness Donaghy (Lab): My Lords, on behalf of my noble friend Lady Massey of Darwen, and at her request, I beg leave to ask the Question standing in her name on the Order Paper.

Baroness Evans of Bowes Park (Con): My Lords, supporting local authorities in their responsibility to create sufficient school places is one of the Government's top priorities. We work closely with local authorities to ensure that they are on target to achieve this. This Government are spending £7 billion to create new school places between 2015 and 2021, which, along with our investment in the free schools programme, we expect to provide 600,000 new places at both primary and secondary level.

Baroness Donaghy: I thank the Minister for that Answer. However, it will be of little comfort for almost half of all secondary school entrants in areas of high demand, who have just missed out on their first choice of school. First, will the Minister explain how this acute problem came about? Secondly, what measures will the department be putting in place for monitoring and training to ensure that this is not allowed to happen again?

Baroness Evans of Bowes Park: Let me reassure the noble Baroness that, in fact, the latest figures that we have show that there were over 530,000 applications for secondary school places, yet 95% of parents received an offer from one of their top three preferred secondary

schools. We accept that new places do need to be created, which is why we have committed £7 billion over the course of this Parliament to 2020 to deliver 600,000 new places. I also reassure the noble Baroness that, in 2015, there were 430 fewer secondary schools at or in excess of capacity than in 2010. Therefore, although more needs to be done, parents should be reassured that the vast majority do get their children into the school that they want.

Lord Storey (LD): My Lords, the Minister will be aware that for children, transferring from primary school to secondary school can be quite a difficult and sometimes traumatic experience. They move to a school where they want to still be valued and known. Perhaps because of a lack of strategic planning to deal with the problem, we are seeing secondary schools becoming bigger and bigger. Can it really be educationally helpful for pupils to end up in secondary schools that have over 2,000 pupils?

Baroness Evans of Bowes Park: As I have said, the number of schools with excess pupils has gone down. Bigger is not necessarily worse, but I completely accept the noble Lord's point that the transition from primary school to secondary school is particularly important. That is why a lot of primary schools collaborate with secondary schools in their area and give primary school pupils the chance to visit secondary schools so that they understand that transition. A lot of secondary schools are looking at how they can help their new intake of young people get used to that situation. A lot of work is being done, and a lot of that is school-to-school work, because it is well known that that is an issue for many children.

Lord Watts (Lab): My Lords, the Minister said that 90% of parents get one of their top three choices. What percentage get their first choice?

Baroness Evans of Bowes Park: For primary schools, 87.8% got their preferred choice, and for secondary schools, 84.2% got their top choice.

Baroness Farrington of Ribbleton (Lab): My Lords, would the Minister care to ensure that in debate about the future role of local authorities the term "local authority control" is not used? Quite rightly, the Minister referred to local authority responsibility. I speak as somebody who was involved in the bruising business of discussing the allocation of schools as part of local authority planning. Will she ensure that local authorities are treated with the respect that they deserve and not accused of controlling?

Baroness Evans of Bowes Park: I am very happy to say that local authorities, schools and regional schools commissioners are all working very hard together to help ensure that where there is a lack of places, those places are provided. Of course, local authorities can also work collaboratively with existing schools to help set up new schools that come within their patch. I am very happy to say that local authorities are playing their part in what is an important issue for all parents and children in their area.

Lord O'Shaughnessy (Con): My Lords, it is good to hear the Labour Benches animated about this subject—if only they had been so animated when they were last in government. The number of secondary schools in England fell by 83 between 2005 and 2010 despite falling rolls, compared to a net increase of 48 schools in the past five years. So does the Minister agree with me that this is a good example of the Conservatives taking action where Labour failed to?

Baroness Evans of Bowes Park: What I can say is that, under the coalition Government, 600,000 new school places were created. With the £7 billion of extra investment that will go in during this Parliament, we expect to deliver a further 600,000 new places by 2021. All parents should have access to a good school place for their children, which is why we are delighted that 1.4 million more children are now in good or outstanding schools compared to 2010.

Lord Watson of Invergowrie (Lab): My Lords, the Minister said in answer to the question from my noble friend Lady Donaghy that the Government would aim to provide 600,000 new places by 2021. That figure falls some way short of the Office for National Statistics estimate of almost 1 million places being required. Are not the Government depending to a reckless degree on the establishment of free schools—something that the noble Lord, Lord O'Shaughnessy, knows quite a bit about—popping up in the right places, which rarely happens? Will the Minister accept that with the responsibility for school places in their area remaining with local authorities, they should now be given the powers to direct academies to expand to cover the growth in the number of school places required?

Baroness Evans of Bowes Park: As I said previously, I think that local authorities, schools and regional schools commissioners are working effectively to help deliver the school places that parents and young people in their areas deserve. Central government now provides funding for new school places three and a half years in advance so that local authorities can plan effectively to ensure that all young people in their area have access to a good school place. We need a collaborative system, which is what we are seeing.

Baroness Tonge (Ind LD): My Lords, does the Minister agree with me that, in view of the fact that independent schools have such small class sizes, to maintain their charitable status for tax relief they should be persuaded to take those children in their area who do not have state school places?

Baroness Evans of Bowes Park: What we need is a thriving private but also state system. We want to make sure that all parents have access to a good local school place, which is why one of our priorities is making sure that, within the state system, there are

[Baroness Evans of Bowes Park]
enough good school places for young people. That is why we are extremely proud that more than 1.4 million more children are now in good or outstanding schools than in 2010. That is a very good step in the right direction.

Housing: Co-operative Housing
Question

2.52 pm

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what action they are taking to promote co-operative housing.

Lord Kennedy of Southwark (Lab): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I draw the House's attention to my declaration in the register of interests. I am also a councillor in the London Borough of Lewisham and director of a co-op which does not operate in the housing sector.

Viscount Younger of Leckie (Con): My Lords, the Government continue to support the community-led housing sector, including housing co-operatives, because we want to see communities more in control of decisions that affect them, including the delivery and management of their homes. The March Budget confirmed that £60 million a year from additional receipts from higher stamp duty rates on additional residential properties will be redirected into rural and coastal areas for community-supported housing.

Lord Kennedy of Southwark: My Lords, to support the growth of the co-operative housing sector, what plans do the Government have to legislate to create co-operative housing as a tenure in its own right and what plans do they have to make it easier for land to be made available to build co-operative housing to deal with the housing crisis and provide much needed affordable housing?

Viscount Younger of Leckie: I recognise that, by his own admission, the noble Lord has been in the co-operative movement all his adult life, part of that as a Peer. We recognise that co-operative housing and community land trusts in their various forms play an important role in satisfying the demand for housing. They are very individual and bespoke, and are perhaps more of a challenge to promote one against the other. We will look carefully at a pilot that is going on in Wales before taking any further action, but we otherwise very much promote the idea of co-operatives.

Lord Palmer of Childs Hill (LD): My Lords, since for a housing co-operative to start it needs a building or buildings, otherwise it cannot operate, what are the Government doing to encourage mortgages to be available to such bodies? Without a mortgage, a building cannot be acquired. Will the Government consider guaranteeing or underwriting such mortgages—of course, based as a second charge—on the properties? Have the Government had discussions with those in the field who are giving such mortgages, such as Co-operative & Community Finance, the Co-operative Loan Fund and the Ecology Building Society?

Viscount Younger of Leckie: My Lords, we are doing much to expand housing over all of the nation and the noble Lord will know of the different opportunities and tenures that we are promoting. Certainly, it is up to local areas to focus on local co-operatives. As I said earlier, we are providing £60 million to help with this process, particularly in the south-west and Devon.

Lord Tomlinson (Lab): Will the Minister consider getting his officials to look at the housing co-operative movement in Sweden, the HSB, and the significant contribution it makes to the overall housing stock in that country? Secondly, will he give an undertaking that any expansion in housing co-operatives will not tempt the Government to decide that, because some public money has gone into them, they will feel free to start the process of trying to force the co-operatives to sell the tenancies that their members are occupying?

Viscount Younger of Leckie: The noble Lord makes a good point about Sweden and I have no doubt that officials are aware of the Swedish idea. If they are not, I shall certainly remind them. We are looking at the further promotions we can make on the co-operative side but, as he will know, we are focusing on all kinds of different tenures, including taking note of the 86% of people who aspire to buy their own homes.

Lord Roberts of Llandudno (LD): My Lords, I am intrigued by the reference to a pilot in Wales. Could the Minister tell us more about it and where it is?

Viscount Younger of Leckie: I do not know quite where it is but it is certainly in Wales. I shall write to the noble Lord giving him precise details of that exercise.

Baroness Royall of Blaisdon (Lab): My Lords, I think the Minister might have been referring to some new co-operative homes in Cardiff and Newport. Will the Minister confirm that the Government in London will draw lessons from the experience of the Welsh Government who, through their political leadership, have shown that it is possible to build and promote new co-operative housing schemes? As I say, they are in both Cardiff and Newport.

Viscount Younger of Leckie: I am grateful to the noble Baroness for putting me right on that. We are looking carefully at the Welsh projects.

Regional Museums
Question

2.57 pm

Asked by ***Lord Stevenson of Balmacara***

To ask Her Majesty's Government what assessment they have made of the closures of regional museums, particularly in the North of England, and the impact of those closures on the United Kingdom's creative industry and on the educational services provided to local schools and colleges.

The Earl of Courtown (Con): My Lords, decisions on changes to regional museum service provision are for those who run them, including local authorities. However, we fully appreciate that regional museums are important for both local communities and local economies. This information is not collated centrally, but we have asked the Arts Council to provide what information it currently has available on museum closures and will consider the challenges facing regional and local museums more fully in the museums review announced in *The Culture White Paper*.

Lord Stevenson of Balmacara (Lab): My Lords, in this 400th anniversary of William Shakespeare, it is surely fitting that DCMS graced the recent White Paper, to which the noble Lord referred, with a quotation from "Love's Labour's Lost"—an obscure one, but it is there. It raised two questions in my mind. Which Shakespearean character does the Minister most remind you of? Was it when he was a bit younger shaking his mane of golden locks around as the Fair Youth of the early sonnets, or is it today's more busy activity as Ariel or Puck to successive Ministers? Why do the Government in the White Paper persist in praising local museums and galleries for the contribution they can make to economic growth, education and well-being, as Mr Greg Clark MP says in the paper, when the reality is £1 billion-worth of cuts and regional museum closures—up to 45 so far?

The Earl of Courtown: My Lords, I think that the noble Lord, Lord Stevenson, knows his Shakespeare perhaps a little better than I do, and I would not like to put myself forward as any of the characters he mentioned. He has drawn attention to *The Culture White Paper*, which is of course very important. It sets out our intention to increase participation in culture, particularly by children and young people from disadvantaged backgrounds. As far as regional museums are concerned, we will be looking at the review of the sector and considering the role of the Government, the Arts Council and the Heritage Lottery Fund, as well as directly funded museums.

I should add at this stage a response to the noble Lord's reference to a number of cuts. We urge caution when referencing data which some people have used from the Museums Association's closure map. Many of the closures cited are no longer accurate; some museums have reopened or relocated while others have simply never closed. DCMS officials are engaged with the Museums Association and are keen to ensure that the resource is as accurate as possible.

Lord Clement-Jones (LD): My Lords, perhaps I may cite another quotation from *The Culture White Paper*. The Government say:

"Museums are jewels in our national crown and we want to ensure that they remain so and are as best-placed as they can be to continue supporting our aspirations for access, place-making and soft power".

What credibility does that statement now have? Is it not a bit of a hostage to fortune in the face of government cuts to local authority funding which, as we have heard, have caused the closure of so many museums?

The Earl of Courtown: My Lords, I should draw attention again to the points I have made on the Museums Association figures. We also have to look at new models of how museums are funded. As noble Lords have said, local authorities are significant funders of the arts. There are opportunities for new partnerships, and it is the role of the Arts Council to share good practice and help build capacity in both the cultural sector and local government. I can give a number of examples, such as Durham County Council's recent blockbuster exhibition of the work of Yves Saint Laurent at the Bowes Museum. Any profits have been divided between the museum and the council.

Lord Anderson of Swansea (Lab): My Lords, is the Minister convinced that the regional museums—

Lord Cormack (Con): My Lords, I am most grateful. In the Autumn Statement, the Chancellor referred to cuts in the heritage and arts fields as being a false economy. That was a splendid statement and we are all extremely grateful for it, and for the settlements that were announced. But does my noble friend agree that, unless some aid is given to local authorities, that statement will come to sound hollow? It really is crucial that we do not lose some of the brightest and best of our smaller museums which are scattered around the country.

The Earl of Courtown: My Lords, my noble friend Lord Cormack referred to the comprehensive spending review and how departmental spend on museums was ring-fenced. He also referred to some of the smaller regional museums. This is why we are holding the museums review as part of *The Culture White Paper*.

Lord Anderson of Swansea: My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, it is the turn of either the Cross Benches or the Bishops, and I would imagine that the House will want to hear from the Bishops before we go to the Cross Benches and then back to the Labour Benches.

The Lord Bishop of Leeds: My Lords, if the rhetoric about the northern powerhouse is to have any reality behind it, it has to include access to culture and

[The Lord Bishop of Leeds]
cultural developments. In the light of that, will the Minister give an assurance that the sword of Damocles hanging over the National Media Museum in Bradford might at last be lifted? Sometimes up there it feels as if London is saying, "Out, damned spot!".

The Earl of Courtown: My Lords, the right reverend Prelate referred to the northern powerhouse. Perhaps I should add that DCMS is sponsoring loans to museums at 1,629 different venues. As far as Manchester in particular is concerned—

Noble Lords: Bradford!

The Earl of Courtown: I beg your pardon; I thought that the right reverend Prelate referred to Manchester. I think that the right reverend Prelate was referring to the Royal Photographic Society collection, some of which has now been moved to London. That move has provided far better access to the collection because the Victoria and Albert Museum has committed to digitising the collection and thus make it more widely available.

The Earl of Clancarty (CB): My Lords, do the Government have any plans to start reversing the cuts to local authority funding, because that is the root cause of the problem?

The Earl of Courtown: The noble Earl has made his view on any form of cuts very clear in the past, and of course I do not agree with him. This is why we are having a review into museums in *The Culture White Paper*.

Lord Anderson of Swansea: Is the Minister convinced that regional museums, large and small, and museums in the devolved authorities are having their fair share of works of art which are given in lieu of tax?

The Earl of Courtown: My Lords, the small museums provide a marvellous service to all those concerned. I am unaware of the exact details of any works of art in lieu of tax, so I shall write to the noble Lord on that issue.

Baroness Afshar (CB): My Lords—

Lord Sterling of Plaistow (Con): My Lords—

Baroness Stowell of Beeston: My Lords, we are getting frisky today. The House is calling to hear from my noble friend Lord Sterling.

Lord Sterling of Plaistow: My Lords, for 20 years I had the honour to be heavily involved in the National Maritime Museum, which is now Royal Museums Greenwich, and was chairman for 10 years. Many of us felt that the big 12 in this country are so rich with their works of art and everything we have on that side. Our collections are marvellous. We discussed many times that, to really help the regional museums, the big 12 should use much of their collections which are below decks, to use an expression, and not above—nearly 90%—for exhibitions to go right round the country. That would have a huge effect on places, not just educationally and locally, but for tourism, which is a very important factor for the future. Will the Minister please look into that to see whether it can be encouraged and helped?

The Earl of Courtown: My Lords, perhaps I should point out to my noble friend that the national museums do in fact span the country. The Royal Armouries, the Tate, the Natural History Museum and the Science Museum all have regional sites outside London. The national collections have partnerships with other organisations, focusing not only on loans but on sharing skills, expertise, education and learning, and working with communities.

Baroness Afshar: My Lords, what provisions are being made for York, where not only has its museums been closed but many of the sites were flooded, and the council simply does not have the resources to deal with both problems?

The Earl of Courtown: My Lords, I think that the noble Baroness was referring to the Jorvik Viking Centre in York. As we all know, it suffered a great deal of flooding damage earlier this year, or last year, and is now looking to raise a total of £2 million—£500,000 from general public fund-raising ventures and the remainder from private trusts, foundations and corporate sponsorship. I should point out to the noble Baroness and the House that York Minster, York Museums Trust and York Theatre Royal are all helping with items from the museum to be on show.

Trade Union Bill

Third Reading

3.08 pm

Relevant document: 1st Report from the Joint Committee on Human Rights

That the Bill be now read a third time.

Clause 12: Union's annual return to include details of political expenditure

Amendment 1

Moved by ***Baroness Neville-Rolfe***

1: Clause 12, page 8, leave out lines 7 to 17 and insert—

"(1) This section applies where the expenditure of a trade union paid out of its political fund in any calendar year exceeds £2,000 in total.

(2) The union's return for that year under section 32 must give the required information (see subsections (2A) to (2E)) for each category of expenditure paid out of its political fund; and for this purpose—

(a) expenditure falling within paragraph (a) of section 72(1) is one category of expenditure, expenditure falling within paragraph (b) of section 72(1) is another, and so on;

(b) expenditure not falling within section 72(1) is a further category of expenditure.

(2A) For expenditure falling within section 72(1)(a), (b) or (e) the required information is—

(a) the name of each political party in relation to which money was expended;

(b) the total amount expended in relation to each one.

(2B) For expenditure falling within section 72(1)(c) the required information is—

(a) each election to a political office in relation to which money was expended;

(b) in relation to each election—

(i) the name of each political party to which money was paid, and the total amount paid to each one;

(ii) the name of each other organisation to which money was paid, and the total amount paid to each one;

(iii) the name of each candidate in relation to whom money was expended (or, where money was expended in relation to candidates in general of a particular political party, the name of the party), and the total amount expended in relation to each one (excluding expenditure within sub-paragraph (i) or (ii));

(iv) the total amount of all other expenditure incurred.

(2C) For expenditure falling within section 72(1)(d) the required information is—

(a) the name of each holder of a political office on whose maintenance money was expended;

(b) the total amount expended in relation to each one.

(2D) For expenditure falling within section 72(1)(f) the required information is—

(a) the name of each organisation to which money was paid, and the total amount paid to each one;

(b) the name of each political party or candidate that people were intended to be persuaded to vote for, or not to vote for, and the total amount expended in relation to each one (excluding expenditure within paragraph (a)).

(2E) For expenditure not falling within section 72(1) the required information is—

(a) the nature of each cause or campaign for which money was expended, and the total amount expended in relation to each one;

(b) the name of each organisation to which money was paid (otherwise than for a particular cause or campaign), and the total amount paid to each one;

(c) the total amount of all other money expended."

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): My Lords, I am pleased to return to debating this Bill, and am grateful to noble Lords for the constructive engagement and good progress that we have made. As a minor but important aside, I am sure that noble Lords will have noted that most of the clause numbers have changed and I am now addressing Clause 12—which was previously Clause 11—on political funds reporting.

In his speech on the first day of Report, the noble Lord, Lord Burns, asked the Government to come back with proposals that better balanced transparency, accountability and proportionality. We have given this careful consideration, including a very helpful discussion with the Certification Officer, which the noble Lord recommended. I will now set out our response.

Union reporting on political expenditure is not new. Unions already provide information about political expenditure in their annual return to the Certification Officer. Some do this well, providing detailed information. For example, the Communication Workers Union provides in its annual return to the Certification Officer a detailed breakdown of spend on political objects, including on elections, campaigns, affiliation fees and delegations to national and regional conferences. But others provide very sparse information, hence the need for reform.

Concerns were raised on Report about the potential burden of the Government's proposed reporting requirements, and in particular the need to report expenditure on a bus fare paid to an individual union member. As I said, unions were required to provide details of all expenditure to all recipients in each of the categories in Section 72(1) of the 1992 Act once the £2,000 threshold was exceeded. This would have included, for example, any relatively small payment for an individual union member to attend a party conference. This was the concern raised by the noble Lord, Lord Burns, and, indeed, by the Certification Officer. I accept that this could have been onerous for trade unions.

Amendment 1 therefore seeks to provide a more proportionate level of transparency by removing the requirement to report on each item of expenditure for every individual. Instead, we now require them to provide only a total of expenditure in each category and to specify which political party, organisation or candidate has been paid. I will give noble Lords an example of how this will work in practice in relation to conferences and meetings. Rather than reporting the payments for travel to individual members to attend a party conference, the union will now have to report only the total expenditure on conferences for a particular political party in any given year. This is much more comparable to the best practice that some unions currently exhibit, and the Certification Office has told us that the amendment brings helpful clarity to reporting requirements. I hope that noble Lords will therefore agree that this is a sensible way forward.

My noble friend Lord Leigh of Hurley also raised concerns about whether it was clear that all expenditure from a union's political fund should be reported annually to members. As I said on Report, I accept the principle of consistent transparency to which my noble friend referred. Therefore, Amendment 1 now provides that where political fund expenditure does not fall within Section 72(1) of the 1992 Act, unions should report on the total spend for each cause or campaign on which money was spent, or they must provide the name of the organisation to which money was paid.

Finally, government Amendment 3 is in response to the scrutiny of the clause by the Delegated Powers and Regulatory Reform Committee. This is the amendment that I said I would return to after withdrawing it on Report, so that it could be considered as part of a wider package. The committee noted that the power to substitute the £2,000 minimum threshold for reporting in this clause can be used not only to raise the amount but to lower it again to an amount of not less than £2,000. In the passage of time it may well become necessary to raise the threshold for reporting. However,

[Baroness Neville-Rolfe]
if the Government in future, having raised the threshold, wish to revert to a lower threshold, the amendment would rightly require affirmative regulations and greater parliamentary scrutiny. This seems completely right.

I believe that the amendment improves the Bill and I commend it to the House. I beg to move.

3.15 pm

Amendment 2 (to Amendment 1)

Moved by ***Lord Collins of Highbury***

2: Clause 12, leave out subsection (2E)

Lord Collins of Highbury (Lab): My Lords, I, too, appreciate that the Government have moved substantially on this issue. Of course, the Select Committee and, I suspect, opinion across the House recognise that union members were entitled to more detail and transparency about political expenditure by their unions. That was reflected in the Select Committee report and the amendment moved by the noble Lord, Lord Burns.

In congratulating the Government on this move I would also express some concern about whether they have taken into account the amendment moved by my noble friend Lord Lea, which dealt with expenditure not covered by the statutory requirement on political spend. What did the Certification Officer say about this additional requirement? Instead of simplifying and reducing red tape, the Government are increasing it. Many campaigns organised by unions have industrial and political elements. As long as unions pay for the political elements from the political fund, other elements can be paid for from whatever fund they decide is appropriate.

I repeat what I said in Committee and on Report—anyone would think that the accounts of trade unions are not properly audited and scrutinised at every level of the organisation by committees, districts and executives. Anyone would think that we were talking about a local Conservative association, where no figures are published and no one, not even in the Conservative Party's central office, knows where the funds are. That is not the case here. Therefore, in taking on board the noble Lord's amendment, instead of reducing red tape and sticking to the sensible concern raised by the Select Committee—and I have no doubt that this concern is shared by the Certification Officer—the Government are going one step further in dictating how unions spend their money. Anyone would think—and I believe the party opposite does think—that political funds were a separate pot of gold and that £9 million had gone missing here and there. The political funds set up under statute were established to ensure that political expenditure, as defined by the 1992 Act, was covered by an element of members' subscriptions. The legislation does not prescribe that that element of union members' subscriptions must be spent on political purposes. Unions' priorities vary and change. Sometimes they might not spend any money on political purposes but will want to run an industrial campaign.

Imposing this additional reporting requirement will potentially cause confusion, not greater transparency. I attended the USDAW conference at the weekend in sunny Blackpool.

Noble Lords: Oh!

Lord Collins of Highbury: It was sunny, actually. In addressing the conference, I responded to concerns about this aspect of the Bill. The Minister mentioned good practice. USDAW's annual report to its annual delegates' conference itemises its range of political spending. I think that is repeated in its AR21 to the Certification Officer. People asked what the Government were seeking by this additional element in the amendment and whether they had consulted on it, as it could result in members becoming even more confused. For example, how much did unions spend on the Sunday trading proposals—an industrial campaign with elements of political spend? The campaign opposing violence against shop workers was again an industrial campaign with elements of political fund expenditure. So what is the point of having a statute that says what expenditure must come from a political fund, as clearly defined in the 1992 Act, when this Bill is saying that that is not enough? If money is spent out of that fund, it has to be reported to the Certification Officer. It is an additional requirement which is a burden; it increases red tape and I doubt whether the department, or the Minister, has properly consulted on it. I beg to move.

Lord Burns (CB): My Lords, I support Amendment 1. The Select Committee, which I chaired, agreed that union members were entitled to more detail about the political expenditure of the unions in the annual returns to the Certification Officer. However, we were concerned by the Certification Officer's prediction of the amount of extra work which the existing clause would cause both for the unions and for the Certification Officer himself. There was also quite a lot of confusion in Committee about exactly what the clause required and the significance of the £2,000 threshold. This seemed disproportionate to the committee and we proposed that the Government should consult the Certification Officer and come back with revised proposals which would give a better balance between accountability and proportionality.

Unlike the Minister, we have clearly not had the opportunity to have further information from the Certification Officer, but my personal interpretation is that the amendment produces a much better balance, by aggregating items of expenditure under headings which are, I hope, manageable. It is less onerous for the unions and deals with the practical concerns of the Select Committee.

I understand the concerns of the noble Lord, Lord Collins, and the issue of burdens. However, given that we are going in the direction of looking at aggregates of expenditure, it seems reasonable that all expenditure from political funds should be accounted for. Where this falls outside political parties' expenditure and the categories in Section 72, they should be included. I support Amendment 1.

Lord Stoneham of Droxford (LD): My Lords, these Benches would also welcome the simplification that this amendment recognises. We agree with the noble Lord, Lord Burns, that it provides a much better balance. I have two questions for the Government. I hope they have not forgotten something which we have said throughout this debate: for every new regulation put in, two should be taken out. Is that no longer the Government's policy, or is this yet another example of the Government ignoring that diktat when it comes to somewhat partisan legislation?

We now have the slightly ridiculous situation where two bodies monitor political funds and expenditure: the Electoral Commission and, in relation to trade union funds, the Certification Officer. What consultations have the Government had on this new amendment with the Electoral Commission, and are they satisfied that it eliminates unnecessary duplication between the two organisations?

Lord Whitty (Lab): My Lords, although I welcome the Government's movement on this, the original draft of the clause was, frankly, unworkable. This is definitely a step in the right direction, although my noble friend Lord Collins and the noble Lord, Lord Stoneham, require answers to their questions.

Before the Minister replies, I will point out something which I have mentioned at earlier stages in the passage of the Bill. In the five years to 2015, £64 million was given by trade unions in political donations, but £80 million was given to various parties—predominantly the Conservative Party—by other organisations. What steps is the Minister taking to ensure that there is a parallel requirement for reporting for all the other organisations which make political donations?

Lord Leigh of Hurley (Con): I welcome Amendment 1. The Select Committee actually said there is a "lack of transparency" over how political funds are spent. Such transparency would assist union members in having an informed choice over whether to sign up to paying a political levy. The amount of money in political funds varies from £14.8 million in reserves for Unite to £8.2 million in UNISON and so on. While I welcome Amendment 1, which seeks to categorise payments, Amendment 2 would take away the whole point of the transparency that would allow union members to see how their money is spent when it is not being spent directly on political parties.

The move to transparency is taking place throughout all areas of our lives. In the Conservative Party manifesto—indeed, it is actually happening—the Government committed to disclose online any expenditure over £25,000. Given the amount of money the Government spend in a year, it does not seem unreasonable to look for similar transparency on union political spending.

Baroness Donaghy (Lab): My Lords, I am sure the noble Lord, Lord Leigh, forgot to declare in his contribution that he was the treasurer of the Conservative Party. I support my noble friend Lord Collins's amendment to the amendment. Of course we support transparency but Amendment 1 adds another section, which in our view is completely unnecessary.

Many years ago I chaired the general political fund committee of—I think it was NALGO then, before Unison came about—and the amount of information given was extremely elaborate. There was an annual report and a magazine. There was absolutely no doubt about where the expenditure went, and I have no doubt that that information is still communicated.

I just wonder why this "Lord Leigh clause", as I think I am going to call it, is really necessary. It seems to me that it is the thin end of a wedge and could be utilised in future. Amendment 1 adds an unnecessary burden to the unions. Without proposed new subsection (2E), it would still provide all the information that the Select Committee asked for.

Baroness Neville-Rolfe: My Lords, Amendment 2 to government Amendment 1 seeks to reduce the level of transparency on all expenditure from a union's political fund. Of course, during debates in this House noble Lords have referred to unions supporting various campaigns, causes or organisations from their political funds that are not clearly linked to the categories of expenditure under Section 72(1) of the 1992 Act. As I explained, we are seeking to make things clear.

The noble Lord, Lord Collins, whose knowledge of this area has been extremely helpful during the passage of the Bill, asked about the Certification Officer's view on what I think has rightly been named the "Lord Leigh amendment". The Certification Officer acknowledged that this may mean some additional reporting for some unions. However, he welcomed the proportionate approach and clarity of the overall package, and supported the change. I am also extremely grateful to the noble Lord, Lord Burns, for his support, given all the expertise he developed during his splendid committee inquiry.

The noble Lord, Lord Stoneham, asked—as he always does—about burdens, a point on which he and I tend to agree. I will write to him but I think the one-in, two-out rule applies to business costs and therefore on a point of detail may not apply, but I will certainly check that and write to him. What I would say is that in this amendment we are trying to get away from the bureaucracy and detail of the individual recording of bus tickets. That has been the whole point.

We are not seeking changes to the political arrangements in relation to expenditure by the Conservative Party, for example, or changes in the Electoral Commission rules. We have brought in an amendment which I think improves things, and agree with my noble friend Lord Leigh that better transparency is required across all expenditure from political funds to enable union members to decide whether or not to contribute and, importantly, that it does so in a clear and proportionate way. I believe that the package of amendments I have set out today achieves that.

3.30 pm

Lord Lea of Crondall (Lab): Before the noble Baroness sits down, would she consider answering my noble friend Lord Whitty's question, unless she thinks she already has?

Baroness Neville-Rolfe: I think the noble Lord, Lord Whitty, was seeking to make a parallel with the area of political donations, and I explained that this provision did not seem to have a parallel with the point that he was making. For that reason, I felt that we should leave the amendment as it is.

Lord Collins of Highbury: I appreciate the noble Baroness's remarks, and I am going to repeat them, because I think the purpose of her amendment is undoubtedly to make things clearer. Certainly, defining the reporting mechanism in accordance with Section 72 of the 1992 Act is entirely appropriate. That is a good thing, and it is best practice. But this new subsection (2E) in the amendment—the "Lord Leigh amendment"—will not make things clear and will not make things transparent. It may have unintended consequences. There is no doubt but that all the expenditure of a trade union is properly accounted for. I will keep repeating that because there is a suggestion that if it is not reported to the CO or detailed in the AR21, the annual return, it is somehow not properly accounted for. It is properly accounted for, in the accounts.

As I say, when I went to the USDAW annual delegate conference in Blackpool, they went through the details and the sections of their report page by page and paragraph by paragraph, and questions were asked. The report gives a breakdown of the political expenditure. But the statute governing the nature of political expenditure is now being asked to cover non-political expenditure, as if that is somehow not accounted for somewhere else. This is a step too far and will lead to complications. With this detailed reporting, there is potentially a mismatch between the Electoral Commission's information, which is published as the donations received by political parties, and the returns of the unions, which will talk about affiliation fees in separate years. There is the potential for some form of conflict there.

I accept that the original amendment addresses the concerns of the Select Committee, and totally accept that it is an attempt to make things clearer, but I am extremely disappointed that the Minister has included the amendment of the noble Lord, Lord Leigh, because it will just lead to further confusion. Bearing that in mind, I beg leave to withdraw my amendment.

Amendment 2 to Amendment 1 withdrawn.

Amendment 1 agreed.

Amendments 3 and 4

Moved by ***Baroness Neville-Rolfe***

3: Clause 12, page 8, leave out lines 18 to 20 and insert—

"(3) The Secretary of State may by regulations made by statutory instrument amend subsection (1) by substituting a different amount, which may not be less than £2,000, for the amount for the time being specified in that subsection.

(3A) Regulations under subsection (3) that substitute a higher amount shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3B) No regulations under subsection (3) that substitute a lower amount shall be made unless a draft of them has been laid before Parliament and approved by a resolution of each House of Parliament."

4: Clause 12, page 8, line 27, at end insert—

"( ) In this section "candidate", "electors" and "political office" have the same meaning as in section 72."

Amendments 3 and 4 agreed.

Clause 13: Publication requirements

Amendment 5

Moved by ***Lord Bridges of Headley***

5: Clause 13, page 8, line 40, after "regulations" insert "made by statutory instrument"

The Parliamentary Secretary, Cabinet Office (Lord Bridges of Headley) (Con): My Lords, I start by thanking those who have helped us reach a modicum of consensus—I should probably stress the word modicum, as I do not want to tempt fate—in particular the noble Baroness, Lady Hayter, with whom I have had several conversations, along with her colleagues on the Front Bench and the noble Lord, Lord Stoneham.

A number of legitimate concerns have been expressed about how far reaching these provisions relating to this clause will be and how they might be implemented. The Government have listened to these concerns and, to address them, have acted in a variety of ways.

First, we produced a clear list of bodies that will be in scope. We used the Freedom of Information Act as a starting point for this and, as I committed to do on Report, we have now shared this list with the House as part of the draft regulations. However, I clarify again that the scope of facility time transparency will mean that it applies only to organisations with 50 or more employees and at least one trade union official. Those bodies that do not meet these criteria may exclude themselves from the facility time transparency measures.

Secondly, there was equally legitimate concern about the need to ensure that we are clear which organisations may be in scope. In particular, several noble Lords were concerned about the provisions applying to organisations only partly funded by public funds. The Government agree that that is a legitimate concern and, with that in mind, I now put forward an amendment that would ensure that only those public sector bodies mainly funded by public funds could come within the scope of regulations made under Clause 13(9). I know that that change was important to a number of your Lordships.

Thirdly, we have also brought forward Amendments 5 and 7, which will ensure that any exercise of the power in Clause 13(9) will be by way of the affirmative resolution procedure. This should provide the assurance that a number of your Lordships sought—namely, that inclusion in regulations of bodies that are not public authorities but are performing functions of a public nature will come about only once both Houses of Parliament have expressly so agreed by affirmative resolution.

Let me now address a specific concern raised by the noble Baroness, Lady Hayter, regarding the scope of this clause and Clause 14, and the possible impact on charities. As I have said before, none of us wishes those clauses to apply to what I would call a typical charity—for example, Oxfam and charities of the type that fall outside what I would loosely refer to as the core public sector—or a relatively small charity performing laudable work in the community, such as tackling homelessness or addiction. As the noble Baroness, Lady Hayter, highlighted, some of those charities might—might—receive most of their revenue in one year from the public purse. The Government agree that we need to give them the comfort that, were that ever to be the case, they would not and could not come within the scope of these provisions. I therefore committed on Report to continuing to work with officials and the noble Baroness to devise an approach to alleviate and address those concerns.

I now confirm that the Government are committed to ensuring that regulations made under the extension powers in Clauses 13 and 14 capture only those charities that could be captured by the Freedom of Information Act and its Scottish equivalent and are also mainly funded by public funds. In future, if a charity met both of those criteria, Parliament would properly scrutinise whether the scope of the regulations should be extended to them, and this would be done via affirmative resolution. Therefore, because I know just how important this issue is to noble Lords, I will ensure that we will not use the powers to capture a charity that the Freedom of Information Act and Scottish equivalent could not also capture.

I believe that we have given due consideration to your Lordships' concerns regarding the scope of the clause. We have reflected on many of these matters, the Government have made amendments to discharge noble Lords' misgivings, and we hope that your Lordships will support the amendments.

Baroness Hayter of Kentish Town (Lab): My Lords, I thank the Minister for introducing the amendments, each of which we are pleased to support. In doing so, I recognise the movement that the Government have made—particularly from "partly" to "mainly".

We should, however—the Minister is right to smile—read the amendments on the scope of facility time and check-off restrictions in the Bill in the context of the helpful, albeit slightly belated, letter that I received from him late on Friday, which I imagine is also in the Library, and which outlines which organisations will be caught by the provisions. In the light of that 15-page draft, a skeleton regulation which would give effect to the mandatory reporting on facility time and the restriction of an employer's freedom to operate check-off, I fear that I have seven questions for the Minister.

First, have the 255 bodies listed in the draft regulations, which are about to find themselves caught by them, been consulted? Secondly, why is the Legal Services Board on the list? It does not get government money, being funded by a levy on lawyers, and should therefore be excluded, alongside the Gambling Commission, by virtue of the third of the Government's exclusions, as set out at the top of the second page of the Minister's letter of Friday 22 April. When this House accepted the Legal Services Act 2007, it felt it important that the Legal Services Board should be independent of government for international as well as domestic reasons. Its inclusion in a list of bodies, restricting its managerial freedom, could be of concern.

Thirdly, the list refers to the proprietor of an academy under the 2010 Act. Given that the Government are now threatening that all schools should become academies, despite the resistance of many Conservative MPs, to say nothing of that of head teachers, governors and parents, particularly of primary schools, will the Minister clarify whether, should that White Paper find its way into the Queen's Speech, any forced new academies would be covered by this provision?

Fourthly, with regard to charities—and I thank the Minister for our discussions on this and for what he said today—would housing associations be covered under his definition? The Minister made what appears to be a useful statement today and in his letter: it is not the Government's intention to include organisations which the general public would consider to be charities—such as Oxfam or others doing valuable charitable work funded by the public purse—within the scope of the Bill. However, the letter also states that the "starting point for scope on public bodies captured remains those public authorities in the Freedom of Information Act".

Given the reports last year that Matt Hancock, the Cabinet Officer Minister, was considering extending freedom of information into the charitable sector, will the Minister confirm that the Government have dropped that idea or at the least confirm that even if it were to be resurrected, the Government would still exclude charities of the sort he described from these facility time and check-off provisions? The Minister has kindly had discussions with us about charities, but there remain problems within the sector and concern about the definition. Will he therefore look again, as we asked before, and give some comfort by using words to define the exclusion, such as: "charities, regardless of their funding arrangements, which are independent organisations that have satisfied the public benefit test and are regulated by the Charity Commission."? This would not cover the exempt charities, such as universities, which are regulated by another body. That would give comfort, should freedom of information be extended in a way that has not been covered by what the Minister said today.

Fifthly the breadth of the scope on facility time, in particular the inclusion of public broadcasters, including the BBC, and arts bodies, such as the British Museum and the Tate, continues to concern us. What is the justification for intervening in such beacons of independent and artistic freedom? The Minister no doubt saw the amazing tribute to Shakespeare from Stratford on Saturday night. It must have involved lots of discussions of safety, overtime, copyright and performance rights. Is he content these would all need documenting before the show could go on?

Sixthly, with regard to the detail that employers will have to document on facility time, we remain concerned about both the onerous—indeed, "burdensome" is the

[Baroness Hayter of Kentish Town]
word—amount of red tape and the bureaucracy involved, as well as about how much information employers will have to demand of union reps about how they spend their time, often encroaching on to confidential or contentious matters. For example, the draft skeleton regulations require employers to provide a breakdown of the proportion of facility time spent on different union duties. They list them: health and safety, redundancies, TUPE, collective bargaining, training, and representation in grievances and disciplinary hearings. This means union reps having to disclose that to employers, but those amounts of time will vary on a weekly basis, and in many workplaces it will be difficult for employers to decide what counts as time spent on collective bargaining as opposed to time spent on redundancy, on TUPE or on training, because these activities often take place at the same time, including when a lay official meets with a full-time union official or the employer to discuss a basket of issues.

3.45 pm

Seventhly—there are only seven questions—under a different Bill, with which the noble Baroness, Lady Neville-Rolfe, is familiar, the exit payment cap was feared to cover Magnox, which seemed to be defined as being in the public sector. However, over the weekend I saw an email from the Office for National Statistics that evidenced ongoing discussions over whether that is the case. The outcome of those discussions of course has considerable implications for its long-standing and older employees. Given those sorts of issues, is the Minister confident that such complications will not arise in the questions over scope in this Bill?

The House will know that no employer has sought this interference with its right to manage, and that many are concerned about the red tape and cost that it entails, which makes us think that the Bill's real aim is to make union organisation harder. But if it is to happen, we urge the Government to have constructive debates with the charity sector, affected employers and trade unions, and to allow each of these enough time to construct and bed down the necessary form-filling processes. A lot of work will be involved, and it needs to be undertaken without ridiculous haste if it is to be effective, efficient and give value for money.

Lord Tyler (LD): My Lords, I want briefly to contribute on this set of amendments to welcome, on behalf of my colleagues, the way in which the Minister has responded to our request last week to ensure that we saw the draft regulations. In particular, he has addressed the issue of the affirmative and negative procedures, and I am delighted to see in Amendment 7 that he has opted for the affirmative procedure.

However, I have a similar concern to that of the noble Baroness, Lady Hayter, on the issue of the cross-reference to the freedom of information legislation. As she and I are well aware, it is, we suppose, currently still under review. We therefore need to know whether the list of those organisations that are included in that legislation is as now or as it might be in the future. Would it not be a sensible compromise—perhaps the Minister could give us this assurance—that the cross-reference should be to those organisations that are included at the time of Royal Assent to this Bill and therefore relevant to this section of this Bill, in terms of facility time and indeed of check-off? It would be rather peculiar if, as it were, the Minister anchored himself into something that was on the move, and we therefore found ourselves in a period of less transparency, less credibility and less definition rather than, as I think was his intention, greater clarity.

Lord Bridges of Headley: My Lords, I thank the noble Baroness, Lady Hayter, and the noble Lord, Lord Tyler, for those very acute contributions. I apologise to them for not getting the letter to them sooner. However, I am grateful for the welcome that it has received. The noble Baroness, with her customary acuteness and accuracy, has shot seven Exocets across my bow on this. I shall attempt to answer them, and if I fail to do so then obviously I shall write to the noble Baroness and the noble Lord and put the letter in the House Library.

Have the 255 bodies been consulted? We will be discussing these with all these bodies as we proceed towards implementation. As regards specific bodies, the noble Baroness has clearly picked on a few here. I shall write to her as regards the Legal Services Board. We have been working very hard to try to make sure that the list is as accurate as possible—I stress that this is a draft—but I quite understand your Lordships when they say that that is not altogether satisfactory, and I am grateful to the noble Baroness for drawing my attention to the Legal Services Board. As regards academies and housing associations, those bodies will be covered if they meet the provisions as set out. I shall write with complete accuracy to the noble Baroness on those two points—but, as regards academies, my understanding is that they would be covered if they met the provisions.

The noble Lord, Lord Tyler, and the noble Baroness referred to the FOIA, and whether or not we might be looking at these issues. I stress that the FOIA was based as a starting point. Clearly, there is the double lock of not just being on the FOIA but being mainly funded. I shall look again at the words—I make no commitment about this, I am sorry to say—but I am unable to do so right now. The noble Baroness made some suggestions about wordings and the noble Lord made some suggestions about where we might be in future. I shall write to them both about those specific points, but I cannot make any commitments to change right now. However, I repeat that those are good points.

As regards the burdens, I heed what the noble Baroness has to say. As we saw in the previous exchange, when my noble friend discussed the previous amendment, this Government wish to ensure that we do not unnecessarily add to burdens. I stress that the information required for publication is a narrow and reasonable range, similar to that which, for example, English local authorities publish as part of the Local Government Transparency Code and which the Department for Education recommended that all schools publish in its 2014 guidance.

I shall end on that point. I commit to write to the noble Baroness.

Amendment 5 agreed.

Amendments 6 and 7

Moved by ***Lord Bridges of Headley***

6: Clause 13, page 9, line 42, leave out "partly" and insert "mainly"

7: Clause 13, page 10, line 8, leave out from beginning to second "shall" and insert "No regulations containing provision made by virtue of subsection (9) shall be made unless a draft of the statutory instrument containing them has been laid before Parliament and approved by a resolution of each House.

(13) Regulations under this section to which subsection (12) does not apply"

Amendments 6 and 7 agreed.

Clause 14: Prohibition on deduction of union subscriptions from wages in public sector

Amendment 8

Moved by ***Lord Bridges of Headley***

8: Clause 14, page 10, leave out lines 16 and 17 and insert—

"(1) A relevant public sector employer may make deductions from its workers' wages in respect of trade union subscriptions only if—

(a) those workers have the option to pay their trade union subscriptions by other means, and

(b) arrangements have been made for the union to make reasonable payments to the employer in respect of the making of the deductions.

(1A) Payments are "reasonable" for the purposes of subsection (1) if the employer is satisfied that the total amount of the payments is substantially equivalent to the total cost to public funds of making the deductions."

Lord Bridges of Headley: My Lords, following our positive discussions in your Lordships' House on Report, I am amending Clause 14 as I promised, to reflect an arrangement whereby check-off continues within the public sector on the crucial proviso that there is no burden on the taxpayer.

There was one concern, which concerned the Certification Officer's role. While I appreciate the sentiment of my noble friend Lord Balfe and others, the Government believe that it is not the role, and should not be the role, of the trade union regulator to assess the reasonableness of the cost to employers and unions of check-off. However, it is important that these costs are indeed reasonable. So we have set out on the face of the Bill that employers must satisfy themselves that the total amount of the payment is only substantially equivalent to the total cost to the taxpayer of making these deductions.

I stress that the amendments regarding those organisations within the scope of this Bill apply equally to Clause 14 as they do to the facility-time transparency clause. This means that, were the scope to be extended in future, it could apply to bodies which are not public authorities only if they are mainly funded by public funds. To be absolutely clear, it is not the intention of this Government ever to include charities if they could not also be captured by the Freedom of Information Act.

I assure your Lordships that we will, of course, give adequate timeframes for new charging arrangements to be set up. It is our intention to provide a 12-month period prior to commencement for such arrangements to be properly established. I appreciate the co-operation of the noble Baroness and others and I beg to move.

Lord Balfe (Con): My Lords, I very much welcome this clause. It represents common sense and shows that the Minister has listened to the representations that have been received.

I do not intend to speak again during this debate but I will pick up on a point made earlier by the noble Lord, Lord Collins, who mentioned twice that he had been to an USDAW conference. I am sure that he had a very good welcome there. I was a member of USDAW for a few years, when I worked for the Co-op. I will place on the record that the understanding of the trade union movement would be much enhanced in the political comity of Great Britain if the unions extended invitations to their conferences beyond just one political party. One of the difficulties, which has been seen in the Bill and is seen in other places, is that although 30%-plus of trade unionists vote Conservative and a good number vote for the Liberal Democrats and the nationalist parties, the trade unions persistently seek to relate to only one political party. It would be for the good of the trade union movement and that of the noble Lords sitting opposite if the union movement could be persuaded to look a little beyond its comfort zone and to engage with all legislators. That could possibly avoid many of the misunderstandings that have occurred in the past. Having said that, I welcome the clause; it is a very good step forward and I thank the Minister for his introduction of it.

Lord Monks (Lab): My Lords, after the starring role that the noble Lord, Lord Balfe, has played in these debates on the Trade Union Bill in a number of areas, he may find himself inundated with requests to go to union conferences.

Lord Balfe: And to Blackpool.

Lord Monks: I speak as someone whose job description included at least 26 visits a year to Blackpool for union conferences of one form or another—a burden that I am sure my successor would be very pleased to share with me.

Lord Cormack (Con): My Lords, I will briefly pay tribute to the Minister and also to my noble friend Lord Balfe, because this is essentially his amendment, which a number of us were very glad to add our names to and which has been taken on board by the Government. Although I am not seeking 26 or even 25 invitations to Blackpool, I endorse what my noble friend said and I have a great respect and admiration for USDAW and the way it has conducted itself over many years.

Lord Pannick (CB): My Lords, I, too, congratulate the Government on bringing forward this amendment. However, will the Minister accept that under the new provision it would be open to the employer not to enforce the relevant payments for whatever reason if they decide not to do so in the future in any particular circumstance?

Lord King of Bridgwater (Con): My Lords, I add my voice to those congratulating both Ministers on the way in which they have handled the Bill, perhaps especially the last part, which could have been quite a contentious area. It has been approached in a sensible way, and invitations might flow to my noble friend Lord Balfe and others. I certainly second his last point that it would be in trade unions' interest—as I have always believed—to be prepared and proud to invite members of all parties to their conferences. It would be in the interest of the country for all parties to have a progressive and constructive relationship with the trade union movement and British industry.

Baroness Wheeler (Lab): I think that noble Lords will find that trade unions do invite people from all political parties to their conferences. I thank the Minister for explaining the amendments to Clause 14. The Opposition are happy that Amendments 8 and 10 reflect the discussion and agreement with Ministers on the future deduction of trade union members' subscriptions from pay in particular, and reflect the importance of having the same choice as staff in the private and voluntary sector as to how they pay their subscription in the light of their work, their personal circumstances and their financial situation.

For us, the key points arising from the publication of both the facilities time and the check-off draft regulations are: first, the need for a full consultation on the regulations; secondly, the importance of the Minister meeting the TUC and other main parties, including unions and employers, to discuss realistic and achievable timescales for implementation; and, thirdly, for implementation dates to be viewed across the entire provision of the Bill in the light of the huge organisational, logistical and financial challenges that the Bill presents to trade unions, not just from the check-off and facility time provisions but from the Bill's proposals on ballots, political fund changes and the role and powers of the Certification Officer.

4 pm

There was no consultation on the check-off provisions, so it is now absolutely vital that the Government commit to full consultation on the regulations before the final draft regulations are published. As has been pointed out, the current drafts were received by us as late as Friday/early Saturday, so we had less than three working days between the final Report day and today's Third Reading. I hope that the Minister will acknowledge this and that the spirit of meaningful listening mode will prevail and operate in this regard.

On Amendment 9, my noble friend Lady Hayter underlined our continuing concerns and reservations about the scope of the organisations that come under both the facility time and check-off provisions. She has made it clear that the concerns apply to both Clauses 13 and 14, so I will not repeat the issues that she has raised. One matter, however, specifically on check-off is the Government's decision not to exclude smaller employers—that is, those with fewer than 50 employees—from the check-off regulations in line with the proposed provisions in the facility time regulations. Can the Minister explain the rationale behind this?

As I have stressed, I hope that the Minister will be prepared to consult widely on the implementation date for check-off and to set in the final regulations a timescale for implementation that is both reasonable and achievable. Noble Lords will recall that the check-off impact assessment gave no consideration at all to the position we have now arrived at: for check-off to continue, with trade unions meeting the administrative costs. It considered only the two stark options of doing nothing at all or having a complete check-off ban—and even then it did not consider those very thoroughly.

Thus, no modelling or work was undertaken on the process for revisiting all check-off agreements to ensure that they comply with the new legislation. UNISON, for example, estimates that it has to sign 25,000 check-off agreements as a result of the Bill, so it is important that the full processes involved in this, workplace by workplace and employer by employer, are recognised in the deadline for implementation. It is imperative that a further impact assessment is undertaken and that evidence and information are properly gathered. I hope that the Government will commit to this.

The current draft regulations provide for the check-off provisions to come into force at least 12 months after the Bill receives Royal Assent. I note that the Minister talked about adequate deadlines and I would say that that is not adequate. I hope that the Government will not come back saying that they have already extended the deadline from three months. This was done five months ago by the Government in the Commons, based on the old Bill and not in the light of the new provisions. The noble Lord, Lord Bridges, said on the second day of Report that,

"undermining the trade unions themselves ... is certainly not—and never has been—the Government's intention".—[*Official Report*, 19/4/16; col. 584.]

I hope that today the Government will hold true to that contention and accept the need for a further impact assessment on check-off, as well as full consultation on realistic and achievable implementation deadlines for the provisions across the Bill.

Lord Bridges of Headley: My Lords, I start by echoing the thanks to my noble friend Lord Balfe for his contribution to the Bill. I should have included his name at the start. I, too, love paying a visit to the seaside: Blackpool, Bournemouth and Brighton—I do not think we should forget the other "B"s. His point about extending plans across the political divide when it comes to trade union conferences was very well made.

I turn to the points that have been raised and begin with the very good point that the noble Lord, Lord Pannick, made about enforcement. All public sector employers are expected to comply with the law and

will have monitoring arrangements in place to ensure that such compliance happens. Failure to comply with a statutory duty is of course judicially reviewable, but personally I do not expect any responsible public sector employer to let non-compliance get that far before the matter is addressed.

I turn now to the points that the noble Baroness, Lady Wheeler, has made. Again, I apologise for not getting her the regulations sooner; I accept that that is not ideal. The noble Baroness made a very good point about consultation. This is why we need a year before the commencement of this, and we will of course wish to talk to bodies that are affected by it to make sure that it is run and introduced as smoothly as possible.

With regard to the point about scope and why smaller organisations are not excluded, the underlying principle is that there should be no burden on the taxpayer. As such, this clause applies to all those we consider public authorities for the purposes of the Bill. We accept that for small organisations the costs may be correspondingly smaller. However, they are still costs. If an organisation determines that the costs are truly negligible, we will have to trust those on the front line—that we need to trust those on the front line is a point that has been made by a number of your Lordships in the past—to make a sensible decision. They may decide to move a few members over time to direct debit, for example. However, and I stress this point, the organisations in scope are, in the main, subject to the FoIA, and must be prepared to respond to any FoI requests with regards to their check-off arrangements. I again stress that the bottom line is that we need to trust those on the front line.

Will we commit to a further impact assessment? Yes, we will. With that in mind, I beg to move.

Amendment 8 agreed.

Amendments 9 and 10

Moved by ***Lord Bridges of Headley***

9: Clause 14, page 10, line 23, leave out "partly" and insert "mainly"

10: Clause 14, page 11, leave out lines 5 to 7 and insert—

""trade union subscriptions" means payments to a trade union in respect of a worker's membership of the union;"

Amendments 9 and 10 agreed.

Amendment 11

Moved by ***Baroness Neville-Rolfe***

11: Before Clause 15, insert the following new Clause—

"Certification Officer not subject to ministerial direction

In section 254 of the 1992 Act (the Certification Officer), at the end of subsection (2) insert "(but is not subject to directions of any kind from any Minister of the Crown as to the manner in which he is to exercise his functions)"."

Baroness Neville-Rolfe: My Lords, the Certification Officer has always been independent of government and I am happy to say that we fully agree that he should remain independent in future. That is why I am bringing forward Amendment 11 to state expressly in the 1992 Act that the Certification Officer is not subject to ministerial direction when exercising his statutory functions. Furthermore, as I mentioned on Report, we have agreed that, in future, appointment processes for the Certification Officer will be regulated by the Commissioner for Public Appointments. This will be reflected in the public bodies Order in Council when it is next revised in July. I believe that this fully addresses the House's concerns, and I ask noble Lords to support the amendment.

Amendment 11 agreed.

Schedule 4: Minor and consequential amendments

Amendment 12

Moved by ***Baroness Neville-Rolfe***

12: Schedule 4, page 29, line 24, leave out paragraph 1 and insert—

" Omit section 24C and sections 24ZH to 24ZK of the 1992 Act (which are superseded by the inserted Schedule set out in Schedule 1 to this Act).

In section 25 of the 1992 Act (remedy for failure: application to Certification Officer) in subsection (6A), for "section 24ZH or 24ZI" substitute "paragraph 2 or 3 of Schedule A3".

In section 45D of the 1992 Act (appeals from Certification Officer)—

(a) omit "24C,";

(b) after "45C" insert "or paragraph 5 of Schedule A3"."

Baroness Neville-Rolfe: My Lords, Amendments 12, 13 and 14 are minor and technical amendments to Schedule 4. I promise not to detain the House for long as they are not changes of substance. Under the transparency of lobbying Act, the Certification Officer's investigatory powers in relation to trade union membership registers are due to commence on 1 June. These amendments make the necessary consequential amendments to the 1992 Act. The practical effect will be the same. The amendments also address the Certification Officer's powers to set the procedure in determining a complaint. He currently has the power to do this when he determines a complaint from a trade union member. For example, when dealing with a case, the Certification Officer determines what documents the parties need to provide, the timescales that need to be adhered to and how proceedings at a hearing will be conducted, in his own inimitable way. These minor and technical amendments will allow him similarly to regulate procedure in relation to any decisions he will be able to make without a complaint following the changes made in the Bill. I beg to move.

Amendment 12 agreed.

Amendments 13 and 14

Moved by ***Baroness Neville-Rolfe***

13: Schedule 4, page 31, line 9, at end insert—

" In section 256 of the 1992 Act (procedure before the Certification Officer), in subsection (1)(c), for the words after "declaration or" substitute "order under section 24B, 32ZC, 45C, 55, 72A, 80, 82 or 103 or under paragraph 5 of Schedule A3"."

14: Schedule 4, page 31, line 37, leave out paragraphs 19 and 20

Amendments 13 and 14 agreed.

Motion

Moved by ***Baroness Neville-Rolfe***

That the Bill do now pass

Baroness Neville-Rolfe: My Lords, as the Bill nears the end of its parliamentary journey, I want to take a moment to consider how far it has come since being introduced to this House last November. The Bill strikes a fair balance between the unions, whose work we all value, and their responsibility to society, especially to other working people—as patients, parents and passengers.

Noble Lords spoke eloquently about the case to change key aspects of the Bill, including on political funds, check-off and the Certification Officer. I am grateful for your Lordships' active engagement and tireless commitment to finding an acceptable way forward on these matters. I want in particular to thank, on the opposition Front Benches, the noble Lords, Lord Mendelsohn and Lord Collins, and the noble Baronesses, Lady Smith, Lady Wheeler and Lady Hayter, and the noble Lord, Lord Stoneham, and the noble Baroness, Lady Burt of Solihull, for a very constructive approach. I have also valued the input from the Back-Benchers opposite and their advisers, and am pleased that the Government listened and responded and that the Bill is much better as a result.

I am also enormously grateful to many noble Lords across the Chamber for their passionate and intelligent contribution, especially to the noble Lord, Lord Burns—who sadly is not in his place—and the Select Committee on Trade Union Political Funds and Political Party Funding for the additional scrutiny and common sense that their work brought to this Bill.

Lord Tyler: Is the Minister in a position to tell us when the Government will respond in full to the recommendations of that Select Committee on which I served? It would be extraordinary if your Lordships' House did have not a response before the completion of the whole process on this Bill. That would include all the recommendations of the Select Committee. She has referred to it as a splendid Select Committee; I assume she thinks all its recommendations are splendid, which would include not just the revised Clauses 10 and 11 but the link to discussions on party political funding. When will we get a response on that issue?

Baroness Neville-Rolfe: The noble Lord is, in his usual way, perhaps leaping to a conclusion I am not able to make, but I will take away what he said. The Bill will return to the other place and I will bear in mind the point that he has made, but I am certainly not in a position to respond today on the full panoply of the report. However, we have heard in this House how strongly people feel about all this, and the process, which was separate from the Bill, has been helpful in enabling us to edge forward on the Bill's provisions.

I thank my noble friends Lord Bridges and Lord Courtown for their assistance and my noble friends Lord Sherbourne, Lord Robathan, Lord Callanan, Lord De Mauley, Lord King and Lord Leigh for their support, and of course my noble friend Lord Balfe, particularly for arranging for me to meet the smaller unions to complement my experience with larger unions such as USDAW, which has been mentioned today. That was a very important meeting. I express my appreciation to the noble Baroness, Lady Finn, for her support and expertise, and I thank the Bill team and my own private office for days and nights of hard work.

Once again, this House has demonstrated the huge value that its scrutiny adds to the legislative process and, as ever, I am pleased to have been a part of it. I look forward to returning this Bill to the Minister, Nick Boles, its main parent in the other place.

4.15 pm

Lord Collins of Highbury: My Lords, I should like to add my own remarks on the conclusion of the Bill's passage through this House. I thank the Bill team and all the staff who have worked hard on this difficult Bill. There is no doubt that if it had not been for this House and its method of scrutiny it certainly would not have been a good Bill. In fact, I am pretty certain that we will be returning to it following consideration of our amendments by the Commons. I thank the Minister for the way in which she has conducted herself. I kept mentioning the fact that she worked well in Tesco in an environment that involved partnership and working together and where trade unions are effective, and I know that she has visited USDAW on a number of occasions.

This Bill will impact quite severely across a number of issues, to which we will return. However, on a formal basis, I thank noble Lords opposite for their co-operation, particularly the noble Lord, Lord Balfe, and other noble Lords who have given consideration to amendments that have ensured that some of the worst elements of the Bill have been dealt with properly.

Lord Cormack: My Lords, I would like to add my words of thanks. However, the Bill now goes to another place. It has been amended significantly in this place and I hope that the comments that have just been made are not prematurely euphoric. I hope that when it comes back from another place the significant amendments passed on Divisions in this House will not be challenged, and we will then have a Bill in which we can all take some quiet satisfaction.

Lord Stoneham of Droxford: My Lords, I wish to make a few comments and add my thanks at this stage of the Bill. I congratulate the Minister on her courtesy and good humour during the passage of a Bill that we on these Benches have regarded as somewhat partisan. She has sought to cross that divide and we are grateful for the amendments she has persuaded the Government to accept.

The role of the Cross Benches has been very important. It has not been mentioned but the noble Lords, Lord Kerslake, Lord Pannick and Lord Burns have all played a very important part in the Bill and in achieving the amendments. I have enjoyed working with the

Labour Benches and rekindling old friendships. I hope that it will be a basis for other matters in the future in this Session of Parliament.

We have regarded it as a very partisan Bill. We regret that it does not address the real issues for the country—the economy and productivity—and we hope that the Government will accept the amendments that the House of Lords has passed on political funds and electoral balloting when it goes back.

Lord Dykes (Non-Afl): I, too, thank the Ministers for listening closely and attentively to the various suggestions made for improving the Bill. It has been a listening ministerial team and we are very grateful for that. It is an indication of what can be done in what in many ways is the more thoughtful part of the two Chambers of the body politic and parliamentary bodies of the United Kingdom constitution. I say that with no disrespect to MPs: they have their own pressures and their own electorates to satisfy, as well as many other things, and must pay attention to their party manifestos.

The House of Lords has the opportunity for more detailed, careful and objective consideration of measures that may be unwise—or which perhaps have been hastily drafted for various reasons—and can be improved. The link between the two Houses therefore is that if the House of Lords defers to the primacy of the House of Commons, one hopes very much that the House of Commons will defer to the intelligence and wisdom of the Lords in making suggestions for improvements through detailed amendments to some of the technical parts of this Bill, and that that will echo the co-operation between the two Houses. That, in other words, is what the noble Lord, Lord Cormack, referred to just now. It is an important matter in the future for all parties as well as those on the Cross Benches.

Bill passed and returned to the Commons with amendments.

Housing and Planning Bill

Report (5th Day)

4.20 pm

Relevant documents: 20th, 21st, 26th, 27th and 28th Reports from the Delegated Powers Committee

Amendment 118

Moved by ***Baroness Parminter***

118: After Clause 143, insert the following new Clause—

"Carbon compliance standard for new homes

(1) The Secretary of State must within one year of the passing of this Act make regulations under section 1(1) of the Building Act 1984 (power to make building regulations) for the purpose of ensuring that all new homes in England built from 1 April 2018 achieve the carbon compliance standard.

(2) For the purpose of subsection (1), "carbon compliance standard" means an improvement on the target carbon dioxide emission rate, as set out in the Building Regulations 2006, of—

(a) 60% in the case of detached houses;

(b) 56% in the case of attached houses; and

(c) 44% in the case of flats."

Baroness Parminter (LD): My Lords, the aim of this amendment is for new homes to contribute to meeting our greenhouse gas targets and to help lower fuel bills. In Committee the Minister argued that homes had to be financially viable to build, yet conceded that the extra build costs to meet carbon compliance standards are under £3,000 for a three-bedroom, semi-detached house. That figure comes from a Zero Carbon Hub report published in 2014, which forecasts a continuing reduction in those costs until 2020. Indeed, the managing director of Zero Carbon Hub said last month that today's costs are dramatically lower than in 2014 due to the industry's greater proficiency at building energy-efficient low-carbon homes.

The Government also argued that the amendment imposed a regulatory burden, but these standards, withdrawn by the Chancellor last year, had industry-wide support. If the Government's priority is to support small housebuilders, it should be noted that they themselves cite that the major constraints on their building more homes are land prices and access to finance. This was the evidence given last October to the House of Lords Committee on National Policy on the Built Environment by representatives from both the Home Builders Federation and the Federation of Master Builders. The committee concluded:

"We disagree with the Government's decision to remove the zero carbon homes policy and the Code for Sustainable Homes. These decisions are likely to add to long-term housing costs through a reduction in energy efficiency, and we have heard no clear evidence that they will lead to an increase in housebuilding".

Since the Committee stage, the House of Commons Energy and Climate Change Committee has added its voice to the call for a reinstatement of the zero carbon homes policy.

Let us not forget home owners in all of this. The annual energy bill for a family living in a zero carbon three-bedroom, semi-detached house will be £1,220 less than that for a Victorian home and £330 less than for a home built to existing building regulations. The amendment would also avoid retrofit costs, given that the Government are not ruling out raising energy standards in the future. It is a long-term saving not just to the home owner but to the environment.

Higher regulatory standards should be considered not as burdensome red tape but as a requirement that is essential to reduce both energy costs and to tackle the threat of climate change. As Mike Roberts, the MD of small housebuilder HAB Housing, said, there should be no exemptions: volume housebuilders have the scale and resource, whilst smaller companies are light on their feet and more able to react quickly. We urge the Government to back up the commitment that the UK made at COP21 in Paris and make higher carbon standards mandatory as soon as possible. I beg to move.

Lord Krebs (CB): My Lords, I thank the noble Baroness, Lady Parminter, for introducing this amendment, and I thank the Minister for meeting us last Thursday to discuss this and other amendments.

As the noble Baroness, Lady Parminter, has already mentioned, the UK has signed up to the Paris agreement on climate change and, importantly, we have our own

[Lord Krebs]
national legislation—I declare an interest as a member of the Committee on Climate Change, established under that legislation—which commits us to reducing greenhouse gas emissions. In a few weeks' time the Government are due to accept the fifth carbon budget proposed by the committee, which will commit us to reducing greenhouse gas emissions to 57% below 1990 levels by 2030—on the cost-effective path to our ultimate target in 2050.

At the end of June, the committee will publish its annual report on progress towards this target. The analyses are still going on, so I cannot leak the final results, but I can inform noble Lords of one fact that is highly relevant to this amendment. Last year—2015—emissions from buildings actually increased by 4% and, even adjusting for annual variation in temperature, the decrease was only about 1%. This is not a one-off. There has been very little reduction in emissions from buildings over the past 10 years. If we are to meet our legally binding obligation, emissions from buildings will have to decrease substantially, and at a much higher rate in the years ahead.

Part of the problem is that we have old building stock and many poorly built houses that are energy inefficient. This underlines the importance of not adding to the problem with new homes, when we do not need to. That is why this amendment is so important, not just for the short term but for the long term. If we do not require the zero carbon homes standard today, we will have to introduce it at some point in the future.

As we discussed in Committee, there are differences between what the Government are proposing and the standard in this amendment. For example, in the 2006 Part L requirements, the Government's proposal amounts to a 44% reduction in greenhouse gas emissions, while this amendment suggests a 52% reduction for attached homes and a 60% reduction for detached homes. How would these greater reductions be achieved? An important element is on-site renewable energy generation—for example, by solar panels or other renewable sources.

As the noble Baroness, Lady Parminter, mentioned, there was considerable discussion of costs in Committee. We know now that from October this year in London all new homes will have to meet the zero carbon home standard and the GLA has calculated that for a three-bedroom semi the extra build cost will be between £978 and £2,702. For this additional investment to be cost optimal, the savings, discounted at an appropriate rate, should exceed the initial investment through the life cycle of the building. The calculations show that even with modest savings on energy bills of £100 a year, the investment would be cost optimal, and if the price of carbon is included—as it should be, according to the Treasury Green Book—the balance shifts even further in favour of zero carbon homes. The cost argument simply does not stack up if we take a life cycle view.

There was also a suggestion in Committee that making homes zero carbon would introduce an additional problem: if we make our buildings too energy efficient, they may be prone to overheating. It is true that one consequence of future climate change is that we probably will have to make our buildings more resilient to hot weather. However, this is not incompatible with zero carbon home standards. Professor Philip Eames of Loughborough University, an expert in renewable energy and building physics, says:

> "The problem of overheating in new build can be an issue if the design is not appropriate ... we can quite easily improve the energy efficiency of new build significantly without suffering from this problem. It just needs attention to detail in terms of design".

Finally, we have heard—as indeed the noble Baroness, Lady Parminter, has mentioned—that the requirement would be too onerous for small builders. Here, I would make the following observations. As has already been said, at least some small builders do not see it as a problem. Furthermore, given that one of the simple measures to achieve the zero carbon home standard is the installation of rooftop solar panels, it is hard to see why this is a regulatory burden, since it is a routine procedure. Even if the amendment would pose a challenge to some small builders, we should be asking them to up their game.

There are compelling reasons to accept this amendment, in terms of both our climate change commitments and cost effectiveness. The objections raised in Committee seem to me to not stand up to scrutiny. I very much hope that noble Lords will agree that this amendment should be accepted.

4.30 pm

Baroness Andrews (Lab): My Lords, it is a pleasure to follow the noble Lord, Lord Krebs, who speaks with authority on climate change. I support the amendment in the name of my friend, the noble Baroness, Lady Parminter. We were both members of the Select Committee on the built environment, and we heard a weight of evidence that supports the amendment.

In July 2015, when the Government announced that they were scrapping a proposed regulation to require all new homes to be carbon neutral, they justified their action on the grounds that they sought to continue to reduce the overall burden on housebuilders. That has always been the argument used, and it is where the debate takes a wider turn. Reducing the burden on private sector housebuilders has also been the justification: for the mantra of deregulation that led, in March 2015, to the Government removing the code for sustainable homes; for the failure to implement national standards for lifetime homes; and for a complete failure to plan for the future and the mitigation of climate change, and to plan for longevity—the two most transformational impacts on our society.

The pursuit of deregulation at the expense of foresight and, frankly, simple common sense marks a certain opportunism in the Government that is, basically, dangerous. As we have heard already, there is no evidence from the industry to suggest that deregulation in this form leads to faster or better building, or to lower profits. In fact, intelligent builders, large and small—we heard about the London example—find that there is a market for sustainable homes that reflects the starting price and is reflected in lower bills. There is a driver for improvement that we should recognise in policy.

The Government's Foresight unit warned a year or two ago, with total conviction:

"The potential role of land and land use in both climate change mitigation and adaptation will be profound. The move to a low-carbon economy will increasingly influence land use decisions, settlement patterns, the design of urban environments, and choices on transport infrastructure".

That is the reality, but I fear we have a Government who reject the obligation to think ahead, who ignore the evidence, and who seem to be in denial of the reality of the significant emissions, as we have heard—I think 25% of our emissions come from the built environment—and of a potential increase in our population of 9.7 million homes over the next 25 years, with all the imperatives that creates for sustainable housing and infrastructure.

Taking just the code for sustainable homes, elements of it are now incorporated into building regulations and defined as new national technical standards. They are designed to reduce burdens, but in evidence to the Select Committee, Worcestershire County Council—hardly a pusher for a socialist agenda—said:

"Withdrawing the Code for Sustainable Homes appears to have sent a signal to developers that sustainability measures are less important than before, meaning that councils wishing to promote better environmental performance in new development will struggle to deliver higher standards."

The UK Green Building Council put it equally bluntly:

"In the last 10 years we have had this very clear trajectory and everyone has known where they are going and have had a lot of time to put in place the strategies. Now we do not know where we are going".

The Select Committee's judgment has already been quoted. It was absolutely certain that the decisions would add to long-term costs and that there was no evidence that they would have any impact on the Government's stated primary objectives to speed up housebuilding. It also said that it did not have,

"a clear explanation as to how new homes will be energy efficient and environmentally sustainable".

I urge the Government to reverse their decision on this extremely important matter. This is the opportunity for the Minister, who has listened so closely throughout the debate, to show foresight and, frankly, common sense, and accept the amendment.

Lord Stunell (LD): My Lords, I support the amendment proposed by my noble friend, which has been supported also by the noble Lord, Lord Krebs, and my Labour colleague. There is absolutely no inconsistency with Conservative policy, or the Conservative Government's policy, in supporting this amendment. I remind the Minister that although the genesis of this measure lay with the preceding outgoing Labour Government, it was strongly supported by both parties in the coalition agreement. Indeed, last year the Prime Minister said at the conclusion of COP 21:

"The talks at the COP21 conference in Paris have culminated in a global deal, with the whole world now signed up to play its part in halting climate change. In other words, this generation has taken vital steps to ensure that our children and grandchildren will see that we did our duty in securing the future of our planet".

Therefore, I say to noble Lords on all sides of the House that this is absolutely a mainstream and necessary policy move to take. Of all the things that can be done to improve the UK's performance on reducing climate change and the impact of CO_2 emissions, tackling the built environment is right at the top of the list. Buildings account for 34% of our carbon emissions and within that homes account for two-thirds—that is, 22% of carbon emissions—significantly more than the whole of the transport sector. Governments devote many brain cells trying to find ways of reducing vehicle emissions and CO_2 emissions but contribute nothing like the same level of policy input or intensity to reducing the much bigger output of carbon dioxide emitted from homes.

That brings me to the reasons given by the Minister when we discussed this in Committee. I do not want to rehearse all the arguments deployed then, but one which came across very strongly was that the Government were placing a lot of reliance on the additional cost that this measure would impose on the construction of an average house. Connected to that was their understanding that if there was such an additional cost, it would automatically lead to a reduction in the volume of homes that would be built. As my noble friend said, at the time the Minister relied on a Zero Carbon Hub estimate that the extra cost would be £2,885 per home. Unfortunately, the Minister did not complete the quotation from the Zero Carbon Hub report, which said that the cost would fall very substantially over subsequent time. The noble Lord, Lord Krebs, mentioned a range of values. It is highly likely that at this stage, two years after that estimate was made, the likely cost, given existing technology and building experience, would be about half that figure—perhaps, say, £1,500. If the cost was £1,500, the annual saving mentioned by the Minister in Committee would be repaid in five years. In other words, the additional cost would be repaid in five years given the reduced energy costs for the inhabitants of those homes. Given that the typical house built today will still be standing and occupied in 60 years, I would have thought a payback period of five years suggests that there is not too much of a problem on that score.

A second leg of that argument was that the increased cost of construction would result in fewer homes being built. I have put some questions to the Minister which I hope she will be able to answer when she responds to this debate. I thank her for the very constructive meeting with her that she arranged for a number of us who support this amendment. The reality is that building costs go up each year in any case for lots of reasons, such as shortage of labour, increased pay rates, shortage of materials and higher costs. For instance, the average cost of building a three-bedroom home in Hertfordshire has been slightly higher in each of the last five years. It has been increasing. I hope the Minister will be able to give us those figures later on. It is even more true that the cost of the land on which that home is built has been increasing as well, by a very much larger amount. I hope the Minister will be able to tell us what that increase is.

It ought to follow, from the theory deployed in Committee by the Government Front Bench, that as those costs rise the number of homes should fall and, presumably, so would their price. It is interesting that the sale price of a typical three-bedroom house in

[LORD STUNELL]
Hertfordshire has been rising faster than any increase in construction costs. It is also the case that this has not led to a reduction in the volume of housebuilding. It seems that neither leg of the argument stands up in regard to the link between the cost of providing high quality and the impact on volume or quantity. I hope the Minister will provide the House with some additional information on that and, perhaps, tell noble Lords which leg of the argument the Government will now use to advance the view that this amendment should be rejected.

It has also been said, and was mentioned in Committee, that the Federation of Master Builders is against this proposal and is very important. I do not think anybody in this House would deny its importance, but its members are responsible for only some 20% of the new homes built each year. As has been reported, the overwhelming concerns of builders large and small are access to finance and land and shortage of labour. Right down at the bottom, at only 4%, are concerns relating to regulation and red tape. I do not know what other arguments the Minister may rely on. There is certainly a need for more consultation, but all the consultation on this proposal has already been carried out and the Government had already reached the conclusion that it was appropriate to go ahead. Any consultation which may still be necessary will easily fit into the 12-month period allowed for in this proposed new clause.

I guess that the final argument will be that such a provision should not be so precisely and explicitly stated in the Bill: it ought to be in regulations. The Government have brought this upon themselves. The regulations already exist; they have been printed and published. However, the Government have announced that the next triennial uplift in building regulations has been cancelled. They could reinstate it and give an undertaking to proceed with the stalled regulations. They have not done so and that means that the only way forward, the only way to demonstrate that Britain is sincere in its signature on COP 21 and the only way of helping the Prime Minister to demonstrate that this Government, like the preceding one, intend to be the greenest ever is for this clause to receive the support of your Lordships today.

Lord Kennedy of Southwark (Lab): My Lords, I refer to my declaration of interests. I am an elected councillor in the London Borough of Lewisham. Although the government amendments which we will be looking at later on today may, in some cases, be responding to points raised by noble Lords in Committee and on Report, the fact that they are there highlights how unprepared the Bill was when it arrived in your Lordships' House. The Government should reflect on that when bringing legislation to this House in future. Even when we do not like legislation, we at least expect it to be fit for purpose. That has not been the case here and I hope we see no legislation in that state in the next Session of Parliament.

Amendment 118, in the name of the noble Baroness, Lady Parminter, has the full support of these Benches and if she wishes to test the opinion of the House today we will support her. The issues raised in the amendment were debated in Committee, as we have heard.

We all agree there is a housing crisis, but any attempt by the Government to deal with it must ensure that homes are built to a high-quality standard and meet the challenges that we are all aware of rather than ignore or fail to address them. The zero-carbon homes standard is important to deliver on our climate change commitments, and the cost of building to standards that will achieve this and provide homes that will drive down energy bills and reduce carbon emissions could now be much less than the £3,500 we heard about in Committee; we have heard today that it could be as low as £1,500. The cost is initially borne by the homeowner but over the long term it will reduce fuel bills and getting it right in the first place will be much cheaper than having retrofit measures at a later date. This is good and we support it.

4.45 pm

When the noble Viscount, Lord Younger of Leckie, responded to this debate in Committee, he told us that the measures were well intentioned but "a step too far" at this stage. I hope we are not going to hear the same from the Government Front Bench today. I suggest that failure to make progress as the amendment seeks to do is plain daft. Any additional costs of building a new home required by the amendment would be borne by the purchaser, who would recoup that outlay very quickly and make additional savings every year. This seems a win-win situation and I cannot see who the loser would be here.

It is also puzzling why the Government would want to build homes that are not as energy efficient as possible in order to meet the zero-carbon standard and help reduce carbon emissions. Surely on matters of public policy the Government should be striving for the best possible outcome. Wherever you are coming from, building to a standard that leaves the home owner or tenant in a property that, having been built to a poorer standard, is less energy efficient and they have to pay more on their fuel bills cannot be right. It is particularly wrong when you are talking about the relatively modest sums involved here. If this amendment is not accepted, people will be left paying a greater proportion of their income than they need to on fuel when moving to a new home. It will have the greatest effect on people on poor incomes. For me, that is just not right and the Government really should accept this amendment today.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, I thank the noble Baroness, Lady Parminter, and the noble Lords, Lord Stunell, Lord Krebs and Lord Kennedy, for speaking to this amendment. We share a common goal of wanting all new homes to be very energy efficient. I wrote to the House last week setting out the Government's intentions on this matter.

Over the previous Parliament, we significantly strengthened the energy performance standards for new homes—a 30% improvement on the requirements

before 2010. I thank the noble Lords, Lord Stunell OBE and Lord Foster of Bath, for their excellent work as Building Regulations Ministers in the coalition Government in delivering significant improvements in standards for new homes. New homes built to this standard are very energy efficient. They have A-rated condensing boilers, double-glazed windows with low-energy glass, and high levels of insulation and airtightness in their construction. These standards are reducing energy bills by an average of £200 annually for a new home and saving carbon, compared to standards before 2010.

The most recent changes to the standards came only in April 2014, and we think it is right to give the housebuilding industry breathing space to build these highly energy-efficient homes before making further changes. There are also concerns that making homes even more energy efficient and airtight could contribute to the risk of overheating in new homes. The Committee on Climate Change, which the noble Baroness, Lady Andrews, referred to, raised this in a report published in June last year. This is another reason to let the recent changes bed in and to allow time for a better understanding of the overheating issues raised in the report.

It is also recognised that the latest standards have pushed the fabric energy performance of homes to the point where further increases may result only in marginal energy efficiency returns. To meet the higher standards, housebuilders would need to consider further costly technical solutions for providing heat and power to the home—for example, photovoltaic panels, solar hot water systems, and air or ground source heat pumps.

However, we are not ruling out further improvements to standards. We know that they need to be kept under regular review, and we are committed to doing this and to introducing any cost-effective improvements to the standards. This review will include meeting our obligation in the energy performance of buildings directive to undertake a cost-optimal assessment of our energy efficiency standards. It will involve seeking evidence on the costs of energy efficiency measures and the benefits in terms of fuel bill savings and carbon savings. Current standards will be assessed against these to see whether they are cost optimal. If there is room to go further, the directive requires member states to take action to strengthen these standards.

As part of the process, we will seek the expert views of the Building Regulations Advisory Committee. We would also welcome evidence from the industry and others. In particular, we would like to receive evidence from the Committee on Climate Change, as well as from noble Lords in this House. We expect work to conclude in the autumn, to give time to reflect on the conclusions, to report to the Commission next year and to consider what needs to be done in any future Building Regulations. We would be happy to keep noble Lords apprised of the progress with the review and its conclusions.

The directive also requires us to introduce nearly zero energy building standards for new public buildings from the end of 2018 and for all new buildings from the end of 2020. We have already transposed the aims and timings of this requirement into the Building Regulations. I hope this reassures your Lordships that we are committed to a review and to introduce nearly zero energy building standards by the end of this Parliament, and therefore that the proposed clause is not needed.

In addition, the proposal does not cover a significant proportion of new homes—flats in high-rise blocks, of which we see so many in London. The carbon compliance level for flats in the proposed clause is based on work undertaken by Zero Carbon Hub for flats in blocks of up to four storeys only. The hub recognised that more work would be needed to develop levels appropriate for high-rise blocks. For instance, the use of photovoltaic panels, which the hub considers the most cost-effective means of meeting the levels proposed in the new clause, is more limited on high-rise blocks because there is proportionately less roof space available per apartment in the block. Any changes to the Building Regulations flowing from the upcoming review will require a full consultation, which will include draft technical guidance on how to meet the changes—guidance that will cover all homes, from detached houses to high-rise flats.

As well as being unsuitable for high-rise flats, it is not prudent to set requirements such as this in primary legislation. If in the light of consultation there needed to be any slight adjustments to requirements, we would not be able to do that without further primary legislation. We also do not need new powers to set energy performance standards in the Building Regulations, as the Building Act 1984 already allows us to do this. We must also remember that the Building Regulations set minimum standards for all homes—big and small—and cover all of England, including areas where homes are much needed but where there might be viability issues.

The Federation of Master Builders has pointed out that increased construction costs to meet higher standards have a greater impact on smaller builders. Higher regulatory standards may also make housing development unviable in some areas. The federation, which represents more than 13,000 small and medium-sized builders, was supportive of last July's productivity plan announcement on zero-carbon homes, saying at the time:

> "Small local builders typically build more bespoke homes, with a strong focus on quality and high standards of energy efficiency. Yet over recent years it has been these smaller firms which have been hit disproportionately hard by the rapid pace of change. This burdensome regulation came at a time when SME house builders were beginning to recover and build more new homes which is crucial if we want to keep pace with the demand for new housing. The Government is therefore right to remove the unnecessary zero carbon standards which threatened to perpetuate the housing crisis … There has been an increasing feeling that the standards were in danger of running ahead of the industry's understanding and ability to deliver".

We therefore need to consider whether it is realistic for the majority of builders to deliver even higher standards without unduly affecting site viability or housing delivery.

The noble Lord, Lord Stunell, asked about costs and prices in Hertfordshire. I cannot provide those figures at this point, but I have some more general information, which is that construction costs nationally for new homes have increased by just over 2% a year over the past five years. Land prices have risen by about 7%, including inflation. Those increases in land

[Baroness Williams of Trafford]
prices and construction costs, which fall on housebuilders, have not been converted by increased house prices, which have risen by only 4%, so there is a potential viability gap. Where land prices have not risen or land values are very low to begin with, landowners are less likely to be willing to release land if housebuilders have to reduce the price that they can pay for land in order to offset costs.

Volatility is another factor. There is significant regional variation in land costs for residential development, and prices can be volatile at local level, as we know. That volatility can increase the risk to housebuilders.

Therefore, although I appreciate the intention behind the new clause, I hope that I have reassured noble Lords that it is unnecessary, given that the Government are absolutely committed to completing a review of standards. I therefore ask the noble Baroness to withdraw the amendment.

Baroness Parminter: I thank the Minister for her reply, and thank noble Lords who have spoken in support of the amendment: my noble friend Lord Stunell, the noble Lords, Lord Kennedy and Lord Krebs, and the noble Baroness, Lady Andrews.

The Minister seems to be repeating some of the objections raised in Committee. I say that most respectfully, because I have been most grateful for the way that she has engaged with us one to one to listen to our arguments, as other noble Lords mentioned.

I have not heard anything this afternoon to change my view of why the amendment is needed. The Minister again makes the case for a breathing space being required, but these standards were agreed by the industry before the Chancellor took them out of the process last year. She talks about not ruling out a review, but why do we need to wait for a review? She has been unable to provide any evidence that the amendment would stop what we all want, which is for more homes to be built. She has not countered the evidence we have provided that it will lower energy bills, which is so important to countering fuel poverty. She has given us no answer as to how the Government will meet their greenhouse gas emissions targets if they do not take up the opportunity that we are providing in the Bill, given that buildings are the most cost-effective means to make reductions to meet our greenhouse gas targets.

On that basis, with regret, I wish to test the opinion of the House.

4.58 pm

Division on Amendment 118

Contents 253; Not-Contents 205.

Amendment 118 agreed.

Division No. 1

CONTENTS

Addington, L.
Adebowale, L.
Ahmed, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L.
Beecham, L.
Beith, L.
Benjamin, B.
Berkeley, L.
Berkeley of Knighton, L.
Best, L.
Blackstone, B.
Blood, B.
Boateng, L.
Bowles of Berkhamsted, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Brookman, L.
Bruce of Bennachie, L.
Burt of Solihull, B.
Butler-Sloss, B.
Cameron of Dillington, L.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Carter of Coles, L.
Cashman, L.
Christopher, L.
Clancarty, E.
Clark of Windermere, L.
Clarke of Hampstead, L.
Clement-Jones, L.
Cohen of Pimlico, B.
Collins of Highbury, L.
Corston, B.
Cotter, L.
Coussins, B.
Crawley, B.
Cunningham of Felling, L.
Davies of Oldham, L.
Davies of Stamford, L.
Dean of Thornton-le-Fylde, B.
Desai, L.
Dholakia, L.
Donaghy, B.
Doocey, B.
Drake, B.
Dubs, L.
Dykes, L.
Elder, L.
Elystan-Morgan, L.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Fearn, L.
Featherstone, B.
Filkin, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Foster of Bishop Auckland, L.
Fox, L.
Fritchie, B.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Glasman, L.
Goddard of Stockport, L.
Golding, B.
Gordon of Strathblane, L.
Goudie, B.
Gould of Potternewton, B.
Grender, B.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Grocott, L.
Hamwee, B.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haworth, L.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hollis of Heigham, B.
Howarth of Breckland, B.
Howarth of Newport, L.
Howells of St Davids, B.
Hoyle, L.
Hughes of Woodside, L.
Humphreys, B. [Teller]
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Irvine of Lairg, L.
Janke, B.
Jay of Paddington, B.
Jolly, B.
Jones, L.
Jones of Cheltenham, L.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
King of Bow, B.
Kinnock of Holyhead, B.
Kirkhill, L.
Kirkwood of Kirkhope, L.
Knight of Weymouth, L.
Kramer, B.
Krebs, L.
Lawrence of Clarendon, B.
Layard, L.
Lea of Crondall, L.
Lee of Trafford, L.
Leeds, Bp.
Lester of Herne Hill, L.
Liddell of Coatdyke, B.
Lipsey, L.
Lister of Burtersett, B.
Listowel, E.
Livermore, L.
Loomba, L.
Low of Dalston, L.
Luce, L.
Ludford, B.
Lytton, E.
McDonagh, B.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
McNally, L.
Maddock, B.
Manzoor, B.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
Meacher, B.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Moonie, L.
Morris of Aberavon, L.
Morris of Handsworth, L.

Morris of Yardley, B.
Murphy of Torfaen, L.
Newby, L. [Teller]
Nicholson of Winterbourne, B.
Northover, B.
Nye, B.
Oates, L.
O'Neill of Bengarve, B.
O'Neill of Clackmannan, L.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Pendry, L.
Ponsonby of Shulbrede, L.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Quirk, L.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Richard, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rooker, L.
Rosser, L.
Rowlands, L.
Royall of Blaisdon, B.
Sandwich, E.
Sawyer, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sharp of Guildford, B.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Clifton, L.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Snape, L.
Soley, L.
Steel of Aikwood, L.
Stern, B.
Stevenson of Balmacara, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Tanlaw, L.
Taverne, L.
Taylor of Blackburn, L.
Taylor of Goss Moor, L.
Temple-Morris, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tomlinson, L.
Tonge, B.
Tope, L.
Touhig, L.
Truscott, L.
Tunnicliffe, L.
Tyler, L.
Tyler of Enfield, B.
Uddin, B.
Wall of New Barnet, B.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warner, L.
Watson of Invergowrie, L.
Watts, L.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Williams of Elvel, L.
Woolmer of Leeds, L.
Wrigglesworth, L.
Young of Hornsey, B.
Young of Norwood Green, L.

NOT CONTENTS

Aberdare, L.
Ahmad of Wimbledon, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Balfe, L.
Berridge, B.
Bilimoria, L.
Black of Brentwood, L.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Browne of Belmont, L.
Browning, B.
Buscombe, B.
Byford, B.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cathcart, E.
Chadlington, L.
Chisholm of Owlpen, B.
Colville of Culross, V.
Colwyn, L.
Condon, L.
Cooper of Windrush, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
Craig of Radley, L.
Craigavon, V.
Crathorne, L.
Crickhowell, L.
Cumberlege, B.
De Mauley, L.
Deech, B.
Deighton, L.
Denham, L.
Dixon-Smith, L.
Dobbs, L.
Dunlop, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Erroll, E.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Falkland, V.
Fall, B.
Farmer, L.
Faulks, L.
Fellowes, L.
Fellowes of West Stafford, L.
Fink, L.
Finkelstein, L.
Finn, B.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Geddes, L.
Gilbert of Panteg, L.
Glendonbrook, L.
Goldie, B.
Grade of Yarmouth, L.
Green of Hurstpierpoint, L.
Greenway, L.
Griffiths of Fforestfach, L.
Hague of Richmond, L.
Hailsham, V.
Hameed, L.
Hamilton of Epsom, L.
Harris of Peckham, L.
Hayward, L.
Helic, B.
Higgins, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hooper, B.
Hope of Craighead, L.
Horam, L.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Janvrin, L.
Jenkin of Kennington, B.
Jopling, L.
Kakkar, L.
Keen of Elie, L.
Kerr of Kinlochard, L.
Kilclooney, L.
King of Bridgwater, L.
Kinnoull, E.
Kirkham, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lothian, M.
Lucas, L.
Lupton, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McIntosh of Pickering, B.
Maginnis of Drumglass, L.
Marland, L.
Marlesford, L.
Mawson, L.
Mobarik, B.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Northbrook, L.
O'Cathain, B.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Pannick, L.
Patel, L.
Patten, L.
Patten of Barnes, L.
Perry of Southwark, B.
Pidding, B.
Popat, L.
Porter of Spalding, L.
Price, L.
Prior of Brampton, L.
Rawlings, B.
Redfern, B.
Ribeiro, L.
Ridley, V.
Risby, L.
Rock, B.
Rogan, L.
Rowe-Beddoe, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Skelmersdale, L.
Slim, V.
Smith of Hindhead, L.
Somerset, D.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stirrup, L.
Stoddart of Swindon, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Suri, L.
Swinfen, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Thomas of Swynnerton, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wellington, D.
Wheatcroft, B.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Young of Graffham, L.
Younger of Leckie, V.

5.11 pm

Amendment 119

Moved by ***Baroness Royall of Blaisdon***

119: After Clause 143, insert the following new Clause—

"Affordable housing contributions in small scale development

(1) Local planning authorities may require sites falling within subsection (2) to make an affordable housing contribution, in cash or kind, determined by the requirements of the housing market of that area.

(2) Authorities may require contributions from—

(a) developments of 10 units or less, and developments which have a maximum combined gross floorspace of no more than 1000sqm (gross internal area), and

(b) developments in a rural area or an area where—

(i) planning permission for the site was granted wholly or partly on the basis of a policy for the provision of housing on rural exception sites;

(ii) the site is in a national park or an area with equal protection to that of a national park; or

(iii) the site is in an area designated under section 82 of the Countryside and Rights of Way Act 2000 (designation of areas) as an area of outstanding natural beauty.

(3) In subsection (2) a rural area is defined as—

(a) any settlement with a population of fewer than 3,000 people at the most recent national census, or

(b) any settlement with a population of between 3,000 and 10,000 people at the most recent national census, and designated as a rural area by the Secretary of State following representations from the relevant local authority."

Baroness Royall of Blaisdon (Lab): My Lords, I rise to speak to Amendment 119. I am grateful to the noble Lord, Lord Best, the right reverend Prelate the Bishop of St Albans and the noble Baroness, Lady Parminter, for their support. I start with huge thanks to the noble Lord, Lord Best, and the noble Lord, Lord Cameron of Dillington, for the tremendous work that they have done on this Bill on behalf of rural areas. The negotiations with the Government have been assiduous, and the Minister has been in listening mode.

I am delighted that the Government have agreed to exclude rural exception sites from the requirement to build starter homes and that they have agreed in principle to enable councils to retain their remaining housing stock in rural areas with an exemption from high-value sales requirements. Of course, we wait to see the fine print of the government amendments but, despite the fact that the Bill was regrettably not rural-proofed when drafted, there now appears to be a real understanding that rural areas have very specific challenges if they are to remain as vital and vibrant communities.

The Government recognise that social housing in rural areas needs protection, but much more is also needed. The economic and social viability of our rural communities is dependent on there being a mix of housing, including affordable homes. With an acute shortage of affordable housing in rural communities, I simply do not understand why the Government are trying in Clause 143 to reintroduce the restrictions, already overturned by judicial review, that would mean that local planning authorities should not seek affordable housing for sites of fewer than 10 units.

As most residential development in rural areas is on sites of 10 units or fewer, the ability to seek affordable housing contributions on site, or as a commuted sum from these sites, is critical. In Shropshire, for example, 92% of its development is on sites of fewer than 10 units, and 86% on sites of fewer than five units. For Derbyshire's rural local authorities between 2011 and 2014, 85% of their committed and completed development was on sites of 10 units or fewer. In 2014-15, 55% of affordable homes in villages were through Section 106 contributions on market sites. Much of this delivery is on sites of fewer than 10 units. In Shropshire, for example, 89% of its rural Section 106 affordable homes were on sites of fewer than 10 units. Because these market sites include homes to meet local affordable housing needs, they are much more likely to gain community support and avoid the delays and costs that result from opposition to development, so it is a win-win situation for the developer and for the mixed housing needs of the community.

In the same period, 44% of rural affordable homes were provided through rural exception sites, whose principal purpose is to meet local affordable housing needs. In seven areas, more than 50% of their rural exception site schemes were of 10 units or fewer, and in four of these more than 70% of their rural exception site schemes were of 10 units or fewer. As we heard in Committee, these sites are a critical source of commuted sums. As the availability of the government grant has declined, these are a vital source of capital funding, particularly for rural exception sites. Shropshire Council has raised £2.5 million from commuted sums, which it has used to help housing associations build 250 new affordable homes, and in the last three years Cornwall Council has raised more than £790,000 from its rural developments, all of it from sites of 10 units or fewer.

5.15 pm

I fear that once an affordable housing requirement is removed, the cost to rural exception sites will rise to a point where it is no longer viable to build affordable housing, but others, such as the noble Lord, Lord Cameron of Dillington, will be more aware of the realities. A national threshold is neither necessary nor appropriate. In a survey for the rural housing policy review, 79% of rural local authorities said that they had adopted policies that sought an affordable housing contribution from sites of fewer than 10 units. All had a rural exception site policy.

There is clear evidence from the short period last year when the NPPG changed to prevent affordable housing being sought from small sites that, without this amendment, there would be a huge and adverse impact on the amount of affordable housing built in rural areas. During the time the policy was in place Harrogate lost 64 affordable homes that would otherwise have been provided on schemes of fewer than 10 units. Shropshire has calculated that it would lose £2.65 million annually if it was unable to raise commuted sums from sites of 10 units or fewer. Within three days of the announcement, Derbyshire Dales had already lost £225,000 of commuted sums, as developers withdrew sites on which planning negotiations were well advanced.

In Committee, the noble Lord, Lord Best, spoke of the housing policy review, which he chaired. Its top recommendation was to reverse the Government's policy at that time, which aimed at the removal from local authorities of the power to require affordable housing on sites of 10 homes or fewer. Everyone involved in rural housing to whom I have spoken during the passage of the Bill endorses that position.

The Minister may well say that removing the need for affordable housing from small units will help SME builders, but many with far greater knowledge than me would say that that was wrong. To manage their cash flow, small builders are heavily dependent on the guaranteed income from the sale of these homes to housing associations. I know of several sites on which the houses on the open market languish, causing a headache for the small local builder, but they are able to get by thanks to the sale of homes to housing associations.

One of the many tensions that runs through the Bill is between the reality of increased centralism that the Government believe is necessary to get the country building and their rhetoric of localism. Yet the Minister has acknowledged on many occasions that devolution of power, not centralisation, should be the way forward, and that is the rationale for this amendment. Noble Lords on all Benches understand that sites of under 10 units are vital to ensuring the appropriate mix of housing in rural communities and that the funding of these sites is critical. They also appreciate that the decisions about the mix should be taken at local level, where the needs of citizens and the communities are best understood and where there is most likely to be support for the building of new homes.

This amendment does not in any way seek to undermine the Government's plans to increase the number of homes built on small sites. We need more homes in rural areas. It merely seeks to ensure that local authorities will still be able to meet the affordable housing needs of their rural communities in ways appropriate to their circumstances. Without this amendment there will be fewer homes in rural areas for those unable to buy, which could result in the loss of another young family, a worker in a local business or a teacher or carer, and a greater vulnerability of an older resident without the support of family.

I know that the Minister is in listening mode and that there have been discussions about a consensus, but I wait to hear the details. My strong preference would of course be for her to accept this amendment, but I am looking for something in the Bill, because that is what rural communities want and would demand. I beg to move.

Lord Best (CB): My Lords, I support the noble Baroness, Lady Royall. I do not wish to prolong this debate too much, having already spoken on this matter in Committee.

We all know the issue: we need more affordable homes for local people in rural areas. There are various ways of trying to secure these. We used to get grants and build housing association homes and council housing but we do not do that any more: it accounts for about only 3% of the output. We have rural exception sites, where you get planning consent only if you are going to build housing for local people—and I am very pleased to note that such sites get special treatment in the Bill.

The third and largest way in which we have secured affordable housing for local people in rural areas has been by requiring housebuilders to make a proportion of all the homes they build affordable housing, either for rent or for shared ownership. This has produced about 55% of all the rural housing that we are now churning out. I say "churning out" but we are still producing a trickle—we ought to be producing about twice as much in rural areas—and we do not want to see any measures that diminish what we are already doing. It is a small enough contribution as it is, and the Government's idea that in any development of less than 10 homes there will be no requirement for affordable housing, either for rent or for shared ownership, will cut out a very big chunk of that 55% of the affordable homes that we are building.

Why on earth would the Government do that? The answer is that small builders complain that there is too much red tape if they have to provide affordable homes instead of just building executive homes, homes for commuters or retirees, or second homes and the rest. They say, "This slows us down. We can't get back into business after the big crash. We smaller builders need this extra help". However, those of us who have looked at this in some depth do not believe it to be the case. There are several reasons why we do not feel that this provision will unleash a lot more housebuilding in rural areas.

First, the housebuilder will be able to pay more for the site because they will have no obligation to produce affordable homes. The landowner, who will know that, will put up the price, and the value will be not in the affordable housing but in the higher value that can be paid to the landowner. While we are all delighted to see the landowner do well out of this, it is not really the point, and it will not help the housebuilder to buy land more cheaply.

Secondly, big housebuilders will phase developments that were going to be of 25 or 30 homes into two or three chunks that come just within the limits. That is the way housebuilders will work it so that they do not have to provide any affordable housing, even though in the end there will be 25 homes on the site—so that will not work, either.

Thirdly, it will be more difficult to prevent the opposition that the nimbys—the local opponents—are bound to bring against developments in villages if none of the homes that are to be provided on a site is for local people. It will antagonise local residents rather than securing support for development in rural areas. So we do not think that letting small builders—and indeed bigger builders, who, as I say, will develop in phases—off the hook will produce more homes overall, let alone more homes for local people. So this amendment is about dropping this requirement.

We have had productive meetings with Ministers. I am grateful to the noble Baroness, as always, for listening intently to what we have attempted to achieve, and there has been a good deal of sympathy for the line we are taking. I just urge Ministers to recognise that this way of producing affordable housing would

[LORD BEST]
cost the Government nothing. Ultimately, it would come out of the land value through the housebuilder. We would be providing affordable housing on the back of the development that was going to happen in those villages. There is no requirement for a government subsidy, so it is thoroughly commendable. Starter homes are going to cost something like £8.6 billion, and right to buy for housing association tenants will cost a little over £8 billion, and possibly £9 billion, over four years. Those are big numbers, but in this case it is affordable housing for free. So I strongly recommend that the Government think of backing off from their proposal, which will diminish the output of rural housing.

Where I think we have got to in our discussions with the Government, if I can put this out in the open for your Lordships, is that they are keen to see an exclusion from the rule that if there are fewer than 10 homes, no affordable housing is required, to cover national parks and areas of outstanding beauty. Although I fear it may be done through regulations, whereas we would wish it to be in the Bill, I think that the Government may be willing to say that they would enter into a discussion with each local authority and allow, where the case can be made, for the rule that 10 units means no affordable housing to be dropped in other rural areas as well. It would not be too tightly defined but would be across the piece in rural areas. However, we will wait to hear what the Minister says on this. There is still Third Reading to go, but I am now slightly nervous that we will not be able to reach an accommodation, as we had hoped, before then. But I will leave that to the noble Baroness, Lady Royall, to determine.

Lord Beith (LD): My Lords, the housing situation in the villages of rural Northumberland leads me to want to support any amendment and any mechanism that will encourage and not discourage the continued provision of houses to rent in villages. The atmosphere here today, when Members in all parts of the House are showing a genuine concern for the problem of rural housing, reminds me of my early days as a councillor on a rural district council in Northumberland, at a time when members in all parties were absolutely convinced of the need to provide rented housing in villages. It was not a political issue.

Unfortunately, in the intervening years, many of the council houses that were built in those villages have, because of right to buy, gone into either the second home or the retirement market—because they are in beautiful places, by the seaside or among the hills of Northumberland. Therefore, I encourage Ministers to continue the discussions in which they have engaged and offer us some assurance before the Bill goes much further that we will not see the loss of one of the mechanisms by which we can get some rented housing into villages: a mechanism that brings housing associations into the management of these properties, and therefore protects them for future rented use in a way that local authority housing no longer does.

It is my fervent hope that this House will ensure that Parliament makes provision for the future of rural housing by understanding that it requires different mechanisms from what may be appropriate in urban areas where we are dealing with larger estates and more housebuilding. Rural areas are different and their needs are very serious.

Baroness Butler-Sloss (CB): My Lords, I have not spoken on this Bill before. However, I would like to add a practical point from the part of the West Country where I live, where there is both very large building going on—5,000-plus houses, some on a flood plain—together with very small building on small sites. What we are being told locally is that the various builders, particularly those on the larger sites, are now going back to the council to ask not to have to provide as much affordable housing as they were originally asked to do. It really is a very serious matter down in our part of the West Country. As everyone knows, affordable housing is so important that every step that can be taken to support it, I would hope that this House would support.

Lord Taylor of Goss Moor (LD): My Lords, first, I draw attention to my interests on the register; in particular, I am president of the National Association of Local Councils. Although not in the register of interests, I chair a neighbourhood plan in a rural village.

I spoke on this in Committee to support the noble Lord, Lord Best—I was a member of the rural housing review that he conducted. I speak today in support of the amendment from the noble Baroness, Lady Royall. However, primarily, I want to urge the Minister to address the very real issue that is being raised here. I will not repeat all of the comments that I made before about the importance in small, rural communities of making sure that there are homes that the people who work in the shop, the pub, on the farm and with the children in the local school can afford to live in. I believe that that is something that unites the House. I simply say that in a world in which we want to protect many rural villages and communities from overdevelopment, one solution to affordable housing—simply to build enough houses so that prices come down—is not available. That means that if we are to provide homes for the people who do the work of the countryside, we have to do it in the form of affordable housing, whether it is to rent or through part ownership. As the noble Lord, Lord Best, said, the rural housing review made it clear—I believe that the Government know this—that the majority of such homes are provided on small sites as a result of affordable housing requirements. These are not sites which are unviable for development. There may be small urban sites where the costs of development are such that providing affordable housing is genuinely difficult to do viably, but in these cases, typically, the land has enormous value when given permission for market housing. While landowners in some cases may seek to maximise their returns, I think that it is legitimate, right and indeed part of neighbourhood planning that we say that the returns they make should be shared with the community by providing some affordable homes. Some landowners will do so voluntarily, but too often that will not be the case.

5.30 pm

I took part in a meeting with Ministers just after the rural housing review was published. I believe that

they understood the issues raised. I simply say that this is not just about the AONBs and the national parks but is about giving assurance to communities or villages that may go through the neighbourhood plan route, or may simply have a parish plan, working with landowners and their local planning authority, to allow them to take that decision about those housing needs and to address them. I believe that Ministers understand that. I believe that it unites the House, and I hope that the Minister will be able to give some reassurance now.

Lord Cameron of Dillington (CB): My Lords, I support this amendment in the name of the noble Baroness, Lady Royall, and others. The arguments have all been very well made, particularly by the noble Lord, Lord Best, with his great experience, so I want merely to emphasise a few facts.

First, as we all know, the need for affordable homes is as great in the countryside as anywhere, because on average houses are more expensive and average wages are lower. The largest long-term black cloud hovering over nearly all less well-off rural families is the issue of, "Where on earth are our children going to live?". Secondly, rural areas currently have less than half the number of affordable homes per population than urban areas. I say "currently" because without this amendment, or something like it, the situation is about to get very much worse. The third fact—and this is really important and has been raised by all speakers—is that Section 106 homes on sites of fewer than 10 houses provide more than 50% of all affordable homes in the countryside.

I know that the Government have blundered into this now legal cul-de-sac and left themselves with few means of a U-turn, but I hope that they will somehow find a way out of this most unfortunate and ill-considered situation and turn it into something that is at least tolerable.

I believe that during the passage of this Bill the Government have grasped the seriousness of rural housing problems and genuinely tried to help—I thank the Minister and the Secretary of State for their parts in that—but in many ways this amendment covers the most important issue that we have dealt with because of the high percentage of affordable rural houses at stake here. There are not many opportunities to build houses in the countryside because of the lack of sites available; but when and where it is possible, it is crucial that we grasp the opportunity to add to the number of affordable houses available for locals.

I will spare your Lordships my thoughts on how all Governments, without exception, seem to drift from their early ideals of localism to ever-stronger central government controls, but it should be up to local councils to decide whether they need to support their local small builders, which is the case being made here by the Government, or, alternatively, the numerous young families living in crowded accommodation housing sometimes two or even three generations. I hope the Government will find a way of accommodating the very important intentions behind this amendment and genuinely satisfying us all that they will change their current approach.

The Lord Bishop of Leeds: My Lords, I support this amendment. My diocese covers vast and diverse rural areas. The issue that is constantly raised by those who live there is affordable housing for their children. We too often use the language of protection or preservation when we should be talking about development and creating the future. If we end up with small rural communities without young people in them, which in some cases is what is happening, we will have a problem 20, 30, 40 or 50 years down the line. I support the amendment and trust that we will give due attention to it.

Lord Kennedy of Southwark: My noble friend Lady Royall of Blaisdon and other noble Lords have made a compelling case for contributions to affordable housing from small-scale developments. As my noble friend said, rural communities are not just small-scale versions of urban areas; they are quite different. They have their own strengths and challenges that have to be met. We have to understand that and enable outcomes to be delivered that help rural areas to prosper.

Housing that is affordable is one of the greatest challenges we face. The proportion of homes used only at weekends or as holiday accommodation risks making our villages and small communities unsustainable. Housing has to be available in various tenures for people who want to live and work locally and keep communities alive: for teachers to run the village school; for people to run rural post offices, shops and pubs; for health workers to keep community health facilities open and for farmworkers to sustain the rural economy. Not all such people will be able to afford to buy their own home, so the provision of social housing is a must to keep communities alive. We have heard that only 8% of housing in rural areas is owned by housing associations and local authorities. My noble friend's amendment would give a power to local authorities to require, where they decide they want to, an affordable housing contribution in cash or in kind, determined by the requirements of the local area. That is an excellent idea. It has localism at its heart and the Government should support it.

The amendment defines what is meant by a "rural area" and the parameters of the policy. I hope the Minister will have some positive words to say, as alluded to by the noble Lord, Lord Best. However, if my noble friend is not satisfied, I hope she will test the opinion of the House, and I am sure that she will have support on these and other Benches. I hope that that will not be necessary today, that discussions can continue and that we can come back to this matter at Third Reading.

Baroness Williams of Trafford: My Lords, I thank the noble Baroness, Lady Royall, for raising an issue that I think is seen as important on all sides of this House. Her amendment would enable local planning authorities to require affordable housing contributions, in cash or kind, from small-scale developments and from developments in rural areas. I hope I can provide assurances of how we propose to use the power to support housing delivery and the fact that we recognise the issues faced by rural areas in particular.

[Baroness Williams of Trafford]

During debate in Committee I explained that local authorities currently can set affordable housing policies in their local plans and use Section 106 agreements to secure affordable housing delivery and agree financial contributions in lieu of on-site affordable housing contributions.

We all agree on the importance of affordable housing, which is why the Government announced in the spending review investment of £8 billion to deliver 400,000 affordable housing starts by 2020-21. However, we know that, on particular types of site, the way in which affordable housing contributions are determined can delay development and affect housing delivery. Clause 143 will enable us to bring about a more consistent approach to how Section 106 agreements can be used in relation to affordable housing provision. This could include conditions on how planning obligations are sought for affordable housing. These can be varied by the type of site to which they apply.

We know that the details of any restrictions will require careful consideration to deliver benefits in enabling overall housing delivery while taking careful account of the need to deliver affordable housing. Measures implementing this power will be set out in regulations which will be subject to the affirmative resolution procedure, so noble Lords will have further opportunity for scrutiny.

It has been made clear in previous debates on this clause and others, including the debates on starter homes and high-value assets, that rural areas face distinct challenges. Concerns have been raised about the impact that the Bill could have on rural areas and we are committed to considering how rural exception sites are given discretion in any compulsory starter home requirement and how we can consider excluding them from high-value asset payments.

The power to make regulations in Clause 143 is a broad one and allows us to take into account the concerns raised. I am happy and willing to continue to work with the noble Baroness, Lady Royall, and the noble Lords, Lord Cameron and Lord Best, on what these regulations will contain. However, I cannot commit to bringing forward an amendment by Third Reading.

We recently heard from the Communities and Local Government Select Committee about the importance of monitoring the effect of this policy. By bringing forward any restrictions or conditions through regulations we can also ensure that they can be more easily reviewed so that they maximise the benefits for housing delivery more broadly.

I hope my reassurance and recognition of the particular issues faced by rural areas will enable the noble Baroness to withdraw her amendment.

Baroness Royall of Blaisdon (Lab): My goodness, my Lords, this is a difficult one, is it not? Many vital points have been raised in this short debate, and I am grateful for the support that my amendment has received.

Everyone has made the point that 50% of affordable housing comes from Section 106 agreements, which is a huge amount for housing in rural areas. As the right reverend Prelate said, we should be talking about development and creating the future and not only about protection. The Government have already recognised that protection is needed, but we are looking to the future so that we can develop our communities in the countryside and ensure that they are vital. As the noble Lord, Lord Taylor, said, local authorities in all rural areas, not only those in AONB areas and in national parks, are looking for consideration and assurance that they will be able to continue to have affordable homes on Section 106 sites.

I know that the Minister wants to help, and she has been very generous with her time in discussions. We had a discussion about an hour and a half ago, when it was hoped that something could be put in the Bill—we need something in the Bill—and she said that she is not only content but happy to continue discussions with your Lordships about regulations and what should be in them. However, she has said that she could not come back with anything firm before Third Reading. I am tempted to continue discussions with the noble Baroness about how we might take this forward. However, I would do so only if she can give me permission to bring this back at Third Reading—in only two days' time—if I feel that our negotiations are not getting anywhere. If she cannot give me permission to bring this back in the form of a similar amendment at Third Reading, I am afraid that I shall have to seek the view of the House. I ask the noble Baroness to give me permission to bring this back at Third Reading so that we can continue discussions in the next two days.

Baroness Williams of Trafford: My Lords, regrettably, I cannot. I therefore leave it in the hands of the noble Baroness as to what she would like to do.

Baroness Royall of Blaisdon: In that case, with great regret—I believe the noble Baroness is doing everything she can—I have to seek the opinion of the House, because this is such an important issue for housing in rural areas.

5.44 pm

Division on Amendment 119

Contents 269; Not-Contents 185.

Amendment 119 agreed.

Division No. 2

CONTENTS

Aberdare, L.
Addington, L.
Adebowale, L.
Ahmed, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Armstrong of Ilminster, L.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L.
Beecham, L.
Beith, L.
Benjamin, B.
Berkeley, L.
Berkeley of Knighton, L.
Best, L.
Blackstone, B.
Blood, B.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Brookman, L.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Bruce of Bennachie, L.
Burt of Solihull, B.
Butler-Sloss, B.
Cameron of Dillington, L.

Campbell of Pittenweem, L.
Campbell-Savours, L.
Carter of Coles, L.
Cashman, L.
Chandos, V.
Christopher, L.
Clancarty, E.
Clark of Windermere, L.
Clarke of Hampstead, L.
Clement-Jones, L.
Collins of Highbury, L.
Colville of Culross, V.
Corston, B.
Cotter, L.
Coussins, B.
Craig of Radley, L.
Crawley, B.
Cunningham of Felling, L.
Davies of Oldham, L.
Davies of Stamford, L.
Dean of Thornton-le-Fylde, B.
Desai, L.
Dholakia, L.
Donaghy, B.
Doocey, B.
Drake, B.
Dubs, L.
Elder, L.
Elystan-Morgan, L.
Erroll, E.
Falkner of Margravine, B.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Fearn, L.
Featherstone, B.
Filkin, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Foster of Bishop Auckland, L.
Fox, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Glasman, L.
Goddard of Stockport, L.
Golding, B.
Goldsmith, L.
Gordon of Strathblane, L.
Gould of Potternewton, B.
Greenway, L.
Grender, B.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Grocott, L.
Hamwee, B.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haworth, L.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hollis of Heigham, B.
Howarth of Breckland, B.
Howarth of Newport, L.
Howells of St Davids, B.
Hoyle, L.
Hughes of Woodside, L.
Humphreys, B.
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Hylton, L.
Irvine of Lairg, L.
Janke, B.
Janvrin, L.
Jolly, B.
Jones, L.
Jones of Cheltenham, L.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
King of Bow, B.
Kinnock of Holyhead, B.
Kirkhill, L.
Kirkwood of Kirkhope, L.
Knight of Weymouth, L.
Kramer, B.
Krebs, L.
Layard, L.
Lea of Crondall, L.
Lee of Trafford, L.
Leeds, Bp.
Lester of Herne Hill, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Listowel, E.
Livermore, L.
Loomba, L.
Low of Dalston, L.
Ludford, B.
Lytton, E.
McDonagh, B.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
McNally, L.
Maddock, B.
Manzoor, B.
Marks of Henley-on-Thames, L.
Maxton, L.
Meacher, B.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Moonie, L.
Morris of Aberavon, L.
Morris of Handsworth, L.
Morris of Yardley, B.
Murphy of Torfaen, L.
Newby, L.
Northover, B.
Nye, B.
Oates, L.
O'Neill of Clackmannan, L.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Patel, L.
Pendry, L.
Ponsonby of Shulbrede, L.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Quirk, L.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rea, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Richard, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rogan, L.
Rosser, L.
Rowe-Beddoe, L.
Rowlands, L.
Royall of Blaisdon, B. [Teller]
Russell of Liverpool, L.
St John of Bletso, L.
Sandwich, E.
Sawyer, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sharp of Guildford, B.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Clifton, L.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Snape, L.
Soley, L.
Somerset, D.
Steel of Aikwood, L.
Stephen, L.
Stern, B.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Symons of Vernham Dean, B.
Taverne, L.
Taylor of Blackburn, L.
Taylor of Goss Moor, L.
Temple-Morris, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tomlinson, L.
Tonge, B.
Tope, L.
Touhig, L.
Truscott, L.
Tunnicliffe, L. [Teller]
Tyler, L.
Tyler of Enfield, B.
Uddin, B.
Wall of New Barnet, B.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Watts, L.
Wellington, D.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Williams of Elvel, L.
Woolmer of Leeds, L.
Wrigglesworth, L.
Young of Norwood Green, L.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Berridge, B.
Black of Brentwood, L.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brookeborough, V.
Brougham and Vaux, L.
Browning, B.
Buscombe, B.
Byford, B.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cathcart, E.
Chadlington, L.
Chisholm of Owlpen, B.
Colwyn, L.
Cooper of Windrush, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
Craigavon, V.
Crathorne, L.
Crickhowell, L.
Cumberlege, B.
De Mauley, L.
Deben, L.
Deech, B.
Deighton, L.
Denham, L.
Dixon-Smith, L.
Dobbs, L.
Dunlop, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Falkland, V.
Fall, B.
Farmer, L.
Faulks, L.
Feldman of Elstree, L.
Fellowes of West Stafford, L.
Fink, L.
Finn, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.

Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Geddes, L.
Gilbert of Panteg, L.
Glendonbrook, L.
Goldie, B.
Grade of Yarmouth, L.
Griffiths of Fforestfach, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Harris of Peckham, L.
Hayward, L.
Helic, B.
Higgins, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hooper, B.
Hope of Craighead, L.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Kakkar, L.
Keen of Elie, L.
Kilclooney, L.
King of Bridgwater, L.
Kinnoull, E.
Kirkham, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lothian, M.
Lucas, L.
Lupton, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McIntosh of Pickering, B.
Maginnis of Drumglass, L.
Marland, L.
Marlesford, L.
Mawson, L.
Mobarik, B.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Northbrook, L.
O'Cathain, B.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Pannick, L.
Patten, L.
Patten of Barnes, L.
Perry of Southwark, B.
Pidding, B.
Popat, L.
Porter of Spalding, L.
Price, L.
Prior of Brampton, L.
Rawlings, B.
Redfern, B.
Ribeiro, L.
Ridley, V.
Risby, L.
Rock, B.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shrewsbury, E.
Skelmersdale, L.
Slim, V.
Smith of Hindhead, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Suri, L.
Tanlaw, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Wilcox, B.
Willetts, L.
Young of Cookham, L.
Younger of Leckie, V.

5.56 pm

Amendment 119A

Moved by ***Baroness Parminter***

119A: After Clause 143, insert the following new Clause—

"Sustainable drainage systems

(1) The Water Industry Act 1991 is amended as follows.

(2) After section 106(1B) (right to communicate with public sewers) insert—

"(1C) The right under subsection (1) is subject to section 106AB."

(3) After section 106A insert—

"106AB Sustainable drainage systems

(1) A person may only exercise the right under section 106(1) in respect of surface water if the relevant drainage system is designed and constructed according to—

(a) the non-statutory technical standards for sustainable drainage systems or any replacement standards as may be published by the Minister from time to time; and

(b) the planning permission or development consent order for the development drained by the drainage system in question.

(2) In this section "drainage system" has the same meaning as in paragraph 1 of Schedule 3 to the Flood and Water Management Act 2010.""

Baroness Parminter: My Lords, this amendment would ensure that 1 million new homes are built with sustainable drainage systems, or SuDS, helping to protect homeowners against flooding and delivering wider environmental benefits. The ministerial response in Committee was that we need to allow time to see presumption in planning working, given that it was introduced a year ago. However, having spoken with a number of stakeholders, they confirmed that the Government are not putting in place any comprehensive monitoring, such as of how often SuDS are included or not included in new developments or how often viability is cited by developers as a reason for not including them. Nor are they monitoring the quality of the SuDS being introduced, with developers' proposals tending to be engineering based, like a tank in the ground, which rarely deliver the amenity, water quality or biodiversity benefits of soakaways such as swales and ponds.

The evidence we have is that the system is not working, and I look forward to the comments of the noble Lord, Lord Krebs, who I am sure will have more to say on this matter. Paul Cobbing, the chief executive of the National Flood Forum, has confirmed since Committee that there are significant problems with the delivery of SuDS. The National Flood Forum works with a great many local authorities and communities around the country, and he says that these views are being echoed fairly consistently.

The Minister said in Committee said that the introduction of our amendment could delay housing developments because of the complication of the consenting regime being separate from that for planning applications. We have reflected on that, and this amendment takes the core of the proposal put forward in Committee—that of ending the automatic right to connect to conventional drainage—while avoiding the extra bureaucratic steps. Our amendment means that connection will be the last resort when all other sustainable drainage options have been excluded. Crucially, it will apply to all sites, unlike the existing provisions, which exclude small sites, of which there are around 100,000 approved applications a year and which impact significantly on the flood risk to others.

We believe it is important not to lose sight of future homeowners and the need to protect them from the misery of flooding. I welcome the launch this month of Flood Re, the government-backed scheme to provide affordable insurance to those at the highest risk of

flooding, but homes built after 2009 are excluded. Implementing quality SuDS schemes in all new homes would be a low-cost measure—the Government accept that they are low-cost—towards flood protection. Support for delivering flood-resilient homes has come from the Institute of Civil Engineers, the Chartered Institution of Environmental and Water Management, the Royal Institute of British Architects, the Wildfowl and Wetlands Trust, every water company and many others. I shall quote from just one of the bodies that has written in support of the amendment, the National Flood Forum: "Your proposed amendment is the single thing that would make the greatest immediate difference". I beg to move.

6 pm

Lord Krebs: My Lords, I am grateful to the noble Baroness, Lady Parminter, for introducing this amendment so eloquently. We discussed it at some length in Committee and therefore at this point I will be brief. As the noble Baroness has said, the Government's position is that the changes introduced in April 2015 need time to bed down so that their impact can be assessed further. The noble Baroness has already referred to exactly how this assessment will take place, but it is important to note that while we wait for the review, many more new homes are being built, and some of them will be at risk of flooding if we do not have proper and sustainable urban drainage to deal with surface water flooding.

As I said in Committee, as long as developers have an automatic right to connect to existing sewerage pipes, there is no real incentive or need for them to implement SuDS. I referred then to the survey undertaken by the Adaptation Sub-Committee of the Committee on Climate Change, of which I am the chairman and thus declare an interest. We surveyed about 100 planning applications in flood-prone areas and found that only 15% of them had installed SuDS. Barratt Homes has subsequently reported that in 2014-15, a third of its developments contained no SuDS provision. At the moment the policy is simply not being taken up in the way it should be. Moreover, when SuDS are installed, it is not clear who is responsible for maintaining them. The amendment seeks to ensure that SuDS are the default option in new developments. It achieves this by removing the automatic right to connect to existing sewerage systems, which would become the absolute exception once all other options have been explored.

As has been said by the noble Baroness, Lady Parminter, this amendment has the support of many industry, professional and environmental bodies, including most importantly Water UK, which represents the industry that has to deal with drainage problems when they occur. I should like to quote the Construction Industry Council which has said that,

"the Ministerial Statement that now guides planning was not rooted in all the research and development that had been undertaken by Defra over the last 10 to12 years".

This has left,

"voids in policy as aspects of Schedule 3 are now unresolved".

It is worth pointing out that, in this regard, England is lagging behind the devolved Administrations. Northern Ireland has ended the automatic right to connect; Scotland has a general requirement for SuDS in new development; and Wales has much more extensive SuDS standards than those in England. We have heard the debates in Committee. We know that Parliament has already legislated for the requirement for SuDS in Schedule 3 to the Flood and Water Management Act 2010, but the Government have chosen not to implement it. We know that Sir Michael Pitt, in his review after the 2007 floods, recommended that SuDS should be incorporated in all new developments, so now is the time for the Government to respond to this amendment by saying, "Yes, we agree". This is a very simple and straightforward way of ensuring that SuDS are implemented and that new developments—the very large number of new homes that will be built—are properly protected from the risks of surface water flooding.

Baroness Andrews: My Lords, my noble friend Lady Young of Old Scone has signed the amendment but is unable to speak to it. She has given me the grave responsibility of supporting it in her name. She is such an expert on the environment, including sustainable drainage, that I would be taking a risk if I went into the technical detail, so I shall confine myself to a few more general statements.

We have 5.2 million homes at risk of flooding, according to the commission of inquiry into flood resilience, published in March last year. Clearly, policy needs to shift the focus away from flood defence towards flood resilience. That is the case for sustainable drainage.

We heard evidence in the Select Committee on the Built Environment on flood risk. The committee was sitting just at the point when there was so much flood damage across the UK. All the evidence emphasised the fact that the provision of sustainable drainage systems was of key importance to future urban water management. Essentially, SuDS are designed to mimic natural drainage systems, such as green roofs, ponds, wetlands and underground storage. They provide an alternative to drainage of surface water through pipes to watercourses, which increases flood risk.

The Government's decision not to implement Schedule 3 to the Flood and Water Management Act 2010, which would have established a separate approval regime, is rather perverse and was strongly criticised. The construction industry, no less, told the committee that the decision had created voids in policy, uncertainty in planning policy interpretation, the abandonment of the concept of draining as critical infrastructure, no structure for the adoption and maintenance of SuDS, as we have already heard, and no measures to address flood resilience at a local scale. This is very strong language from a responsible, professional body.

Amendment 119A comes with a whole raft of professional and expert support. A range of authoritative environmental bodies have supported the intention of the amendment. Those bodies have pointed out, for example, that SuDS can be installed and maintained at a low cost and are cheaper than maintaining conventional drainage. We have good ecological and economic arguments for SuDS.

The problem is that those same bodies have emphasised that the presumption in planning that SuDS should be included in new developments is not working.

[Baroness Andrews]
Those bodies agree, too, that the decision not to implement Schedule 3 has created uncertainty of interpretation over what is acceptable. It has made drainage simply a factor in the planning mix rather than critical infrastructure, partially implemented in places and of variable quality. It is that distinction between the status and guarantee of SuDS as infrastructure and a planning choice that is weakening and debilitating the policy. That seems to be what is happening. In short, the Government have designed a system through using the planning guidelines adopted instead of the legislation, which is almost bound to lead to low take-up and low quality, so increasing flood risks. There is collateral damage as well in terms of habitats and human life.

This also gives the developers an upper hand. If they suggest that there are practical or economic barriers, few local authorities can answer back. There is not the same level of expertise to challenge this. As we have heard, only England is being so short-sighted. The devolved Administrations have indeed taken more proactive steps to implement sustainable drainage. So, we have an opportunity for catch-up. I do not believe that it is enough at this point to say that it is good enough to wait and see. Many more homes and developments could benefit if we act now, and that is what we should do. I hope that the Minister will feel able to accept Amendment 119A.

Baroness Williams of Trafford: My Lords, I thank the noble Baroness, Lady Parminter, for raising this very important issue, and the noble Baroness, Lady Andrews, for pointing out the feeling of the House on the matter. I share it; I know, following the devastation of this winter's floods, that we are all keen to ensure that new housing development is brought forward only when it is safe from flooding and without increasing flood risk everywhere.

Following the floods in December, the Government are taking action but we can go further. I am keen to listen to the House and consider how we can respond to the proposals. I recognise that there is unease about the ability of the planning system to deliver sustainable drainage. The new, strengthened policy came into effect in April last year and it will take some time for developments affected by that policy to reach completion before it is possible to reach a clear view on its effectiveness. To date, the vast majority of the available evidence on take-up of sustainable drainage systems predates the introduction of the policy change.

However, following helpful conversations with noble Lords last week, I can confirm that, in response to the amendment, we commit to undertaking a full review on the strengthened planning policy on sustainable drainage systems by April 2017. I can also confirm that we will take action to make changes, including closely examining the need for any legislative measures, if evidence shows that the strengthened policy is failing to deliver. I am keen that the review is informed by a wide range of experiences and hope that noble friends and members of the Adaptation Sub-Committee will play an active part in taking it and any recommendations forward. Officials are developing a plan to identify what further work is needed to improve our evidence on the effectiveness of the policy, including the take-up of sustainable drainage systems in new development. They will welcome the opportunity to work with stakeholders on this.

As well as these commitments, we have established the national flood resilience review, led by Oliver Letwin, to assess how the country can be better protected from future flooding and increasingly extreme weather events. This review will identify any gaps in our approach and pinpoint where our defences and modelling need strengthening, allowing us to take prompt action. The review is due to report in the summer.

The Government are committed to ensuring that development is safe from flooding and the delivery of SuDS is part of our planning policy. We also recognise the importance and benefits of sustainable drainage systems in our planning guidance, for not only reducing the impacts of flooding, but removing pollutants from urban run-off and the added benefits for amenity, recreation and wildlife. I hope, with this reassurance, that the noble Baroness will feel free to withdraw her amendment.

Baroness Parminter: I thank the Minister for her remarks and colleagues around the House for their support. The Minister made the point that some of the evidence we used predates the introduction of the presumption in planning. Some of it does; some of it does not. It would have been a lot easier for this House to hear the arguments more clearly if the Government had done any serious monitoring in the last year since this presumption was introduced. When, in Committee, the noble Baroness, Lady Young, asked the Minister what monitoring had been undertaken, the response we received, although I am grateful for the clarification, was that the Government had spoken to eight stakeholders. On an issue of such significance, I am afraid that conversations with stakeholders do not constitute significant monitoring of the problems, such as why developers can use the opt-out of viability so that they do not include sustainable urban drainage systems; the quality of the SuDS being introduced; and the other problems we referred to this afternoon.

There is quite clear evidence from the National Flood Forum and others, as has been articulated, of a problem now. Let us not forget that this presumption in planning excludes all small sites of under 10 houses. Particularly in rural areas, this is causing a major problem of flood risk. A review of the existing policy would not even look at that issue.

I welcome the initiatives that the Minister has made. She has gone above and beyond in trying to take seriously the issues we raise. We accept the passion that she has for this issue. She has articulated on several occasions in this House how serious the flooding issue is. We of course welcome the flood review that Oliver Letwin will introduce in the summer, but that is nothing new; it has been on the cards for some time. Our concern is that the Bill will introduce a significant number of new homes. The review that the Minister mentioned, which would conclude next April, might bring forward legislation, but, looking to my right to the noble Baroness, Lady Royall, there are issues such as forestry, which are the subject of government commitments.

We know that the Minister takes forestry seriously, but we are still waiting for legislation on forestry.

On the evidence we have of the lack of monitoring of this issue over the last year, I do not feel, although I appreciate the steps that the Minister has made, that the option of a possibility of legislation, following a review that we knew was going to happen anyway, is enough for an issue considered so serious by this House. Therefore, I, again reluctantly, wish to test the opinion of the House.

6.14 pm

Division on Amendment 119A

Contents 253; Not-Contents 188. [The Tellers for the Contents reported 253 votes; the Clerks recorded 252 names].

Amendment 119A agreed.

Division No. 3

CONTENTS

Addington, L.
Adebowale, L.
Ahmed, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L.
Beecham, L.
Beith, L.
Benjamin, B.
Berkeley, L.
Best, L.
Blackstone, B.
Blood, B.
Blunkett, L.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Brookman, L.
Browne of Belmont, L.
Bruce of Bennachie, L.
Burt of Solihull, B.
Butler-Sloss, B.
Cameron of Dillington, L.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Carter of Coles, L.
Cashman, L.
Chandos, V.
Clancarty, E.
Clark of Windermere, L.
Clement-Jones, L.
Cohen of Pimlico, B.
Collins of Highbury, L.
Colville of Culross, V.
Corston, B.
Cotter, L.
Crawley, B.
Davies of Oldham, L.
Dean of Thornton-le-Fylde, B.
Deech, B.
Desai, L.
Dholakia, L.
Donaghy, B.
Doocey, B.
Drake, B.
Dubs, L.
Dykes, L.
Elder, L.
Elystan-Morgan, L.
Falkland, V.
Falkner of Margravine, B.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Featherstone, B.
Filkin, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Foster of Bishop Auckland, L.
Fox, L.
Fritchie, B.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Goddard of Stockport, L.
Golding, B.
Goldsmith, L.
Gordon of Strathblane, L.
Gould of Potternewton, B.
Grantchester, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hamwee, B.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haworth, L.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hollis of Heigham, B.
Hope of Craighead, L.
Howarth of Breckland, B.
Howarth of Newport, L.
Howe of Idlicote, B.
Howells of St Davids, B.
Hoyle, L.
Hughes of Woodside, L.
Humphreys, B. [Teller]
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Hutton of Furness, L.
Irvine of Lairg, L.
Janke, B.
Jolly, B.
Jones, L.
Jones of Cheltenham, L.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kilclooney, L.
Kinnock of Holyhead, B.
Kirkhill, L.
Kirkwood of Kirkhope, L.
Knight of Weymouth, L.
Kramer, B.
Krebs, L.
Layard, L.
Lea of Crondall, L.
Lee of Trafford, L.
Leeds, Bp.
Lester of Herne Hill, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Listowel, E.
Livermore, L.
Loomba, L.
Ludford, B.
Lytton, E.
McDonagh, B.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
McNally, L.
Maddock, B.
Manzoor, B.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
Maxton, L.
Meacher, B.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Moonie, L.
Morgan of Huyton, B.
Morris of Aberavon, L.
Morris of Handsworth, L.
Morris of Yardley, B.
Murphy of Torfaen, L.
Newby, L. [Teller]
Nicholson of Winterbourne, B.
Northover, B.
Nye, B.
Oates, L.
O'Neill of Bengarve, B.
O'Neill of Clackmannan, L.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parminter, B.
Pendry, L.
Ponsonby of Shulbrede, L.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rea, L.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rogan, L.
Rosser, L.
Rowe-Beddoe, L.
Rowlands, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Sawyer, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sharp of Guildford, B.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Snape, L.
Soley, L.
Somerset, D.
Steel of Aikwood, L.
Stephen, L.
Stern, B.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Symons of Vernham Dean, B.
Taylor of Blackburn, L.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Temple-Morris, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tomlinson, L.
Tonge, B.
Tope, L.
Touhig, L.
Tunnicliffe, L.
Tyler, L.
Tyler of Enfield, B.
Wall of New Barnet, B.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Watts, L.
West of Spithead, L.
Wheeler, B.
Whitaker, B.

Whitty, L.
Woolmer of Leeds, L.
Wrigglesworth, L.
Young of Norwood Green, L.

NOT CONTENTS

Aberdare, L.
Ahmad of Wimbledon, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Balfe, L.
Berridge, B.
Black of Brentwood, L.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brookeborough, V.
Brougham and Vaux, L.
Browning, B.
Buscombe, B.
Byford, B.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cathcart, E.
Chadlington, L.
Chalker of Wallasey, B.
Chisholm of Owlpen, B.
Colwyn, L.
Cooper of Windrush, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
Craigavon, V.
Crathorne, L.
Cumberlege, B.
De Mauley, L.
Deighton, L.
Denham, L.
Dixon-Smith, L.
Dobbs, L.
Dunlop, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Faulks, L.
Feldman of Elstree, L.
Fellowes of West Stafford, L.
Fink, L.
Finn, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Geddes, L.
Gilbert of Panteg, L.
Glendonbrook, L.
Goldie, B.
Grade of Yarmouth, L.
Greenway, L.
Griffiths of Fforestfach, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Harris of Peckham, L.
Hayward, L.
Helic, B.
Higgins, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hooper, B.
Horam, L.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Kakkar, L.
Keen of Elie, L.
Kerr of Kinlochard, L.
King of Bridgwater, L.
Kinnoull, E.
Kirkham, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lothian, M.
Lucas, L.
Lupton, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McIntosh of Pickering, B.
Marland, L.
Marlesford, L.
Mawson, L.
Mobarik, B.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Patel, L.
Patten, L.
Patten of Barnes, L.
Perry of Southwark, B.
Pidding, B.
Popat, L.
Porter of Spalding, L.
Price, L.
Prior of Brampton, L.
Rawlings, B.
Redfern, B.
Ribeiro, L.
Ridley, V.
Risby, L.
Rock, B.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shrewsbury, E.
Skelmersdale, L.
Smith of Hindhead, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Suri, L.
Sutherland of Houndwood, L.
Tanlaw, L.
Taylor of Holbeach, L. [Teller]
Taylor of Warwick, L.
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Wasserman, L.
Wei, L.
Wellington, D.
Wheatcroft, B.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

6.27 pm

Amendment 119AA

Moved by ***Lord Beecham***

119AA: After Clause 143, insert the following new Clause—

"Minimum space standards for new dwellings

In Part M of Schedule 1 to the Building Regulations 2010 (access to and use of buildings), after requirement M4 insert—

"Internal space standards

M5 New dwellings shall meet the minimum standards for internal space set out in the nationally described space standard, March 2015.""

Lord Beecham (Lab): My Lords, I am short but tonight I shall be uncharacteristically brief in dealing with this amendment. We have heard already by implication tonight, and indeed on previous occasions, that we are concerned with not just the number of homes being built but what is being built. Earlier, we debated carbon compliance. This amendment deals with space.

I think it is generally recognised that the space standards of construction in this country are considerably less than those in Europe. Most of our counterparts there are building larger dwellings of all kinds, whether apartments or houses. In fairness, the Government produced some space standards last year, although it might be thought they are not particularly generous. For example, they provide that two-bedroom homes must have at least one double bedroom of 11.5 square metres, and that single bedrooms should have a minimum floor area of 7.5 square metres. Those are not exactly vast spaces. The standards also provide for a minimum floor to ceiling height of 2.3 metres, which is modest compared with that of dwellings which used to be built in this country. They also provide, helpfully, that any area with less than 1.5 metres of headroom,

"is not counted within the Gross Internal Area unless used solely for storage".

This makes for pretty modest-sized accommodation.

In addition, an article in the *Architects' Journal*, in explaining the provisions that came into force last year, pointed out:

"The government has also failed to make changes to a 'loophole' which would allow local councils to opt-out of the standards".

The journal asserted:

"The requirements can only be applied where there is a local plan in place and where the viability of the development would not be compromised by adopting the standards".

It was suggested that this may give rise to,

"concern that the changes would not be taken up",

and implemented. Therefore, the purpose of this amendment is to ensure that all new dwellings will meet the minimum standards set out. Perhaps the Government will also consider when they will review these standards, and in particular whether they are satisfied that, compared with what applies in the rest of the European Union—whether we remain a part of it or not—they are adequate for the middle of the 21st century, which we are approaching. I beg to move.

6.30 pm

Lord Taylor of Goss Moor: My Lords, I will speak briefly on this issue, which I feel very strongly about. We are in a terrible place: because people believe there is insufficient land in our island to build, we cram homes on to the smallest possible areas. Through not releasing enough land, its value is bid up and it goes to those who will squeeze the smallest possible boxes into the tiniest possible area with the least possible facilities. We should have more generous minimum space standards. After the war, we built council homes with very generous room sizes and with gardens with space to grow food. We could learn from this.

We need to understand that only some 9% of our country is built on; half of that is parks and gardens. To build the homes we need adds a fraction of 1% to the built area. Even the south-east would still be 87% green fields, even if we built all the homes we need on such land, in that area, which we do not need to do. The argument that we cannot afford decent sized homes does not add up. It comes out of making too little land available. I will give three facts to the House. First, we build the smallest homes anywhere in the European Union outside Romania and Italy. That is because they build almost entirely apartments. They have a tradition of apartment living which we do not have here. An Englishman's garden used to be important, but people rarely get that now. Around 40% of all homes built are flats, yet only 2% of the population say they want to live in them. We have got something immensely wrong there.

Secondly, we actually build smaller houses than we did in the 1920s, even including the workmen's cottages which were very small even by today's standards. Thirdly, we build homes half the size of those the Danes build, on average. It is a myth that we cannot afford the space to give an Englishman a decent home and garden, and it is high time that we changed that view.

Baroness Andrews: My name is on this amendment and I support what my noble friend has said. The contribution we have just heard from the noble Lord, Lord Taylor of Goss Moor, gives us very important context in our understanding of the possibilities. We all need space as much as we need light. That was what Parker Morris recognised when the first space standards were set down, and so many people have benefited from those. We now face the opposite situation. Government policy decrees that it is optional for local authorities to adopt national standards. There will be many good ones that will want to do that because they recognise the health benefits of having proper space and light, but many more will be inhibited by the requirements that are attached, which are going to add more burdens and complications.

It is interesting how often this Government generate more bureaucracy while constantly railing against it on every occasion. There will, therefore, be another dimension to the postcode lottery: local authorities which recognise that space is essential to good health and family and social harmony and provide for it, knowing that the converse means greater family and social stress; and local authorities which will not do that. It will mean less room for children to do homework; for teenagers to have necessary privacy; for parents to have room to move. All those things make for well-being.

Nowhere is this more crucial than in areas where there are no planning standards at all. I raised this issue in last week's debate on the conversion of offices into dwelling spaces. It was very late in the evening and I did not want to test the patience of the House, but the other issues we have discussed, such as the impact on the viability of town centres and the general viability of enterprise, make it timely to raise it again. In 2013, when the Government amended permitted development rights without planning permission, this was at first for only three years. In October last year it was made permanent. This has given rise to grave concerns, in addition to the very serious ones raised last week by noble Lords such as the noble Lord, Lord True. There is a great deal more to be said about this aspect of policy and its impact in evidence from local authorities as diverse as Bath and Camden. For example, the London Borough of Barnet told our Select Committee that because there are no planning standards for converting offices to domestic dwellings, local authorities have no control over important details such as space standards, dwelling mix and tenure. The London Borough of Barnet told us that:

"There are no planning standards, so you could theoretically build rabbit hutches, as people sometimes refer to them, if you wanted to, whereas planning standards that define a good-quality size of units are almost set in stone".

I refer noble Lords to a recent report by RIBA, which pointed out that, of the 170,000 homes built last year, 20,000 were converted offices. As such, under the regulations, there are no planning standards which give safeguards for the new home owners. The conversions need not meet space standards or any other planning-based quality standards such as energy efficiency. Some of these apartments are no more than 14 square metres, which is about one-third of the national average. If noble Lords are sceptical, I invite them to look at the RIBA report: it is on the web.

Overall, this is serious. It weakens the ability of local authorities to secure good quality housing, and it will lead to a new generation of home owners who will be expected to manage in conditions which are

[Baroness Andrews]
neither ethical nor healthy. Given the number of homes that may well be coming forth through these conversions, I hope the Minister appreciates that these are inadequate and, frankly, unsafe conditions and that she will undertake to review the need for full planning conditions to apply to them.

Lord Deben (Con): I have some sympathy with the arguments behind it, but the amendment seems entirely the wrong one. The noble Lord, Lord Taylor, is absolutely right about the release of land. If one has a criticism of government, it is the very strong one that we have not made people release land. There is enough land in London to provide the homes we need if it were released. We have not done it; nor did the previous Government; nor the one before; nor the one before that. Yet all the way along we have known that the land is there.

However, it is not very helpful to bring forward an amendment which simply tells every local authority that it must do the same thing. I deeply disagree with the noble Baroness, Lady Andrews. You cannot just talk about localism and the postcode lottery. Local authorities have got to be able to make up their minds. The other day, I had a rather sharp disagreement with my noble friend Lord True because I happened to suggest that local authorities were not entirely without guilt in the provision of houses. He immediately jumped up to defend them. I happen to think that local authorities can be good and bad. We have to believe in them and give them the right to make decisions. The noble Baroness, Lady Andrews, is just wrong to say that we have to impose from the centre these particular requirements. It is acceptable to choose to have them or not.

I want local authorities to have that choice but I do not want the Government to get off the hook on the fundamental thing, which is that action is required to make land available. It is not being made available because local government, national government and quasi-governmental bodies all say, "Well, we might need it. Probably better not to do it now. We would get a bit more money if we hold it back and put it in penny parcels". We need a serious battle to release the land, particularly in London. If we did that, I think the price would plummet because I would make it compulsory to get rid of the whole lot together and insist it was developed within a short period of time, not just hoarded by housebuilders. There is a great deal to be done but we need some radical change on that front.

If I may dare say so, this is not a sensible amendment because it does not make radical change. It merely says, once again, that every local authority has to do what the Government say. I am not in favour of that but I am in favour of some radical change.

Baroness Williams of Trafford: My Lords, I thank the noble Lord, Lord Beecham, and the noble Baroness, Lady Andrews, for tabling this amendment. The issue of space standards in new homes is worthy of detailed consideration and I am grateful for the opportunity to discuss it.

We are all committed to building the new homes that are needed to meet the needs of our population, both today and in the future, but increased supply must be allied with high-quality, well-designed homes suited to the needs of 21st-century households. I am aware of concerns that increased housebuilding should not be allowed to result in pressure to decrease the size of new homes. The Government have already taken some steps to help ensure that these pressures can be managed.

In March last year the Government published for the first time a national space standard, setting out requirements for the internal size of new homes. This was a significant step forward which built upon work by many local authorities, most notably the GLA. At the same time, the introduction of the nationally described space standard has simplified compliance for homebuilders by consolidating the many and varied standards that were being used by different planning authorities across England.

As my noble friend Lord Deben said, currently it is a decision for individual planning authorities as to whether the national space standard should be required of new housing. This is sensible, as he said, given the differences that exist between local authority areas and the need to balance competing demands for housing development. This provides flexibility of application at a local level, and there is a sound argument that this remains the right approach.

Ensuring that new homes have sufficient internal space is an important element of achieving the good design that we all want. This is a matter of concern not just for the Government or this House but for home owners and communities across the country, who are determined that new housing built in their local area should be flexible, functional and of a size suited to household needs. That is why the NPPF and the nationally described space standard continue to support local communities that wish to influence the type of development coming forward in their local area.

The importance of space standards was reflected in the *Lyons Housing Review*, which looked at a wide range of housing issues and recommended that consideration be given to making minimum space standards mandatory. The Labour Party committed to taking forward that recommendation in its manifesto, and I recognise that this is the approach that the noble Lord, Lord Beecham, and the noble Baroness, Lady Andrews, probably wish to see taken forward.

However, the Lyons review also recognised that further work was needed to avoid unintended consequences that might impact on supply in some areas. In particular, the Lyons review recognised that space standards could impact more on the market for flats than on the market for houses, could create barriers for smaller builders, and would have the greatest effect on the affordable end of the housing market. These are sensible considerations. While we must avoid any race to the bottom, we must also be mindful of how other aspects of housing supply might be affected by introducing the requirements suggested in the amendment. I would now like to propose a way forward.

6.45 pm

Now that the national space standard has been in place for more than a year, we agree that the time is right to assess how it is being used by local authorities. We therefore propose to undertake a review to see how the space standard is operating in practice. This will be completed by next spring and we will be happy to report back to the House on its findings and recommendations. We propose that this review should involve the Building Regulations Advisory Committee—BRAC. BRAC brings together a wide range of expertise from the construction sector to provide independent advice to Ministers on matters relating to building regulations. I hope that engaging its services as part of this review provides suitable reassurance that the Government respect and understand the intent behind the amendment. As part of this process we would want to involve representatives of organisations with a particular interest, such as the Royal Institute of British Architects, which has long campaigned on this issue. I would be very happy to receive suggestions from the noble Lord, Lord Beecham, and the noble Baroness, Lady Andrews, about the groups they might wish to see involved.

Lastly, I assure the House that powers already exist in the Building Act 1984 to put a requirement for minimum space standards in the building regulations if it is deemed necessary to do so. As a result, there is no need for an amendment to put it in the Bill. I hope that with those words the noble Lord will feel able to withdraw his amendment.

Lord Beecham: My Lords, I am grateful to all noble Lords who spoke in the debate, particularly my noble friend Lady Andrews and the noble Lord, Lord Taylor. It is a pity that the noble Lord, Lord True, was not in his place to hear my noble friend refer to the problem that he raised on another amendment the other evening about the conversion of commercial premises.

Lord True: I was here, my Lords. I just chose not to intervene.

Lord Beecham: I beg the noble Lord's pardon. My mind was obviously elsewhere. I should have been conscious of the noble Lord's presence. He is certainly to himself true and no doubt he will have been encouraged by the references made by my noble friend. The enthusiasm of the noble Lord, Lord Deben, for local councils to take decisions is very welcome. I do not quite recall it being as forcefully expressed in his days as Secretary of State, but my memory may be playing me false on that front.

The reality is that this amendment calls for local authorities to do no more than meet minimum standards. That seems a perfectly sensible provision. Indeed, as the Minister has already indicated, the 1984 legislation was based on a similar concept. Of course, as has already been mentioned, the Parker Morris standards operated for decades very successfully—and, frankly, should never have been abandoned.

The Minister's offer of a review and so on is helpful. I hope that that might be taken forward productively. But I think it would be desirable for the House to give an indication of its feelings here and I therefore wish to test the opinion of the House.

6.48 pm

Division on Amendment 119AA

Contents 80; Not-Contents 181.

Amendment 119AA disagreed.

Division No. 4

CONTENTS

Alton of Liverpool, L.
Andrews, B.
Bassam of Brighton, L. [Teller]
Beecham, L.
Beith, L.
Berkeley, L.
Blackstone, B.
Blunkett, L.
Bradley, L.
Bragg, L.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Cashman, L.
Chandos, V.
Clark of Windermere, L.
Clement-Jones, L.
Collins of Highbury, L.
Dean of Thornton-le-Fylde, B.
Desai, L.
Donaghy, B.
Drake, B.
Elystan-Morgan, L.
Falkner of Margravine, B.
Farrington of Ribbleton, B.
Finlay of Llandaff, B.
Foster of Bishop Auckland, L.
German, L.
Giddens, L.
Golding, B.
Grantchester, L.
Hamwee, B.
Harris of Haringey, L.
Haworth, L.
Healy of Primrose Hill, B.
Hollis of Heigham, B.
Howe of Idlicote, B.
Hoyle, L.
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Jones, L.
Jones of Whitchurch, B.
Jordan, L.
Kennedy of Southwark, L. [Teller]
Kennedy of The Shaws, B.
Kirkhill, L.
Lea of Crondall, L.
Lipsey, L.
McAvoy, L.
McDonagh, B.
McFall of Alcluith, L.
McKenzie of Luton, L.
Masham of Ilton, B.
Maxton, L.
Morris of Handsworth, L.
Morris of Yardley, B.
O'Loan, B.
Parminter, B.
Patel of Bradford, L.
Pendry, L.
Rea, L.
Roberts of Llandudno, L.
Royall of Blaisdon, B.
Sawyer, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Simon, V.
Snape, L.
Stoddart of Swindon, L.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Thornton, B.
Tope, L.
Uddin, B.
Wallace of Saltaire, L.
Wheeler, B.
Whitty, L.
Woolmer of Leeds, L.
Wrigglesworth, L.
Young of Old Scone, B.

NOT CONTENTS

Aberdare, L.
Ahmad of Wimbledon, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Balfe, L.
Berridge, B.
Black of Brentwood, L.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brookeborough, V.
Brougham and Vaux, L.
Browning, B.
Buscombe, B.
Byford, B.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cathcart, E.
Chadlington, L.
Chalker of Wallasey, B.
Chisholm of Owlpen, B.
Colwyn, L.
Cooper of Windrush, L.
Cope of Berkeley, L.

Cormack, L.
Courtown, E.
Craigavon, V.
Crathorne, L.
Cumberlege, B.
De Mauley, L.
Deben, L.
Deighton, L.
Denham, L.
Dixon-Smith, L.
Dundee, E.
Dunlop, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Faulks, L.
Feldman of Elstree, L.
Fellowes of West Stafford, L.
Fink, L.
Finn, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Geddes, L.
Gilbert of Panteg, L.
Glendonbrook, L.
Goldie, B.
Greenway, L.
Griffiths of Fforestfach, L.
Hailsham, V.
Hamilton of Epsom, L.
Harris of Peckham, L.
Hayward, L.
Higgins, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Keen of Elie, L.
Kilclooney, L.
King of Bridgwater, L.
Kirkham, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lothian, M.
Lucas, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McIntosh of Pickering, B.
Marland, L.
Marlesford, L.
Mawson, L.
Mobarik, B.
Morris of Bolton, B.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Patten, L.
Patten of Barnes, L.
Perry of Southwark, B.
Pidding, B.
Popat, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Price, L.
Prior of Brampton, L.
Rawlings, B.
Redfern, B.
Ribeiro, L.
Ridley, V.
Risby, L.
Rock, B.
Rogan, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shrewsbury, E.
Skelmersdale, L.
Smith of Hindhead, L.
Somerset, D.
Stedman-Scott, B.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Suri, L.
Sutherland of Houndwood, L.
Taylor of Holbeach, L. [Teller]
Taylor of Warwick, L.
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

6.59 pm

Clause 144: Development consent for projects that involve housing

Amendment 119B

Moved by ***The Earl of Lytton***

119B: Clause 144, page 74, line 20, at end insert—

"(7A) Guidance referred to in subsection (7) must include a requirement for the developer to pay development value for land that is compulsorily purchased for housing as part of any nationally significant infrastructure project."

The Earl of Lytton (CB): My Lords, I will speak to both amendments in this group. Amendment 119B was first tabled in Committee by my noble friend Lord Cameron of Dillington. It was then adopted by me, but in the event was moved by my noble friend the Duke of Somerset—it has been passed round like the parcel to some extent. Having read the Government's response in Committee, I felt that it was important to retable these two amendments. I express my thanks to the Minister for the fact that her department has been kind enough to talk with the Compulsory Purchase Association, at whose suggestion I tabled a large number of other amendments, which it now feels it is unnecessary to pursue further. The association explained to me that it felt things had gone about as far as it could reasonably expect. That accounts for some of the other amendments that were put down in my name recently, which I withdrew before the end of last week.

My first amendment, Amendment 119B, arises because of the proposal in this part to facilitate construction of up to 500 dwellings as part of a "nationally significant infrastructure project"—which I take to mean linear schemes such as railways, roads and pipelines, as well as more locally contained schemes, such as airports or perhaps offshore wind farms. The significant common factor about those is that they all attract the use of compulsory purchase powers as the main way in which they can be facilitated. To that extent, what are proposed to be the powers of the Secretary of State in planning terms here are closely intertwined with the process of compulsory acquisition.

This amendment touches on the manner in which the Secretary of State may make orders—on which I understand that there is consultation, but we do not know the outcome of that, and the Bill merely makes paving provision.

It is, however, a trifle hard to see what intrinsic functional or planning component of an airport, a railway, a major road or a wind farm scheme would be furnished or somehow augmented by the erection of up to 500 houses, either nearby or, perhaps even more suspiciously, some way off. I am tempted to point to the slightly absurd situation of a wind farm seven miles out to sea and the 500-house enabling development somewhere onshore. However, one can envisage situations where certain types of national infrastructure might be entirely inimical to housing amenity—such as airports.

On the question of compulsory powers—I am treating the question of the Secretary of State's prerogative here and compulsory powers as part of the

same algorithm— standard compulsory purchase and compensation practice suggests that, of the effects of a scheme facilitated by compulsory purchase, an addition in value to the claimant's land solely as a result of the scheme of works and not capable of being otherwise achieved should be disregarded in the compensation calculation. The point is settled law under what is known as the Pointe Gourd principle.

Furthermore, any element of value that could and would be reflected in the general market properly forms part of the compensation package, including what the noble Viscount described as hope value in answer to a similar amendment in Committee. However, it is one of the defences of a property owner faced with compulsory acquisition that the land to be taken is, objectively measured, in excess of what is operationally required for the scheme itself—this being a protection against what I might slightly crudely referred to as cutpurse activity in the name of the state. I should like the Minister to say whether this important safeguard is to be retained.

In Committee, my noble friend the Duke of Somerset explained that there are more than 170 bodies, mainly privatised utility companies, with compulsory powers. Those are in addition to the traditional acquiring authorities in the form of government agencies, county, borough and district councils. This is of increasing relevance. Many of these are straightforward commercial enterprises conducted for and making large profits. The amendment is designed to invite the Minister to disclose the intention behind the proposition in the Bill.

By way of further explanation, I mention that many linear features—motorways would be a common category—are achieved by a series of staged compulsory purchase orders, each one a separate order. One might imagine a situation where several lots of 500 houses might spring up along the way. The important further question I have to ask is whether the term "nationally significant infrastructure projects" is synonymous with what one might refer to as "scheme", as opposed to something else, because if it is something else, all sorts of things follow. If the purpose in the Bill is not to cross-subsidise a scheme of infrastructure works by gaining potentially profitable acres, whether on the cheap or otherwise, then what? I invite the Minister to tell us that, too.

If such a cross-subsidy is the intention, it is hardly small. Five hundred dwellings at an average plot value of £90,000 equates to £45 million in land value. Clearly, physical access to land providing this bounty is unlikely to be facilitated by the national infrastructure project itself. It will at best be tangential to it—perhaps a piece of land severed from it or in some other way altering its character. The potential for stretching the construct of "scheme" and what may usefully be swept under its coat-tails is in point here.

Even without a compulsory purchase scheme attached, what of the effect of 500 houses on local communities and their planning objectives? Several consequences might flow from a cross-subsidy scenario. We can be clear on what some of them would be. We can be fairly certain that a cross-subsidy, if that is what it is, will not provide any affordable housing, because the very nature of the cross-subsidy is to maximise the offsetting gain. It will respect neither local nor neighbourhood plans because, intrinsically, these schemes will override them. The housing will not necessarily be in the same location nor have any functional connection with the infrastructure project itself—that is, unless we get a better definition of "project" and "scheme" as terms of art. It certainly will not be transparent, because of the complicated and often opaque characteristics of infrastructure scheme accounting and development finance.

In effect, this provision in the Bill is capable of providing not only for the bypassing of congestion and constraints on progress by freeing up provision of infrastructure but bypassing elements of local democracy and principles of fair value for the compulsory giving up of land. In Committee, the Minister mentioned the philosophy of equivalence in compensation, and I agree with him to a degree, although fair market value is not necessarily the same as equivalence as interpreted by such bodies as HM Revenue and Customs.

There is another custom that I should like to raise with him, which arose long ago in the context of land acquired under wartime powers but which the Government of the day subsequently sold for high value at a later stage when it was no longer needed for its original purpose. It caused a furore about government profiteering, and the ministerial commitment that followed became known as the Crichel Down code. My family benefited from that code, having had land taken from it for the construction of a military airfield. It is—potentially, at any rate—disreputable practice for any Government to set about profiteering by dint of compulsory powers. It also sends a very undesirable message about attitudes, which will simply embed resentment, non-co-operation and mistrust.

The compulsory code and the facility of compulsory purchase are important and valuable tools for public authorities in procuring the assembly of land and the delivery of essential infrastructure. I want to make that very clear. For many years, I practised as a surveyor in the Inland Revenue valuation office, dealing with a lot of compulsory purchasing for something that was then referred to as the A27 Folkestone to Honiton trunk road. It is sad to recall that it reached neither Folkestone nor Honiton and has various gaps in the middle which continue to cause problems to this day, but that is an aside. My association with this area of activity goes back some way. I referred to the doughty Compulsory Purchase Association. I am not a member but I certainly applaud its persistence in trying to make sure that we have sensible solutions to all those points.

If we are to have a system that is not mired in uncertainty, acrimony and adversarial position-taking, that is workable in terms of freeing land and creating infrastructure and that local authorities are not frightened to contemplate using, as well as something that is not wide open to abuse at the hands of some privatised utility whose pay-and-profit structure may come before the needs of society, this part of the Bill needs clarification. That is what I seek in the first of these amendments.

Amendment 128YAR—I paused when I saw that acronym and wondered whether this was a reference to my West Country roots, where "yar" seems to be one of the expletives that one hears very commonly—provides an overarching duty of care. The need for

[The Earl of Lytton]
this arises because of the manner in which the current compulsory purchase process can be manipulated to the detriment of the claimant. There are many examples of this across the country. It looks as though the Government have, at last, realised there is an issue with late payment as they have agreed to take certain steps. I am very grateful to the Minister for that. However, I still feel that this marker of fair dealing and honest measures should be in a Bill of this sort. The amendment does no more than go some small way to redressing an abiding perception of unfairness and imbalance when claimants are faced with an acquiring authority seeking to acquire land. I beg to move.

7.15 pm

Lord Cameron of Dillington: My Lords, I rise to support the second amendment in this group, Amendment 128YAR, on the duty of care where compulsory purchase powers are involved. I do so from personal experience. Some 25 or 30 years ago, I had the Ilminster bypass through my farm. It was part of the improvements to the A303, which I strongly supported. I still strongly support more improvements to the A303 and hope we shall get them. As a supporter, I expected to be an equal partner in the process, the scheme and the negotiations, but I was left in no doubt that, it being a compulsory purchase, I had little or no say in the way the project was developed over my land. I am talking not about engineering schemes, although I disagreed with it being downgraded from a dual carriageway to a very dangerous three-lane single carriageway, but about things such as on-site planting and off-site planting, where, as a fairly knowledgeable forester, I was definitely considered inferior to their expert and largely ignored. There needs to be rebalancing with an obligation on the purchasing agents and the acquiring authority to treat their customers with care. There is a very real danger of property owners, who include householders, businessmen, farmers and others, being bullied and bulldozed by the acquiring authority. It is not necessarily always an agent of the state; it can be a privatised authority. In essence, as an owner, you are over a barrel. Everyone knows it and that whatever the acquiring authority wants, it can pretty well get, whatever the views of the owner or householder involved. To avoid the acquiring authority riding roughshod over those it should be treating as customers, we need this duty of care to be introduced.

The Duke of Somerset (CB): My Lords, I, too, support these amendments in the name of my noble friend. I thank the Minister for making some good progress with the arguments I put forward in Committee. We are going to see that in the amendments that are about to be moved. On interest rates for late payments, it would be good if the Government could commit to monitoring the success of the penal rates of interest for securing payment of compensation before entry. That would be very helpful.

These concessions still leave two topics unresolved from the group that I spoke to in Committee. First, on NSIPs, which are covered by the first amendment in this group, the Government are arguing that the landowner will get only current use value rather than development value for up to 500 homes with no functional link to the project but situated within one mile of it. This is confiscatory. I again ask the Government: who will benefit from this largesse? Is it the house purchaser or, probably more likely, the infrastructure provider? If it is the latter, this surely demonstrates the unfairness of the idea. The principle of equivalence loses coherence when applied as I have just mentioned. A farmer or landowner may have several tens of acres removed from his holding by this means, leaving his business unsustainable as a result. Existing use values would be unlikely to allow him to purchase elsewhere to rebuild his business, especially after the considerable costs he is bound to incur. In effect, the acquirer is giving himself planning permission to take land at lower value, develop it and gain a large financial uplift at the expense of the original owner. At the same time, it would ignore local plans and local neighbourhood plans.

I turn to the second amendment in this group, relating to a duty of care. In Committee, the noble Viscount, Lord Younger, on behalf of the Government, said that,

"claimants should be treated with fairness … and kept up to date",

and that,

"competent professionals should be advising their clients to act in this way".—[*Official Report*, 23/3/16; col. 2451.]

The word "should" appears again and again. This is not the same as "must" or "shall". Similarly, to my mind the word "urges" in this context is not strong enough.

I do not really understand why the Government should wish to deny Amendment 128YAR, which would merely strengthen and make mandatory the points that the Minister advocated in Committee. Clear guidance would not give those people subject to compulsory purchase orders the comfort that a compulsory duty of care, as incorporated in this amendment, would deliver. It would also provide a benchmark by which to judge whether an acquiring authority was behaving fairly and reasonably. I ask the Government to consider carefully accepting both these useful amendments.

Lord Campbell-Savours (Lab): My Lords, I totally oppose Amendment 119B. I made a long contribution in Committee —I think it was 18 or 20 minutes—on the whole question of the compulsory purchase of land.

I want to ask the mover of this amendment and his supporters a very simple question. In Committee I drew attention to the value of agricultural land, and the value of that land when it is given full planning permission. If I go by memory, I quoted figures of £880,000 in west Cumberland, where my former constituency was; £4 million per hectare in Watford; and £7 million per hectare somewhere on the southern outskirts of London, although I cannot remember the place exactly. Why should a landowner have the value of his or her land transformed from between £15,000 and £20,000 a hectare to between £4 million and £7 million a hectare simply on the stroke of a pen

designating a national infrastructure scheme somewhere in the UK? What right does he or she have to that increased value on land to which they have done absolutely nothing to secure that additional value apart from own it?

When our fathers went to war in the Second World War, they did not fight for a country where people could make vast fortunes simply by holding land. The cost of that land falls upon people all over the UK who now cannot afford to buy a home, particularly in our major cities. The price that they are paying for all that is to feed the landowners who own the land, who should be readily giving up that land to help to deal with the national housing crisis at the price of its worth to them in its existing use, but of course they do not want to do that.

If people outside reading *Hansard* think the amendment is complicated, it is actually quite simple: it would protect landowners and their wealth, and the people who would pay for that are the people who cannot afford to do so—young people throughout the country who cannot afford to buy a home.

Viscount Younger of Leckie (Con): My Lords, the noble Earl, Lord Lytton, has helpfully expressed concerns about landowners losing out from any uplift in land values when the compulsory acquisition of land is sought for housing as part of an application for nationally significant infrastructure. He has also raised the important issue of how claimants are treated by acquiring authorities. I recognise that these are also issues of concern for members of the Country Land and Business Association, who met the Minister for Housing and Planning last week to discuss these matters and our proposals for further compulsory purchase reforms, which are now out to consultation, which the noble Earl alluded to. We welcome these discussions with the CLA and look forward to receiving its further thoughts in response to the current consultation.

I turn first to Amendment 119B. We had quite an interesting short debate, particularly with the intervention just now from the noble Lord, Lord Campbell-Savours. In response to the noble Earl, and taking account of the comments from the noble Duke, the Duke of Somerset, I can only reiterate the main points of the response to the amendment made in Committee. A key principle under the Land Compensation Act 1961 is that compensation is offered at the open market value of the land. The open market value will take into account the effect of any existing planning permissions, and any that might be given in future in accordance with the planning assumptions in the 1961 Act. Any increase or decrease in value that is due solely to the scheme that will acquire the land—for example, a nationally significant infrastructure project including related housing development—is disregarded. The same principles apply irrespective of the powers under which compulsory acquisition is granted.

Amendment 128YAR would introduce a statutory duty of care to be owed by acquiring authorities to claimants. I agree completely with the noble Earl, Lord Lytton, that those whose land is being taken by compulsion should be treated fairly and with respect. I also listened carefully to the comments from the noble Lord, Lord Cameron, and I know that stretch of the A303 reasonably well. I also respected the comments made by the noble Duke, the Duke of Somerset. However, I do not think that imposing a statutory duty is necessary to achieve that fairness and respect. Instead, the way forward is to set out clear expectations for acquiring authorities' behaviour in dealing with claimants in guidance, and to ensure that the system itself is fair to claimants. We have done the former already: updated guidance was published in October 2015. The latter is being addressed through measures in the Bill; provisions on lengthening the notice before entry and earlier advance payments will make the system fairer for claimants. We are also consulting on further proposals to ensure that claimants receive fair compensation, to further encourage the prompt payment of advance payments and to ensure that claimants in areas with high rateable values are not systematically excluded from issuing blight notices.

As I am sure the noble Earl will appreciate, Amendment 119B would require a fundamental change to the provisions for assessing compensation for land compulsorily acquired in the Land Compensation Act 1961. For that reason, we will be unable to support this amendment. On Amendment 128YAR, as I have explained, the Government do not consider that a statutory duty of care is necessary. I know the noble Earl will be disappointed by this, but none the less I ask him not to move his amendment.

However, I emphasise that we will of course be happy to continue our engagement with the noble Earl and other interested parties, should they wish to discuss these matters further, particularly in relation to Amendment 128YAR, as it may be possible that more can be done through changes to guidance.

The Earl of Lytton: My Lords, I thank the Minister for that, particularly for his comments on the second of the two amendments, which seems to be a profitable suggestion and an appropriate way forward. I very much appreciate the opportunity of taking him up on that as matters proceed. In a sense, it is one of those "motherhood and apple pie" amendments. I make no apology for that because the overarching purpose and geometry of how these things are dealt with is important, as indeed corporate social responsibility might be in any other walk of life.

I am entirely unsurprised that the Minister does not go with the first of my amendments, Amendment 119B. I am equally entirely unsurprised that the noble Lord, Lord Campbell-Savours, disagrees in forthright terms with what I have suggested. The reality is that all sorts of businesses and individuals profit in one form or another from windfall gains, and it is a truism that those windfall gains do not coincide with the circumstances in which they could feed into the support of the needy and the underprivileged, particularly in housing terms, other than through the intervention of the state. That is a perfectly proper way of doing it.

7.30 pm

The intervention of the state comes in the form of various types of taxation, such as on capital gains, and to some extent on the aspects built into the grant of a planning consent which gives rise to what the noble Lord, Lord Campbell-Savours, described as a huge

[The Earl of Lytton]
increase in value. I refer of course to Section 106 of the Town and Country Planning Act and its clawback provisions; increasingly, a community infrastructure levy does the same in different ways. There are ways in which society benefits from this, but I go back to a point that I made during earlier stages of the Bill. If the process of compulsory acquisition is seen as expropriatory then nothing will come of that. Everybody goes to earth, to use an old country term. There is no collaboration and the thing is seen as unfair.

Lord Campbell-Savours: Can the noble Earl answer the simple question that I asked? Why should a landowner whose land is worth between £15,000 and £20,000 a hectare suddenly, at the stroke of a pen designating one of these areas, find that his land can be worth anything from £1 million to £7 million per hectare? How can that possibly be justified?

The Earl of Lytton: My Lords, I am not sure that I know the answer to that. The point that I was trying to get at in the process of this amendment was the question of who profited from the 500 houses. The short answer is that very large gains are made by dint of the market. The noble Lord may wish to take the view that the market should be overridden—a view that I feel certain many would share on his Benches. It does not happen to be my view and we will have to agree to differ on how this is to be dealt with. I entirely respect his view and I can see the social pinch point here, but I am trying to look at this as an economic model rather than in terms of who gains out of it.

I have gone on long enough about this and it is certainly not my intention to divide the House on it. I therefore beg leave to withdraw the amendment.

Amendment 119B withdrawn.

Amendment 120 had been withdrawn from the Marshalled List.

7.33 pm

Consideration on Report adjourned.

Junior Doctors: Industrial Action

Statement

7.33 pm

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, with the leave of the House, I will now repeat a Statement made in the other place by my right honourable friend the Secretary of State for Health on seven-day health services and junior doctors' industrial actions. The Statement is as follows:

"Mr Speaker, we have many choices in life but one thing over which we have no control is the day of the week when we get ill. That is why the first line on the first page of this Government's manifesto said that if elected, we would deliver a seven-day NHS so that we can promise NHS patients the same quality care every day of the week. We know from countless studies that there is a weekend effect showing higher mortality rates for people admitted to hospital at weekends. The British public know it too and today we reaffirm that no trade union has a right to veto a manifesto promise voted for by the British people. We are proud of our NHS as one of our greatest institutions but we must turn that pride into actions. A seven-day service will help us turn the NHS into one of the safest, highest-quality healthcare systems in the world.

This week, the BMA has called on junior doctors to withdraw emergency care for the first time ever. I will update the House on the extensive measures being taken up and down the country to try to keep patients safe but, before I do that, I wish to appeal directly to all junior doctors not to withdraw emergency cover, which will create particular risks for A&Es, maternity units and intensive care units. I understand the frustration which many junior doctors feel: that because of pressures on the NHS front line, they are not always able to give patients the highest quality of care they would like to. I understand that some doctors may disagree with the Government over our seven-day NHS plans, and particularly on the introduction of a new contract. I also understand that doctors work incredibly hard, including at weekends, and that strong feelings exist on the single remaining disagreement of substance—Saturday premium pay. But the new contract offers junior doctors who work frequently at weekends more Saturday premium pay than nurses, paramedics, the assistants who work in their own operating theatres, police officers, firefighters and nearly every other worker in the public and private sectors.

Regrettably, over the course of this pay dispute 150,000 sick and vulnerable people have seen their care disrupted. The public will rightly question whether this is appropriate or proportionate action by professionals whose patients depend upon them. Taking strike action is a choice. If they will not listen to the Health Secretary, I urge them to listen to some of the country's most experienced doctors. Professor Sir Bruce Keogh, Professor Dame Sally Davies and the former Labour Health Minister Lord Darzi have all urged doctors to consider the damage both to patients and the reputation of the medical profession that this will cause.

Let me also address today some of the other concerns that have been raised by junior doctors. First, there is concern that a seven-day NHS might spread resources too thinly. This Government's financial commitment to the NHS has already seen a like-for-like increase of 10,700 more hospital nurses and 10,100 more doctors. This is following last year's spending review which, despite the pressure on national finances, committed the Government to a £10 billion real-terms increase in the annual NHS budget by 2020. So while it is true that pressures on the NHS will continue to increase on the back of an ageing population, we are not saying that the current workforce will have to bear all the strain of delivering a seven-day service, even though they must of course play their part.

Secondly, there is concern that the Government may want to see all NHS services operating seven days. Let me be clear: our plans are not about elective care but about improving the consistency of urgent and emergency care at weekends and evenings. To do this, the Academy of Medical Royal Colleges has prioritised four key clinical standards that need to be

met. These include: making sure that patients are seen by a senior decision-maker no more than 14 hours after arrival at hospital; the seven-day availability of diagnostic tests with a one-hour turnaround for the most critically ill patients; 24-hour access to consultant-directed interventions, such as interventional radiology or endoscopy; and twice-daily reviews of patients in high-dependency areas such as intensive care units. Around one-quarter of the country will be covered by trusts meeting these standards from next April, rising to the whole country by 2020.

Thirdly, there is concern that proper seven-day services need support services for doctors at the weekends and evenings, as much as doctors themselves. Less than half of hospitals are currently meeting the standard on weekend diagnostic services, meaning that patients needing urgent or emergency tests on a Saturday or Sunday, such as urgent ultrasounds for gallstones or diagnostics for acute heart failure, face extra hours in hospital at weekends or even days of anxiety waiting for weekday tests. Our new standards will change this, with senior clinician-directed diagnostic tests available seven days a week for all hospitals by 2020.

Finally, there is a legitimate concern that a seven-day NHS needs to apply to services offered outside hospitals if we are properly to reduce pressure on struggling A&E departments. So, as announced last week, this Government's seven-day NHS will also see transformed services through our GPs.

We are committing an extra £2.4 billion a year for GP services by 2020-21, meaning that spending will rise from £9.6 billion last year to over £12 billion by 2021—a 14% percent real-terms increase. Thanks to this significant investment, patients will see a genuine transformation in how general practice services operate in England. By 2020 everyone should have easier and more convenient access to GP services, including at evenings and weekends. We will not be asking all GP practices to open at weekends to deliver this commitment, but instead using networks of practices to make sure people can get an evening or weekend appointment nearby, even if not at their regular practice. We have committed to recruiting an additional 5,000 doctors to work in general practice to help meet this commitment and we will support GPs in this transformation by harnessing technology to reduce bureaucratic burdens.

Returning to the strikes, the impact of the next two days will be unprecedented, with over 110,000 outpatient appointments and over 12,500 operations cancelled. However, the NHS has made exhaustive preparations to try to make sure patients remain safe, and I want to thank those people in NHS England, NHS Improvement and every trust in the country, who have been working incredibly hard over this weekend to that effect.

I have chaired a number of contingency planning meetings, bringing together the operational response across the entirety of the NHS and social care. From this, NHS England has worked with every trust to ensure that it has plans in place to provide safe care, with particular focus on its emergency departments, maternity units, cardiac arrest teams and mental health crisis teams. As part of their duties for civil contingency preparedness, trusts also have major incident plans in place which are ready to be enacted if required. NHS England has also asked GP practices and other primary care providers in some areas to extend their opening hours so patients can continue to get the important but non-emergency care, such as follow-ups and assessments, they need.

Finally, we have set up a dedicated strike page on the NHS website to provide as much information as possible to the public during this strike action on local alternatives to hospital care, where these alternatives are and when they are open. This website is now live and can be reached at www.nhs.uk/strike. The NHS 111 system will also work as normal during the strike and has been provided with additional staff to cope with the expected increased demand. We would encourage people who are concerned that they may need urgent care to visit this website and call 111 in advance of showing up at their local A&E.

The NHS is busting a gut to keep the public safe. However, we should not lose sight of the underlying reason for this dispute: namely, this Government's determination to be the first country in the world to offer a proper patient-focused, seven-day health service. To help deliver this, the NHS will this year receive the sixth biggest funding increase in its history. However, it is not just about money, as we know from the mistakes of previous Governments of all colours. It is also about taking the tough and difficult decisions necessary to make sure that we really do turn our NHS into the safest, highest-quality healthcare system in the world. This Government will not duck that challenge, and I commend this Statement to the House.

7.44 pm

Lord Hunt of Kings Heath (Lab): First, my Lords, I thank the noble Lord for repeating the Statement made in the other place. No one could be in any doubt that tomorrow's strike will be a very sad day indeed for the NHS and the country. What is so frustrating is that it could, I am convinced, have been prevented. Yesterday the Health Secretary was presented with a genuine and constructive cross-party proposal to pilot the contract and potentially avert this week's strike. A responsible Health Secretary would have grasped the opportunity immediately or would at least have considered and discussed it. However, all we had was a tweet yesterday morning from the Health Secretary saying, "Labour 'plan' is opportunism". That was a deeply disappointing response.

The proposal was not a Labour plan. It was co-signed by two respected former Ministers, the Conservative Member for Central Suffolk and North Ipswich, and the Liberal Democrat Member for North Norfolk, as well as the SNP's health spokesperson, the honourable lady the Member for Central Ayrshire. It not only had the support of a number of medical royal colleges, including the Royal College of Surgeons, but, crucially, the BMA had indicated that it was prepared to meet with the Government and discuss calling off Tuesday's and Wednesday's action.

The Health Secretary has claimed that a "phased imposition" is the same as a pilot, but can the Minister explain how imposition on a predetermined timescale, with no opportunity to make changes to the proposed contract and no independent evaluation of the impact on patient care, can be the same as a pilot? Surely the

[Lord Hunt of Kings Heath]
Health Secretary should have welcomed independent evaluation. Surely he wants to know how changing this contract contributes in practice to his aspirations for more consistent emergency care across seven days of the week. And surely there was always a strong case for road testing the contract, thus enabling junior hospital doctors and managers in those hospitals to bring about changes in patient care and the outcomes that the Government want to see. The Government claim that any further delay will mean that it will take longer to eliminate the so-called "weekend effect", but he has failed so far to produce any convincing evidence to show how changing the junior doctors' contract by itself will deliver that aim.

On safety, NHS England's update today says that the NHS is pulling out all the stops to minimise the risks to the quality and safety of care. We know that in many cases senior clinical staff will be stepping in to provide cover and ensure the provision of essential services. But there is no escaping the fact that this is a time of unprecedented risk, as regards what happens not just in the next two days but in the months and years ahead.

So can the Minister say how it will be safe to impose a contract when no one knows what the impact will be on recruitment and retention and when everyone in the service fears the worst? How can it be safe when we are running the risk of losing hundreds of women doctors, given the contract's disproportionate impact on women—which, as the Minister knows, was disclosed by the belated publication of the equality assessment? How can it be safe to impose a contract that risks destroying the morale of junior doctors and to introduce a contract where there is no guarantee that effective and robust safeguards will be in place to control hours worked and shift patterns?

I noted that the Statement made some rather eloquent or exaggerated claims about the amount of money going into the NHS. I do not want to distract our focus from the essential point in question, but I point out to the Minister that we are on the longest period when the amount of real-terms growth going into the NHS has been less than 1% per annum, against an average increase since 1948 of 4% per annum. Our share of GDP spent on health is going back down to the days in the mid-1990s when we were spending about 6% of GDP. When you compare that to the demands being placed on the health service and the workforce demands that the new contract entails, it is very difficult to see how you can square the ambitions of the Secretary of State on the one hand and the practical reality of what resource has been made available.

Even at this late hour—and it is later than when the other place debated this Statement—I hope that sense will be seen and that the Government will recognise that there is a need to come back to the table to discuss not just the contract but the wider issues of the disengagement of the junior doctors, their concerns about the current approach to training, the fear that the imposition of this contract will lead to less well-trained doctors in the future, and indeed the issues around workforce and women doctors which have now been identified but on which I have yet to hear a convincing response from the Government. Even now, the case for getting round the table with the junior doctors is persuasive.

Baroness Walmsley (LD): My Lords, instead of reeling off the litany of justifications and figures that we have just heard, is it not really time for the Secretary of State to put aside his pride, stop being pig-headed and listen to people in the national interest? He is clearly not listening to the junior doctors but will he not now listen to the sensible compromise proposal from other parties, including my own, which, I point out, does not undermine the Government's objectives in the long term?

There are two big differences between the euphemistic "gradual introduction" that he is proposing and the pilot projects proposed by other parties. The first is that of course a pilot scheme can be independently evaluated. If the Secretary of State is so confident that this scheme will not damage patients or doctors, why is he afraid of proper evaluation? The proper and safe implementation of the new contract is surely worth a very small delay. Secondly, a pilot would mean that all junior doctors evaluated in a hospital would be on the same contract, whereas piecemeal introduction, which he is proposing, could mean that two doctors working side by side in the same department were on totally different contracts. Does the Minister not agree that this would be deeply divisive, as well as very difficult practically?

I am also very concerned about the idea of consultants manning A&E departments this week. While I am grateful to them for being willing to step forward in the interests of patient safety, I am concerned that it might work in the opposite direction in their own departments. Who will take the difficult decisions in, for example, cardiology or vascular medicine when urgent cases come up and the consultant is setting somebody's broken finger in A&E? Has the Minister thought about that?

Should not the Secretary of State consider his position? Is he really the right person to solve this dispute? Patient safety, not the future of his own job, should be his prime consideration. This week, that will be at risk—website or no website.

Lord Prior of Brampton: My Lords, I am personally massively sympathetic to the concerns expressed to me by many junior doctors over the last three or four months, and in fact over the last 12 or 13 years. For family and personal reasons, too, I feel hugely in sympathy with the situation in which they find themselves. There is no doubt that the training of junior doctors is wholly inadequate. Their placements are short term and they move from one rota to another, with many rotas unfilled. There is a lack of teamwork now that the old firm has gone and nothing has replaced it. There is also a lack of leadership and mentorship for juniors.

When I compare the training and TLC that junior doctors get with that received by those going into accounting, law, big corporates, investment banking or other areas like that, I think that the lot of the junior doctor is not a good one. I remember reading a paper, probably 10 years ago, by Dame Carol Black

when she was president of the Royal College of Physicians. She talked about the deprofessionalisation of the profession, and that really will come to pass if we are not careful. So I am hugely in sympathy with many of these issues and I have particular sympathy for women—especially young women with families and so on.

But let us be honest about this. That is not what this contractual dispute is about. Those are the big issues but this dispute is about pay on Saturdays. That is the issue that the contract fell down on. The noble Lord and the noble Baroness opposite talked about a pilot—but are we really talking about piloting a different Saturday pay structure? Everything else was agreed between the BMA and Sir David Dalton. To be honest, it is disingenuous to say that we could pilot something like that. Fundamentally, this is about pay, and I think that the junior doctors have got it wrong when they go on strike and withdraw emergency cover over an issue related to premium pay on Saturdays. It is simply not a big enough issue to cross the threshold of withdrawing emergency cover. They must recognise that. There will be a time to address the more fundamental issues affecting the training of junior doctors, and they must be addressed for the sake of the profession, of patients and of hospitals—but, sadly, that is not the issue that we are confronting today.

Two other important issues were raised. In answer to the noble Baroness, not all cardiologists and cardiac surgeons are rushing off to an A&E department. They will cover urgent and emergency cases in their own specialties as well.

Although in a way it is not for debate today, the noble Lord, Lord Hunt, raised the very fundamental, long-term problem of whether there are the resources within the system to deliver the ambitions that we all have for a world-class health service. Maybe today is not the time to answer that: we should probably focus on the matter in hand.

7.56 pm

Lord Campbell-Savours (Lab): My Lords, perhaps I might ask two very brief questions. First, I recognise the undertaking that the Conservative Party gave in its manifesto, but were the BMA—or the junior doctors, more widely—consulted prior to the general election on their views on seven-day working? That is quite a simple question. If they were, what was their response in that consultation? Secondly, following the Written Questions that I tabled recently on information that the Government might hold on the position of junior doctors, why do the Government not keep statistics on doctors' resignations from the National Health Service and on the emigration of doctors who cede their posts in the United Kingdom to take up posts overseas? Why are those vital statistics not available, particularly when we are going into this very difficult period?

Lord Prior of Brampton: My Lords, first, the need for a seven-day service has been recognised by the medical profession for a number of years. I remember reading the *Future Hospital* report four or five years ago in which the Royal College of Physicians talked about a seven-day service. Of course, it was the academy of the royal colleges that produced the 10 clinical standards that underpin a seven-day service. The issue is not whether or not there should be a seven-day service; the more serious issue that has been raised is whether we have the resources to deliver a seven-day service. We argue that we are putting enough resources into the NHS to do that. So I think that the principle of a seven-day service, certainly for urgent and emergency care, if not for elective care, is well accepted by the medical profession.

Interestingly, on the point about the number of people leaving—the resignations that the noble Lord referred to—I was pretty horrified to hear about the son of someone on the noble Lord's Benches who had left the NHS to go to work in America two years ago, I think. He described a pretty torrid time working in the NHS as a junior doctor. To cap it all, when he went, there was no exit interview. No one was really concerned or knew that he had gone. That is just another illustration of the fact that we have not sufficiently respected or valued junior doctors in the NHS.

Lord Birt (CB): My Lords, I wholly support the Government's objective of seven-day working in every part, eventually, of the health service. However, I observe that the Government are trying to achieve these objectives, as the noble Lord, Lord Hunt, has just said, in a very economically adverse climate where health spend per head is in decline, in a country where the population is expanding very rapidly, and where we see significant bottlenecks right across the system. All of us can see how important junior doctors are to the system. I do not know how many of your Lordships saw the excellent BBC series on junior doctors a year or so ago set at the Royal Liverpool Hospital, in which their importance to the system and dedication was simply remarkable. We would all, I am sure, stand behind that. They should not be threatening to withdraw their labour, but it is amazing that a group of such dedicated workers can even consider doing such an inappropriate thing—they are not natural strikers. The question I put to the Minister is this: as I said, the Government's objective is correct, but should they not move towards it with greater stealth in the context of moving towards a health service that is again appropriately funded?

Lord Prior of Brampton: My Lords, I echo the sentiments of the noble Lord. I recognise the vocational commitment of junior doctors and that they are not natural strikers. It is a tragedy that we have got into this situation. There are no winners in this dispute and only one absolutely clear loser: the thousands of patients who are now suffering. The noble Lord asked whether we could have got here with greater stealth. These discussions have been going on for three years. We have had one independent review done by the DDRB and a number of independent assessments of the impact on mortality of not working at weekends. The Government are putting £10 billion of new money into the health service over the next five years, which was asked for by the NHS. In the NHS there will always be a lack of resources: demand will always exceed supply in a system where there is no price mechanism. That is an issue that all Ministers have lived with in the NHS since 1948. However, I echo his views: it is tragic that we find ourselves in this position with junior doctors. They are not natural strikers.

Baroness Bottomley of Nettlestone (Con): My Lords, is it not unworthy to describe the Secretary of State for Health as being anything other than unequivocally committed to improving patient safety in the NHS? Consistently and throughout his time as Secretary of State, this has been a priority of his with total dedication, and I much regret that anybody should question that. However, is it not equally deplorable that junior doctors, who are respected and loved by the public and are on a step on their career towards consultant posts, should take an action that will undermine the respect and confidence in which doctors have long been held? My noble friend rightly pointed out the many issues concerned with junior doctor training, but extra money for working on a Saturday, which junior doctors have always had to do, as have those in many other professions, is not the reason now to jeopardise their reputation among the public.

Lord Prior of Brampton: I can confirm both those points. If the Secretary of State for Health was to fall under a bus tomorrow and somebody was writing his obituary, it is "patient safety" that would be written on his tombstone. That is the one big issue that he has consistently fought for ever since the problems at Mid Staffordshire were uncovered three years ago. Patient safety is his guiding star as Secretary of State for Health. I agree with my noble friend that it is tragic to see thousands of highly committed, highly intelligent and otherwise sensible young people going out on strike.

Lord Beecham (Lab): My Lords, I am sure that there are many in your Lordships' House, and perhaps people outside it, who rather regret that the noble Lord himself is not Secretary of State for Health as opposed to the present incumbent of the office. He has shown great sensitivity about this issue and, indeed, all others, and is widely respected here. However, is it not unfortunate that the Statement made this afternoon is somewhat disingenuous? It refers, for example, to the high mortality rates for people admitted to hospital at weekends—something which has been disputed in the sense that, to the extent that it exists, it is not necessarily connected to the issue of a seven-day service but rather a function of the emergency situation that many people face which is why they are admitted to hospital at that time.

Is it not equally somewhat disingenuous to refer to the recently announced further investment in the NHS as something that is directed at the issue which is the cause of the dispute? As has already been pointed out, the service has been denied comparable funding to that in previous years and is in a very serious condition up and down the country. I hope that the Minister can persuade the Secretary of State that it would not be a futile exercise, as he has perhaps suggested today, to accept the suggestion made by the group of four people from different backgrounds, including a former Conservative Health Minister who was also a doctor, to have a discussion about trialling the new scheme? As is so often the case in this House in other contexts, decisions appear to have been made without any proper assessment of the potential outcome. In this case, there is a very serious potential outcome both for the service and for patients. Will the Minister speak again to the Secretary of State to reflect the view, which I suspect is fairly widely shared, that the Secretary of State is making a mistake in not acting on the suggestion that has been made?

Lord Prior of Brampton: On mortality rates at weekends, the noble Lord is absolutely right that there has been confusion about the difference between the terms "excess mortality" and "avoidable mortality"—the two are clearly very different. However, having said that, I think it is widely recognised that the lack of senior cover and diagnostic support, particularly at weekends, is not at all satisfactory. Certainly Bruce Keogh and others have looked at this—I think that there have been six very detailed studies looking at mortality at weekends. The fact that there is a higher level of mortality than you would expect is ground for providing greater support at weekends. As for the suggestion that there should be a pilot scheme to study the contract, I tried to answer that in my response to his noble friend and I have nothing else to add to that.

Lord Patel (CB): My Lords, what will happen tomorrow and the day after is unprecedented in the history of the NHS: junior doctors will withdraw their services from emergency care. Despite some of my own family disagreeing with me, I, as a doctor, could never have contemplated taking that action. But the junior doctors today do feel hard done by for many reasons, which the Minister has stated, about how they and their training are valued—and that is an issue that we need to address. I am not allowed to make a speech today, and I will not, so let me come to the crucial point. The Minister said that the crucial issue is that of Saturday pay. It cannot be impossible for both sides to agree to sit down to break this deadlock and discuss these pay issues. Otherwise, where are we going to go? We have to find a solution. On the one hand, the junior doctors are saying, "Do not impose the contract on us", and on the other hand, the Secretary of State is saying, "I have to impose the contract because you won't agree with my pay conditions". There has to be a solution. What solution does the Minister think we might have?

Lord Prior of Brampton: My Lords, we have discussed this issue outside the Chamber. Although one must never give up hope, I find it hard at the moment to see how a negotiated, agreed solution might be found. We have had three years of negotiations; we have had 75 meetings. We came within a hair's breadth of a solution, with the Government making concessions around how much of Saturday should attract premium pay, but we were unable to do the deal. Sir David Dalton, a very distinguished, well-respected chief executive of Salford Royal, led those negotiations and his advice to us afterwards was that he could not find a way through it. His advice then was that we had no choice but to impose the contract. None of us wanted to impose the contract; we all wanted to find a solution. But with the current BMA executive we found that impossible. Much as I regret it, as things stand this evening, I do not see a solution.

Lord Ribeiro (Con): My Lords, as a junior doctor in 1975, I went on strike, so I can understand why junior doctors might feel the way they do. The difference

between 1975 and now is that we did not withdraw emergency cover. That is the point we should concentrate on, because I fear that, on Tuesday and Wednesday, people will be denied care irrespective of the cover provided by consultants and we will see some deaths occurring. When they do, the blame will fall squarely on both parties, which is most unfortunate. Something needs to be done. It is late and, as the noble Lord, Lord Patel, said, we are talking about a sticking point over Saturday. Surely we could agree that emergency care starts at 1 pm with premium pay. Perhaps that would be both sides meeting in the middle.

When this is all over—I regret that I think that tomorrow's strike will go ahead—may I please ask that we have an independent inquiry and review? This is about the sustainability of a workforce that does not use junior doctors at the front door to deal with all the work. We need a workforce that will put senior decision-making at the front door of a hospital so that the juniors can have more time to be supervised and trained.

Lord Prior of Brampton: My Lords, I completely agree with that. When the dust has settled, we have to take a wholly new and independent look at how junior doctors are trained. As the noble Lord will know, Sue Bailey, chair of the Academy of Medical Royal Colleges, has been asked to look at this, but I do not think it is possible to do that sensibly while the dispute is ongoing. We need the full co-operation of junior doctors in that review. I would personally welcome an independent assessment of the way we train junior doctors once this dispute has been settled. I share my noble friend's views entirely: it would be wonderful if the junior doctors would agree to provide emergency cover on Tuesday and Wednesday this week. But it is now 8.15 pm on Monday and time is rapidly running out.

Lord Elystan-Morgan (CB): My Lords, the High Court will adjudicate in the first week of June on whether the Secretary of State ever had the authority to dictate to the junior doctors. There are different views on that question, but it does not really matter if the judgment goes against the junior doctors; the question is whether it is politic, sensible and proper in all the circumstances for the Minister to proceed by way of diktat. I urgently ask the House to consider these words; they are not mine but those of Sir David Nicholson, who up to two years ago, as your Lordships will remember, was the head of the NHS in England. They are addressed directly to the Secretary of State:

"Our future consultants, leaders and chief executives will forever remember you win by the exercise of power and imposition a catastrophe for the NHS".

Lord Prior of Brampton: My Lords, as I have said, this is not a place where we ever wanted to be. Imposition was absolutely a last resort and I again try to assure the House that it was arrived at only after three years of negotiation, an independent review by the DDRB and countless meetings. It was felt that, after all that time had elapsed, we had no choice but to impose the contract.

The Earl of Caithness (Con): My Lords, I declare an interest as one of those who have suffered as a result of the doctors' strike. My appointment on 9 March was postponed until tomorrow—that was a seven-week delay; I do not know when the next appointment will be—but many people are in a much more serious condition than me. Can my noble friend tell the House what the knock-on effect will be? The Statement referred to 110,000 patients who were due to be seen at the time of the last doctors' strike, who were scheduled to come in for this doctors' strike and who will now be delayed yet again and clog up the system.

Lord Prior of Brampton: My Lords, there is an important distinction to be made around withdrawal of emergency cover. I can of course sympathise with the tens of thousands of patients who have been badly inconvenienced—that is bad enough—but when you withdraw emergency cover, people can die. It will be surprising if there are not some severe outcomes from what is happening tomorrow. Tens of thousands of people have been severely inconvenienced; tens of thousands of people have had their treatment disrupted, but the real tragedy will be when people lose their lives.

Baroness Cumberlege (Con): My Lords, I thank the Minister for setting out some of the difficulties that junior doctors face. I declare an interest: I run a company which trains a lot of junior doctors. Ten years ago I did the work on professionalism for Dame Carol Black and we produced our report, *Doctors in Society*. We said that professionalism is signified by the values, behaviours and relationships that underpin the trust the public have in doctors.

On Wednesday of last week I made a statement—I was asked to give a lecture—and I threw down a gauntlet to the Royal College of Physicians and said that it was 10 years since we did that work; would it not now consider redoing it? I am delighted to say that it has accepted that and I hope my noble friend will support it.

Medicine is a much-respected profession and withdrawing care from those in extremis is an erosion of professionalism. It is also an erosion of trust that the public have in doctors. I hope this strike will be resolved as soon as possible and that, at least, we can get on to see the issues that the Minister has mentioned and address them through the royal college and the academy.

Lord Prior of Brampton (Con): My Lords, time is up so I shall be very brief. I am delighted that the Royal College of Physicians is going to redo its work on professionalism. My noble friend is right that the real damage could be a long-lasting damage to the public's trust in the profession. However, I am sure it will be rebuilt in time.

Housing and Planning Bill

Report (5th Day) (Continued)

8.18 pm

Clause 145: Processing of planning applications by alternative providers

Amendment 120A

Moved by ***Baroness Evans of Bowes Park***

120A: Clause 145, page 74, line 23, leave out subsections (1) and (2) and insert—

"(1) The Secretary of State may by regulations provide for temporary arrangements in particular areas to test the practicality and desirability of competition in the processing (but not determining) of applications to do with planning.

(1A) The regulations may make provision—

(a) for an application for planning permission that falls to be determined by a specified local planning authority in England to be processed, if the applicant so chooses, not by that authority but by a designated person;

(b) for any connected application also to be processed by a designated person and not by that authority.

(2) The regulations must specify a period after which any such provision ceases to apply.

That period (whether as originally specified or as subsequently extended) must end no later than five years after the first regulations under this section come into force."

Baroness Evans of Bowes Park (Con): My Lords, we had a wide-ranging debate in Committee on competition. My noble friend Lady Williams has reflected on concerns such as whether the private sector could have an inappropriate influence on decisions for planning permission. She has also considered the various reports from the DPRRC and, as a result, we have laid amendments which address many of the issues raised in your Lordships' House.

Amendment 120A does three things. First, as recommended by the DPRRC, it confirms that the purpose of the clauses is to enable pilots in discrete areas to test the benefits of introducing competition to planning application processing. Secondly, it addresses another committee recommendation by setting the maximum length of pilot schemes. Discussions with local authorities and professional bodies have suggested that a maximum period of five years is prudent to allow for lengthy applications to go through the whole process, including appeals if necessary. Thirdly, local authorities have said the pilots will not be a level playing field if designated persons only process planning applications attracting a fee and local authorities are left to do the other applications connected to the development of the sites, as those connected applications tend to attract little or no fee.

Proposed new subsection (1A)(b) enables regulations to provide that connected applications can also be processed by designated persons. Amendments 121A, 121B, 121D, 121F, 122B, 122C, 123A, 123C and 123F make consequential changes to enable connected applications to be processed by designated persons.

The DPRRC has said that we should put a list of connected applications in the Bill and take a power to add to it. I am afraid in this regard we disagree. Our recent engagement work with over a hundred authorities has highlighted a concern about connected applications. It is right that we now address it with the sector and agree a list to be included in regulations rather than impose an unworkable list now.

In Committee we heard a clear message from your Lordships that a decision on a planning application must be a democratic one by a local planning authority. Authorities cannot be allowed to delegate this decision to designated persons and nothing should bind the authority's decision. We have always been clear that decision-making will remain with the authority in a pilot area. However, I want to directly address the points noble Lords made in Committee.

Amendment 121C prevents us including in regulations anything that allows or could allow an authority's decision-making function to be carried out by a designated person. It also puts beyond doubt that any advice, report or recommendation from a designated person will not be binding on the authority responsible for determining a planning application. To support this, Amendment 123D removes Clause 146(2)(g), which was of particular concern to noble Lords in Committee.

Noble Lords wanted more detail about how the pilots would operate and, ideally, to see draft regulations. It is essential that the pilots are designed with local government and professional bodies. We have started an extensive dialogue with planning professionals that has already involved over a hundred local authorities. None the less, I want to respond to noble Lords' concerns, so Amendment 121C also places a duty on the Secretary of State to consult before making the first regulations to implement pilot schemes. Combined with other amendments, this means that your Lordships' House will be able to debate the detail of how the pilot schemes will operate after it has been co-designed and consulted on with local government.

Amendment 121 implements a recommendation from the DPRRC that the Secretary of State should be under a duty to bring back to Parliament an evaluation of the pilots and set out any conclusions that can be drawn from them.

The DPRRC recommended that the affirmative procedure should apply to all regulations made under Clause 145. We recognise that the pilots represent a significant change to the planning system and that there are understandable concerns about their potential impact. We therefore agree that the affirmative procedure provides the appropriate level of scrutiny in certain circumstances. However, the affirmative procedure is not appropriate for every exercise of the powers. We may need to quickly make small changes to procedural rules to address something that is not working as effectively as it should.

In these circumstances, we think that the negative procedure is more appropriate. This is consistent with the negative resolution procedure that applies to the development management procedure order, which sets out the procedural rules for processing planning applications. Amendment 135A gives effect to this approach and applies the affirmative procedure to the power to specify the period after which each pilot will cease, specify the description of planning applications which may be processed by designated persons during the pilots, disapply or modify planning enactments to implement the pilot, specify what are connected applications in addition to reserved matters applications during the pilots, set fees during the pilots and require data sharing during the pilots.

Let me now directly address two concerns raised by the DPRRC in its 28th report. The committee said that the Government had failed to give effect to the use of the affirmative procedure on the first exercise of these powers. However, I am afraid that we disagree. For pilot schemes to be run, the first regulations will need, for example, to set out the length of them, the

descriptions of planning applications that can be processed by designated persons and how fees should be set. Amendment 135A applies the affirmative procedure for these matters.

The committee also maintained its position that the Government should always consult before making any regulations and that every exercise of powers under Clauses 145 to 148 should be subject to the affirmative procedure. I note that the noble Lords, Lords Beecham and Lord Kennedy, have tabled Amendments 121CA and 135D to this effect, which they will speak to shortly. Again, I disagree. As I have said, the pilots are complex and we may not get the design perfect from the outset. This is the very reason why any Government use pilots to test their new approach. Consulting on every use of regulations combined with using affirmative procedures for them could snarl up the effective operation of the competition pilots, particularly where small changes to procedural rules are required. It would take six months each time we consult and use the affirmative procedure, equivalent to a 10th of the length of the five-year pilots. I appreciate the spirit and intention of the committee's recommendations, but we believe that they are simply impractical. I hope that your Lordships will agree that we have taken the committee's recommendations and applied them in a practical and effective way.

Amendment 137 means that regulations made under Clause 145 will not be treated as hybrid and will be subject only to the affirmative procedure usual for this type of scheme. We are implementing a pilot scheme, not a permanent change to the planning system. We are consulting on the first regulations before implementing any pilots, and local communities will have an opportunity to comment. These clauses are about processing, not deciding applications. Crucially, decisions remain with local planning authorities, so I suggest that private rights are not affected. In any case, it is entirely the applicant's choice as to whether to stay with the existing authority provider or select a designated person. I beg to move.

Lord Beecham (Lab): My Lords, I congratulate the noble Baroness on racing through the 15 amendments in her name in such a short time and so clearly. The amendments in my name and that of my noble friend Lord Kennedy are Amendments 121CA, 121G and 135D. The noble Baroness has referred to Amendment 121CA, which provides that the consultation should not be confined to the first regulations but should apply to any sets of regulations that might emerge. Amendment 121G would require a full list of the type of applications that constitute a connected application to be defined in regulations by the Secretary of State, while Amendment 135D would require all regulations made under Clause 145 to be affirmative.

The Government's intention to extend their fetish with privatisation to the provision of planning services emerged only at the last minute during the Bill's Report stage in the Commons. It was not the subject of prior consultation and, like the Chancellor's recent announcement about education, seems uncannily more like Lenin's concept of democratic centralism than the localism which Ministers proclaim is their watchword.

It is instructive to consider the material produced by the Government in support of their proposals. The Bill's impact assessment proclaims the importance of the planning application process being,

"resourced and organised in a way that allows an efficient and effective service to be provided",

and cites fee levels as "an important factor". Fee levels are of course prescribed by the Government themselves. The document stresses the importance of driving down the costs of processing applications and notes that there is,

"cross-sector concern that resource constraints are affecting the overall service".

Typically, this so-called impact assessment contains no evidence as to the impact of current or future costs on the performance of the planning process, although it affirms that,

"adequately resourced planning departments depend on an appropriate level of income",

which it fails to define. There is also no attempted definition of,

"well organised, efficient and low cost services",

even though the costs are determined by the Government.

8.30 pm

The document notes that the Local Government Association maintains that local taxpayers have been covering one-third of the cost of processing applications since the previous increase in fees four years ago. Interestingly, stakeholders expressed a cross-sector concern that constraints are affecting the service, while 82% of small and large builders found that 55% described the lack of resources as a "significant challenge"; 75% of applicants were unhappy with the time applications take; and 65% said they would be prepared to pay more to shorten the time.

The document goes on to enthuse about the virtues of competition in the provision of public services, including, for example, refuse collection. Though totally ignored by the impact assessment or any other document produced by the Government, there is of course a significant difference between a local authority contracting out a service when it chooses to do so and authorities being obliged to contract it out, especially when, as in this case, it will be the applicant who chooses the contractor, not the council, and who will do the work which would otherwise be carried out by the council.

Moreover, in this situation, as the Government themselves stress, councils will still have to determine the outcome of applications. I welcome the clarification that the Minister made in that respect. However, this two-tier structure is surely likely to increase the overall cost. If external contractors recruit existing planning staff to do the work, that is likely to increase the pressure on planning departments in the exercise of their residual responsibilities, if they are already having to cope with reduced staff numbers.

The Government claim that savings of up to 20% could be made in tendered or shared services and, to support that, they cite the experience in 1986 in saving around 20% in the hardly comparable sphere of refuse collection; between 6% and 12% in a 1999 survey; 20% in a 2008 survey; and a further 10% in a CBI survey—but not, of course, related to this function. These are broad

[LORD BEECHAM]

surveys unrelated entirely to the planning service, which is the service we are talking about.

Processing the application is not a mechanical matter. It involves, as any councillor will tell us, public consultation—a delicate and often difficult process. I see the noble Lord the chairman of the LGA laughing, perhaps feeling the echoes of discussions in which he has been involved in the past, as I and others who have led and held other positions in councils would confirm. That is not least when proposals for new housing are being considered, which in itself is one of the more controversial areas of planning. Sensibly, one might have thought, council officers who have been engaged in, for example, the production of neighbourhood plans should be involved. But this proposal in effect doubles the cost.

Let us not forget that for all the problems faced by councils in maintaining the service at a time of draconian cuts, as some of us have repeatedly reminded the Government, hundreds of thousands of existing permissions for housebuilding have not been utilised by developers. Let me be clear, however, that councils can now, if they choose, contract out the service. Barnet, as ever, has led the way in this with G4S, the organisation which we are all aware is capable of successfully delivering any service, taking over the function.

The House needs to know why we are in the extraordinary situation of being asked to approve this radical departure, albeit on what is under Amendment 120A a temporary basis, under Clauses 145 to 148 without the consultation having been concluded or of course the Government's response having been made available, and still less with the prospect of regulations being produced at some indefinite future date.

Yet again the Delegated Powers and Regulatory Reform Committee, to which the Minister referred—chaired, I remind the House, by a respected Conservative Peer—has published a report expressing serious concerns about the legislative process. Given the Government's absurdly abbreviated timetable, the report was published only last Tuesday. It is unflinchingly critical of the Government's approach. In respect of Amendment 106A, which is now behind us, it states:

"Inadequate and incomplete provisions of proposed primary legislation cannot be excused on the basis that consultation has not taken place or that the Government wish to retain 'flexibility to set out differing timeframes as they apply in different contexts'. The policy should have been finalised following appropriate consultation before, not after, the Bill was introduced".

Just when will the Government take any notice of the committee's reasoned criticisms of their abuse of process?

These criticisms are voiced again in respect of proposed new subsection (6A), to be inserted into Clause 145 by Amendment 121F, which the committee describes as containing,

"an inappropriately wide delegation of power".

The committee recommends, and my Amendment 121G provides, its replacement,

"with a provision which gives a much fuller list of the types of application that constitute a 'connected application' for the purpose of the clause"—

proposed new Clause 145(6A)—

"coupled with a delegated power to add to the list by affirmative procedure regulations".

Having initially rejected the committee's proposed requirement of extensive consultations, the Government have now undergone what the committee describes as a "partial change of mind" by applying a consultation process to the first set of regulations under the relevant section. But the committee states that it is,

"highly desirable that there should be a duty to consult before making any regulations under these clauses",

and reiterated its recommendation to do so. My Amendment 135D embodies this recommendation.

The committee reiterated its view that,

"the affirmative procedure should apply to the first exercise of the powers",

in Clauses 145 to 148, and stated bluntly that the clauses contain,

"novel and highly significant powers for which there is no parallel in current planning legislation".

It avers that the Secretary of State's possible,

"desire at some future point 'to react quickly to amend the procedures for pilots' cannot justify minimising the ability of Parliament effectively to scrutinise exercise of the powers".

The committee states:

"We remain firmly of the view expressed in our 21st Report that … the affirmative procedure should apply to every exercise of all the powers contained in these clauses".

Those who elsewhere are contemplating reducing the role of this House in scrutinising legislation should know that these recommendations should, in the view of the committee, apply equally to the other House—which, as the experience of this Bill demonstrates, can be treated with even more disdain when the Government succumb to an attack of premature legislation.

Finally, the committee draws the attention of the House to,

"the failure of the supplementary memorandum to spell out clearly which powers are intended to attract the negative and affirmative procedure respectively; and … the apparent failure to give effect to the commitment given in the Minister's initial response to the Committee"—

that is, the response of the noble Baroness, Lady Williams—

"that the affirmative procedure should apply to the first exercise of the powers".

All in all, too many provisions that could have been made optional will, if the Bill is not amended, serve to enrich the unaccountable by a process that is inscrutable and ultimately unamendable. This further encroachment on the rights and duties of democratically elected local councils is unacceptable and needs to be amended.

But the parliamentary process itself has been deeply flawed. In this year of celebrating Shakespeare, I cannot resist quoting some lines from "Richard III", who, in act I, scene 1, confessed that he had been born:

"Deformed, unfinish'd, sent before my time".

It is amazing that those words apply so aptly to the process that the Bill has undergone—a perfect description of it. It is a Bill that cries out to have been a carryover Bill. It need not have been rushed through to be completed in this Session. It could have been carried over; the consultations could have taken place; the House could have been properly informed about what the Government intended and why, and what the response of the relevant parties is. The Government have chosen not to do so. It is an unsatisfactory situation that can be improved only if they are prepared to accept some of the amendments before the House.

Lord Shipley (LD): My Lords, I shall speak to Amendment 123B and talk specifically about the pilot schemes, but I do share a number of the concerns the noble Lord, Lord Beecham, expressed. I have doubts about what is proposed but, on the assumption that they might go ahead, I will talk in some detail about the nature of the pilots that are being planned. I am grateful to the Royal Town Planning Institute for its advice on this matter. I say to the Minister that I have no intention of dividing the House, but I hope to help inform the Government's thinking in response to the recent consultation.

Last week we had considerable debate on charges for planning applications relating to full cost recovery and greater flexibility in charging. A number of people said that private providers would be more expensive than planning authorities currently are. Government Amendment 120A reflects some changes since Committee stage and I welcome that movement. We now know that the pilot will be temporary and we know from government Amendment 121 that there must be a review of the pilot within a year of its termination. So, taken together, Amendments 120A and 121 will test the practicality and desirability of competition in the processing of planning applications, but not their determination. I welcome the Minister's confirming a moment ago that there will be absolutely no role for that in determining planning applications, although on the next group of amendments I would like to say something about the need for a firewall to ensure that there is no connection between processing and determination. We know, too, that there will be a report within 12 months of the last of the pilots ceasing, which will set out the results and conclusions of the review.

If there are to be pilots to test whether more competition would help the planning system, it is in the best interests of good policy-making to test whether more resources alone would help. The problem with the pilot scheme as devised is that after the five years or so, it would be very difficult to work out whether competition had produced what the Government would hope were good results. This would make it very difficult to use it as the basis for rolling out the pilots further.

Amendment 123B seeks to address this issue, as it would pave the way for a parallel pilot scheme alongside the Government's proposed pilot scheme. This parallel pilot would be designed to grant fee flexibility to local planning authorities in return for cast-iron commitments to reinvest greater income in the planning process. That could include information technology, greater joint working across councils, and the further training of staff towards professional accreditation. There would also be a need for a planning authority to demonstrate improving—or at least continued—high performance year on year.

In chapter 1 of their consultation document published in February, on which consultation closed on 15 April, the Government made some proposals which verge on this one in the context of devolution deals. The Government make particular reference to reforms which would be a fast-track service from the existing local authority for an increased fee, and competition as provided for in the Bill. While the first of these would arguably overlap with my proposal, it is too narrow a definition of reform and would not enable any satisfactory comparison with the competition pilots. For example, the competition pilots will not be limited to offering fast-track services. Therefore, I have concluded that for proper evaluation to take place, the impact of additional tied resources on its own should be tested alongside the impact of competition. Given that the whole initiative is a pilot programme, it seems strange to wish to limit it to one kind of pilot. There should be more than one kind of pilot.

Could the Government use the powers conferred by the Bill to operate a parallel pilot scheme of the kind I have outlined? That would meet a number of the problems and criticisms raised last week on Report, and could produce a more robust outcome for the Government's proposed pilots. I would be very happy for the Minister simply to take the measure away and think about it. I do not expect an immediate answer because in any case, the Government have to respond to the consultation, which closed only a few days ago. A different kind of pilot based on fee flexibility could be important in helping the Government to achieve the robust pilots they are seeking.

8.45 pm

Lord True (Con): I will intervene because, technically, my Amendment 123E would be pre-empted if Amendment 123D were agreed. I would be very happy if Amendment 123D were agreed and I support it. I am very grateful to my noble friend on the Front Bench for what she said. Unfortunately, I was away from the internet over the weekend and was in the town hall until the House sat. Otherwise, I would have made it clear that I would have been happy for a number of my amendments to be in this group. It would have been more helpful to the House to have one debate. Indeed, we just have, because the noble Lord, Lord Beecham, spoke with great passion to his Amendment 123, which would leave out the whole thing but which is not, technically, before the House. The noble Lord does not need to repeat that speech on the next group, if such a debate happens.

In Committee, I raised a point which I believe to be fundamental, as does the noble Lord, Lord Shipley. I was grateful for the opportunity to discuss it with the Minister and her officials. The planning system must not be seen by the public to be bought. The Minister has said absolutely clearly that the decision must be independent and taken by the local authority, not taken by or influenced by a paid advocate bought and working for one of the parties to an application. As I always say, good policy has to reflect what happens in real life. In real life, a developer will seek a planning application; many people will object to it. We may not agree with those objections but they will be made, so it will come before a planning committee for determination.

I spoke in favour of an experiment with the private sector, as did my noble friend Lord Porter of Spalding. I do not agree with the comminations from the other side, but my noble friend needs to go just one step further. That is reflected in my Amendment 121E, which comes in the next group. As I said in Committee, a report is tabled at a planning committee with a statement recommending permission or rejection.

[LORD TRUE]
If members of the public, particularly those who are objecting to an application, come to the meeting and see that the recommendation is being made or spoken to by somebody who is paid to do a job by one of the parties to the application, that will be seen as unfair and corrupt, even if it is not.

I do not intend to press my amendments; I am quite happy not to move Amendment 121E if the Minister can say that the assurance she has given will also apply to advice to planning committees—that it should be perceived as independent and not given by a paid advocate who tables a report to members saying they should give permission. If she can, a lot of the objections would potentially fall away. Amendment 122A would be otiose, because it is designed only to ensure that if someone is paid to give advice, they should be made to declare that they are a paid advocate, rather than independent. We could then part happily. I might be interested in taking part in these experiments. I hope the Minister will also take heed of what the noble Lord, Lord Shipley, said: there should be variety. My own authority, for example, is going into a shared management arrangement with another local authority. Inventive local authorities should be given the opportunity to suggest forms of experiment. That was an interesting proposal and I hope the Minister will be ready to listen to it.

Having been led to speak on the basis that one of my amendments would be pre-empted, I am essentially asking my noble friend to go one step further and say that the public who turn up will not hear or see a report saying "recommend" from somebody who is paid. If she can, much of the need for the amendments I have tabled would fall away.

If the noble Lord, Lord Beecham, is going to lead a frontal assault, I certainly would not want my Amendment 124A to be grouped with his because I shall be voting against his proposal. However, how the fee arrangements would actually work needs further clarification; we have heard little from the Front Bench. My noble friend Lady Williams said that there would be no two-tier system. That needs clarification, but provided there could be assurance of further consideration of that point, when the time comes I would be prepared not to move my Amendment 124A.

Lord Porter of Spalding (Con): My Lords, I support Amendments 120A and 121. I was going to try to stick to the proper script but, given that everybody before me has left the running order and spoken about the things they are really interested in, I am going to do the same. First, I thank my noble friend the Minister for listening to what was said last week and to what local government has been saying for a number of weeks, and for clarifying how some of this pilot stuff will work.

Since I am on my feet, I am going to speak to fees. I am in favour of private sector competition on the basis that I honestly believe it will drive fees up. It is the first time I can recall having private sector competition to drive up the cost of a service, but I think this will do it. At the moment, we are spending about £150 million a year as taxpayers subsidising the planning system, and we have spent £450 million over the past three years doing it. Clearly, the fee structure does not recoup the full costs. If the private sector is going to come in and compete against us, it is going to want at least to cover its costs. Even if it is doing it for a few years as a loss leader, it is not going to want to lose a lot of money, so local government should be able to get its fees set at a much higher rate. That will allow us to staff our planning departments to a much more suitable level, given the demand that will be coming through, and that will allow local government to win the competition hands down because the public will trust what we are delivering and any sensible developer will want to go through an established route rather than risk competition in the private sector.

The noble Lord, Lord Beecham, said that an impact assessment had said that competition reduced the cost of refuse collection by about 20%. Ours has been brought back in-house since I have been leader and that has saved 20%. While private sector competition should be encouraged, it is not always the route that the final decision should go down.

Lord Beecham: On a point of clarification, when the noble Lord talks about council fees increasing in the way that he has described, is he suggesting to the Government that they should change the position and no longer fix the fees that councils should charge? That would be a necessary precondition of that occurring.

Lord Porter of Spalding: If we are truly about competition, the people in the competition should be the people setting the charges for that competition. Local government will set appropriate fees. All the Government need to say is, "This is the maximum profit you can make", and we will all stick to those rules. I am sure local government will be able to drive down costs while putting fees up. As my noble friend Lord True said, we will be doing more shared management, and such arrangements will save some margin, but that will still not be enough to cover the full costs of the planning application. If we are able to put our fees up to recoup the full costs, so be it—bring on the competition. Like my noble friend Lord True, I will probably volunteer to pilot a rural competition.

Baroness Evans of Bowes Park: My Lords, I hope I gave a full explanation in my opening remarks of our approach to the DPRRC's recommendations—where we have accepted and taken on board its comments, as well as those of your Lordships—and why we believe that Amendments 121CA and 135D are impractical. Amendment 121G repeats a provision that we have already laid.

The noble Lord, Lord Beecham, talked about the figures on outsourcing and shared services in the impact assessment. The key point is that, in many services, local authorities have undertaken significant reform and shown significant cost reductions. Some examples are set out in the impact assessment. However, in respect of planning services, authorities have been slow to do such reform, which is why we want to go forward with these pilots.

Amendment 123B in the name of the noble Lord, Lord Shipley, proposes an alternative pilot to test fee flexibility alongside the competition pilot scheme. I cannot accept this amendment because we already

have the necessary powers and are already taking forward the proposal with the intention of evaluating its effectiveness. Section 303 of the Town and Country Planning Act 1990 allows us, through regulations, to set different fees for different local planning authorities, although Clause 141 of this Bill will make such an approach easier.

Our recent consultation paper included a proposal to test the provision of greater flexibility in fee setting, on top of our proposals for national increases in fees linked to inflation, where local authorities come forward with ambitious plans for reforms and improved performance. The noble Lord raised concerns that our proposals in the consultation are too narrow. The reference to a fast-track service was one example. We will explore a range of options for fee flexibility with areas and have started to have those conversations in some areas.

Lord Shipley: I thank the Minister for her response so far, but I want to be clear that I am talking about a measurable pilot, not one which is simply a set of options which may prove not to be measurable because they have not been set up properly. If a competition pilot is to take place, it has to be measurable; otherwise, the outcomes cannot be measured. Any fee flexibility pilot would also have to be measurable. The powers may be there already for the Government, but this has to be set up in a way that can be measured.

Baroness Evans of Bowes Park: Our aim with these pilots is certainly to be able to measure and look at differing effectiveness. As the noble Lord rightly said, the consultation is still out, and we will obviously be coming back with further details, but our intention is certainly to test the effectiveness of the different approaches. Furthermore, recent devolution deals included a commitment to this effect, and discussions are starting with these areas.

I will respond to the points raised by my noble friend Lord True in the next group, but I can say now that we will use regulations to prevent conflicts of interest and maintain ethical and professional standards. Local planning authorities will retain responsibility for deciding the planning application, having received a report with a recommendation from the provider that the planning applicant chose to submit their application to for processing. As I say, I will speak a bit further about this in the next group.

I hope that noble Lords recognise in my opening comments and the government amendments that we have sought to be reasonable, to address key concerns and to implement, in an effective way, the recommendations of the DPRRC. I hope on this basis that noble Lords will not press their amendments.

Amendment 120A agreed.

Amendments 121 to 121B

Moved by ***Baroness Evans of Bowes Park***

121: Clause 145, page 74, line 31, at end insert—

"( ) The Secretary of State must—

(a) review the operation and effectiveness of any arrangements made under the regulations;

(b) no later than 12 months after the date when the arrangements (or the last of them) cease to have effect—

(i) lay a report before each House of Parliament, or

(ii) make a statement to the House of Parliament of which that Secretary of State is a member,

setting out the results and conclusions of the review."

121A: Clause 145, page 74, line 33, leave out "planning applications for" and insert "applications that relate to"

121B: Clause 145, page 74, line 36, leave out "planning applications for" and insert "applications that relate to"

Amendments 121 to 121B agreed.

Amendment 121C

Moved by ***Baroness Evans of Bowes Park***

121C: Clause 145, page 74, line 41, at end insert—

"( ) The regulations may not contain anything that allows or requires, or could allow or require, the responsible planning authority's duty to determine an application to be carried out, to any extent, by a designated person on the authority's behalf.

"( ) Nothing said or done by a designated person appointed under the regulations to process an application is binding on the responsible planning authority when determining the application.

"( ) Before making the first regulations under this section the Secretary of State must consult such representatives of local planning authorities, and such other persons, as the Secretary of State thinks fit."

Amendment 121CA (to Amendment 121C) not moved.

Amendment 121C agreed.

Amendment 121D

Moved by ***Baroness Evans of Bowes Park***

121D: Clause 145, page 75, line 2, leave out "a planning" and insert "an"

Amendment 121D agreed.

Amendment 121E

Moved by ***Lord True***

121E: Clause 145, page 75, line 4, at end insert "except for—

(i) the compilation of a report for a meeting of the planning, planning sub-committee, development control committee or other committee of the local planning authority convened to determine the application concerned, unless that report has been approved by a planning officer independent of the applicant, and

(ii) the provision of a recommendation to the determining committee as to how to determine the application, which must always be made by an officer independent of the applicant or of objectors,"

Lord True: My Lords, I am moving this amendment because my noble friend has said she wishes to reply to it. I would have been quite happy to waive it, have it

[LORD TRUE]
subsumed and not move the amendment. However, the point remains absolutely fundamental, and with great respect to my noble friend she has not answered it. I hope she will in her response.

What actually happens at a planning committee is that people, many of them objectors, file into the room, papers are laid, a determination is made on the basis of advice, which is public advice, a public document, and an officer advises the committee on what is the appropriate and right thing to do. All that I am asking—surely, in equity, it is not a difficult thing to ask, nor difficult for the Government to concede—is that everything to do with the final recommendation and determination is independent of the paid advocacy of one of the parties involved. That is what this lengthy amendment is intended to ensure. It is totally unnecessary if the Government will give an assurance that they will deliver that in the regulations, so that the determination can be independent, and seen to be independent by those who may not be happy with the advocate's case. It will normally be the advocate of the person seeking permission who will have paid for the independent advice. I beg to move.

9 pm

Lord Shipley: My Lords, I speak in support of the noble Lord, Lord True. I said a number of things in Committee on this group, and Amendment 121E in particular, about the independence of the advice being given, the role of planning officers employed by a council to comment on the report that has been written, and the importance of the general public understanding that independence and due probity is being followed at all points, because the issue of public trust is critical. For the public to have any confidence in the planning system, a robust firewall must be in place so that those writing reports are, and are seen to be, independent of applicants and subject to all the relevant codes of conduct that apply to professional planners.

It is vital that the people whose reports the community's elected representatives are being asked to trust are people whom the public trust, too, especially if neither the public nor the council members are able to choose them. Local authorities can contract out these services, and some do, but they must nevertheless guarantee that alternative providers are subject to the same quality, accreditation, competencies and code of conduct that would apply in the public sector. Ensuring that independent providers are qualified to work in the public interest is a necessity, and must apply not just longer term but during the pilot period that we discussed under the previous group.

Lord Beecham: My Lords, I have a good deal of sympathy with the points of both the noble Lords, Lord True and Lord Shipley. I am concerned how it would be seen by the public generally, but also by those applicants who have paid for a report to be prepared, which may make a recommendation. The decision will certainly be made by the committee. That is more or less the position that operates now in the existing system. Sometimes, council planning officers' recommendations are not accepted by the committee, and they may help appellants on appeal. However, if you are paying for that advice as an applicant, it creates a different ambience altogether, it seems to me. It makes the whole process rather more confusing and difficult for the applicant, as well as for the local authority. I hope that the noble Baroness will look again at how the process works, because it is fraught with danger for both the authority and public understanding of what is happening.

Baroness Evans of Bowes Park: My Lords, I will not repeat the detail of what we have already done to strengthen Clauses 145 to 148 but turn straight to the amendments.

Although I cannot accept Amendment 121E from my noble friend Lord True, I agree with its intent and commit to take the issue away and address it in the design of the pilots and regulations. Authorities have said clearly to us that it will be very inefficient if designated persons do all the background work but they are required to review it all and then pull together their own recommendation in a report that they write. They are not saying to us that they must make the recommendation or write their own report. Instead, they are saying that simple and efficient mechanisms are needed to ensure that quality and impartiality are maintained. This amendment could lead to inefficient behaviour.

Authorities have also said that designated persons must share some of the risk and cost of defending appeals. I am concerned that the amendment could make it harder to argue that designated persons should share any risks which will concern authorities. There is a complex set of interrelated issues which we need to explore in detail with authorities to avoid perverse behaviours and outcomes. We will explore a range of safeguards. I ask noble Lords to let us explore them with authorities and bring them forward in regulations. We would be very happy to have further discussions with my noble friend and others about how we can best do that. I hope that reassures him that we will take this away.

I am afraid I cannot accept Amendment 122 from the noble Lords, Lord Kennedy and Lord Beecham, limiting 'designated persons' to local authorities and public bodies and ruling out private sector companies and individuals. This amendment says, "It is the public sector way and there is no other way". In contrast to noble Lords, the dozen or so local authorities considering being a pilot area are not arguing for the exclusion of the private sector. They believe that they can compete with it and, indeed, beat it. If that is the case, what have local authorities got to fear? If they provide the best service, they will hold on to the business. We believe that the concerns at the heart of this amendment are about any potential for the private sector to have undue influence on planning decisions, and we believe these can be managed.

We have strengthened planning authorities' retention of decision-making during the pilots following concerns expressed in Committee. Our amendments mean that regulations cannot contain anything that allows an authority to delegate decision-making to designated persons and make clear that advice from designated persons will not be binding on authorities. However, other safeguards will also exist. We will set out high

professional standards, as the noble Lord, Lord Shipley, outlined, drawing on codes of conduct such as that of the Royal Town Planning Institute, which requires competence, honesty, integrity and independent professional judgment from its members. We will remove someone's designation where they fail continually to meet these high standards. We expect to prevent designated persons processing applications in which they, their company or its subsidiaries have any interest. I have committed to explore how we can maintain high-quality, independent advice being presented to decision-makers and having designated persons list their interest with authorities, as suggested by my noble friend Lord True. Section 327A of the Town and Country Planning Act 1990 provides that where the necessary procedures have not been followed appropriately an application can be declared null and void. We believe that enabling the private sector to compete with local planning authorities is likely to drive greater reform.

Some in local government have said that it may not be possible to process some applications, such as householder applications, for a price even close to the fee. Our initial dialogue with the private sector indicates that it might indeed be possible to process such applications, and we want to test this belief.

Finally, I cannot accept Amendments 123 to 126 from the noble Lords, Lord Kennedy and Lord Beecham. We all want a planning system fit for the 21st century, so we believe that, in order to achieve it, it would be wrong not to explore alternative delivery models for handling planning applications. Currently, local planning authorities have a monopoly which denies the user choice and does not incentivise service innovation and the provision of the most efficient and effective service. Alongside this, reform of planning departments lags behind most other local authority services. Local authorities can do a lot more to transform their planning departments. Indeed, many have introduced new ways of operating and have shown that performance can be improved and costs reduced, but we believe that more should follow their lead.

We have heard concerns about the undue potential influence of the private sector in the pilots. My noble friend Lady Williams has laid amendments to strengthen local authorities' decision-making function, and I have set out other safeguards we intend to put in place. I have also committed to explore proposals raised by my noble friend Lord True. Your Lordships' House has been concerned about the lack of detail about how the pilots will operate. Our amendments mean that we will debate the regulations in this House following a consultation before pilot schemes can come into force. Noble Lords have queried whether we intend to evaluate the pilot, and we have laid an amendment committing us to sharing our assessment of the pilots in the House. The RTPI and the LGA rightly highlight areas where we need carefully to consider the design of the pilots, and we will work with them to explore their ideas, but they have not opposed the principle of the pilots. Local authorities are telling us that we are right to challenge the current delivery model and, as we have heard from my noble friend Lord Porter, some want to be pilot areas. Despite this, the noble Lords opposite want to say that they cannot.

We listened very carefully to the debate in Committee and today, and I believe we have taken significant steps to ensure that the pilots are workable and to address many of the concerns that noble Lords have raised. I hope that, with these reassurance and the commitments I have made in these remarks, the noble Lord will withdraw the amendment.

Lord True: My Lords, I am grateful to my noble friend. She is right to say that on this subject the Government have listened, and are listening, carefully. That is entirely welcome and I am grateful for it. Not only will I shortly withdraw Amendment 121E but, as I indicated previously, I will not be pressing Amendment 122A on the basis of the assurance that we have been given.

On Amendment 124A, which I have degrouped here, there are questions about fees, on which my noble friend Lord Porter and I and others have spoken, that might bear further clarification in discussion. I welcome the assurances that my noble friend has given. I was interested when she said that the fees currently allowed would be adequate to enable the private sector to operate. So with the assurances that she has given, for which I thank her, I beg leave to withdraw the amendment.

Amendment 121E withdrawn.

Amendment 121F

Moved by ***Baroness Williams of Trafford***

121F: Clause 145, page 75, line 6, at end insert—

"(6A) In this group of sections "connected application", in relation to an application for planning permission that is to be or has been processed by a designated person under the regulations ("the main application"), means—

(a) an application for approval of a matter reserved under an outline planning permission within the meaning of section 92 of the Town and Country Planning Act 1990 (where the main application resulted in the grant of such permission), or

(b) an application of a specified description, made under or by virtue of an enactment about planning, that relates to some or all of the land to which the main application relates."

Amendment 121G (to Amendment 121F) not moved.

Amendment 121F agreed.

Amendment 122

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

122: Clause 145, page 75, line 7, leave out second "person" and insert "local authority or public body"

9.11 pm

Division on Amendment 122

Contents 12; Not-Contents 180.

Amendment 122 disagreed.

Division No. 5

CONTENTS

Adonis, L.	Dean of Thornton-le-Fylde, B.
Bassam of Brighton, L.	Grantchester, L.
Beecham, L.	

Hollis of Heigham, B.
Kennedy of Southwark, L. [Teller]
McAvoy, L. [Teller]
McFall of Alcluith, L.
Touhig, L.
Warwick of Undercliffe, B.
Whitty, L.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Bakewell of Hardington Mandeville, B.
Balfe, L.
Beith, L.
Berridge, B.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Browning, B.
Byford, B.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cathcart, E.
Chadlington, L.
Chalker of Wallasey, B.
Chisholm of Owlpen, B.
Colwyn, L.
Cope of Berkeley, L.
Cotter, L.
Courtown, E.
Crathorne, L.
De Mauley, L.
Deben, L.
Deighton, L.
Dixon-Smith, L.
Dundee, E.
Dunlop, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Faulks, L.
Feldman of Elstree, L.
Fink, L.
Finn, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Foster of Bath, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Geddes, L.
Gilbert of Panteg, L.
Goldie, B.
Goodlad, L.
Green of Hurstpierpoint, L.
Grender, B.
Hailsham, V.
Hamwee, B.
Harris of Peckham, L.
Hayward, L.
Higgins, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Keen of Elie, L.
King of Bridgwater, L.
Kirkham, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lucas, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McIntosh of Pickering, B.
Maddock, B.
Mancroft, L.
Marks of Henley-on-Thames, L.
Marlesford, L.
Masham of Ilton, B.
Mawson, L.
Mobarik, B.
Morris of Bolton, B.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newby, L.
Newlove, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
O'Shaughnessy, L.
Parminter, B.
Patel, L.
Patten of Barnes, L.
Perry of Southwark, B.
Pidding, B.
Popat, L.
Porter of Spalding, L.
Price, L.
Prior of Brampton, L.
Rawlings, B.
Redfern, B.
Rennard, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Sassoon, L.
Scott of Bybrook, B.
Scriven, L.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shipley, L.
Shrewsbury, E.
Shutt of Greetland, L.
Skelmersdale, L.
Smith of Hindhead, L.
Smith of Newnham, B.
Spicer, L.
Stedman-Scott, B.
Storey, L.
Stowell of Beeston, B.
Stroud, B.
Suri, L.
Taylor of Goss Moor, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Teverson, L.
Thomas of Gresford, L.
Tope, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Walmsley, B.
Wasserman, L.
Wheatcroft, B.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

9.23 pm

Amendment 122A not moved.

Amendments 122B and 122C

Moved by ***Baroness Williams of Trafford***

122B: Clause 145, page 75, line 16, leave out "application" means an application for" and insert "permission" means"

122C: Clause 145, page 75, line 18, leave out "a planning application" and insert "an application for planning permission or a connected application"

Amendments 122B and 122C agreed.

Amendment 123

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

123: Clause 145, leave out Clause 145

9.24 pm

Division on Amendment 123

Contents 35; Not-Contents 152.

Amendment 123 disagreed.

Division No. 6

CONTENTS

Adonis, L.
Bakewell of Hardington Mandeville, B.
Bassam of Brighton, L.
Beecham, L.
Beith, L.
Campbell-Savours, L.
Corston, B.
Cotter, L.
Dean of Thornton-le-Fylde, B.
Foster of Bath, L.
Grantchester, L.
Grender, B.
Hamwee, B.
Hollis of Heigham, B.
Kennedy of Southwark, L. [Teller]
McAvoy, L. [Teller]
McFall of Alcluith, L.
Maddock, B.
Marks of Henley-on-Thames, L.
Murphy of Torfaen, L.
Parminter, B.
Rennard, L.
Robertson of Port Ellen, L.
Scriven, L.
Shipley, L.
Shutt of Greetland, L.
Smith of Newnham, B.
Taylor of Goss Moor, L.
Teverson, L.
Thomas of Gresford, L.
Tope, L.
Touhig, L.
Walmsley, B.
Warwick of Undercliffe, B.
Whitty, L.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Balfe, L.
Berridge, B.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Browning, B.
Byford, B.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cathcart, E.
Chadlington, L.
Chalker of Wallasey, B.
Chisholm of Owlpen, B.
Colwyn, L.
Cope of Berkeley, L.
Courtown, E.
Crathorne, L.
De Mauley, L.
Deben, L.
Dixon-Smith, L.
Dundee, E.
Dunlop, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Faulks, L.
Feldman of Elstree, L.
Fink, L.
Finn, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Geddes, L.
Gilbert of Panteg, L.
Goldie, B.
Goodlad, L.
Green of Hurstpierpoint, L.
Hailsham, V.
Harris of Peckham, L.
Hayward, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Keen of Elie, L.
Kirkham, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lucas, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McIntosh of Pickering, B.
Mancroft, L.
Marlesford, L.
Masham of Ilton, B.
Mawson, L.
Mobarik, B.
Morris of Bolton, B.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
O'Shaughnessy, L.
Patel, L.
Patten of Barnes, L.
Perry of Southwark, B.
Pidding, B.
Porter of Spalding, L.
Price, L.
Prior of Brampton, L.
Rawlings, B.
Redfern, B.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shrewsbury, E.
Skelmersdale, L.
Smith of Hindhead, L.
Spicer, L.
Stedman-Scott, B.
Stowell of Beeston, B.
Stroud, B.
Suri, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Wasserman, L.
Wheatcroft, B.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

9.35 pm

Clause 146: Regulations under section 145: general

Amendment 123A

Moved by ***Baroness Williams of Trafford***

123A: Clause 146, page 75, line 23, leave out subsection (1) and insert—

"( ) Regulations under section 145 may—

(a) equire a designated person (subject to any specified exceptions) to process an application for planning permission if chosen to do so by an applicant;

(b) provide that, where an application for planning permission is to be or has been processed by a designated person, any connected application must (subject to any specified exceptions) also be processed by that person;

(c) allow a responsible planning authority to take over the processing of an application for planning permission, or a connected application, in specified circumstances."

The Deputy Speaker (Baroness Morris of Bolton) (Con): My Lords, if Amendment 123A is agreed to, I cannot call Amendment 123B for reasons of pre-emption.

Amendment 123A agreed.

Amendments 123C and 123D

Moved by ***Baroness Williams of Trafford***

123C: Clause 146, page 75, line 33, leave out "planning applications" and insert "applications for planning permission or connected applications"

123D: Clause 146, page 75, line 42, leave out paragraph (g)

The Deputy Speaker: My Lords, if Amendment 123D is agreed to, I cannot call Amendment 123E for reasons of pre-emption.

Amendments 123C and 123D agreed.

Amendment 123F

Moved by ***Baroness Williams of Trafford***

123F: Clause 146, page 76, line 2, leave out "a planning" and insert "an"

Amendment 123F agreed.

Amendment 124 not moved.

Clause 147: Regulations under section 145: fees and payments

Amendments 124A and 125 not moved.

Clause 148: Regulations under section 145: information

Amendment 126 not moved.

Clause 149: Designation of urban development areas: procedure

Amendment 127

Moved by ***Baroness Williams of Trafford***

127: Clause 149, page 77, line 23, leave out from "(1)" to end of line 24 and insert "does not have effect until approved by a resolution of each House of Parliament.

( ) If a draft of an instrument containing an order by the Secretary of State under subsection (1) would, but for this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument."

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, government Amendments 127 and 128 ensure that the affirmative procedure will continue to apply to statutory instruments creating urban development corporations and urban development areas as recommended by the DPRRC.

The amendments at the same time ensure that the affirmative orders establishing a UDC and a UDA should be expressly not hybrid. We do not consider that a right to petition, which can significantly delay the creation of the UDC and the UDA, should be retained in light of the new statutory consultation requirement which this Bill introduces. Consultation provides a better and more accessible way for interested parties to express their views at an earlier stage in the process.

Non-government Amendment 128ZA would introduce the same process for establishing new town development corporations and areas as will apply under the provisions of this Bill to UDCs and UDAs. Non-government Amendment 128ZB would ensure that new town development corporations took into account the need for sustainable development and good design in pursuing their objectives. I am grateful to the noble Lords, Lord Taylor and Lord Best, for tabling these amendments.

When the noble Lords tabled similar amendments to Amendment 128ZA in Committee, my noble friend Lady Evans welcomed them as introducing a modernised process for establishing new town development corporations and areas. That modernised process will facilitate the role they can play in creating new, locally led garden villages and towns.

Similarly, Amendment 128ZB makes it clear that sustainable development and good design must be at heart of what new town development corporations do. My noble friend Lady Evans indicated in Committee the Government's receptiveness to extending the objectives of new town development corporations in this way. I am accordingly pleased to accept Amendments 128ZA and 128ZB as tabled and urge the House to accept government Amendments 127 and 128.

Lord Taylor of Goss Moor (LD): My Lords, I thank the Minister for her kind comments and draw attention to my registered interests.

I have pressed on this issue for a number of years and I am delighted that the proposal has positive cross-party support. It will make a real difference. The principle is fundamentally clear. At the moment, local authorities in rural areas have the option, in effect, of either brownfield development within previously developed areas, which is a good thing, or the opportunity to extend existing villages and towns sequentially by a series of developments to meet housing needs. That can be a good thing but often it is deeply unpopular because it builds on the very places that people most value.

By going down the route of allowing local authorities the option of using the New Towns Act to acquire land to create new settlements to meet local needs—going through a local process and with local support—it gives an opportunity to create great places without treading so hard on the toes of those who live in wonderful historic communities. Many of these, frankly, are at breaking point. They have problems with traffic congestion, getting children into schools and meeting service needs.

Local authorities will be able to do this in a way that allows the owners of the land to be properly compensated and to do well out of it. None the less, it allows, through the capture of land value, for these places to be well served with schools, shops, GP surgeries, parks, sports facilities and all the other things that make a great place while at the same time making housing available at much lower cost. This is because we can make land available to small builders, self-builders and housing associations for starter homes. A whole range of needs often are not met at the moment because land values are so high or land is not available; or great places are not delivered because the person who owned the land took the money and the taxpayer was left scrabbling to provide the schools, the shops and the GP and other services that are needed.

It is an extra tool in the box. We can plan for the housing which we agree across the House is needed. It is not the only solution but it changes the opportunities available to local communities and local government. It will be hugely welcomed. I have spoken to a wide range of organisations, from the National Association of Local Councils, of which I am president, to CPRE, to the country landowners, to many of the major housebuilders, to local government bodies and to many of the local councils that have pioneered this kind of approach. It has universal support.

This is an important change. I greatly thank the Minister, her colleagues and the other parties for the support that they have given to it. I particularly thank my colleague, the noble Lord, Lord Best, who has helped me bring this to the House.

Lord Best (CB): My Lords, I support the noble Lord, Lord Taylor of Goss Moor, in his Amendments 128ZA and 128ZB. I, too, thank the Minister for accepting the amendments in advance of this debate. I congratulate the noble Lord, Lord Taylor, on his sterling work over several years in flying the flag for new settlements and new garden villages—small new towns, if you like. These can achieve all the objectives of good design, sustainability and sensible land use and produce significant numbers of new homes. I commend the work of the Town and Country

Planning Association over the whole of the past century in promoting the benefits of new towns and new communities. I hope their hour has come, or nearly so.

As the noble Lord, Lord Taylor, has explained, building a settlement of 1,500 to 5,000 homes with a well-formulated master plan all in one place means that land does not have to be found haphazardly in dozens of little parcels. Instead of evoking protests in 100 places where local people object to seeing 20, 30 or 40 more homes built in their area with no extra infrastructure, lots more traffic and no social gains, the new settlement can generate a greater number of homes with all the necessary transport and community facilities built in.

9.45 pm

How is it that a new community of this kind can achieve so much? The answer is that if the acquisition of one substantial, well-connected site can be achieved at a fraction of the price of dozens of small sites, the long-term value captured by this process will fund high-quality, mixed-tenure, mixed-use, well laid-out homes with all the ancillary requirements—cycle paths, car clubs, shops, GP surgeries and plenty of green space. The market value of one big site where there is no prior expectation that development will be permitted is indeed dramatically lower than for 100 plots where there is a presumption in favour of development and for which a huge price must be paid for each one. The landowner of a big site can still expect a huge uplift on agricultural value. Capturing and gently releasing the land value was the reason why the garden cities of Letchworth and Welwyn did so well, leading later to the establishment of the new towns.

It is more difficult to apply the same technique to urban extensions where the land already has a relatively high value, although there are excellent examples of this, such as the Duchy of Cornwall's Poundbury on the edge of Dorchester and the Joseph Rowntree Foundation's Derwenthorpe to the east of York. Now is the time to take the concept of a master-planned new community to free-standing new settlements, and to do so on a more ambitious scale than we have seen for decades.

These amendments are not in themselves the basis for a programme of new garden villages. They are a first step down this road and an expression of hope that the Government will get behind a significant pipeline of such developments in different parts of the country. They start the process of creating a framework to make things happen, updating and refining the old new towns and development corporation models which now need to be adapted for the 21st century. They are needed because the whole process must not be so difficult and complex that nothing actually ever happens. The amendments aim to get the balance right between pressing forward with all speed and ensuring that there is meaningful public engagement in the process.

I am clear that proposals for a new garden village or garden town must be locally led and part of the local plan-making process; otherwise there will be huge opposition, as was the case with the eco-towns that failed to get going, from those who object in principle and will see this as a centralist, anti-localist, top-down imposition on local communities. These large-scale new developments need to be firmly within the local plan process which ensures that the local authority is in the lead and guarantees proper citizens' rights alongside the creation of powerful development corporations that can deliver fully sustainable new communities.

When the amendments were originally proposed in Committee, they included the proposal that when the Secretary of State makes an order for the creation of a new settlement following consultation with local people and businesses, local authorities and others, the order would be subject to parliamentary approval via the negative resolution procedure. I am delighted that, as prompted by the Delegated Powers and Regulatory Reform Committee, the amendment now switches this to an affirmative resolution. This does not diminish its importance in terms of ensuring the opportunity for public input of routing the whole process through the local plan framework, which itself provides extensive opportunity for input by interested parties.

As we enter the final furlong of this Bill's Report stage, I am delighted that we have positive amendments here to propel one really important way of achieving quality and quantity in the new homes that this country so badly needs and deserves. I support the amendments.

Lord Adonis (Non-Afl): My Lords, I rise briefly to congratulate the noble Lord, Lord Taylor, on what may turn out to be quite a significant reform of the planning system. The concept of new garden villages is thoroughly welcome. In the past we have thought of new settlements as being top-down and very large-scale, as the noble Lord, Lord Best, has just said. The principle being introduced by the noble Lord, Lord Taylor, is that is they should be much smaller in scale and locally led. The breakthrough in his thinking is that, by definition, you will reduce the number of nimbys if you are not building directly on existing settlements. It will make it possible, if this power is taken up by local authorities, to capture the increase in land values in a way that is not possible with developments on the edge of existing settlements. So the noble Lord's thinking is hugely significant.

I live in hope that a purely bottom-up process will be sufficient, as the noble Lord, Lord Best, said, to produce the necessary proposals. I suspect—how can I put this diplomatically?—that we will need a certain amount of encouragement from the Government for local authorities as to the value of such new settlements and on how they can help them meet their own requirements of delivering new housing. That would be no bad thing. As ever, once there is a little leadership, and those who are rather nervous about taking this step see how it has been done successfully, more may be likely to follow.

Amendment 127 agreed.

Clause 150: Establishment of urban development corporations: procedure

Amendment 128

Moved by ***Baroness Williams of Trafford***

128: Clause 150, page 78, line 10, leave out from "section" to end of line 11 and insert "does not have effect until approved by a resolution of each House of Parliament.

( ) If a draft of an instrument containing an order by the Secretary of State under this section would, but for this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument."

Amendment 128 agreed.

Amendments 128ZA and 128ZB

Moved by ***Lord Taylor of Goss Moor***

128ZA: After Clause 151, insert the following new Clause—

"Designation of new town areas and establishment of corporations: procedure

(1) The New Towns Act 1981 is amended as follows.

(2) In section 1 (designation of areas)—

(a) after subsection (3) insert—

"(3A) Before making an order under this section designating an area of land in England as the site of a proposed new town, the Secretary of State must consult the following persons (as well as the local authorities mentioned in subsection (1))—

(a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the site;

(b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the site;

(c) any other person whom the Secretary of State considers it appropriate to consult."

(b) in subsection (4), after "section" insert "designating areas of land in Wales".

(3) In section 3 (establishment of development corporations for new towns), after subsection (2) insert—

"(2A) Before making an order under this section in relation to a site in England, the Secretary of State must consult the following persons—

(a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the site;

(b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the site;

(c) every county or district council for an area which falls wholly or partly within the site;

(d) any other person whom the Secretary of State considers it appropriate to consult."

(4) In section 77 (regulations and orders)—

(a) after subsection (3) insert—

"(3ZA) The power of the Secretary of State to make orders under section 3 is also exercisable by statutory instrument.";

(b) after subsection (3A) insert—

"(3B) A statutory instrument containing an order made by the Secretary of State under section 1, 2 or 3 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(3C) If a draft of an instrument containing an order of the Secretary of State under section 1, 2 or 3 would, but for this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.";

(c) in subsection (4), for the words before paragraph (a) substitute "A statutory instrument that is made by the Welsh Ministers (by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006) under any of the following provisions of this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales—";

(d) in subsection 4(a)(ii), omit "a county planning authority or, where the order is one designating an area in Wales, by".

(5) In Schedule 1 (procedure for designating area), before paragraph 1 insert—

"Application of Schedule: Wales only

A1 This Schedule applies only in relation to an order under section 1 designating an area of land in Wales as the site of a proposed new town.""

128ZB: After Clause 151, insert the following new Clause—

"New towns: objects of development corporations in England

In section 4 of the New Towns Act 1981 (objects and general powers of development corporations), after subsection (1) insert—

"(1A) In pursuing those objects a development corporation that is established for the purposes of a new town in England must aim to contribute to the achievement of sustainable development.

(1B) For the purposes of subsection (1A) a development corporation must (in particular) have regard to the desirability of good design.""

Amendments 128ZA and 128ZB agreed.

Amendment 128A

Moved by ***Viscount Younger of Leckie***

128A: After Clause 164, insert the following new Clause—

"No general vesting declaration after notice to treat

In section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 (execution of declaration), after subsection (1) insert—

"(1A) But an acquiring authority may not execute a declaration in respect of land if they have served a notice to treat in respect of that land and have not withdrawn it.

(1B) In subsection (1A) the reference to an authority having "served" a notice does not include cases in which the authority is deemed to have served a notice.""

Viscount Younger of Leckie (Con): My Lords, this is the first of three groups of government amendments on compulsory purchase. Although there are 90 government amendments altogether, noble Lords will be relieved to hear that I do not plan to cover all these individually. However, many are consequential and some repetition will be necessary. I shall therefore speak to them in batches, within the group.

Government Amendments 128A to 128S, from after Clause 164 to Clause 168, deal with refinements to the various methods of entry and taking possession of land, once a compulsory purchase order has been confirmed. Amendment 128A confirms in statute what practitioners have assumed the law already means: if a normal notice to treat has been served, an acquiring authority may not then execute a general vesting declaration in respect of that land. Continuing with Amendments 128B and 128C, these address the issues raised by Committee Amendment 103BAA, tabled by the noble Earl, Lord Lytton, and spoken to then by the noble Duke, the Duke of Somerset.

Amendment 128C deals with the issue of a new interest in land emerging after a notice of entry has been served. The noble Duke, the Duke of Somerset, told us, on 23 March at cols. 2447 and 2448 of *Hansard* of three issues that were of concern to the Compulsory Purchase Association: delay when new notices must be served; reliance on poor quality information; and the potential for the creation of ransom interests. I believe that revised new Section 11A of the Compulsory Purchase Act 1965 deals with all of these. New subsections (2) and (4) suspend any existing notices of entry until notices have been served on the newly discovered interest, but the new normal minimum notice period of three months is replaced by the later of 14 days or the date specified in any previous notice of entry. The proviso in new subsection (3) is that this truncated notice period applies only if the acquiring authority was not aware of the person because it was given misleading information when carrying out inquiries, or the land is unoccupied.

The Government believe that ransom interests will be prevented by the qualifying provision in new subsection (1)(b). This ensures that new Section 11A applies only where an authority becomes aware of an owner, lessee or occupier to whom it,

"ought to have … given a notice to treat",

under Section 5 of the Compulsory Purchase Act 1965. Interests created after a notice to treat on the land in question has been served are not entitled to notices of their own, so they need not hinder the acquiring authority.

I turn to Amendments 128D to 128J inclusive. Clause 166 provides for a counternotice to a notice of entry to require possession to be taken on a specified date. Amendments 128D to 128J, except for Amendment 128G, are technical amendments changing the description of the person who can serve such a notice from,

"a person who is in possession",

to,

"an occupier with an interest in",

the relevant land. The reason for this is that the date of entry is of particular interest to the occupier, who should be in control of the process. A person, such as a freeholder, can be "in possession" without being in occupation of land.

Amendment 128G sets out circumstances in which the counternotice requiring possession to be taken will have no effect, either because the notice to treat has been withdrawn or ceases to have effect, or where the authority is prohibited from taking possession by other provisions of the Compulsory Purchase Act 1965. In the latter case, the claimant can serve a further counternotice once the prohibition ceases. Amendments 128K to 128S make changes to the New Towns Act 1981, as amended in Clause 168, corresponding to those in Amendments 128B to 128J.

Government Amendments 128T to 128V, 128Y, 128YAA, 128YAB and 142 concern the compensation provisions from Clauses 171 to after Clause 175 and mainly cater for some of the less-frequent situations that could arise following the making of an advance payment of compensation.

I will now talk to a series of amendments that protect the position of the Welsh Ministers, who have executive functions under the Land Compensation Acts. Clause 171 amends the Land Compensation Act 1961 to give the Secretary of State the power to impose further requirements about the form and content of a claim for compensation by a person whose land has been compulsorily purchased. The Welsh Ministers have executive functions under this Act, so Amendments 128T, 128U and 128V also confer this power on the Welsh Ministers. Amendments 128Y, 128YAA and 128YAB do the same thing in Clause 172, which gives the Secretary of State the power to impose requirements about the form and content of a request for an advance payment.

In this context, it is convenient to mention Amendment 142, which provides for Clause 161, confirmation by inspector, and Clause 163 with Schedule 15, notice of general vesting declaration procedure, to be commenced on different days for different areas. These provisions may need to be commenced on different days in England and Wales, as both will require amendments to existing secondary legislation, some of which is a function of the Welsh Ministers in Wales.

The remaining amendments in the group are mainly to do with advance payments of compensation. The first is Amendment 128W, which relates to compensation for losses or expenses incurred by a person as a result of a notice to treat being withdrawn. The proposed new clause in the amendment extends the entitlement to compensation to a person who has acquired the property to which the notice relates—perhaps by inheritance—before the withdrawal of the notice. This is a clarifying measure for the avoidance of doubt.

Clause 172 enables an acquiring authority to request further information from a person who has made a claim for an advance payment of compensation within 28 days of receipt of the claim. Amendment 128X completes the picture by ensuring that this provision also applies when the advance payment is to be made to a mortgagee.

Amendments 128YAC and 128YAD, and Amendments 128YAF to 128YAJ in Clause 173, amend the earliest date on which an advance payment of compensation must be made from the date of the notice to treat to the date the notice of entry is served. In many cases this will make no practical difference, because the notice to treat and notice of entry are served on the same day.

10 pm

In some cases, however, the notice of entry follows at a later date. It could be much later as a notice to treat does not cease to have effect under Section 5(2A) of the Compulsory Purchase Act 1965 until three years after it is served. The Government, therefore, think it would be better to ensure that an advance payment is not made until the acquiring authority has signified its intention to enter the land. This reduces the risk of an advance payment having to be repaid. It is unlikely that an authority will decide not to go through with its scheme once it has reached this stage.

This leads me to the remaining two batches of amendments in this group: Amendments 128YAM

[Viscount Younger of Leckie]
and 128YAN; and Amendments 128YAP and 128YAQ. Both batches deal with situations that should be very rare, but if they did occur, the parties could be left in a difficult position if there was no procedure to deal with them.

Amendment 128YAM provides that where an advance payment has been made, but the claimant's interest in some or all of the land has been acquired by another person, whether by sale or inheritance, the advance payment will be set off against the final claim. This is a very small adjustment to the existing law. Amendment 128YAN inserts new Section 52AZA into the Land Compensation Act 1973 to expand on the procedure to be followed if any part of an advance payment must be repaid. It replaces subsection (5) of Section 52 of the 1973 Act—omitted by Amendment 128YAM—and caters for the situation that could arise under the new payment regime whereby the notice to treat ceases to have effect or is withdrawn after the advance payment is made. Amendments 128YAP and 128YAQ make similar provision for repayment where the advance payment has been made to a mortgagee.

In conclusion, I hope your Lordships' House will agree that this group of amendments will improve the Bill by making the notice of entry-related provisions and the compensation provisions work as intended. I beg to move.

Amendment 128A agreed.

Clause 165: Extended notice period for taking possession following notice to treat

Amendments 128B and 128C

Moved by ***Viscount Younger of Leckie***

128B: Clause 165, page 84, line 30, leave out "11A(3)" and insert "11A(4)"

128C: Clause 165, page 84, line 33, leave out from beginning to end of line 10 on page 85 and insert—

""11A Powers of entry: further notices of entry

(1) This section applies where—

(a) an acquiring authority have given a notice of entry under section 11(1) but have not yet entered on and taken possession of the land, and

(b) the authority become aware of an owner, lessee or occupier ("the newly identified person") to whom they ought to have given a notice to treat under section 5(1) but have not.

(2) Any notice of entry already served under section 11(1) remains valid, but the authority may not enter on and take possession of the land unless they serve on the newly identified person—

(a) a notice to treat under section 5(1), and

(b) a notice of entry under section 11(1).

(3) Subsection (4) applies for the purpose of determining the period to be specified in the notice of entry under section 11(1) served on the newly identified person if—

(a) the person is an occupier of the land and the authority were not aware of the person because they were given misleading information when carrying out inquiries under section 5(1), or

(b) the person is not an occupier of the land.

(4) The period specified in the notice must be a period that ends—

(a) no earlier than the end of the period of 14 days beginning with the day on which the notice of entry is served, and

(b) no earlier than the end of the period specified in any previous notice of entry given by the acquiring authority in respect of the land."

Amendments 128B and 128C agreed.

Clause 166: Counter-notice requiring possession to be taken on specified date

Amendments 128D to 128J

Moved by ***Viscount Younger of Leckie***

128D: Clause 166, page 85, line 22, leave out "a person who is in possession of" and insert "an occupier with an interest in"

128E: Clause 166, page 85, line 22, leave out "the person" and insert "the occupier"

128F: Clause 166, page 85, line 25, leave out "the person" and insert "the occupier"

128G: Clause 166, page 85, line 33, at end insert—

"(3A) A counter-notice under subsection (1) has no effect if the notice to treat relating to the land is withdrawn or ceases to have effect before the date specified in the counter-notice.

(3B) A counter-notice under subsection (1) has no effect if it would require an acquiring authority to take possession of land at a time when section 11A or paragraph 5 of Schedule 2A prohibit the authority from entering on and taking possession of the land.

(3C) If subsection (3B) applies, the authority must notify the occupier who served the counter-notice—

(a) that the counter-notice has no effect, and

(b) if the authority serve a notice of entry as mentioned in section 11A(2)(b), of the date after which the authority could enter on and take possession of the land.

(3D) If a counter-notice served under subsection (1) has no effect because of subsection (3B), the occupier who served it may serve a further counter-notice."

128H: Clause 166, page 85, line 35, leave out "person who is in possession of" and insert "occupier with the same interest in"

128J: Clause 166, page 85, line 36, leave out "person in possession" and insert "occupier with an interest in land"

Amendments 128D to 128J agreed.

Clause 168: Corresponding amendments to the New Towns Act 1981

Amendments 128K to 128S

Moved by ***Viscount Younger of Leckie***

128K: Clause 168, page 86, line 8, before "omit" insert "in sub-paragraph (1)—

(i) in the words before paragraph (a), after "every owner of that land" insert "so far as known to the acquiring authority after making diligent inquiry in accordance with section 5(1) of the Compulsory Purchase Act 1965";

(ii) in the words after paragraph (b),"

128L: Clause 168, page 86, leave out lines 29 to 41 and insert—

""4A(1) This paragraph applies where—

(a) an acquiring authority have given a notice under paragraph 4(1) but have not yet entered on and taken possession of the land, and

(b) the authority become aware of an owner ("the newly identified owner") to whom they ought to have given a notice to treat under section 5(1) of the Compulsory Purchase Act 1965 but have not.

_(2) Any notice already served under paragraph 4(1) remains valid, but the authority may not enter on and take possession of the land unless they serve on the newly identified owner—

(a) a notice to treat under section 5(1) of the Compulsory Purchase Act 1965, and

(b) a notice under paragraph 4(1).

_(3) Sub-paragraph (4) applies for the purpose of determining the period to be specified in the notice under paragraph 4(1) served on the newly identified owner if—

(a) the owner is an occupier of the land and the authority were not aware of the owner because they were given misleading information when carrying out inquiries under section 5(1) of the Compulsory Purchase Act 1965, or

(b) the owner is not an occupier of the land.

_(4) The period must be a period that ends—

(a) no earlier than the end of the period of 14 days beginning with the day on which the notice of entry is served, and

(b) no earlier than the end of the period specified in any previous notice under paragraph 4(1) given by the acquiring authority in respect of the land."

128M: Clause 168, page 86, line 45, leave out "a person who is in possession of" and insert "an occupier with an interest in"

128N: Clause 168, page 86, line 45, leave out "the person" and insert "the occupier"

128P: Clause 168, page 87, line 3, leave out "the person" and insert "the occupier"

128Q: Clause 168, page 87, line 11, at end insert—

"(3A) A counter-notice under sub-paragraph (1) has no effect if the notice to treat relating to the land is withdrawn or ceases to have effect before the date specified in the counter-notice.

(3B) A counter-notice under sub-paragraph (1) has no effect if it would require an acquiring authority to take possession of land at a time when either paragraph 4A of this Schedule or paragraph 5 of Schedule 2A to the Compulsory Purchase Act 1965 prohibit the authority from entering on and taking possession of the land.

(3C) If sub-paragraph (3B) applies, the authority must notify the occupier who served the counter-notice—

(a) that the counter-notice has no effect, and

(b) if the authority serve a notice under paragraph 4(1) of this Schedule as mentioned in paragraph 4A(2)(b) of this Schedule, of the date after which the authority could enter on and take possession of the land.

(3D) If a counter-notice served under sub-paragraph (1) has no effect because of sub-paragraph (3B), the occupier who served it may serve a further counter-notice."

128R: Clause 168, page 87, line 13, leave out "person who is in possession of" and insert "occupier with the same interest in"

128S: Clause 168, page 87, line 14, leave out "person in possession" and insert "occupier with an interest in land"

Amendments 128K to 128S agreed.

Clause 171: Making a claim for compensation

Amendments 128T to 128V

Moved by ***Viscount Younger of Leckie***

128T: Clause 171, page 87, line 28, leave out "Secretary of State" and insert "appropriate national authority"

128U: Clause 171, page 87, line 29, at end insert—

"(1A) In subsection (1) "appropriate national authority" means—

(a) in relation to a claim for compensation for the compulsory acquisition of land in England, the Secretary of State;

(b) in relation to a claim for compensation for the compulsory acquisition of land in Wales, the Welsh Ministers."

128V: Clause 171, page 88, leave out lines 1 to 3 and insert—

"(6) A statutory instrument containing regulations under subsection (1) is subject to annulment—

(a) in the case of an instrument made by the Secretary of State, in pursuance of a resolution of either House of Parliament;

(b) in the case of an instrument made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales.""

Amendments 128T to 128V agreed.

Amendment 128W

Moved by ***Viscount Younger of Leckie***

128W: After Clause 171, insert the following new Clause—

"Compensation after withdrawal of notice to treat

(1) Section 31 of the Land Compensation Act 1961 (withdrawal of notices to treat) is amended in accordance with subsections (2) and (3).

(2) After subsection (3) insert—

"(3A) Where the acquiring authority withdraw a notice to treat under this section, the authority shall also be liable to pay a person compensation for any loss or expenses occasioned by the person as a result of the giving and withdrawal of the notice to treat if the person—

(a) acquired the interest to which the notice to treat relates before its withdrawal, and

(b) has not subsequently been given a notice to treat in relation to that interest."

(3) In subsection (4), after "(3)" insert "or (3A)".

(4) In Schedule 18 to the Planning and Compensation Act 1991 (provisions under which compensation is payable with interest), in Part 1, in the entry relating to the Land Compensation Act 1961, after "section 31(3)" insert "or (3A)"."

Amendment 128W agreed.

Clause 172: Making a request for advance payment of compensation

Amendments 128X and 128Y

Moved by ***Viscount Younger of Leckie***

128X: Clause 172, page 88, line 22, at end insert—

"(2A) In section 52ZC (land subject to mortgage: supplementary), for subsection (2) substitute—

"(2) Within 28 days of receiving a request for a payment under section 52ZA or 52ZB, the acquiring authority must—

(a) determine whether they have enough information to give effect to section 52ZA or, as the case may be, 52ZB, and

(b) if they need more information, require the claimant to provide it.""

128Y: Clause 172, page 88, line 25, leave out "Secretary of State" and insert "appropriate national authority"

Amendments 128X and 128Y agreed.

Amendment 128YA had been withdrawn from the Marshalled List.

Amendments 128YAA and 128YAB

Moved by ***Viscount Younger of Leckie***

128YAA: Clause 172, page 88, line 27, at end insert—

"(1A) In subsection (1) "appropriate national authority" means—

(a) in relation to a request relating to the compulsory acquisition of land in England, the Secretary of State;

(b) in relation to a request relating to the compulsory acquisition of land in Wales, the Welsh Ministers."

128YAB: Clause 172, page 88, line 37, leave out from "pursuance" to end of line 38 and insert "—

(a) in the case of an instrument made by the Secretary of State, in pursuance of a resolution of either House of Parliament;

(b) in the case of an instrument made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales.""

Amendments 128YAA and 128YAB agreed.

Clause 173: Power to make and timing of advance payment

Amendments 128YAC and 128YAD

Moved by ***Viscount Younger of Leckie***

128YAC: Clause 173, page 89, leave out lines 7 to 14 and insert—

"(1A) In a case where the compulsory acquisition is one to which the Lands Clauses Consolidation Act 1845 applies, the acquiring authority may not make an advance payment if they have not taken possession of the land, but must do so if they have.

(1B) In all other cases, an acquiring authority must make an advance payment under subsection (1) if, before or after the request is made, the authority—

(a) give a notice of entry under section 11(1) of the Compulsory Purchase Act 1965, or

(b) execute a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in respect of that land.";"

128YAD: Clause 173, page 89, leave out lines 16 to 31 and insert—

""(4) An advance payment required by subsection (1A) must be made—

(a) before the end of the day on which the authority take possession of the land, or

(b) if later, before the end of the period of two months beginning with the day on which the authority—

(i) received the request for the advance payment, or

(ii) received any further information required under subsection (2A)(b).

(4ZA) An advance payment required by subsection (1B) must be made—

(a) before the end of the day on which the notice of entry is given or the general vesting declaration is executed, or

(b) if later, before the end of the period of two months beginning with the day on which the authority—

(i) received the request for the advance payment, or

(ii) received any further information required under subsection (2A)(b).";"

Amendments 128YAC and 128YAD agreed.

Amendment 128YAE had been withdrawn from the Marshalled List.

Amendments 128YAF to 128YAH

Moved by ***Viscount Younger of Leckie***

128YAF: Clause 173, page 89, line 38, after "52(1A)" insert "or (1B)"

128YAG: Clause 173, page 90, line 1, after "52(1A)" insert "or (1B)"

128YAH: Clause 173, page 90, leave out lines 10 to 21 and insert—

"(3A) In a case where the compulsory acquisition to which the request relates is one to which the Lands Clauses Consolidation Act 1845 applies, the acquiring authority must make any payment under section 52ZA or 52ZB—

(a) before the end of the day on which the authority take possession of the land, or

(b) if later, before the end of the period of two months beginning with the day on which the authority—

(i) received the request under section 52ZA(3) or 52ZB(3), or

(ii) received any further information required under subsection (2).

(3B) In all other cases, the authority must make any payment under section 52ZA or 52ZB—

(a) before the end of the day on which the notice of entry is given or the general vesting declaration is executed, or

(b) if later, before the end of the period of two months beginning with the day on which the authority—

(i) received the request under section 52ZA(3) or 52ZB(3), or

(ii) received any further information required under subsection (2).";"

Amendments 128YAF to 128YAH agreed.

Clause 174: Interest on advance payments of compensation

Amendment 128YAJ

Moved by ***Viscount Younger of Leckie***

128YAJ: Clause 174, page 90, line 36, after "52(1A)" insert "or (1B)"

Amendment 128YAJ agreed.

Amendments 128YAK and 128YAL had been withdrawn from the Marshalled List.

Clause 175: Repayment of advance payment where no compulsory purchase

Amendments 128YAM to 128YAP

Moved by ***Viscount Younger of Leckie***

128YAM: Clause 175, page 91, line 14, leave out subsection (2) and insert—

"(2) Section 52 (right to advance payment of compensation) is amended in accordance with subsections (2A) and (2B).

(2A) Omit subsection (5).

(2B) In subsection (9), for the words from "he disposes" to the end substitute—

"(a) the claimant's interest in some or all of the land is acquired by another person, or

(b) the claimant creates an interest in some or all of the land in favour of a person other than the acquiring authority,

the amount of the advance payment together with any amount paid under section 52A shall be set off against any sum payable by the authority to that other person in respect of the compulsory acquisition of the interest acquired or the compulsory acquisition or release of the interest created.""

128YAN: Clause 175, page 91, line 18, at end insert—

"(2C) After section 52 insert—

"52AZA Repayment by claimant etc.

(1) Where the amount or aggregate amount of any payments under section 52 made on the basis of the acquiring authority's estimate of the compensation exceeds the compensation as finally determined or agreed, the excess is to be repaid.

(2) If after any payment under section 52 has been made to any person it is discovered that the person was not entitled to it, the person must repay it.

(3) If the notice to treat relating to an interest in land in relation to which an acquiring authority have made a payment to a claimant under section 52 is withdrawn or has ceased to have effect before the authority take possession of the land, the authority may by notice require the claimant to pay them an amount equal to the amount of the payment, unless another person has acquired the whole of the claimant's interest in the land.

(4) Subsection (5) applies where—

(a) a payment made to a claimant has been registered as a local land charge in accordance with section 52(8A),

(b) the whole of the claimant's interest in land has subsequently been acquired by another person (a "successor"),

(c) any notice to treat given in relation to the interest is withdrawn or ceases to have effect before the acquiring authority take possession of the land, and

(d) the authority notify the successor that they are not going to give the successor a notice to treat (or a further notice to treat) for the interest.

(5) The authority may by notice require the successor to pay them an amount equal to the amount of any payment made to the claimant under section 52.

(6) A notice under subsection (3) or (5) must specify the date by which the claimant or successor must pay the amount.

(7) The date mentioned in subsection (6) must be after the period of two months beginning with the day on which the authority give the notice under subsection (3) or (5).

(8) Neither subsection (3) nor subsection (5) affects a right to compensation under section 31(3) or (3A) of the Land Compensation Act 1961 or section 5(2C)(b) of the Compulsory Purchase Act 1965.""

128YAP: Clause 175, page 91, line 19, leave out subsection (3)

Amendments 128YAM to 128YAP agreed.

Amendment 128YAQ

Moved by ***Viscount Younger of Leckie***

128YAQ: After Clause 175, insert the following new Clause—

"Repayment of payment to mortgagee if land not acquired

In the Land Compensation Act 1973, after section 52ZD (inserted by section 172 above) insert—

"52ZE Payment to mortgagee recoverable if notice to treat withdrawn

(1) Where an acquiring authority have made a payment to a mortgagee under section 52ZA or 52ZB in relation to an interest in land and notify the claimant that the notice to treat relating to the interest is withdrawn or has ceased to have effect before the authority take possession of the land, the authority may by notice require the claimant to pay them an amount equal to the amount of the payment, unless another person has acquired the whole of the claimant's interest in the land.

(2) Subsection (3) applies where—

(a) a payment under section 52ZA or 52ZB has been registered as a local land charge in accordance with section 52(8A),

(b) the whole of a claimant's interest in land has subsequently been acquired by another person (a "successor"),

(c) any notice to treat given in relation to the interest is withdrawn or ceases to have effect before the authority take possession of the land, and

(d) the acquiring authority notify the successor that they are not going to give the successor a notice to treat (or a further notice to treat) in relation to the interest.

(3) The authority may by notice require the successor to pay them an amount equal to the amount of the payment.

(4) A notice under subsection (1) or (3) must specify the date by which the claimant or successor must pay the amount.

(5) The date mentioned in subsection (4) must be after the period of two months beginning with the day on which the authority give the notice under subsection (1) or (3).

(6) Neither subsection (1) nor subsection (3) affects a right to compensation under section 31(3) or (3A) of the Land Compensation Act 1961 or section 5(2C)(b) of the Compulsory Purchase Act 1965.""

Amendment 128YAQ agreed.

Amendment 128YAR not moved.

Amendment 128YAS

Moved by ***Viscount Younger of Leckie***

128YAS: After Clause 176, insert the following new Clause—

"Objection to division of land: blight notices

(1) The Town and Country Planning Act 1990 is amended as follows.

(2) In section 153 (reference of objection to Upper Tribunal), after subsection (4) insert—

"(4A) Where the effect of a blight notice would be a compulsory purchase to which Part 1 of the Compulsory Purchase Act 1965 applies, the Upper Tribunal may uphold an objection on the grounds mentioned in section 151(4)(c) only if it is satisfied that the part of the hereditament or affected area proposed to be acquired in the counter-notice—

(a) in the case of a house, building or factory, can be taken without material detriment to the house, building or factory, or

(b) in the case of a park or garden belonging to a house, can be taken without seriously affecting the amenity or convenience of the house."

(3) In section 166 (saving for claimant's right to sell whole hereditament etc.)—

(a) in subsection (1) omit paragraph (b) (and the "or" before it);

(b) omit subsection (2)."

Viscount Younger of Leckie: My Lords, this is the second group of technical amendments to Part 7 of the Bill. It deals with adjustments to the regime for determining disputes about the division of land—or material detriment—where the acquiring authority wants only part of a claimant's land. In some cases, the remainder of the land—being a house, building or factory—cannot be used without material detriment and the claimant may serve a counternotice requesting the acquiring authority to take all of the land. Disputes are referred to the Upper Tribunal.

Although this is a very large group, it includes batches of up to 11 amendments, each to deal with a single topic. As there are more than 40 very technical amendments in this group and the hour is getting on, I will, if your Lordships' House agrees, not speak to these amendments, but will answer questions about them if noble Lords have any matter they wish to raise. I beg to move.

Amendment 128YAS agreed.

Schedule 17: Objection to division of land following notice to treat

Amendment 128YAT

Moved by ***Viscount Younger of Leckie***

128YAT: Schedule 17, page 178, line 3, at end insert—

"1A_ This Part does not apply by virtue of a notice to treat that is deemed to have been served in respect of part only of a house, building or factory under section 154(5) of the Town and Country Planning Act 1990 (deemed notice to treat in relation to blighted land)."

Amendment 128YAT agreed.

Amendment 128YAU had been withdrawn from the Marshalled List.

Amendments 128YAV and 128YAW

Moved by ***Viscount Younger of Leckie***

128YAV: Schedule 17, page 178, line 24, after "served" insert "on the owner"

128YAW: Schedule 17, page 178, line 27, after "entry)" insert "on the owner"

Amendment 128YAX had been withdrawn from the Marshalled List.

Amendments 128YAY to 128YBQ

Moved by ***Viscount Younger of Leckie***

128YAY: Schedule 17, page 179, line 11, after "11(1)" insert "on the owner"

128YB: Schedule 17, page 179, line 33, at end insert—

"13A_ This Part does not apply if the acquiring authority are deemed to have served a notice to treat in respect of the land proposed to be acquired under section 154(5) of the Town and Country Planning Act 1990 (deemed notice to treat in relation to blighted land)."

128YBA: Schedule 17, page 180, line 32, after first "the" insert "owner's interest in the"

128YBB: Schedule 17, page 181, line 31, after "the" insert "owner's interest in the"

128YBC: Schedule 17, page 182, line 38, leave out ""subsection (5)" substitute "subsections (5) and (5A)"" and insert ""Subsection (5) also applies" substitute "Subsections (5), (5A) and (5B) also apply""

128YBD: Schedule 17, page 183, line 29, leave out "part only" and insert "the whole or part"

128YBE: Schedule 17, page 183, leave out lines 35 to 37

128YBF: Schedule 17, page 183, leave out lines 39 to 41

128YBG: Schedule 17, page 183, leave out lines 42 and 43

128YBH: Schedule 17, page 184, line 2, leave out "whole of the land" and insert "house, building or factory"

128YBJ: Schedule 17, page 184, line 4, leave out "whole of the land" and insert "house, building or factory"

128YBK: Schedule 17, page 184, line 25, leave out "whole of the land" and insert "house, building or factory"

128YBL: Schedule 17, page 185, line 1, leave out "land to which the counter-notice relates" and insert "house, building or factory"

128YBM: Schedule 17, page 185, line 4, leave out "land" and insert "house, building or factory"

128YBN: Schedule 17, page 185, line 8, leave out "land" and insert "house, building or factory"

128YBP: Schedule 17, page 185, line 11, leave out "the whole of the" and insert "that"

128YBQ: Schedule 17, page 185, line 38, leave out "1" and insert "A1"

Amendments 128YAY to 128YBQ agreed.

Schedule 18: Objection to division of land following vesting declaration

Amendments 128YBR and 128YBS

Moved by ***Viscount Younger of Leckie***

128YBR: Schedule 18, page 186, line 16, leave out "1" and insert "A1"

128YBS: Schedule 18, page 186, line 22, leave out "1" and insert "A1"

Amendments 128YBR and 128YBS agreed.

The Deputy Speaker (Viscount Ullswater) (Con): My Lords, there is a mistake in Amendment 128YBT. It should read:

"Page 186, line 24, leave out from "treat), to the end of line 29 and insert"

the words as printed on the Marshalled List.

Amendment 128YBT

Moved by ***Viscount Younger of Leckie***

128YBT: Schedule 18, page 186, line 24, leave out from "treat)," to the of line 29 and insert "for subsection (1) substitute—

"(1) On the vesting date the provisions of—

(a) the Land Compensation Act 1961 (as modified by section 4 of the Acquisition of Land Act 1981),

(b) the Compulsory Purchase Act 1965, and

(c) Schedule A1 to this Act,

shall apply as if, on the date on which the general vesting declaration was executed, a notice to treat had been served on every person on whom, under section 5 of the Compulsory Purchase Act 1965, the acquiring authority could have served such a notice, other than any person entitled to a minor tenancy or a long tenancy which is about to expire.""

Amendment 128YBT agreed.

Amendments 128YBU to 128YCK

Moved by ***Viscount Younger of Leckie***

128YBU: Schedule 18, page 186, line 34, at end insert—

"4A_ In section 12 (divided land), for "Schedule 1" substitute "Schedules A1 and 1"."

128YBV: Schedule 18, page 187, line 1, leave out "For Schedule 1 substitute—" and insert "Before Schedule 1 insert—"

128YBW: Schedule 18, page 187, line 2, leave out "1" and insert "A1"

128YBX: Schedule 18, page 187, line 30, at end insert—

""notice to treat" means a notice to treat deemed to have been served under section 7(1);"

128YBY: Schedule 18, page 188, line 38, leave out "28 days" and insert "3 months"

128YC: Schedule 18, page 189, line 35, leave out "determines" and insert "specifies in its determination"

128YCA: Schedule 18, page 189, line 37, after "land" insert "("the specified land")"

128YCB: Schedule 18, page 189, line 40, leave out "that additional" and insert "the specified"

128YCC: Schedule 18, page 190, line 1, leave out "additional" insert "specified"

128YCD: Schedule 18, page 190, line 7, leave out "determined" and insert "specified in its determination"

128YCE: Schedule 18, page 190, line 9, after "land" insert "("the specified land")"

128YCF: Schedule 18, page 190, line 12, leave out "additional" insert "specified"

128YCG: Schedule 18, page 190, line 14, leave out from "may" to end of line 17 and insert ", within the period of 6 weeks beginning with the day on which the Upper Tribunal made its determination, withdraw the notice to treat in relation to the land proposed to be acquired together with the specified land."

128YCH: Schedule 18, page 190, line 26, at end insert—

"5A_ In Schedule 1 (divided land) omit Part 1 (buildings and gardens etc)."

128YCJ: Schedule 18, page 190, line 29, leave out "1" and insert "A1"

128YCK: Schedule 18, page 190, line 41, at end insert—

"8_ In Schedule 6 to the Crossrail Act 2008 (acquisition of land shown within limits on deposited plans), in paragraph 11(3)(b), for "Schedule 1" substitute "Schedule A1"."

Amendments 128YBU to 128YCK agreed.

Clause 179: Power to override easements and other rights

Amendment 128YCL

Moved by ***Viscount Younger of Leckie***

128YCL: Clause 179, page 93, line 8, at end insert ", and

(d) the building or maintenance work is for purposes related to the purposes for which the land was vested, acquired or appropriated as mentioned in paragraph (b)."

Viscount Younger of Leckie: My Lords, this is the final group of government amendments on compulsory purchase matters, dealing with the power to override easements and other rights. This power, which is currently available to local planning authorities and regeneration agencies such as the Homes and Communities Agency and urban development corporations, is extended, by means of Clause 179, to land acquired by "specified authorities", being those which have compulsory purchase powers. I believe that none of the amendments is controversial, so I hope to deal with them in short order, if the House agrees.

Amendments 128YCL, 128YCN, 128YCP and 128YCR ensure that the powers in Clause 179 are only available where the development by a specified authority, or a successor in title, is related to the purpose for which the land was vested in, acquired by or appropriated by the specified authority. These amendments codify the judgment in Midtown Ltd v City of London Real Property Company Ltd. The Honourable Mr Justice Peter Smith held, at paragraph 47 of his judgment, that if a local authority or a successor in title wishes to rely upon the power to override in Section 237 of the Town and Country Planning Act 1990, the proposed development must be related to the planning purposes for which the land was acquired or appropriated.

Amendments 128YCM, 128YCQ, 128YCS and 128YCU to 128YCY clarify the transitional provisions that apply to those authorities which already have the power to override easements to ensure that they operate effectively. Amendment 128YCX clarifies the terminology for the determination of compensation disputes.

Government Amendment 128YCT—the so-called National Trust amendment—extends the protection in place for statutory undertakers from having their rights overridden to the National Trust. This amendment responds to Amendment 103C tabled in Committee by the noble Baronesses, Lady Andrews and Lady Parminter, who spoke to the amendment on that occasion. I understand that officials at the National Trust are content with this amendment, and I hope that the noble Baronesses are too.

Finally, Amendment 128YD inserts into the definition of "specified authority" a body established by an Act or Measure of the National Assembly for Wales. This is a piece of future-proofing in case an Act or Measure of the Assembly should create a new body with compulsory acquisition powers.

I conclude by thanking your Lordships' House for its patience in hearing about 90 technical, and in places arcane, amendments about compulsory purchase. I beg to move.

Amendment 128YCL agreed.

Amendments 128YCM to 128YCT

Moved by ***Viscount Younger of Leckie***

128YCM: Clause 179, page 93, line 12, leave out "a specified authority" and insert "the qualifying authority in relation to the land"

128YCN: Clause 179, page 93, line 13, at end insert ", and

(d) the building or maintenance work is for purposes related to the purposes for which the land was vested in, or acquired or appropriated by, the qualifying authority in relation to the land."

128YCP: Clause 179, page 93, line 29, at end insert ", and

(d) the use is for purposes related to the purposes for which the land was vested, acquired or appropriated as mentioned in paragraph (b)."

128YCQ: Clause 179, page 93, line 33, leave out "a specified authority" and insert "the qualifying authority in relation to the land"

128YCR: Clause 179, page 93, line 35, at end insert ", and

(d) the use is for purposes related to the purposes for which the land was vested in, or acquired or appropriated by, the qualifying authority in relation to the land."

128YCS: Clause 179, page 93, line 37, at end insert—

"(7A) Land currently owned by a qualifying authority is to be treated for the purposes of subsection (3)(c) or (6)(c) as if it were not currently owned by the authority."

128YCT: Clause 179, page 93, line 41, at end insert—

"(9) Nothing in this section authorises—

(a) an interference with a relevant right or interest annexed to land belonging to the National Trust which is held by the National Trust inalienably, or

(b) a breach of a restriction as to the user of land which does not belong to the National Trust—

(i) arising by virtue of a contract to which the National Trust is a party, or

(ii) benefiting land which does belong to the National Trust.

(10) For the purposes of subsection (9)—

(a) "National Trust" means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907, and

(b) land is held by the National Trust "inalienably" if it is inalienable under section 21 of the National Trust Act 1907 or section 8 of the National Trust Act 1939."

Amendments 128YCM to 128YCT agreed.

Clause 180: Compensation for overridden easements etc

Amendments 128YCU to 128YCX

Moved by ***Viscount Younger of Leckie***

128YCU: Clause 180, page 94, line 3, after "specified" insert "or qualifying"

128YCV: Clause 180, page 94, line 5, leave out "specified"

128YCW: Clause 180, page 94, line 6, at end insert—

"(3A) The specified or qualifying authority against which a liability is enforceable by virtue of subsection (3)(a) is the specified or qualifying authority in which the land to which the compensation relates was vested, or by which the land was acquired or appropriated, as mentioned in section 179."

128YCX: Clause 180, page 94, line 7, leave out subsection (4) and insert—

"(4) Any dispute about compensation payable under this section may be referred to and determined by the Upper Tribunal."

Amendments 128YCU to 128YCX agreed.

Clause 181: Interpretation of Sections 179 and 180

Amendments 128YCY and 128YD

Moved by ***Viscount Younger of Leckie***

128YCY: Clause 181,

page 95, line 7, at end insert—

""qualifying authority" in relation to other qualifying land means the authority in which the land was vested, or which acquired or appropriated the land, as mentioned in the definition of "other qualifying land";"

128YD: Clause 181, page 95, line 16, after "Act" insert—

"(ca) a body established by or under an Act or Measure of the National Assembly for Wales,"

Amendments 128YCY and 128YD agreed.

Amendment 128YE

Moved by ***Lord True***

128YE: After Clause 184, insert the following new Clause—

"Local planning authority right to develop in the local interest

(1) Where a local planning authority has compiled a register under section 137 or has seen a report under section 184 and considers that a government department, Mayor of London or other public authority, transport undertaking or other statutory undertaking has not prepared, or declines to prepare, a plan for development of previously developed unused or underused land on the register in its possession within the local authority area, it may challenge the owner of the land to present planning proposals to the local planning authority within 6 months in conformity with the adopted plan or plans for the area concerned, unless the Secretary of State has certified such development as against the national interest.

(2) Where the owner declines to present such a plan in accordance with subsection (1) it must publish within the same 6-month period a response showing good reason why such previously used land in its ownership should not be developed in the local public interest.

(3) If the local planning authority considers the response not to show good reason why the land should not be developed, it may proceed to present its own proposals for development, to compulsorily purchase the land concerned and to exercise itself any planning consent that is then granted.

(4) The costs to the local planning authority of any compulsory purchase of the land and the net cost of its development will be remitted by the local planning authority without any profit element to the owner who has declined to develop, in arrears after the land is sold.

(5) This section does not apply to land within National Parks or the Royal Parks or designated as a site of special scientific interest."

Lord True: My Lords, I hesitate to interrupt the tour de force of my noble friend Lord Younger. In 100 years' time, historians will read *Hansard* and marvel at his command of the law of compulsory purchase. I can say to those future historians that I am absolutely amazed by what he has told us.

Because of time, I will be very brief. I seem to be unfortunate in addressing noble Lords at this late hour every day. I have tried to put forward a creative idea in response to the intolerable position whereby public authorities fail to develop land when they should. I declare an interest as a non-executive member of the Royal Parks Board. The Royal Parks are referred to in this amendment, but that is technical.

I spoke to this in Committee at a different point in the Bill. I do not want to detain your Lordships long, but the issue is simple. To give one example, which actually would not be addressed but it is the spirit of the thing, a planning permission that has been granted in my borough, over intense opposition, to build 110 homes has not yet been proceeded with by a public authority after five years. Another example would be an official from a health service body who said, when pressed in discussion with my planning officers recently to proceed with a development on a site brief to develop new homes, a small primary school and medical facilities, "Well, if you keep going on like that, we could leave this lying fallow for years". That is the sort of mentality that exists too often. I congratulate the Government on trying to get to grips in the Bill with brown land that is held by government departments, public bodies and other statutory and transport undertakings. I will not venture to mention Network Rail.

My amendment is defective in many ways. I am not suggesting that it could operate in this way. But I am encouraged to press forward in the hope that, instead of always criticising local authorities, my noble friend on the Front Bench may be able to say that, over the weeks and months to come, he is prepared to consider giving local authorities the opportunity to do something to get these buildings and developments done. At the moment we are taking incoming fire but are not able to press those who are failing in their public duty, in my estimation. I beg to move.

Lord Kennedy of Southwark (Lab): My Lords, I support the amendment of the noble Lord, Lord True. It is an excellent idea. I hope the Minister will come back, as the noble Lord suggested, with some suggestions for what could be done in the next few months with local authorities.

When I go to Lewisham Town Hall, I get off at Catford Bridge station and walk past a scruffy bit of land clearly owned by the railway that you could easily get six or seven houses on. It just sits there and irritates me every day. The railways have bits of land near them. On a number of sites in Lewisham you could build some houses. We are in the midst of a housing crisis and there is no good reason that this land just sits there. I hope the Minister will respond favourably to the points made by the noble Lord, Lord True.

The Parliamentary Secretary, Cabinet Office (Lord Bridges of Headley) (Con): Well, my Lords, that was very brief. I, too, will try to be very brief. Before addressing the amendments in this group, I want quickly to update your Lordships on discussions I have had since Committee. In Committee I promised to write to my noble friend Lord Carrington of Fulham to clarify the position of the Corporation of London, given its unique hybrid nature. I take this opportunity to reassure the corporation that our intention is to apply regulations under this part of the Act to the corporation in its capacity as a local authority only, and that the drafting of the Bill allows for this.

Turning to the amendments in this group, I will start with Amendment 129 in the name of my noble friend Lady Williams. Clause 185 provides a power for the Secretary of State, in circumstances to be specified in regulations, to direct a relevant public authority to take steps for the disposal of the body's freehold or leasehold interest in any land. At present, the regulations setting out these circumstances will be subject to the negative resolution procedure. Amendment 129 amends Clause 185 to require the affirmative procedure to be used instead, as recommended by the Delegated Powers and Regulatory Reform Committee.

I thank my noble friend Lord True—he is indeed a friend—for his arguments and concerns regarding Amendment 129YE. I entirely agree with him and the noble Lord, Lord Kennedy, that surplus land held by public bodies should be brought forward for development without delay, and that local authorities, which are indeed expert on local planning matters, should be able to make their voice heard. That is why we are introducing the duty on Ministers to engage with them under Clause 183.

I assure your Lordships that the Government are equally committed to making sure that more public land is brought forward for development and that surplus land is released for development, including for housing, without delay. I think we all share the impatience for this to happen, and Clauses 184 and 185 will help to deliver it. Clause 184 will ensure that relevant public bodies report any land which has been held as surplus for two years or more—six months for residential land—and the reasons why.

It pains me to say that my noble friend's amendment could risk undermining this—he himself said it was defective—by giving a local authority the ultimate power, if it does not accept the reasons put forward by the landholding body why the land should not be developed at this time, to force development to proceed. I fully accept that most local authorities would not use this power for mischief making, but the potential would exist. More pertinently, there would be cases in which a fine balance of judgments would need to be made regarding a public authority's total land asset requirements, at a national level, now and in the future. Given their local focus, however well meaning they may be—and they are well meaning—local authorities are not that well placed to make these judgments. Getting them wrong would undermine carefully planned land disposal strategies across the wider public sector.

The Government's view is that this power should sit with the Secretary of State, who is best placed to take a balanced judgement on a given public body's need for the land, taking account of their broader functions, future plans and assets. However, there should be no doubt about our commitment to ensuring that unused public land is put to good use.

My noble friend Lord True has also tabled Amendment 129A—

10.15 pm

Lord True: I apologise—I had intended to de-group that, so I did not speak to it. I could speak to it in its place.

Lord Bridges of Headley: Amendment 129A, to which the noble Lord, Lord Beecham, has added his name, would remove Clause 186 from the Bill. This clause mirrors Section 86 of the Climate Change Act 2008, which requires the Minister for the Cabinet Office to publish an annual *State of the Estate* report setting out progress in improving the efficiency of the civil estate.

Local authorities are already subject to a number of efficiency and sustainability requirements, such as producing energy efficiency certificates for their buildings. The new duty draws on these and requires authorities to publish reports to enable local people to hold them to account for the use of their assets. I reassure noble Lords that any additional costs to local authorities will be met by central government. DCLG is currently undertaking a new burdens assessment of Clauses 183 to 187 to determine which of the provisions create new burdens, and their extent.

Finally, I turn to Amendment 129ZA, proposed by the noble Lords, Lord Kennedy and Lord Beecham, which would remove Clause 185 from the Bill. The power to order disposals was brought into effect through the Local Government, Planning and Land Act 1980. The power underpins the community right to reclaim land, which enables people to hold public authorities to account for their use of land. Under this right, communities can drive improvements in their local area by asking the Secretary of State to direct that underused or unused land owned by public bodies is brought back into beneficial use.

Since 1 April 2011, when the National Planning Casework Unit was tasked with considering requests under the right, we have received 106 requests. Only one of these resulted in the power being exercised, over a piece of land of 0.26 hectares in Tiddington, near Stratford-upon-Avon—no doubt a blessed plot. A great deal of effort has been expended by those making requests, and by the casework unit in considering them, for very little gain. This is why the Government wish to strengthen the existing legislation—to enable people to challenge their local authorities to release land, even where it is used, if it could be put to better use. Far from being centralising, Clause 185 gives more power to local communities.

The 1980 Act already provides important safeguards which will continue to apply to the new provisions. Public bodies must be notified of the Secretary of State's proposal to exercise the power and are given 42 days in which to make representations. If a representation is made, the Secretary of State may not give a direction unless he is satisfied that the disposal can be made without serious detriment to the performance of the body's functions.

All this shows that we are determined to ensure that public land is used as efficiently as possible, and that where it can be made surplus and put to better use, especially in building more homes, this happens as quickly as possible. These clauses are essential to that agenda, and I hope that noble Lords will be fully reassured by the explanations I have given.

Lord Kennedy of Southwark: My Lords, before the Minister sits down, I was a little disappointed by his response to the amendment of the noble Lord, Lord True. The bits of land I am talking about are not big or strategic. No one wants to use them. They have sat there for years. There are now trees growing there. That is of no benefit whatsoever. The Minister suggests that this power should be held by the Secretary of State and that local councils would be mischievous. This is about us building three or four houses and getting a bit of scruffy land cleaned up, sorted out and into use. I cannot see why that would be better in the hands of the Secretary of State than the local council.

Lord Bridges of Headley: I understand the point the noble Lord is making, but when we are talking about public authorities' land that may stretch the entire breadth of the country, the Government believe that it is in our interest to ensure that the Secretary of State takes that decision.

Lord Shipley: Before the Minister sits down, I point out that the Government are very critical of builders who hoard land, but are they critical of Whitehall departments that also hoard land? Is there a list, a register, of all the pieces of land the Minister is talking about? If power is to reside with the Secretary of State, the following question must be: how does the Secretary of State know what needs to be done? Is it not better to accept the amendment moved by the noble Lord, Lord True, which gives the responsibility to initiate the procedure to the local authority?

Lord Bridges of Headley: I am sorry to say that I disagree with the noble Lord on his final point. We are indeed looking at the land that the Government hold at national level very carefully indeed. As the noble Lord will have seen, Table 1.12 in the Autumn Statement catalogues what each department is being expected to provide in land for housing and land surplus to requirements, which we will be looking to dispose of.

Lord True: My Lords, obviously, I am slightly disappointed by my noble friend's reply. I am gratified he recognises the problem and thinks that local authorities might be useful, but he thinks that it is too risky to allow them to do anything. That is the disappointing part of his reply. I want to take the spirit of my noble friend's answer, rather than the letter. I like to think that further thought will be given to this problem, because it will remain and I will not cease to put the case for local authorities to be able to take the initiative.

I had intended to speak to my other amendment in its place but, as my noble friend has already spoken to it, it will perhaps be for the convenience of the House if I respond now, and then we can move on. My reason for criticising Clause 186 is that, as my noble friend acknowledged, it is potentially a major new burden on local authorities. He did not address that; he said that money would be provided. I question whether it is

necessary for money to be provided. One of the achievements of the Government after 2010 was to sweep away the nonsense of a process called asset management strategies and asset management plans, where every local authority was required regularly to submit to the Government what they were doing with their land. This is simply officials in Whitehall reviving that process under another name. It was one of Gordon Brown's most disliked operations, and local authorities were very glad to see it go.

It is absurd to expect the Cabinet Office to monitor all the bodies in Schedule 22 to check whether authorities are reducing the size of their estate. Ministers in the Cabinet Office are going to check, every time that a local authority changes building, that it is in the top quartile of energy performance. This will be an interference with local authorities' ability to use their land efficiently. We must explain. Let us say that we wanted to take leasehold space in a building to use our estate more profitably, but it was less energy-efficient. My officers have to file a report with the Cabinet Office explaining why we have taken three rooms in a block of flats to put some officers there briefly.

I will not press the amendment, because I read in the commencement clause that it does not come into force on the day on which the Bill comes into force. For that reason, I will withdraw the amendment, but I urge my noble friend to think about the bureaucracy being recreated here. Section 7 is in any case defective because a building can be part of an authority's estate where two authorities are working together. An authority may well have a building in a partner authority's area and may have an interest. Say if Richmond were partnered with Wandsworth and using a building in Wandsworth, according to the amendment as drafted by the Government, that building would not be classed as part of Richmond's estate. That is absurd, and officials need to look again at the drafting of this legislation.

I am disappointed by seeing this bureaucracy returning, albeit under the guise of climate change, but I hope that before this comes into force my noble friend will give more consideration to it. I beg leave to withdraw the amendment.

Amendment 128YE withdrawn.

Clause 185: Power to direct bodies to dispose of land

Amendment 129

Moved by ***Baroness Williams of Trafford***

129: Clause 185, page 98, line 22, leave out from "(A1)" to end of line 23 and insert "may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament."

Amendment 129 agreed.

Amendment 129ZA not moved.

Clause 186: Reports on improving efficiency and sustainability of buildings owned by local authorities

Amendment 129A not moved.

Clause 190: Regulations: general

Amendment 130

Moved by ***Baroness Williams of Trafford***

130: Clause 190, page 100, line 14, leave out "(whether alone or together with other provision)"

Baroness Williams of Trafford: Before we start debating the various commencement issues, I shall highlight a couple of minor changes consequential on Amendment 133, which was debated on 18 April alongside consideration of the amendments on pay to stay. In bringing forward a government amendment to ensure that the first regulations brought forward under Clause 78 will be affirmative, it was necessary to move some of the text of the clause from the beginning to the end. This has no effect on the meaning of the clause, but simply tidies up the language to prevent any misunderstanding. I beg to move.

Amendment 130 agreed.

Amendment 131

Moved by ***Baroness Williams of Trafford***

131: Clause 190, page 100, line 15, at end insert—

"( ) regulations under section 13,"

Amendment 131 agreed.

Amendment 132

Moved by ***Lord Lisvane***

132: Clause 190, page 100, line 15, at end insert —

"( ) regulations under section 67(1) that contain more than one determination or a determination that relates to more than one local housing authority,

( ) regulations under section 67(8),"

Lord Lisvane: My Lords, this amendment is consequential upon Amendment 53, which was agreed on 13 April. I beg to move.

Baroness Williams of Trafford: My Lords, Amendment 132, which has been tabled by the noble Lords, Lord Lisvane, Lord Kerslake and Lord Beecham, would make regulations on the definition of higher value and on determinations subject to the affirmative procedure. As I have made clear, we have listened to the House and agree that the regulations defining higher value should be made through the affirmative process. We will table an additional amendment in relation to this to ensure that no hybridity issues arise in respect of those regulations. We do not agree that the determination should be put into regulations and that those regulations should be subject to the affirmative procedure. However, I recognise that the House voted to accept Amendment 53, which put the determination into regulations, and that agreement has been reached that Amendment 132 will be accepted by the will of the House. It is important that I am clear to noble Lords that the Government are concerned that putting the determination into regulations will add more complexity and delay to the process and that we intend to return to this issue in the Commons.

Amendment 132 agreed.

Amendment 133

Moved by ***Baroness Williams of Trafford***

133: Clause 190, page 100, line 16, at end insert—

"( ) the first regulations under section 78,"

Amendment 133 agreed.

Amendment 133A not moved.

Amendment 133B

Moved by ***Baroness Williams of Trafford***

133B: Clause 190, page 100, line 17, at end insert—

"( ) section (Reducing local authority influence over private registered providers);"

Amendment 133B agreed.

Amendment 134 had been withdrawn from the Marshalled List.

Amendments 135 and 135A

Moved by ***Baroness Williams of Trafford***

135: Clause 190, page 100, line 18, at end insert—

"( ) regulations under section (Electrical safety standards for properties let by private landlords),"

135A: Clause 190, page 100, line 18, at end insert—

"( ) regulations under section 145 that make provision of the kind referred to in section 145(2), (3), (4) or (6A)(b), section 147 or section 148,"

Amendments 135 and 135A agreed.

Amendment 135B

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

135B: Clause 190, page 100, line 18, at end insert—

"( ) regulations under section (Power to require property agents to join client money protection schemes), (Client money protection schemes: approval or designation), or (Enforcement of client money protection scheme regulations),"

Amendment 135B agreed.

10.30 pm

Amendment 135C

Moved by ***Lord Lucas***

135C: Clause 190, page 100, line 18, at end insert—

"( ) regulations under section (Planning freedoms: right for local areas to request alterations to planning system)(1),"

Lord Lucas (Con): My Lords, this amendment and Amendment 137A are consequential on Amendment 107B, which we debated and passed on the previous day of Report. Amendment 135C would make any proposals under Amendment 107 subject to the affirmative procedure, which I addressed at the time and seems to me to be entirely appropriate, while Amendment 137A would deal with hybridity. I beg to move.

Amendment 135C agreed.

Amendment 135D not moved.

Amendments 136 and 137

Moved by ***Baroness Williams of Trafford***

136: Clause 190, page 100, line 24, at beginning insert "(whether alone or together with other provision)"

137: Clause 190, page 100, line 29, at end insert—

"( ) If a draft of regulations under section 145 would, apart from this subsection, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument."

Amendments 136 and 137 agreed.

Amendment 137A

Moved by ***Lord Lucas***

137A: Clause 190, page 100, line 29, at end insert—

"( ) If a draft of regulations under section (Planning freedoms: right for local areas to request alterations to planning system) would, apart from this subsection, be treated as a hybrid instrument for the purposes of the Standing Orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument."

Amendment 137A agreed.

Clause 192: Commencement

Amendment 138

Moved by ***Lord Lisvane***

138: Clause 192, page 101, line 9, leave out paragraph (b)

Lord Lisvane: My Lords, as we embark on the last group in five heavy days of this Bill on Report, I am under no illusions at all about your Lordships' wish to have a lengthy debate. However, it is perhaps appropriate that the issues raised by this last group reflect concerns raised at Second Reading, in Committee and on Report: what is good legislation and how do you go about it?

Amendment 138 is simply a paver for Amendment 140, in that it would remove the immediate commencement date from the provisions on vacant high-value housing, which Amendment 140 seeks to delay. Amendments 139, 140 and 141 in my name and that of the noble Lords, Lord Kerslake, Lord Kennedy of Southwark and Lord Foster of Bath, are sunrise amendments. They would delay the coming into force of provisions on, respectively, rents for high-income social tenants, vacant high-value housing and starter homes, until the key regulations in each case had been laid before Parliament. It is fair to say that the period of delay might be much too long in practice, but of course its purpose is demonstrative.

The aim of the amendments is to reverse the default setting with which we have become perhaps almost too familiar in considering the Bill: first, that a great deal—too much, in the minds of many—is left to secondary legislation; secondly, that the level of parliamentary control is too low, although I am glad to say that some welcome steps have been taken in this respect on Report; and, lastly, that too much depends on consultation that should have taken place before the Bill was ever introduced and whose outcome, even at this stage, we have to take on trust.

Over many years in this building I have become familiar—even wearily so—with the special difficulties of a first Session of a Parliament, particularly when there has been a change of Administration at the previous general election. However, I do not think that that entirely justifies the position in which we have been put. Sometimes one must accept delay in order to get things right. Getting things right means following the logical process of formulating policy, consulting upon it, finalising it and then putting it into draft legislation, with all the key areas of policy being in the Bill.

In what seems now the dim and distant past, there used to be such things as Green Papers. Not only did they allow consultation on proposals; they also allowed legislative intent to be stress-tested before proposals came formally before Parliament. I attach no blame at all to the noble Baroness, Lady Williams of Trafford, and her noble friends on the Front Bench. She has constantly sought to be helpful, as have her officials and the Housing Minister, Brandon Lewis. Like, no doubt, other noble Lords around the House, I am very grateful for that but from time to time, Ministers have reminded me of anguished travellers on a runaway train. They have been prisoners of a legislative culture in the Executive. I do not single out the present Administration in this respect; it has been going on for a long time, perhaps too long. That culture militates against real parliamentary scrutiny.

In passing, I note that Clause 189(2), which is outside the scope of these amendments but close by, is a hefty Henry VIII power of the sort against which my noble and learned friend Lord Judge warned us in his masterly King's College lecture a fortnight ago.

The message of Amendments 139, 140 and 141 is really that, had this measure come before Parliament in the form of a draft Bill, it would have resulted in better legislation. I know well why that was not the option the Government found attractive, but I hope that this Parliament will see a dramatic increase in the number of draft Bills, and that we may hear of a reassuring number in the gracious Speech in just over three weeks' time. I beg to move.

Lord Foster of Bath (LD): My Lords, I shall briefly follow the noble Lord, Lord Lisvane. At Second Reading, I and many other people acknowledged that there were some very good bits in the Bill before us at that time. However, we pointed out that there were also many bits about which we had considerable concern. There are at least some areas where deliberation in your Lordships' House has brought about improvements to those areas where we had concern. I, too, pay tribute to the Minister and her colleagues on the Front Bench for the way in which they have been willing to listen and bring forward amendments in the light of our deliberations.

However, none of that can take away from the fact that the Bill has been presented, not only in another place but more recently to your Lordships' House, in a pretty poor state. Because I am relatively new to your Lordships' House, I turned to my elders and betters to see what they have thought about it. As we come to the end of the deliberations on this legislation, it is worth reflecting what your Lordships' Delegated Powers and Regulatory Reform Committee has had to say about the Bill—not only when it first received it but subsequently, after various deliberations had taken place.

I note that, in its 27th report, the committee says:

"This Bill has given rise to a particularly large number of comments and recommendations … It is also disappointing that we have felt it necessary to comment adversely on aspects of the delegated powers memoranda provided by the department".

It described those memoranda as "variable in quality" and pointed out that in relation to some parts of the Bill,

"no delegated powers memorandum was provided at all".

When the Government responded to the committee's initial findings, the committee then had to point out that:

"It is a matter of regret that the Government's response to this Bill … gives us cause for continued concern in that a number of our recommendations received no comment at all".

The committee made the point that many Members of your Lordships' House have made many times over many weeks, when it said that,

"we would observe again that these provisions are being presented to the House before the underlying policy is sufficiently developed to afford Members a clear basis for discussing it".

In its 28th report, the committee amplified that in saying:

"Inadequate and incomplete provisions of … primary legislation cannot be excused on the basis that consultation has not taken place or that the Government wish to retain 'flexibility to set out differing timeframes as they apply in different contexts'".

The committee concludes:

"The policy should have been finalised following appropriate consultation before, not after, the Bill was introduced".

One can read so many other comments from the report:

"We draw this apparent ambiguity to the attention of the House … We draw this lack of clarity to the attention of the House … That seems to us to be a very unusual requirement, and we draw it to the attention of the House",

and so on. It is "not persuaded", it does not regard this as being remotely persuasive, and so the report goes on.

It is perfectly reasonable for people to propose a sunrise clause as a way of simply putting off legislation with which they disagree, and we on these Benches disagree with bits of this legislation. However, the noble Lord, Lord Lisvane, has made a much more fundamental point about why there should be a sunrise clause, which is simply that the work has not yet been done. Until the work has been done and draft regulations are put before the House and we have an opportunity to know that that consultation has taken place and to understand what the Government mean by some of the definitions we have not yet heard, it seems perfectly reasonable to propose, as the noble Lord and others have done, that we have a sunrise clause to put off the introduction of this legislation until the Government have done the work that they should have done before presenting the Bill to this House.

Baroness Hollis of Heigham (Lab): My Lords, I also support these amendments. I hope that the House will forgive me if I say that I have been in this House for 25 years and handled a number of Bills on both sides of the Benches, both for the Government and the Opposition. There are often cases where, as with the

[Baroness Hollis of Heigham]
Cities and Local Government Devolution Act, there was a real need for something that was essentially broad brush to get resolutions coming from below, and we accepted that.

However, leaving that aside, in process terms—I am not talking about content, and it is absolutely not the fault of the Minister and her colleagues on the Front Bench—this is the worst Bill I have come across in my fields in 25 years. That is because we have not had pre-legislative scrutiny or proper legislative scrutiny and, because the consultation exercises which should have been completed before the Bill started will not be completed until after the Bill has finished, we will not get post-legislative scrutiny. What does it mean to talk about this House of Lords being a place of scrutiny when we cannot scrutinise because so much of what we need to know will not only not be in primary legislation, but will also not be in statutory instruments which we will see draft copies of before the Bill is complete? Why is that? They are dependent on consultation exercises, which were only started in some cases half way through not the proceedings down the other end but the proceedings in this House. This is disgraceful. It is a shabby way to treat Parliament and all those affected by the Bill—and hundreds of thousands of council tenants will be affected by it, as well as many people who will seek to buy starter homes, and they still do not know the small print of how it will be. It is a shabby way to treat the public.

It is fairly obvious that the Bill was introduced a year too early. It should have been pulled fairly early by the current equivalent of LegCo. Ministers should have been sent away and told to come back to both Houses when the Bill's policy intent was clear, so that stuff that is of major policy import, not matters of detail, is not carried by SIs—which we are told we cannot amend but only discuss; we might just as well go home and not bother for that purpose—instead of being in the Bill, where we can amend it, dispute and argue with the House of Commons and, ultimately, of course, accept that it has the final say. That has been denied to us.

We are moving on to Third Reading, and I cannot recall being so unhappy about the handling of the process of a Bill, and, as I said, I have been involved with quite a number of Bills. I am not talking about the Minister, who has been as accommodating, helpful and generous with her time as possible. We have failed to scrutinise the Bill. We have allowed ourselves to be committed to a process which we should have rejected as inadequate, because the Bill was not ready for parliamentary scrutiny. We have all allowed ourselves to collude in that failure of scrutiny, and I have to say that I am ashamed of it.

10.45 pm

Baroness Williams of Trafford: My Lords, we end Report as we began, discussing the principle of many of the policies within the Bill. The evening is drawing on—it is now quarter to 11—so noble Lords will forgive me if I do not restate all the arguments for all the policies.

However, I will say this. Later this week, we will pass to the other place a Bill which contains a number of distinct manifesto policies and which implements a number of measures set out in the Government's Budget or productivity plan. The Government's intention is quite clear. We all agree that this country, and in particular our young people, need more homes to be built. That is a key theme for this Government, and changes to the planning system and building new homes take time.

I understand the concerns raised by noble Lords, particularly the noble Baroness, Lady Hollis, about the availability of detail on some of the policies in the Bill, but this set of amendments would place delay upon delay on the building of new homes. This is extra time that we simply do not have. It would mean a delay to the sale of high-value assets, meaning delays to building two more affordable homes in London for every one expected to be sold, and a delay to the commencement of starter homes, meaning fewer built for young families looking for somewhere to call their own.

I have heard the arguments raised time and again—that noble Lords feel that the detail of our policies should be available for scrutiny before work is done to legislate for them—and I understand the points that have been made. I am very keen to see consensus where possible and to continue to engage with noble Lords across the House as we go forward in developing regulations after the Bill has completed its passage. That is why I have made a number of changes to enhance the role of Parliament in scrutinising our plans. Several regulations will now not come into force without the detail being agreed by both Houses. I believe that this is a good compromise, and it is the result of noble Lords' passionate arguments and skill in refining the Bill to the point at which we are today.

Amendments 138 and 140, tabled by the noble Lords, Lords Lisvane, Lord Kerslake, Lord Beecham and Lord Foster, would delay the sale of high-value assets and the delivery of new homes which that would unlock. Furthermore, the sale of assets to pay for the voluntary right-to-buy agreement is a manifesto commitment, and people want to exercise their right to buy as soon as possible. Already more than 25,000 housing association tenants have registered their interest in taking up this option, with 1,000 registering their interest each week. Our current arrangements will allow Parliament to scrutinise the detail first, and I hope that that will satisfy noble Lords. However, at this point I must make it clear that I will not bring back this amendment at Third Reading. Therefore, if the noble Lord is not content with my response, he should test the opinion of the House this evening.

Likewise, the affirmative regulations effected by Amendment 141, tabled by the noble Lords, Lord Lisvane and Lord Kerslake, would prevent the starter home provisions in the Bill coming into force until a year after regulations are laid in both Houses. I say again that the Government's manifesto commitment was to deliver 200,000 starter homes, and we will be expected to deliver on our commitment. Our current arrangements allow Parliament to scrutinise the detail first.

I hear noble Lords' arguments clearly, however, and local planning authorities need time to consider new measures. That is why we are consulting on the provision

of transitional arrangements in our technical consultation. We have asked an open question to understand the views of the sector on this important matter.

The regulations will not act retrospectively on existing planning consents. It is also our intention that they will not apply to any application already submitted to a local planning authority. I am sure noble Lords do not want to delay housebuilding because their amendment stops development for a year, and that would be its impact.

Turning now to Amendment 138C, which is from the noble Lords, Lord Krebs and Lord Kennedy, and deals with flooding, I acknowledge that where we do build we need to do so in a way that ensures that the flood risk is managed effectively and so that new development does not add to the flood risk. Our planning policies are designed to do just that. I am glad to acknowledge the important work which the noble Lord, Lord Krebs, has led with the adaptation sub-committee of the Committee on Climate Change on this matter. We understand and appreciate the intention of the noble Lord to find further ways to ensure that new development is not built in areas of high flood risk. His proposal raises some complex issues, not least the interaction with insurance arrangements and the operation of the existing warranty schemes for new homes. We all want to avoid a situation where there is any confusion about liabilities and responsibilities between housebuilders, insurance companies and warranty scheme operators. The Housing and Planning Minister, Brandon Lewis, wrote to the noble Lord offering further discussions between officials on this matter, including with colleagues from Defra. I am very happy to repeat that offer this evening. I can confirm that I will write to the noble Lord with details of those planned discussions. I hope he will accept that as a positive way forward.

I know that some of us are not going to agree on policies linking social rents more closely to income, despite the progress that we have made. I have listened to the debate with care, but my response may not come as a surprise. Amendment 139 would delay payment of a fairer rent by those who can afford it, and the money raised through the policy has been identified as a contribution to deficit reduction. Delaying the implementation of the policy in this way would reduce the Government's ability to use that money for this important purpose. I have previously announced a significant package of measures aimed at ensuring that the policy is applied fairly, including the use of a taper and exemptions for people on certain benefits. We are carefully considering the amendments made by noble Lords to the policy on Report before we return to this discussion in the Commons. We will give tenants time to prepare for the introduction of the policy by working with local authorities now to ensure that they are fully aware of the need to put preparations in place to deliver measured and tapered rent increases in April 2017. My officials and I have had constructive conversations with the noble Lord, Lord Lisvane, about how we can implement the Bill as practically as possible.

As I said earlier, I hope I have been clear in what I said: if the noble Lord is not happy with my response, he should test the opinion of the House.

Lord Lisvane: My Lords, I am grateful to the Minister, especially for her undertaking to seek consensus as the details have developed—that is extremely helpful. I know that she has taken my criticisms in good part. In practice, these amendments raise issues that are lessons for the future, rather than an occasion for a final skirmish on Report. Accordingly, I beg leave to withdraw Amendment 138 and will not move the subsequent amendments.

Amendment 138 withdrawn.

Amendment 138A not moved.

Amendment 138B

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

138B: Clause 192, page 101, line 15, at end insert—

"( ) section (*Tenants' associations: power to request information about tenants*);"

Amendment 138B agreed.

Amendments 138C to 141 not moved.

Amendment 142

Moved by ***Baroness Williams of Trafford***

142: Clause 192, page 101, line 19, at end insert—

"(5) In respect of sections 161 and 163, and Schedule 15, different days may be appointed for different areas."

Amendment 142 agreed.

10.55 pm

Sitting suspended.

Immigration Bill

Returned from the Commons

11.08 pm

The Bill was returned from the Commons with reasons and amendments. It was ordered that the Commons reasons and amendments be printed. (HL Bill 118)

House adjourned at 11.09 pm.

Volume 771
No. 141

Monday
25 April 2016

CONTENTS

Monday 25 April 2016