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Planning Bill: Committee Stage Report

This is a report on the Committee Stage of the *Planning Bill* in response to a recommendation of the Modernisation Committee in its report on *The Legislative Process* (HC 1097, 2005-06).

This Bill would establish an Infrastructure Planning Commission (IPC) to decide development consent for major infrastructure projects in England and Wales, on the basis of Government statements of national policy. This procedure would introduce a single consent regime for a wide range of infrastructure projects currently approved under separate pieces of legislation. The Bill contains enabling legislation to allow regulations to establish the Community Infrastructure Levy. The Bill would also introduce a new procedure for planning appeals for minor applications like householder development.

The Bill was not substantially amended in Committee but some changes were agreed to the definitions of major infrastructure projects of national importance that would be decided by the IPC.

Christopher Barclay

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Summary of main points

The *Planning Bill* was slightly amended in Committee but most parts were left unchanged. The main changes related to the definition of projects that would be considered by the Infrastructure Planning Commission (IPC). The Committee accepted several Government amendments on this point, slightly broadening the definition. This definition is important because there will not, in normal circumstances, be a choice of procedures.

The Committee stage also resulted in some clarification. In particular it has provided more detail of how the Government proposes to use the Community Infrastructure Levy to finance infrastructure.

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I The Bill in brief

The Department for Communities and Local Government described the Bill as follows:

> The Planning Bill will reform the planning system for major infrastructure projects which is increasingly struggling to deal with the challenges of the 21st century - climate change, protecting the environment and the need for new homes. The Bill will establish a better system for dealing with those decisions with opportunities for public participation locked into each stage of the process. It will also strengthen accountability and ensure decision-making is transparent and fair with sustainable development at its heart.
>
> The changes are expected to bring the average time for decisions on major projects down to under a year ending years of unnecessary delays on the infrastructure the country needs to tackle challenges of a modern world and help tackle climate change. On average £300m a year will be saved, nearly £5bn by 2030.
>
> Communities too will have a far greater say - with the Bill including a package of measures that will strengthen public participation in the setting of national infrastructure policy, the development of individual projects and planning decisions themselves.
>
> The Bill will also simplify the local town and country planning system, improve the appeal process and puts a duty on councils in preparing their local plans to take action on climate change.
>
> Local councils will also be able to set charges on new developments in their areas to contribute to community infrastructure like roads, schools and hospitals…
>
> Under the Bill:
>
> - Ministers will set national priorities for infrastructure following public consultation and Parliamentary scrutiny.
> - In drawing up the national statements, Ministers will be under a duty to contribute to sustainable development and to carry out an appraisal of their policy's sustainability.
> - Developers will have a legal duty to consult the local community, local authorities and key stakeholders on their projects as they prepare them.
> - Planning inquiries will be made more accessible to the public, and public's rights to be heard will be protected. The Bill will make it clear that any person who registers an interest can give oral evidence at relevant stages of the inquiry.
> - Decisions on applications will be taken by an independent Commission consisting of leading experts from a range of fields within a clear framework of legal duties set by Parliament and policy set by Government. (…)
>
> The Bill and other reforms being announced today will:
>
> - Make it easier for homeowners to extend their homes. Planning permission will not be required for minor developments such as

conservatories, small scale extensions where it is clear they have little or no impact on neighbouring properties.

- Allow householders to install small-scale renewable technologies - such as solar panels and wind turbines - without planning permission subject to safeguards and standards to ensure there is little or no impact on neighbours.
- Give local planners more flexibility when developing local plans and speed up plan-making by removing unnecessary bureaucracy.
- Enable local councils to apply a new charge to secure a contribution towards the costs of community infrastructure to deliver the development plan from landowners who benefit when planning permission is granted.
- Require local councils to take action on climate change when preparing their local plans.
- Provide more resources for local authorities through a greater contribution from users of planning services.[1]

Library Research Paper 07/84, written for the Second Reading, provides further information.[2]

II Second Reading Debate, 10 December 2007[3]

Hazel Blears, Secretary of State for Communities and Local Government, said:

> The Bill will reform the planning system to make it fairer, more efficient and ready to equip Britain for the challenges of the 21st century. It will speed up decisions on major projects that are vital to our economic future. Together with the Climate Change Bill and energy Bill, it will accelerate our transition to a low-carbon economy. At every stage it will reinforce the democratic principle that everyone should have a fair say on the future of their neighbourhood.[4]

There would be about 45 major infrastructure projects decided by the Infrastructure Planning Commission (IPC) each year, about 30 of which would be major applications decided by a panel and 15 decided by a single commissioner. In the case of nuclear power, the national policy statement (NPS) might say it would be likely that certain places would be considered for nuclear power stations. Every application would then need to go to the IPC to be considered.

The Community Infrastructure Levy (CIL) had the potential to raise hundreds of millions of pounds of additional investment, on top of current Government funding. It was for local authorities to decide what infrastructure was needed. The levy would be determined by the local authority and spent locally.

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1 DCLG Press Release, *New legislation for major planning reforms*, 27 November 2007
2 Library Research Paper 07/84, Planning Bill
3 HC Deb 10 December 2007 cc25-135
4 HC Deb 10 December 2007 c25

Eric Pickles, Shadow Secretary of State for Communities and Local Government, supported an amendment:

> that this House declines to give a Second Reading to the Planning Bill because, whilst there is a need to speed up the planning system and undo the extra bureaucracy introduced in the 2004 Act, the Bill creates a new Infrastructure Planning Commission (IPC) which is fundamentally undemocratic and unaccountable to both local and national elected representatives, deprives Parliament of the ability to approve, amend or reject National Planning Statements and fails to guarantee that all revenues from the Community Infrastructure Levy will be fully retained by local authorities; and because the combination of the IPC, the Homes and Communities Agency and more powerful regional development agencies represents the systematic dismantling of local democracy to the detriment of the local environment and local accountability.

There was no need for a new system since the 2004 Act worked perfectly well, as it was doing in the application to extend Stansted airport. The new planning quango would be effectively unsackable and unaccountable. Its functions would include the ability to purchase land compulsorily and "powers to amend, apply or disapply local and public legislation governing infrastructure." To give such wide-ranging powers without making those involved equally accountable was dangerous.

The Bill gave the IPC the power to reclassify green belt land, without even requiring that all brownfield sites were used first.

Keith Hill welcomed many aspects of the Bill but considered that the final decision on the biggest and most contentious planning issues should be taken by democratically elected politicians.

Tom Brake, Liberal Democrat Shadow Minister for Communities and Local Government, said that:

> Liberal Democrats recognise the need to improve the way in which large planning applications are dealt with, as the current system is not working as effectively as it could. However, the key applications are often being delayed by ministerial decisions rather than by those taken in any other quarter. We are worried that the Bill will stop local communities and local authorities challenging major projects and raising legitimate concerns… Those are not just our concerns—they have been expressed by several organisations. For instance, the Local Government Association is worried that the new arrangements for projects of national significance will undermine local democracy. Equally, the Royal Town Planning Institute has highlighted the fact that public service agreement 21, which covers building cohesive and empowered active communities, will be endangered by the proposals as they relate to the IPC.

Many questions needed to be answered on NPSs. Further reassurance was needed on CIL.

Nick Raynsford said that the IPC was not an unrepresentative quango but he had concerns about how it would handle consultation, and whether it would consider other planning statements alongside planning policy statements. The Clauses covering CIL seemed divided between a levy and a tax based on increase in land values. **John**

Gummer said that the trouble with the Bill was that, although it dealt more sensibly with the idea of taking the general decisions, it made much worse the problem of dealing with the local community. Parliament should take the decisions on the big issues like nuclear power. **Paul Truswell** would have no objection to a body of experts having an advisory role but decisions should be taken by a democratically accountable politician.

David Curry questioned the legitimacy of the IPC. **Clive Betts** welcomed the Bill. **Robert Syms** welcomed some aspects of the Bill but needed more detail. **Desmond Turner** said that the planning system had to be reformed for the UK to reach its renewable energy target. **Hywel Williams** argued that decisions on major Welsh infrastructure should be devolved to the National Assembly government. **John McDonnell** criticised the plans for expansion of Heathrow and deplored the fact that the Government had chosen the former chief executive of British Airways to report on transport and planning.

Dan Rogerson would prefer a planning system that gave greater opportunities to people at the local level and encouraged them to participate in the planning process, but regretted that the Bill would not do that. **Dr Roberta Blackman-Woods** welcomed most of the Bill but had concerns about the proposal to allow an appeal against rejection of minor applications only to a member review body, rather than to the Secretary of State. She suggested a system whereby local people could scrutinise the performance of the planning authority and write an annual report. **Mark Prisk** could not see any good arguments for setting up another "democratically unaccountable quango" in the IPC. The IPC might take decisions that would be inconsistent with those taken by the Homes and Communities Agency.

Nia Griffith wanted water companies made statutory consultees. **James Duddridge** said that the Bill would create as many problems, issues and confusions as it solved. There could be problems in the interaction between NPSs – for example on aviation and roads. The CIL was simply a tax, and the Bill did not explain how it would improve on section 106 agreements. **Martin Horwood** said that the voice of local communities should be strengthened not weakened. The Bill looked expensive, ineffective and, above all, undemocratic. **David Drew** was convinced of the need for third party rights of appeal. Parliament should take the major infrastructure decisions rather than the IPC.

Jacqui Lait, Shadow Minister for London, criticised the cost of the IPC, because more commissioners would be required than the Government had predicted. The new procedure would remove the right to be heard, one of the most basic rights of the British people. Although she welcomed the single consent regime, she wondered why the Government did not propose to repeal the elements of planning within other pieces of legislation. If regional development agencies could raise money through the CIL, that would give power to an unaccountable unelected body to raise taxation – for the first time since the days of Charles I.

John Healey, Minister for Local Government, said that the Bill was needed, along with the *Climate Change Bill*, the *Energy Bill* and the *Housing and Regeneration Bill*, to help equip the country to deal with climate change, to ensure a sustainable and clean water supply and a clean and secure energy supply for the long term. The new procedures – with extensive consultation requirements - would allow the public to put forward their point of view without the need to hire an expensive barrister. The Bill would remove

unnecessary sources of delay that have plagued major infrastructure projects in the past and make Britain better able to cope with the 21st century. Regional development agencies would not be empowered to be CIL charging authorities.

III Evidence Sessions[5]

The UK Business Council for Sustainable Energy welcomed much of the Bill including CIL, but noted areas for clarification: Parliamentary scrutiny for NPSs; the consequences of the Bill for Scotland and Wales; the interaction with the draft Marine Bill for the offshore consent regime; and exemptions from CIL for energy infrastructure. **The CBI** was strongly supportive of the Bill and broadly supportive of CIL, but was concerned that the Clauses on CIL did not give sufficient detail to assess its true impact. It considered that CIL should be charged on infrastructure need rather than the uplift in land value. **The UK Major Ports Group** generally welcomed the Bill but argued for the thresholds for the new procedure to be reduced and full account to be taken of the need for good surface access to port developments.

The Royal Town Planning Institute broadly supported the Bill subject to two concerns. The IPC should have to report to Parliament on the adequacy of the NPSs. The proposal for local member review bodies to hear appeals was a major breach of the 1947 settlement by which decision-taking was separated from the appeal process.

The Local Government Association viewed planning as a key function for development with community consent. It accepted the case for handling very large projects through a different procedure, but with two safeguards. First, the definition of such projects should be drawn very tightly. Secondly, there should be a clear method for local views to be taken into account.

The Home Builders Federation welcomed the Bill, noting that the CIL followed their recommendations. **The British Property Federation** welcomed the Bill but stressed the importance of keeping the CIL locally based, to be dealt with as part of the planning application process. The Clauses suggesting charging the CIL on uplift in land values should be removed.

Friends of the Earth supported sustainable development, but that needed to be delivered in a fair way and in a low-carbon economy. There were insufficient mechanisms to link the NPSs and work of the IPC to the *Climate Change Bill*. There were also problems of public involvement in the work of the IPC and in site-specific NPSs. **The Environment Agency** broadly welcomed the Bill, but had concerns, notably that sustainable development principles should be carried through. NPSs should not be used to override international law, particularly in relation to the Habitats Directive. CIL should be available for expenditure on environmental infrastructure.

The Energy Networks Association welcomed streamlining of the consent procedure and the IPC. Energy projects should be exempt from CIL. **The Campaign to Protect Rural England** (CPRE) welcomed CIL but expressed concern over the potential impact

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5 Planning Bill Deb 8 and 10 January 2008

on affordable housing provision. It was also concerned that the NPSs should meaningfully contribute to sustainable development objectives in existing Planning Policy Statements. More prompt decision-making on major projects could best be achieved through the use of existing agencies rather than setting up the IPC. The Government should not introduce any further reforms to public inquiry procedures for major infrastructure projects until the new rules introduced in 2005 had been properly evaluated.

IV Agreed amendments to Infrastructure Planning Commission (IPC) and development consent procedure

A. Minor changes to different types of infrastructure

This definition is important because major infrastructure projects of national significance have to be decided by the IPC (unless the Secretary of State intervenes in exceptional circumstances). That differs from current procedure in planning, where the Secretary of State can choose whether to call in an application to determine it himself.

Several Government amendments to **Clause 13** – relating to the definition of nationally significant infrastructure projects - were agreed. These minor changes slightly widened the definition of major projects that would have to go to the IPC, subject to the threshold tests in Part 3. For example the phrase "extension of a dam or reservoir" is replaced by "alteration of a dam or reservoir". **Clause 14**, covering power stations of a certain capacity, was extended to cover power stations expected to be of that capacity. Similar changes were made to **Clause 15** (electric lines), **17** (pipelines), **22** (rail freight interchanges), **24** (transfer of water resources) and **26** (waste water treatment plants). Changes to **Clause 16** were more extensive. A minimum size for gas storage facilities was introduced, measured either in capacity or flow rate.

Clause 19 on airports has been rewritten, supplementing the qualifying condition of an airport that "will be capable of providing air passenger transport services for at least 10 million passengers per year" by an alternative size condition based upon air transport movements for cargo aircraft. **Clauses 19, 20** and **23** were also amended to replace the term "extension" by "alteration". Another amendment to **Clause 20** meant that mixed-mode harbour developments would be caught where the proposed increases across the range of its facilities are, together, nationally significant.

B. Procedural amendments

Jim Fitzpatrick, the Under-Secretary for Transport, proposed Government amendments to **Clauses 27** and **49** to ensure that the decision on whether development consent was required would be taken as early as possible.[6] The meaning of development in **Clause 28** was also amended to include two categories relating to underground gas storage.[7]

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6 Planning Bill Deb 22 January 2008 c351
7 Planning Bill Deb 22 January 2008 c353

Government amendments altered **Clause 29** – on the effect of requirement for development consent on other consent regimes - to ensure that the devolution settlement with Wales was maintained.

Schedule 2 was amended in relation to the definition of pipe-line.

A Government amendment to **Clause 34** was passed, relating to the requirement that the IPC should maintain a register of applications for orders granting development consent and publish it or make it available for public inspection. The amendment extended the requirement to cover pre-application consultation reports.

John Healey moved an amendment to close a loophole whereby an ex-commissioner could prolong his term of office even though he was no longer involved in an enquiry.[8]

John Healey proposed an amendment to **Clause 98**, summarising his case:

> What the amendment will do… is ensure that even when the Secretary of State decides that they may need to intervene in a case to take the decision, the application will still have gone through the appropriate procedures before that point.[9]

Clause 101, on the grant or refusal of development consent, was amended to clarify the meaning of "associated development".

Jim Fitzpatrick proposed a technical amendment to **Clause 107** on compulsory purchase to amend the wording of the test needing to be satisfied, so as to align it with the wording in compulsory purchase circulars. In addition, **Clause 126** was amended in relation to time limits for compulsory purchase powers. The developer would only have the compulsory purchase powers for a certain time, so as to avoid the landowner being disadvantaged by the existence of unused compulsory purchase powers.

The amendments were agreed to.

Jim Fitzpatrick explained why the Government no longer wanted **Clause 119** as part of the Bill. The Clause would allow a development consent order to authorise certain excavation related to gas storage projects. However, the Government has decided that the Secretary of State will remain responsible for such authorisations.[10] **Clause 119** was disagreed to.

Jim Fitzpatrick proposed a technical amendment (435) to **Clause 123** relating to the charging of tolls on a proposed highway.[11]

Clause 126 was amended to introduce a time period within which steps relating to compulsory purchase had to be completed.

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8 Planning Bill Deb 24 January 2008 c450
9 Planning Bill Deb 24 January 2008 c475
10 Planning Bill Deb 29 January 2008 cc503-4
11 Planning Bill Deb 29 January 2008 c504

C. New Clauses

A series of Government new Clauses were tabled and agreed to. The following table shows how they relate to Clauses in the Bill as amended in Committee, along with the explanatory speech if available or the Member's explanatory statement:

New Clause No	Title	Clause no in amended Bill
1	LNG facilities	17

Member's Explanatory Statement (**John Healey**)

> This new clause sets out the circumstances in which construction or alteration of an LNG [liquified natural gas] facility (as defined in subsection (3)) will be a nationally significant infrastructure project.

2	Gas reception facilities	18

Member's Explanatory Statement **(John Healey)**

> This new clause sets out the circumstances in which construction or alteration of a gas reception facility (as defined in subsection (3)) will be a nationally significant infrastructure project.

7	Highways	20

> **Jim Fitzpatrick:** We hope that the new clause will replace clause 18, which sets out the highways thresholds. It provides a fuller definition of what types of highway development would fall within the remit of the IPC to determine. It is designed to ensure that the new regime captures the construction, improvement or alteration of the country's strategic road network—the network run by the Highways Agency and for which the Secretary of State for Transport is the highway authority. (…) I shall explain why these projects are so nationally significant and it is so vital that the thresholds capture them. (…)
>
> The network consists of the main national network of motorways and major roads in England which link our cities, areas of population, ports and airports. Most motorways and some A roads are strategic roads, also referred to as trunk roads. The proposal will maintain the current level of national decision making, but with the IPC carrying out the role instead of Ministers. (…)
>
> It is certainly true that some of the projects that we might carry out on this network are small, but the ability of road links and junctions to deal with traffic flow can impose constraints across the entire length of major roads and across the network as a whole. (…).[12]

Jacqui Lait and **Clive Betts** raised concerns as to the extra volume of work for the IPC as a result of including trunk roads. In reply, **Jim Fitzpatrick** noted:

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[12] Planning Bill Deb 22 January 2008 cc306-7

We are not giving the IPC the ability to make decisions on local authority trunk roads, only on those roads for which the Secretary of State is the highway authority. We have worked out the case loads and they are outlined in the impact assessment. We will resource the IPC appropriately and have no reason to deviate from the case estimates.

11 Welsh offshore generating stations 32

Member's Explanatory Statement **(John Healey)**

This New Clause, with amendment 346, allows Welsh Ministers to continue to authorise offshore generating stations in Welsh territorial waters under section 3 of the Transport and Works Act 1992.

12 Timetable for decisions 100

Member's Explanatory Statement **(John Healey)**

This amendment establishes a timetable for making decisions on applications for development consent. This can be varied by the chair of the Commission where the Panel or the Council is the decision maker and by the Secretary of State where the Secretary of State is the decision maker.

D. Intervention by the Secretary of State

Several Government amendments changed **Clause 30** – Directions in relation to projects of national significance:

Jim Fitzpatrick: Clause 30 allows the Secretary of State to intervene in an application for consent for an infrastructure project in England that has been made to a body other than the commission. In such a case, if the Secretary of State thinks that the project is of national significance, even if it does not meet the statutory thresholds set out in clauses 13 to 26, he or she may direct the authority that is considering the application to refer the application to the IPC instead of dealing with it itself. The Secretary of State can only direct an application to be considered by the IPC if the project forms part of one of the fields mentioned in clause 13(5)—energy, transport, water, waste water or waste. Amendment No. 347 is designed to clarify the drafting and provide that a direction by the Secretary of State can be made when the development is part of more than one of the fields mentioned in clause 13(5).

Amendment 348 is designed to improve the drafting for clause 30. It ensures that where the Secretary of State directs an application to the IPC from another authority, the application is to be subsequently treated as if it were an application for development consent, and the development that forms the subject of the application is to be treated as development for which development consent is required under the terms of the Bill.

Amendment No. 348 also provides the Secretary of State with a power, in such cases, to direct that certain requirements of the Bill are modified in relation to the proposed development, or are to be treated as having been complied with. The ability to modify the Bill's requirements in relation to an application, or to deem that such requirements have been satisfied, is essential. If it did not exist it would mean that a promoter could be required to re-do all the work involved in the pre-

> application stage simply because the Secretary of State directed the case after the application was submitted to the local planning authority.[13]

Amendments 146 and 147 have the effect that the Secretary of State's direction-making powers under **Clause 30** are available in relation to certain types of offshore development, as well as in relation to development in England.[14]

V Amendments to IPC and development consent procedure not agreed and points raised

A. Planning Inspectorate and IPC

Jacqui Lait agreed with the idea of NPSs and a single consent regime, but argued that planning decisions were not simply quasi-judicial. The IPC should be brought within the remit of the Planning Inspectorate, and should then report to Ministers for their final decision. **David Curry** argued that IPC members should be generalists, rather than specialists because specialists were seen by the public as representing particular lobbies. **John Healey** said that the IPC would improve the speed and efficiency of the system, lead to better decisions and improve transparency. The Government wanted to make a distinction between policy making and decision making in major projects. Use of the Planning Inspectorate would prevent that separation.

B. National Policy Statements

Jacqui Lait proposed an amendment that a NPS should not identify a location, on the grounds that that would be tantamount to awarding development consent. **John Healey** said that such an NPS would be of little value. A site-specific NPS would provide the framework for examination by the IPC, but it would not prejudge the decisions the IPC would be required to make.

C. Is nuclear waste storage covered by the Bill?

Several MPs asked whether the term "hazardous waste facility" would include a depository for radioactive waste. The Under-Secretary replied:

> My hon. Friend and several colleagues asked about the definition of hazardous waste and whether such facilities deal with nuclear waste. For the purposes of statutory regulation, the Secretary of State has the power to make regulations that specify the substances that are to be subject to controls. That provision is currently made by the Planning (Hazardous Substances) Regulations 1992 S.I. 656, as amended by the Planning (Control of Major-Accident Hazards) Regulations 1999 S.I. 981. Hazardous waste can arise from a wide range of materials, from chemical residues from industrial processes to everyday items such as televisions and car batteries. I assure the Committee that the types of facilities we are discussing do not deal with radioactive waste. Radioactive waste,

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13 Planning Bill Deb 22 January 2008 cc357-8

14 Member's Explanatory Statement (John Healey)

> as defined in section 18(4) of the Radioactive Substances Act 1960, is excluded from the controls exercised in relation to hazardous substances under the Planning (Hazardous Substances) Act 1990, and transposed into the development consent regime that will be operated by the commission. That is because such waste is controlled under other legislation. (…)
>
> If we eventually made a decision that radioactive waste should be dealt with by the IPC, we would have to bring in a statutory instrument containing the measure. That would be subject to the affirmative resolution procedure, thus ensuring parliamentary debate and a decision from both Houses.[15]

D. Secretary of State taking the final decision

Clive Betts proposed some amendments proposing that the final decision should be taken by the Secretary of State rather than the IPC:

> It is important that while Parliament will eventually approve a national policy statement, in the end it will be the commission that interprets that policy statement to decide whether a particular application should be approved. Therefore, ultimately, it should be a politician who makes the final decision on whether the interpretation by the commission is correct.
> (…)
> If I ask my colleagues who are not fortunate enough to be members of the Committee for their impressions about what the Bill does, they say that it takes away accountability from politicians and passes it to a quango. However, it is a fact that there are good things about the Bill, such as the attempt to take major decisions on major infrastructure projects by using a better process—I believe that it is a better process. The fact that it is often characterised as being undemocratic is largely down to the fact that the Secretary of State is removed from the process at the end.[16]

John Healey gave an overview of the accountability proposed by the Bill:

> I return to the question at the heart of my hon. Friend's concerns—that of how the IPC will be accountable. I will try to set out a number of ways in which that will be the case and I hope that he will reflect on them and feel reassured. First, the IPC will always, and only, operate within the legislative framework set by Parliament, and within the policy framework set out by Ministers and scrutinised by Parliament in the national policy statements. As I have said, it will be required to give reasons for any decisions that it takes, and it will account to Ministers and to Parliament for its performance and for those decisions. The commission's annual reports will be available to Parliament via Ministers.
>
> We have suggested a special Select Committee to deal with national policy statements and elements of the new system, and it will be able to call the chair of the commission to give evidence before it—something that I am sure all members of the Committee expect to happen. The commission will be subject to freedom of information provisions and, in the case of maladministration, to the parliamentary

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15 Planning Bill Deb 22 January 2008 cc323-4
16 Planning Bill Deb 22 January 2008 cc366-7

> commissioner for administration. Ultimately, the Secretary of State can remove a commissioner from office if he or she is satisfied that the circumstances meet the criteria set out in the Bill.[17]

E. The IPC not amending other legislation

John Healey explained the reasoning:

> The second group of amendments deals with the IPC's powers to apply, modify or exclude legislative provisions. Perhaps I could first attempt to reassure the Committee that this is not a swingeing new power to amend the legislation. It is a narrow and confined area of competence for the IPC. The sorts of primary legislation that we envisage the IPC will need to discharge its primary function of allowing the development consent are Private Acts of Parliament in relation to transport projects, many of which, as hon. Members will know, date from the 19th century. There will also be some byways and other provisions.[18]

Robert Neill was unconvinced:

> I do not understand how what the Minister has just said about delay and undermining the IPC fits with his earlier observation that the power to amend or disapply legislation is narrow and confined. If it is narrow and confined, it is likely to be used in a very discrete set of circumstances. I do not see how either two parallel structures or inordinate delay will be created. If Ministers are efficient and it is simply a question of a recommendation being made to them, that is not unscrambling the whole of the IPC. I hope that he does not misunderstand that, and I should like to know the basis for his suggestion. Surely, Ministers can come to a swift decision on a narrow and discrete, but important, constitutionally sensitive point.

The issue came up again:

> **Mrs. Lait:** We tabled the amendment to delete even more sweeping powers than were set out in the green belt provisions in subsection (4). Subsection (6)(a) and (b) will give the IPC the power to override Government decisions. It will be able to amend or repeal any legislation. If that reading is correct, a fundamental principle of democracy is being swept aside in order to speed up the planning system.[19]

Jim Fitzpatrick noted that the power in the Bill would be similar to existing powers in the *Transport and Works Act 1992* s.5.[20]

Dan Rogerson proposed a similar amendment, noting that he did not accept the Government view:

> [The Minister] made the case that the Secretary of State is already able to disregard legislation in some circumstances under other Acts. However, there is a

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17 Planning Bill Deb 22 January 2008 cc379-80
18 Planning Bill Deb 22 January 2008 cc380-1
19 Planning Bill Deb 29 January 2008 c486
20 Planning Bill Deb 29 January 2008 cc486-8

> fundamental difference between the Secretary of State and the IPC. We have had that argument before.
>
> There is a difference of opinion between the Government and the Opposition parties about whether the IPC is comparable to the Secretary of State. I do not think that they are the same. People are willing to accept that the Secretary of State may, for certain technical reasons—as long as it is in the spirit of the legislation—exempt certain provisions in certain cases. I think that people will find it much harder to accept that an unelected, appointed body, at some distance from a democratic mandate, will have those powers. There are real differences between the two.[21]

Jim Fitzpatrick was unconvinced:

> I question whether any of the parties at the examination stage will welcome an additional parliamentary stage after the IPC's examination has already gone over all the facts and reached a decision.[22]

F. More extensive consultation

Jacqui Lait moved amendments to increase the range of people and bodies that the IPC had to consult locally, in particular so as to include "residents affected by the proposed application".[23] **Elfyn Llwyd** moved a related amendment.

John Healey said that the Bill would increase the extent of consultation and that the amendments were not required. **Jacqui Lait** probed further on the 28 day limit for response by a local authority:

> **John Healey:** The hon. Lady is concerned about local authorities, but applications will not come out of the blue. There is a statutory minimum period. Some applications will be more complex than others and it is plausible that a promoter will decide that a longer period is needed for complex proposals or that the information is not required in the 28-day time scale. In such cases, the promoter could set a longer deadline.
>
> The proposals refer to the pre-application process and are a new, additional requirement on promoters. They are an innovation in the application stage and represent a useful marker in the Bill, which tries to strike a balance between ensuring that the work in preparing and contributing to applications is done without delay and giving those who have an interest or a viewpoint the chance to register it with the promoter.[24]

G. Duty to identify and mitigate adverse impacts

Clive Betts moved **New Clause 8** – Duty to identify and mitigate adverse impacts. An applicant for development consent would have to prepare a statement of impacts and

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21 Planning Bill Deb 29 January 2008 c489
22 Planning Bill Deb 22 January 2008 c490
23 Planning Bill Deb 22 January 2008 cc389-90
24 Planning Bill Deb 22 January 2008 c394

mitigation. For each adverse impact, the statement would have to set out the applicant's proposal for mitigating action. **John Healey** said that there were several obligations to consult, which might include any changes that the applicant had made to mitigate the original proposal, but no further duty to mitigate was required. The amendment was rejected.

H. Cross examination

Robert Neill proposed an amendment to require oral submissions and cross examination of witnesses:

> This issue is so fundamental that it should be a right, not something that is at the behest of the commission. That is the fundamental difference between our position and the Government's.

John Healey disagreed:

> Cross-examination might have a place in hearings and can be a useful method of testing and probing evidence and ensuring that people's concerns are properly established. However…to somehow equate the right to be heard and have views registered with the right to cross-examination is to make a profound mistake. Also, cross-examination has its problems. It can be costly and time-consuming, and it can be difficult to estimate how long that part of the process might take. It can add to the uncertainty for all involved in any inquiry for which it is the major method for trying to establish the facts. It can be legalistic, adversarial and, therefore, intimidating, particularly for ordinary members of the public who perhaps have neither the experience nor the access to the sort of resources that are required for professional cross-examination.[25]

I. The single commissioner option

Dan Rogerson proposed a series of amendments relating to the IPC's option of choosing a single commissioner, instead of a panel, to handle an application. He noted the problem that individual commissioners may acquire a particular reputation based on their track record:

> The basis behind the amendments is that the Secretary of State should be responsible for allocating the personnel to consider each application and that the local authority, in particular, should be able to contribute to that decision.[26]

John Healey gave two examples of the sort of project that might be decided by a single commissioner:

> They could be smaller projects on the strategic road network or electricity transmission and distribution system. Such projects may not be particularly large or complex – for example, they may be improvements to a key road junction – but because they are critical to the operational effectiveness of the network as a

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[25] Planning Bill Deb 24 January 2008 c429
[26] Planning Bill Deb 24 January 2008 c444

> whole they are nevertheless of national significance and therefore a matter for the IPC.[27]

Dan Rogerson proposed that the votes of members of the IPC should be recorded. **John Healey** accepted that votes might be necessary to avoid deadlock:

> In those circumstances, a panel would take a decision by a majority and the lead commissioner – the commissioner chairing the panel – would have a casting vote, if there were a tie. In order to avoid confusion…the Bill provides that once a decision has been taken…all members of the panel will be bound by collective responsibility.[28]

Dan Rogerson proposed rejecting **Clause 70**, removing the single commissioner option, arguing that a single commissioner should not be considering an issue of national importance. **Jacqui Lait** agreed, while accepting that the IPC would then be able to handle fewer applications. The IPC would cause delays rather than speeding up the decision-making process. However, the Committee voted **Clause 70** to stand part of the Bill.

J. Green Belt

Jacqui Lait proposed an amendment to **Clause 105** to delete a sub-clause that would allow the development consent orders to free land

> "from any restriction imposed on it by or under the Green Belt (London and Home Counties) Act 1938 (c. xciii), or by a covenant or other agreement entered into"—

She commented:

> The Government have for a long time been trying to use various methods and means to resist or break down the resistance to development in the green belt. They have been defeated so far on all occasions. It is, to say the least, sneaky to try to get it through in this Bill, in which no one would believe that it should be included.[29]

However, **Jim Fitzpatrick** suggested that the Bill had been misunderstood:

> When land is designated as green belt land for the purposes of the 1938 Act, a separate consent is required from the Secretary of State to enable the land to be developed. I will refer to that type of green belt land as statutory green belt land. It is not the same as land designated as green belt land by a local authority in its local development plan. Such land is currently protected from development by both local and national planning policy, which prohibits inappropriate development in the green belt, except in very special circumstances. This type of designated green belt is not the same as statutory green belt land. Although the development of this designated green belt land requires planning permission in

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27 Planning Bill Deb 29 January 2008 c446
28 Planning Bill Deb 29 January 2008 cc455-6
29 Planning Bill Deb 29 January 2008 cc481-2

> the usual way, it does not also require a separate consent from the Secretary of State under the 1938 Act.
>
> The way the Bill works in relation to green belt land is to combine the consent regimes arising from the 1938 Act and the Town and Country Planning Act 1990 into the single consent regime and to give the commission, or the Secretary of State when she is the decision maker, power to authorise the development of both statutory green belt land and land designated as green belt in a local development plan. An order granting development consent in relation to green belt land will therefore have a similar effect to both a planning consent and a separate consent from the Secretary of State under the 1938 Act.
>
> In deciding whether to grant consent for a development in the green belt, the decision maker will be required to adhere to the policies set out in any relevant national policy statement and to take into account such other factors as may be prescribed. It is intended that not only will national policy statements reflect existing policy on green belt, as set out in PPG2, but the Secretary of State will make regulations requiring the decision to take into account the purpose for which green belt land is held. In that way, the special status of green belt land will be protected.[30]

VI Agreed amendments to Community Infrastructure Levy (CIL)[31]

It is worth noting that in January 2008 the Government published a document about Community Infrastructure Levy containing further detail about their intentions.[32] It forms an important background to the Clauses in the Bill.

Clause 163 was amended to insert the phrase "or developers" after "owners". John Healey explained that the amendment allowed developers to assume liability.[33]

Clause 166 was amended to permit or require charging authorities to take certain matters into account when setting or revising rates and permit or require charging schedules to operate by reference to certain matters.

Clause 167 was amended to insert a list of things included by the term "infrastructure", which might be funded by the CIL: roads and other transport facilities; flood defences; schools and other educational facilities; medical facilities; sporting and recreational facilities; open spaces and affordable housing. **Jacqui Lait** was told that cultural facilities might possibly be included. *Regeneration & Renewal* commented on this amendment:

> The amendment was made in response to developers' concerns that the levy might be regarded by some councils as an unrestricted fund.[34]

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30 Planning Bill Deb 29 January 2008 cc483-4
31 Pronounced "sill" Planning Bill Deb 31 January 2008 c623
32 DCLG, *Community Infrastructure Levy*, January 2008
33 Planning Bill Deb 31 January 2008 c574
34 "Planning Bill amended before consultation", *Regeneration & Renewal*, 15 February 2008

Clause 168 was amended to make it clear that a number of authorities might collect the levy on behalf of a charging authority. **Clause 169** on enforcement was amended by the Government to provide greater detail on possible enforcement measures.

A Government amendment to **Clause 170** was more controversial:

> **Mrs. Lait:** I want to make the general point that the clause is controlling and centralising, and we are unhappy with the powers it gives to the Secretary of State to direct charging authorities. It also provides the potential for the Secretary of State to reduce Government funding, although we keep being told that that will not happen. In the interest of brevity, we will probably return to the matter on Report, but I wanted to put it on record that the clause gives too many powers to the Secretary of State to direct authorities.
>
> **John Healey:** The hon. Lady is right that the provision provides powers of intervention to the Secretary of State that could be used to control the imposition, collection or application of the levy. We would envisage using those powers only in exceptional circumstances and as a last resort, if the spending proposed by a charging authority did not meet the purpose of the levy: to provide infrastructure to support an area's development.
>
> The clause also provides for regulations, which would also be a reserve power that we would use only in exceptional circumstances and as a last resort. It is, nevertheless, important to cap the amount that an authority could levy. We would not anticipate that authorities would set the level of the levy to the extent that it would choke off significant development, but the risk of circumstances in which that could happen remains. Therefore, the powers are important safeguards for both developers and local communities. I understand the hon. Lady's reservations. None the less, I hope that hon. Members will accept that the powers are important and that the clause should remain part of the Bill.[35]

VII Amendments to Community Infrastructure Levy not agreed and points raised

A. The projects that could be financed by CIL

Alun Michael said that the canal network had been in a disastrous state but had been restored and modernised over the previous decade:

> The fact is that a great deal of that work has been possible because land that is near or alongside the canals and historic infrastructure that is public realm—inland waterways, docks, parks and other open space—is very much in demand and commands a premium price. New development, therefore, can derive significant benefit from the presence of the existing infrastructure, but in the case of waterways it does not usually contribute to its cost, due to the absence of any local charging mechanism that could in effect tax new developments to pay for improvements or additional burdens on that infrastructure. Occasionally, section

[35] Planning Bill Deb 31 January 2008 cc630-1

> 106 agreements have been reached, but that is a haphazard basis on which to deal with investment in the infrastructure.

He noted that new development could result in greater usage of existing infrastructure, requiring extensive upgrading, and wanted CIL revenues to be available for that purpose.[36]

John Healey said that the answer was in paragraph 34 of the DCLG document on CIL:

> 33. The Bill indicates that the purpose of the CIL is to contribute to the costs of the infrastructure needed to support the development of an area. The Government believes that CIL should not be used for general local authority expenditure, nor to remedy pre-existing deficiencies in infrastructure provision, unless these have been, or will in time be, aggravated by new development.
>
> 34. This does not mean that CIL must be spent on entirely new infrastructure. It could equally be used to facilitate better use of existing infrastructure to increase capacity. So, for example, where development necessitates the provision of additional sports facilities, CIL could be used to pay for the refurbishment of an existing community centre to provide such facilities. But it would not be acceptable to spend CIL on such a refurbishment where the development circumstances of the local area did not justify this.[37]

B. CIL and Capital Gains Tax

John Healey dealt with the interaction between CIL and capital gains tax (CGT):

> In essence, CGT is payable on disposal of assets, so it is generally payable on the sale of land or property. Our starting point is Kate Barker's report, which, as hon. Members may recall, argued that CGT does not adequately capture the gains that arise from planning permission. Essentially, planning permission is a public administration decision, not an investment, activity or value that is enhanced by, or is the responsibility of, those who happen to own the land. In other words, Kate Barker's major contention was about the gap in our ability to capture, justifiably, in her view—I would argue that the design of the community infrastructure levy will do this—the many gains that come specifically from a public administration decision, and not by dint of the efforts of anyone who happens to own the land to which the permission applies.
>
> In contrast with the point at which CGT may become payable, the levy as we propose it is payable on commencement of the development. In the end, these are different policies, tools or instruments for very different purposes. The final distinction, separation or difference is that the levy is specifically for the purposes of supporting the development of infrastructure. CGT, of course, is simply a revenue stream that goes to the Exchequer, rather like aspects of the development land tax that I mentioned earlier.[38]

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36 Planning Bill Deb 31 January 2008 cc578-9
37 DCLG, *Community Infrastructure Levy*, January 2008
38 Planning Bill Deb 31 January 2008 c583

C. What happens if the infrastructure is not delivered?

> **Mrs. Lait:** I beg to move amendment No. 607, in clause 169, page 96, line 10, at end insert—
>
> '(2A) Regulations made under this section may make provision for land owners and developers to reclaim CIL should infrastructure not be delivered in accordance with agreements.'.
>
> The purpose behind the amendment was brought to our attention by the Royal Institution of Chartered Surveyors. It is a very reasonable question to ask and I look forward to the Minister's answer. There could be instances in which there is a failure to deliver the infrastructure that has been promised. In previous debates I have cited some possible reasons for failure, such as changes in Government priorities and poor financial control. Will the developers be able to claim back CIL if the partners fail to deliver their part of the bargain? Would the developer have to take the other organisations to court, would there be an automatic repayment, would the developers be expected to go ahead and provide the infrastructure or would the levy automatically transfer to another project? I would be interested to hear the Minister enlighten us with his views on this matter.[39]

John Healey was not so sure:

> It is difficult to see how the amendment would work when agreements are not part of the CIL. It will be raised whether or not the owner or developer agrees. As we discussed under the previous clause, an authority might raise and collect the levy liability but then bank it for some time before allocating it to a scheme some way down the track. We would not want the developer to be able to challenge and reclaim the money that they have paid in such circumstances.
>
> To deal with the spirit of the hon. Lady's point, it is a central element of the design of the levy that it should be raised to support the development of infrastructure. Although we are discussing clause 169, the hon. Lady will see that clause 167(5) provides for regulations to set out requirements on an authority to monitor and report how the levy funds have been raised, how the levy funds have been transferred and how they have been spent. Those requirements to report publicly should help to ensure that authorities charged with delivering planned infrastructure—as a contribution to which they raise the levy—are held to account and can be publicly challenged. I appreciate that that is a different form of accountability from the contractual accountability that the hon. Lady seeks.[40]

D. Affordable housing

Dan Rogerson proposed an amendment to **Clause 172** covering the relationship with other powers, including section 106 agreements:

> We do not want to see a conflict between CIL and the affordable housing element of a scheme, in terms of what the developer can afford to fund. If there is such a conflict, the amendment seeks to ensure that the affordable housing element is

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39 Planning Bill Deb 31 January 2008 c628
40 Planning Bill Deb 31 January 2008 c629

> handled first, so that as much affordable housing is delivered as possible, and the CIL element is considered after that.[41]

John Healey was sympathetic:

> **The Minister for Local Government (John Healey):** I can pretty quickly give the hon. Gentleman the assurance that he seeks. He might recall that, on Thursday, on the back of a Government amendment, the Committee discussed the nature of affordable housing.
>
> Ultimately, one of the principal drivers of the levy is to create a way in which we can support and unlock housing growth, rather than hold it back or prevent it. That was the reason that, last Thursday, we introduced the Government amendment that would allow infrastructure to have an incorporated definition of affordable housing. However, I also made it clear that the Government intend that affordable housing will continue to be secured through agreements, rather than through the obligation process and the levy. That is our preferred way of operating. Clearly, it makes sense to have that back-stop, should we require it, if the fears of some that affordable housing might be choked off or reduced as a result of the levy are realised.

VIII Agreed amendments to Town and Country Planning system

A series of Government new Clauses were tabled and agreed to. The following table shows how they relate to Clauses in the Bill as amended in Committee, along with the explanatory speech if available or the Member's explanatory statement:

New Clause No	Title	Clause no in amended Bill
18	**Correction of errors**	**152**

Parmjit Dhanda (Under Secretary for Communities and Local Government) explained:

> Briefly, the purpose of this new clause is to remove the requirement for the Secretary of State to obtain the consent of the applicant or landowner before issuing a formal notice correcting an error in an appeal decision, provided that the error is not part of the reasoning on which the decision is based. This new clause applies in England. The errors that could be corrected under this power are those that would not change the substance of the decision. Therefore, no party would be at a disadvantage.[42]

19	**Validity of planning decisions**	**163**

Parmjit Dhanda explained:

> The purpose of this new clause is to correct inconsistencies within the town and country planning legislation in the provisions for challenge of decisions by the Secretary of State. The Planning and Compulsory Purchase Act 2004 empowered the Secretary of State to call in planning applications for major

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41 Planning Bill Deb 5 February 2008 c635
42 Planning Bill Deb 5 February 2008 c674

infrastructure projects. Some applications for major infrastructure projects, such as inland waterways and quarries, will still be determined under those provisions rather than under the new provisions for applications determined by the infrastructure planning commission.

Section 288 of the Town and Country Planning Act 1990 allows persons aggrieved by certain decisions of the Secretary of State to make an application to the High Court. Any such application must be made within six weeks of the decision. The list of decisions to which section 288 and the six-week challenge period applies was modified by the Planning and Compulsory Purchase Act 2004. The 2004 Act omitted to include decisions on major infrastructure projects. Therefore, the effect of that omission is that, at present, a person aggrieved by a decision of the Secretary of State on a call-in of a major infrastructure application would have to challenge through judicial review. Applications for judicial review must be brought within three months of the decision. That anomaly will be corrected by inserting paragraph (za) into section 284(3) of the 1990 Act. The proposals will therefore ensure consistency in the treatment of challenge periods.[43]

20 Applications and appeals by statutory undertakers 167

Parmjit Dhanda explained:

The new clause would ensure that those called-in planning applications and appeals that relate to statutory undertakers' operational land in England would only need to be decided jointly by the Secretary of State for Communities and Local Government, and the Secretary of State responsible for sponsoring the relevant statutory undertaker, when that is justified by the scale and significance of the proposals under consideration.

As well as significant reconstruction proposals, appeals affecting statutory undertakers' operational land can relate to very minor matters, for which the need for two separate Secretaries of State to consider inspectors' recommendations is an excessive burden leading to unnecessary delay. The proposed new clause would remove the need for such duplication of efforts, unless one or other of the Secretaries of State considers it appropriate to issue a direction requiring a joint decision, thereby also making it possible to make regulations enabling such cases to be determined by inspectors, as with the vast majority of other planning appeals.[44]

21 Appeals relating to old mining permissions 170

Parmjit Dhanda explained:

The new clause would provide a power to make regulations enabling the transfer to inspectors of appeals under schedule 2 of the Planning and Compensation Act 1991, following the initial review of old mining permissions. It would, therefore, provide consistency in the handling of this type of appeal and all other types of planning and enforcement appeals. Transferring appeals to inspectors saves unnecessary duplication of effort and the attendant delay, as only those appeals

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[43] Planning Bill Deb 5 February 2008 cc674-5
[44] Planning Bill Deb 5 February 2008 c675

> that raise significant policy issues of more than local importance are then recovered for determination by the Secretary of State.
>
> The new clause relates to reviews of permissions for mineral development, authorised under interim development orders made between 1943 and 1948 in response to wartime needs with few, if any, working and restoration conditions. Most initial reviews have been completed, but those powers, including the provision for appeals, will continue to be used by operators wishing to revive work at long-dormant mining sites. However, given that such appeals are concerned solely with securing modern operating conditions on sites, for which permission has already been granted, it would be disproportionate for them to remain as the only category of appeals that cannot be transferred for determination by inspectors.[45]

22 Powers of National Assembly for Wales 173

Member's explanatory statement (**John Healey**)

> This amendment gives the Assembly power to pass Measures about plans of the Welsh Ministers and local planning authorities concerning the development and use of land, subject to an exception regarding the status of such plans, and the review by local planning authorities of matters affecting their area's development.

28 Delegation of function of regional planning 149

John Healey explained that it was not the legislative method for transferring regional planning powers from regional assemblies to regional development agencies:

> The new clause is designed to encourage what in some regions is already close working between the regional assembly, the regional development agency, local authorities and some of the other agencies and interests in the region, and we want to allow regional development agencies to carry out some of the regional assembly functions on their behalf where that is wanted by the assembly and agreed by the agency.[46]

Yet this amendment has been controversial because some people fear that it would be a move towards replacement of regional assemblies by regional development agencies in preparation of regional spatial strategies. In July 2007 a Treasury Review of sub-national economic development and regeneration was published.[47] On 17 July 2007, John Healey made a statement on the review, including the following passage:

> The spatial and planning aspects of the strategy will continue to form the regional tier of the statutory development plan, which will remain subject to testing through independent examination in public and will be issued as a statutory document as it is currently. We will strengthen the scrutiny and accountability of RDAs, with the House's new regional Select Committees holding RDAs and others to account in Parliament and with local authority leaders holding the RDA to account in the region and approving the regional strategy. We will consult on how best to implement that.[48]

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45 Planning Bill Deb 5 February 2008 c676
46 Planning Bill Deb 5 February 2008 c683
47 HM Treasury, *Review of sub-national economic development and regeneration*, July 2007
48 HC Deb 17 July 2007 c162

CPRE has objected to this Clause on the grounds that the consultation has not yet taken place.[49]

29 Local development orders etc **160**

Member's explanatory statement (**John Healey**)

> This amendment removes the requirement that a local development order can only be made to implement policies in a development plan document or local development plan

30 Appeals: miscellaneous amendments **169**

Member's explanatory statement (**John Healey**)

> This amendment inserts a new clause introducing a new Schedule which makes a number of miscellaneous amendments to appeals provisions

New Schedule 1 **Schedule 6**

Member's explanatory statement (**John Healey**)

> This amendment amends various appeals provisions to provide for notices of appeal to be accompanied by prescribed information. It also provides for notices of appeal against local planning authorities' refusals to issue lawful development certificates to be served within such time and in such manner as may be prescribed.

IX Amendments to Town and Country Planning system not agreed and points raised

A. Member Review Bodies

Robert Neill proposed a probing amendment in relation to the Bill's provisions to allow certain planning decisions to be appealed to a local member review body rather than to a planning inspector as is currently the case. He raised several questions:

> We must consider how many applications any local authority will hear. For some local authorities, it could be quite a lot. Should the board contain people who would ordinarily be on the planning committee or is there to be a distinction? It looks as if we will have two parallel systems. Will there be applications that are dealt with by officers that are referred to the planning committee in the ordinary way? Will there be a separate review board for decisions that are to be made by officers? Will it be like the planning committee with the same people, but wearing different hats an hour later? Will there be a similar training regime? Should we use people who are not members of the planning committee because they could

[49] "Planning Bill amended before consultation", *Regeneration & Renewal*, 15 February 2008

> be thought to be too close to the officers with whom they work on a regular basis? That is the other side of the coin.[50]

Parmjit Dhanda provided some information:

> Examples of the types of development we have in mind are small-scale things such as householder developments, new shop fronts, small change-of-use proposals, advertisements and works on protected trees.
> (…)
> We are talking about 22 cases a year in each locality, although that is obviously an approximation. (…) Officers involved in making the original decision would not be involved in the review process. (…) It would be possible for members of a planning committee to be members of the local member review body, as long as they had not been involved in any way in the original decision. The local member review body would draw its advice from elsewhere—for example, from planning officers of a partner authority, as has been suggested by Opposition Members, from external consultants, or from the body's own legal services department.[51]

B. Demolition in conservation areas

Jacqui Lait pressed for greater control over demolition in conservation areas. **Parmjit Dhanda** resisted the amendment but did offer some consolation on this long-standing problem:

> The Department for Culture, Media and Sport is planning to publish a draft heritage protection Bill in the spring. It will contain provisions to abolish conservation area consent as a separate consent and merge it with planning permission. What does that mean? It is intended that, at the same time as the Bill comes into force, amendments will be made to the demolition direction and the general permitted development order to provide that demolition and partial demolition in a conservation area, to which the hon. Lady alludes, is development and will require planning permission. It will not be permitted development simply to knock down those buildings in conservation areas. We therefore believe that any changes in new clause 10 would be better sited and considered within the DCMS Bill.[52]

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50 Planning Bill Deb 29 January 2008 cc534-5
51 Planning Bill Deb 29 January 2008 cc538-40
52 Planning Bill Deb 5 February 2008 c657

Appendix - Membership of the Public Bill Committee

Chairmen: Sir John Butterfill, Mr. Eric Illsley
Benyon, Mr. Richard *(Newbury)* (Con)
Betts, Mr. Clive *(Sheffield, Attercliffe)* (Lab)
Brake, Tom *(Carshalton and Wallington)* (LD)
Clark, Paul *(Gillingham)* (Lab)
Curry, Mr. David *(Skipton and Ripon)* (Con)
Dhanda, Mr. Parmjit *(Parliamentary Under-Secretary of State for Communities and Local Government)*
Duddridge, James *(Rochford and Southend, East)* (Con)
Ellman, Mrs. Louise *(Liverpool, Riverside)* (Lab/Co-op)
Ennis, Jeff *(Barnsley, East and Mexborough)* (Lab)
Fitzpatrick, Jim *(Parliamentary Under-Secretary of State for Transport)*
Healey, John *(Minister for Local Government)*
Jones, Mr. David *(Clwyd, West)* (Con)
Lait, Mrs. Jacqui *(Beckenham)* (Con)
Llwyd, Mr. Elfyn *(Meirionnydd Nant Conwy)* (PC)
Michael, Alun *(Cardiff, South and Penarth)* (Lab/Co-op)
Mole, Chris *(Ipswich)* (Lab)
Neill, Robert *(Bromley and Chislehurst)* (Con)
Reed, Mr. Jamie *(Copeland)* (Lab)
Rogerson, Dan *(North Cornwall)* (LD)
Sheridan, Jim *(Paisley and Renfrewshire, North)* (Lab)
Watts, Mr. Dave *(Lord Commissioner of Her Majesty's Treasury)*
Alan Sandall, *Committee Clerk*