Official Report
(Hansard)

Tuesday 8 March 2011
Volume 63, No 2

Session 2010-2011

Contents

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Northern Ireland Assembly

Tuesday 8 March 2011

The Assembly met at 10.30 am (Mr Speaker in the Chair).

Members observed two minutes' silence.

Assembly Business

Mr P J Bradley: On a point of order, Mr Speaker. On Monday 14 February 2011, a Member made and repeated a falsehood about my declarations of interest at Committee meetings during evidence sessions on the Welfare of Animals Bill. My accuser stated that at no time did I declare my honorary membership of the Northern Ireland veterinary association during meetings of the Committee. You will recall, Mr Speaker, that, at the end of the debate on 14 February, I brought the wrongful allegations to your attention.

Will you confirm to the House that you have received a copy of correspondence from the Agriculture and Rural Development Committee office that states categorically that I declared my interests at the appropriate times during the taking of evidence on the Welfare of Animals Bill?

Mr Speaker: I thank the Member for his point of order. As the House knows, I do not normally get involved in Committee business. However, the Member has spoken to me about the issue outside the House, and, as he said, he raised it previously in a point of order. I know that the Member feels very strongly about the matter, and he has shown me correspondence to confirm what he said in the House about properly declaring his interests at meetings of that Committee. I am content with that evidence. The Member clearly has that on the record, and I now consider the matter to be closed. Once again, I thank the Member for his point of order.

Mr Campbell: On a point of order, Mr Speaker. On 1 February, I raised a very important issue with the Minister of Health, Social Services and Public Safety through an urgent question for written answer. My understanding is that such questions should be responded to within two working days. My question, without elaborating on it, was about an inactivity and lack of response from the Minister. That was the issue that I raised, and 25 working days later I have still not had a response. I seek your guidance about what Members should do if they raise the issue of inactivity from Ministers and get inactivity by way of response.

Mr Speaker: I thank the Member for his point of order. If Members have exhausted all other channels and find that they still cannot get an answer from a Minister to a particular question, I am happy for them to raise that as a point of order in the House and get it on the record. After that, I will write to the Minister to see how we can get an answer to the particular question. I will do that on this occasion.

Order. Before we begin, I wish to advise the House that a valid petition of concern was presented on Monday 7 March 2011 in relation to two amendments published for today's Consideration Stage of the Planning Bill. Amendment Nos 20 and 102, which are in group 3, deal with planning control. The votes on those matters will be on a cross-community basis and may take place today.

Ministerial Statement

Water Services: Freeze-Thaw December 2010

The Minister for Regional Development (Mr Murphy): Go raibh maith agat, a Cheann Comhairle. I welcome this opportunity to update the Assembly on the conclusions of the review into the major interruption to water supplies over Christmas and the new year.

The composite report, which was published last week, gives us a comprehensive account of the events during the emergency. I thank the Utility Regulator and the two reviewers appointed by the Office of the First Minister and deputy First Minister (OFMDFM) — Heather Moorhead and Phil Holder — for their hard work. Both strands of the review were completed within a very challenging timescale. The report contains a number of detailed conclusions. NIW (Northern Ireland Water) and stakeholders will need to absorb those and respond to them in a vigorous and positive way. The interim chief executive of NIW has already accepted the report's findings. A great deal of work will be involved in taking the necessary actions forward, and it would not be sensible for me to try to deal in detail with the 60-odd recommendations today. However, the publication of the report gives us an opportunity to reflect on, and acknowledge, some realities.

Turning to the emergency itself, the regulator said that the winter weather was an exceptional once-in-a-100-year event. The record-breaking period of sub-zero temperatures over two weeks was followed by an equally dramatic thaw on Sunday 26 December. The report states that:

> *"temperatures jumped up by 20°C in a few hours right across Northern Ireland. As a result, up to 40,000 bursts on customers' pipes which had occurred during the cold weather all started to leak, more or less at the same time. Consequently on Monday 27 leakage was at a level not previously experienced and over the following days parts of NIW's water network drained down and thousands of customers lost their water supplies. As reservoir capacity dwindled, some areas went without any supply and in other areas, NIW instituted rota cuts to maintain supplies to hospitals and other essential facilities; a situation unknown in Northern Ireland in a decade. It took NIW just over a week to refill its system and restore water supplies to all its customers."*

The regulator recognises that NIW's:

> *"Front line operational teams worked effectively in very challenging weather conditions."*

I reiterate my thanks to all those in NIW, and in many other organisations, who helped to deal with the emergency. I am grateful for the co-operation that was so willingly offered and given.

Nonetheless, despite the efforts of NIW staff and contractors, the overall response fell far short of customer expectations. As the report says:

> *"The consequences of the incident were exacerbated by the fact that the emergency response led by NIW was wholly inadequate. There was ineffective communication with customers and no comprehensive arrangements for alternative supplies of water. The communications failure meant that in the days immediately following the thaw, many customers were losing their water without any warning or explanation."*

As was said at the time, exceptional conditions require an exceptional response. The emergency resulted in a significant failure to deliver the most basic services to people, and NIW has to learn lessons from that, especially about communication with customers during such incidents.

The regulator warns that such extreme conditions:

> *"with a changing climate could recur in the near future."*

NIW needs to meet the challenge of dealing with similar weather conditions in the future. Ensuring the continuance of supplies and services for customers is the priority. As I said, the regulator has completed a thorough investigation and produced conclusions that are detailed in the report and which give a clear way forward on how NIW can improve its emergency response. I will work with NIW and stakeholders to ensure that the appropriate actions are taken. As the report says, to mitigate future emergencies, we need to acknowledge that:

> *"This would require community wide action."*

The regulator's analysis indicates that:

> *"at least 80 of the increased demand resulted from usage or bursts on consumers' properties. Commercial properties were closed during the holiday period and bursts went unnoticed and ran for longer. Survey evidence estimates that there were bursts on more than 40,000 customers' properties (domestic and non-domestic)."*

Action to inform people how they can support the public supply is needed, and the review includes recommendations in that area.

Turning to the infrastructure, the regulator concludes that NI Water's mains performed as well as could be expected under the harsh conditions in comparison with other water mains in the UK. That confirms that the investment we have made, nearly £1 billion over the last four years, is helping to improve the service and reverse the lack of investment in earlier decades. Obviously, we still have some way to go. Leakage is not yet at economic, let alone sustainable, levels and there are many areas where infrastructure needs to be renewed. Despite the reduction in funding available to the Executive, I have managed to increase investment in water significantly from within my Department's budget to partly meet any shortfalls. At over £660 million, I have delivered funding for a substantial programme, and it will allow me to provide NIW with the water mains investment levels recommended by the regulator in its final determination.

In relation to my role and that of my Department, the report concluded that I:

> *"acted in a manner consistent with the governance requirements".*

It says that I was fully engaged for the entire period in seeking to deal with the situation and performed all of my roles and responsibilities effectively. It adds that:

> *"Departmental officials also provided timely support and assistance in the crisis."*

I am content that the report recognises what I said at the time, that this was an operational matter and that responsibility lay with NIW. That may not suit some commentators, but it is the reality. I accept that calls for me to be held personally responsible are part and parcel of politics, but it is time to move on from the deliberate misunderstanding and convenient ignorance to deal with the reality of the relationship we have with NIW.

The external reviewers identified the unique hybrid governance arrangements which currently exist. We need to face up to the fact that these arrangements, which I inherited from direct rule Ministers, are at odds with what the Executive have chosen to do. I have said that we need to examine the relationship and clarify the situation as we do so. Others have opposed this, unfortunately including the majority on the Committee for Regional Development, but we will need to do deal with this in the future.

Those who do not want to accept these conclusions will attack the process. They will say that the report was biased or a whitewash. We have already seen this line, and we saw it pedalled by some almost before the review began and during the review. Stories about Facebook friends and candidate lists were exaggerated to suggest potential conflicts of interest, even when those involved were not aware of the links. Allegations of conflict over potential NIW board appointments and the regulator's existing role in NIW's governance were raised by others, when, logically, I should have been the one concerned about them. I was prepared to set aside any reservations and support the review. It is time for others to accept that this review was properly and professionally conducted.

There are huge challenges ahead for our water and sewerage services, and everyone needs to support NIW in meeting them.

The Chairperson of the Committee for Regional Development (Mr Cobain): The Regional Development Committee did not oppose the:

> *"need to examine the relationship and clarify the situation",*

to quote the Minister. It made no comment on the policy merits of the proposed water and sewerage Bill. The Committee, by majority vote, was not happy to rush through, without Committee Stage, a Bill on the governance of Northern Ireland Water. It is not clear to me how it is possible to:

> *"examine the relationship and clarify the situation",*

if there is no time to do any examination or to seek any clarification.

However, does the Minister accept the report's finding that the external reviewers have included that, while the governance arrangements are complex, they were clear to the stakeholders and they, therefore, had no material impact on the crisis?

The Minister for Regional Development: I accept what the Chairperson has said. I went before the Committee and argued that there was an opportunity in the remainder of this mandate to address some of the governance

arrangements, which have left the organisation NIW operating, on the one hand, as a company under company law but, on the other hand, answerable to the public purse under the accountancy arrangements that we have. We had an opportunity to deal with that and a number of other issues.

There was time in this mandate to do that. The Committee is entitled to its own view on the issue of accelerated passage for the Bill. Nonetheless, at every opportunity, where people have been critical of NIW and said that it needs to change, a lot of parties here have talked the talk; very few of them have walked the walk.

Miss McIlveen: I concur with the comments made by the Chairperson in relation to the request for accelerated passage. Will the Minister tell the House whether the large scale failure of supply in Northern Ireland Water features as a risk on the Department's risk register? If it does, who has responsibility for it? How is it tested, and how frequently?

The Minister for Regional Development: The Department's risk register looks at the areas over which the Department exercises control. The Department does not exercise control over the risk management of NIW. It has its own risk register. The regulator looked at that issue, as did the NIW report. At every meeting that is held, the Department is represented. Obviously, those people make a professional assessment of the areas of risk in their own area of operation. Immediately after the crisis, we tried to restore some degree of public confidence by asking for that to be externally validated by a professional from outside NIW. The report that came back to the Department said that they were satisfied that NIW was managing those risks. However, they recognised the need for improvements in response to the emergency and for a longer-term resilience plan to be worked through. That concurs with some of the findings of this review.

Mr Boylan: Go raibh maith agat, a Cheann Comhairle. Cuirim fáilte roimh ráiteas an Aire. I welcome the Minister's statement. The party to our left, the SDLP, says that the report is a whitewash and that those appointed to look at the leadership, management and governance aspects of the Minister's Department and role were conflicted. What his view of that allegation?

The Minister for Regional Development: Can I say that — *[Interruption.]*

Mr Speaker: Order. Allow the Minister to continue.

The Minister for Regional Development: Questions were raised around that. Ironically, if those people were conflicted, I should have been the person most concerned about that, because that would have gone against rather than for me. The appointments for the independent part of the review were made by OFMDFM. It was satisfied that the people whom it had appointed were not conflicted in any way, and I was happy to accept that assurance. Indeed, questions were also raised around the regulator. However, I think that it is quite clear from his report that the issue was approached in a very thorough and professional way, because it does not pull any punches about where improvements are needed. I think that that is a very useful service for this Assembly, in terms of the immediate response of NIW to any further emergency weather situation, and for the incoming Assembly and Executive in the new mandate, in terms of the future of NIW as an organisation.

Mr McDevitt: Mr Speaker, had I been allowed the opportunity to make a point of order, I would have made it clear that knowingly misleading the House is not a good reflection on any of us, and the previous comment did just that.

Many consumers will be shocked to read this report and to see that it spends a lot of time justifying the actions of a few and says very little about where the hundreds of thousands of people affected by the freeze-thaw incident will see some improvement to their service in the years ahead. The Minister suggested that we should talk the talk and walk the walk, so why did he write to me 10 days ago refusing an offer to sit down around the table with colleagues from the other parties to discuss the long-term future of Northern Ireland Water? Why is the Minister uninterested in having a debate on a cross-party basis about the future of Northern Ireland Water?

10.45 am

The Minister for Regional Development: I am not sure what exact terminology the Member used about the report. However, when the report was published, he said that it was discredited. I do not know whether or not he used the term "whitewash", but it was reported in the media that he did. I think that that moved, in a very serious way, from suggesting that the people responsible for conducting the report

were perceived to be in some way conflicted to actually alleging that they conspired in some way to cover up what he believes to be the truth of the situation.

As regards measures for consumers, the report makes a very significant number of recommendations for improvement. That was the focus of this report and of the Executive's action from the moment that the crisis happened. Very quickly after that, we held meetings with NIW about short-term resilience, improvement and lessons learnt. All of that was focused on consumers and on ensuring that we did not have a repeat of the lack of service that was provided to consumers over the Christmas period. That was the Executive's entire focus. Therefore, to say that consumers were somehow ignored in all of this is a very loose interpretation, if not a misrepresentation, of the report altogether.

His suggestion is almost like the 'Belfast Telegraph'-inspired suggestion for academic selection: let us create another process for something to happen. There is already a Regional Development Committee, which has responsibility for scrutinising all of the Department's work, and I have engaged with it on issues around NIW for four years. I have undertaken to take a paper on the future of NIW to the Executive.

I am not sure whether Mr McDevitt thinks that the regional development spokespersons in every party have more authority than his colleague who sits on the Executive. However, the actual decisions on recommendations that are to be brought to the Assembly will be made at the Executive table in an open and transparent process, not in some committee meeting that is not minuted, regulated or part of any function of the Executive. If the Member is interested in openness and transparency, it is through the structures of the Assembly, such as the Committee for Regional Development, which he sits on, the Executive Committee or the Assembly itself, that discussions and debates can be had in a very open and transparent way.

The Member needs to be consistent. I understand that he has a difficulty with consistency, given that he opposed water charges but now supports a mutualised company that would involve such charges. He wants the — *[Interruption.]*

Mr Speaker: Order.

The Minister for Regional Development: Throughout the crisis, the SDLP mantra was that I should take responsibility. It is now proposing a mutualised company that is further removed from government. That would mean that government would have less authority and control over the provision of water and sewerage services. The only thing consistent about his — *[Interruption.]*

Mr Speaker: Order.

The Minister for Regional Development: The only thing consistent about his propositions thus far is their inconsistency.

Ms Lo: I thank the Minister for his statement. It is very important that the report came out so quickly.

I understand that the report says that the front line operational teams worked effectively in what were, no doubt, very challenging weather conditions. However, I have talked to staff and union representatives from Northern Ireland Water who are quite critical of the fact that many of the staff who were on standby during the crisis were not called in. Have the Minister and the regulator met the union to talk about its criticism of staffing at that time?

The Minister for Regional Development: I spoke to the unions, and I encouraged them to make representations to make their views known to the regulator, who conducted the report. I believe that they did so. Unions continuously make representations on working arrangements. They are quite entitled to do that, and they can have valid points to make. It is my understanding that the regulator took evidence from the unions, assessed that response and came to the conclusions that are in his report.

Mr G Robinson: Does the Minister feel that the recommendations will help to prevent a reoccurrence of this winter's chaos? How does he define the term "community wide action"? Further, does the Minister believe that he is the right person to oversee the future of Northern Ireland Water?

The Minister for Regional Development: In answer to the last question, the electorate will determine that in about eight or nine weeks. My party will then determine whether I get back into a ministerial role. It will be the luck of the draw, or non-luck of the draw, if that role is in the Department for Regional Development (DRD),

depending on how things play out. There are a lot of hurdles to be jumped before that question is concluded.

There are recommendations in the report, and, I think that the regulator's line on this is that NIW was prepared for the expected but unprepared for the unexpected. Although NIW felt that it had an incident plan in place that was able to cope, it certainly was not able to cope with the weather situation that was thrown at us over the Christmas period. There are very serious recommendations in the report, but not just for NIW. Some of those issues stray into the civil contingencies group, which will have learned lessons from the approach that was taken over the Christmas period.

To be fair, during the freeze period, I heard staff from NIW on the radio advising people that the thaw would cause pipes to burst and that people, particularly those in outlying areas or farmers with outlying farms or drinking troughs, should check and turn off their supply if possible to ensure that we tried to maintain a water supply. I am not sure that the community acted on that advice in the way that I think it should have, because repeated requests were made. During the emergency, several large industrial customers were found to have had leaking supplies for a number of days. The volume of those leaks would have been equivalent to the supply of a small town. Obviously, there are lessons to learn from the NIW response. Lessons have been learnt already. The severe criticism of the response is valid.

(Mr Deputy Speaker [Mr McClarty] in the Chair)

However, there is also a need to better inform the community, on both the domestic and non-domestic sides, about their responsibilities if a similar weather pattern were to occur again. People need to be more informed about what they can do to contribute to a reduction in water supply and how they can play their part in ensuring that we do not reach crisis levels, as we did over the winter period. There are recommendations on how to inform the community of its role, which are very useful. Some 80% of the leakage was on the private side. Therefore, if even half the customers had taken steps to try to reduce it themselves, there would have been a significant improvement in the water supply to other areas, which had to be cut off purposely through rotation to try to restore the levels in the reservoirs.

Mr F McCann: Go raibh míle maith agat, a LeasCheann Comhairle. I, too, welcome the Minister's statement. As a matter of interest, I note that Mr McDevitt did not call on all the housing spokespeople to come together to talk about the crisis that occurred in the Housing Executive and housing associations over Christmas. As the Minister is aware, other parties, including the SDLP, have proposed that NI Water become a mutualised company. What would be the implications of that down the road?

The Minister for Regional Development: There would be a number of implications. People who advocated a mutualised company pointed to the Welsh Water model. We have to understand that Welsh Water is a self-financing company and charges households an average of, I think, £411 a year for water. It is further removed from government and, therefore, further removed from the responsibility of the Minister who is in charge of that area in Wales.

I will want to put a paper to the Executive, and it will be for an incoming Executive and mandate to decide what to do about NIW in the longer term. I have brought the argument for the need for change to NIW to the attention of the Executive many times over the past four years. I have met resistance from other political parties around the Executive table every time that I have brought propositions. Indeed, Mr McDevitt described my propositions as unaffordable and unworkable. He then claimed that they did not exist, and then he voted against the proposition for some short-term measures for change that I brought to the Regional Development Committee.

Those who advocate the mutual model should be clear with the public about what the full consequences of that would be, because I have seen some — *[Interruption.]*

Mr Deputy Speaker: Order. Please allow the Minister to answer the question.

The Minister for Regional Development: Some Members have a difficulty with manners as a basic requirement in the House.

I have heard some people say in the media that the Executive cannot afford to continue to pay for NIW, that that would bankrupt the public purse and that there is a better way of doing this, as if there is a magical crock of gold at the end of a rainbow somewhere that will pay for it. Those people advocate the mutualisation

model. As I said, the mutualisation model, as it works in Wales, is further removed from government. It is a move towards privatisation and charges domestic customers for their water supplies. Those who argue that point of view are entitled to do so, even though it may conflict with their other public position of being opposed to water charging. However, if they are going to argue that position, they should argue the full position so that, in advance of the election, the public can make their judgements about who they want to support.

Mr Bresland: I thank the Minister for his statement. As the Minister will know, I am very concerned about the impact of a shortage of local plumbing inspectors who have local knowledge of the system. Has that issue been dealt with?

The Minister for Regional Development: The regulator looked at that. As part of its crisis response, NIW effectively moved back into the local area. I was on the ground and met some of the local engineers who were dealing with the situation. The Member is quite right that, at local level, there is very beneficial knowledge of the historical water supply, of where people are located and even of details of customers. That is important. There is certainly a lesson there for NIW. It was incumbent on NIW to try to improve its management system and to go through that kind of tough-book system of issuing instruction, and that has improved the service overall.

Nonetheless, given the geography of the region that we live in and the importance of local knowledge, it is vital to get that balance. There was a reference to how, in an emergency situation, the company relied on the local knowledge that was available. The need to retain local knowledge is an important lesson for the company, as is the need to improve the efficiency of the service.

11.00 am

Mr Armstrong: I thank the Minister for his statement. Does he acknowledge that, since the moment it was revealed that those who were meant to lead the review were previously considered for roles in Northern Ireland Water, the review has been undermined? Will he give us his assessment of the comments of the Commissioner for Public Appointments that were made public last week? Is he aware of her concerns regarding the review?

The Minister for Regional Development: The Commissioner for Public Appointments is entitled to make whatever comments she wishes. The question for the people who conducted the review was for those who appointed them — the First Minister and the deputy First Minister — to assess. The Member knows that this is a very small place and there are few people who do not know other people. Tenuous links were being made to suggest that people had a conflict of interest. Indeed, Heather Moorhead was not even aware that she had been on a list for consideration. She accepted the proposition that she be involved in the review in good faith, until, halfway through, it was pointed out by someone who knew that she had been on a list.

The question of being satisfied as to whether a person has a conflict of interest is for those who appoint that person. They did that, and I was prepared to accept those assurances from them. The outcome and the product of the review show that it was clearly a professional piece of work that did not pull any punches in its response. From my perspective, if I had rejected the people involved, I would have had more to worry about in relation to the conduct of the review than most.

Mr O'Loan: If the same kind of freeze incident happened again and the Minister were looking ahead to the thaw and considering the great effects on consumers that we saw in the latest instance, would he do anything different from what he did on the previous occasion?

The Minister for Regional Development: The report is clear about my role and about the governance issues for which I am responsible. It says that I acted effectively in dealing with the matter. I am sure that everyone can improve on "effectively", and I would try to do that. The Member is a former teacher, so, had he marked a person's work as "effective", he would have thought that they had done quite well.

Nonetheless, there are lessons to be learned. One of the responses in the review to the sort of question that George Robinson asked was that there was a need for greater community involvement in dealing with the issues. As we can see in this instance, despite forewarnings to people that the thaw would result in pipe bursts and they needed to take some responsibility for checking their own arrangements, 80% of the water loss happened in private properties. That

can be improved through greater communication with the public about their responsibilities in advance of an incident such as the recent one. That could have saved a situation in which NIW was forced to rotate water supplies.

The review amounts to a substantial volume of work, containing 60 recommendations by the Utility Regulator for improvements. The civil contingencies group will have looked at the incident and its response to it and will have seen areas in which it feels it can improve. There are lessons for us all from the incident, and people who think that they have nothing to learn are in a dangerous place.

Mr P Maskey: Go raibh maith agat, a LeasCheann Comhairle. First, I welcome all the women who are attending the Assembly and different events throughout the place to mark the 100th anniversary of International Women's Day. Maith sibh.

On 13 September 2010, the Minister stated that he would bring forward short-term legislative proposals to improve the governance of water services. Where does that sit at the moment?

The Minister for Regional Development: I described that in my exchange with the Chairperson of the Committee for Regional Development. There is still an opportunity, which, probably, runs out today, to bring forward those short-term measures. I appreciate that Members are reluctant to use the accelerated passage procedure, but, nonetheless, it has been used quite regularly in other instances. There is a risk of NIW staying as it is, as a hybrid model. That is identified in the overall report as part of the difficulties that NIW faces. There is still an opportunity — a limited window — to do something about that, but, nonetheless, I do not feel that there is sufficient support to bring that forward.

I will bring longer-term proposals to the Executive before the end of this mandate. The Assembly has been prompted and probed on this over the past four years, and the suggestion is that the arrangements we have are not fit for the purpose of devolved government. We really need to grasp this nettle and make substantial changes in the new mandate.

Mr I McCrea: The Minister will be more than aware of my criticism of how information was passed out to the community, the failures of the website and, on some occasions, the misinformation about whether water was being turned on. As part of the recommendations from the regulator, will the Minister outline how Northern Ireland Water has moved on the short-term measures that it can take to ensure that nothing like what happened over this period happens again?

The Minister for Regional Development: Even before the review, I met NIW and, on behalf of the Executive, pressed it to put in place short-term resilience measures immediately. Thankfully, we now seem to be moving out of the cold weather and into the spring, but, at that time, in January, there was an indication that we faced further severe weather in February. That did not materialise, and I suppose that that makes a point about weather predictions and how we manage them.

The recognition across the board was that communication was the key and central failure in the response, in both the call centre capacity and the facility for dealing with incoming measures and answering queries and in the website and other methods of communication with customers. In the immediate aftermath, we were given assurances about a much enhanced and technologically improved call centre facility so that people could get accurate information. NI Direct stepped in to support that because NIW's website was separate from that of NI Direct, which has much greater capacity.

The information that was put on the NIW website was such that engineers could read and understand it but members of the public could not. There was immediate recognition that that was not suitable. Immediate steps were taken to improve the website's capacity and the information that was on it.

Other areas being explored and developed are issues such as the use of other broadcasters to get regular messages out, an emergency broadcast service, possibly through radio. That is being considered to such an extent that NIW is examining putting up a radio itself for a limited period if there was an emergency again or making better use of services such as the BBC to get accurate information, warnings and advice out to people.

As I said, part of this is about forewarning people about what to expect so that they can take their own measures. If such an incident were to arise again — hopefully not of the same severity, although we cannot predict what the

weather will do — then people need to be much better informed and able to communicate more directly with NIW as an organisation.

Ms J McCann: Go raibh maith agat, a LeasCheann Comhairle. I, too, thank the Minister for his statement. Despite all the criticism of the Minister and the party politicking around that, a lot of people appreciated the efforts that he made to get the bottled water, particularly for elderly people, that community activists gave out. Does he believe that the interim NIW board fulfilled its responsibilities over Christmas and the new year?

The Minister for Regional Development: The Member is correct in that the board is an interim one. A new chairperson will be appointed by the end of this month, and the process of filling the vacancies for non-executive directors on a longer-term basis has already begun. The report singled out the interim chairman and acknowledged the leadership role that he played.

Performance was benchmarked against the boards of other water companies, and it was acknowledged that the board had the requisite skill, competence and ability across a wide range. The Member will know that, on these boards, you do not simply appoint six, seven or eight people from a water utilities background. A broad range of skills and experience is needed in that board in order that they complement each other. The report found that the board had a sufficiently broad range of skills, which was commensurate with that of other water company boards.

Mr Buchanan: The Minister stated that leakage in the infrastructure is not yet at economic levels let alone sustainable levels, and many areas of the infrastructure still need to be renewed. I appreciate that the Department has invested money to meet the shortfalls. However, will the Minister give the House an indication of the percentage of the deficient network that that will replace? Does he have a time frame for the completion of the work?

The Minister for Regional Development: As I said, the review found and accepts as a historical legacy that the leakage figures are not at economic or sustainable levels. Much more work needs to be done. The regulator's review found that much work has been done. As the Member knows, the Executive have invested £1 billion of capital investment over the past four years. That is part of playing a very substantial catch-up exercise due to lack of investment over previous decades.

Despite the reduction in the capital budget, which particularly affects my Department, I have managed to identify funds in addition to those initially allocated to me to bring it up to £660 million worth of investment over the next four years. That will meet what the regulator recommends for mains rehabilitation. I do not have the percentage figures, but I will supply them to the Member. What we have invested to date and what we propose to invest over the next four years matches what the regulator recommends for mains rehabilitation investment, but we still have the outstanding legacy to deal with, and catch-up is required. It will bring us to a stage at which leakage is sustainable and economic, but the question is how far we go beyond that and whether it becomes uneconomic to continue to invest after that. We are not at that point yet, but we have identified very substantial investment that is in line with what the regulator recommends.

Mr Kinahan: I thank the Minister for his statement. I congratulate the members of the public who helped and worked together when the crisis happened. The Minister said that the response was wholly inadequate. As we know, the public see the Assembly, councils and all of us in government as being responsible. What has been put in place, probably in discussions with other Ministers, to ensure that we have a good 24-hour responsibility so that, whether it is Christmas or the weekend, somebody can make decisions and get people in so that the public get the response that they want immediately?

The Minister for Regional Development: There was a sense in the regulator's report and the recommendations that the executive team in the NIW did not respond as a corporate unit. There was no clear line of who was responsible for what area, which is a lesson that the NIW is obliged to learn. The regulator's report has 60 recommendations, and the regulator will check to see how those are implemented. Indeed, the Department will use its oversight mechanism to ensure that those proposals are implemented. The corporate team response was non-existent; people did not have specific roles. The emergency response of most organisations is to pool their entire corporate team and make sure that there is oversight in all areas of responsibility. That did not happen in the NIW; it was not part of its emergency plan. In hindsight,

it certainly was a deficiency. The regulator has clearly identified that that needs to change in any future response.

Mr Dallat: The Minister told us that this was an operational matter and was the responsibility of NIW. Given that there is just an interim chief executive at the moment and a board that is top-heavy with people who have no experience in the water industry, does the Minister accept that he has in the past stood four-square behind the former chief executive, Laurence MacKenzie, and that the image that the 40,000 people who were deprived of water have is of our Minister standing with Mr MacKenzie, who has now gone? Does he accept that many people will see this morning's statement as a Pontius Pilate exercise — a washing of the hands, so to speak — with no responsibility for what might happen in the future?

11.15 am

The Minister for Regional Development: I am not sure how the Member can come to that view. The report is very clear. I am not misrepresenting or misinterpreting it in any way; it is very clear about where responsibility lay.

The Member remarked that the board is not top-heavy with people experienced in the water industry. The only person with water utility experience to leave the previous board was the chairman, Chris Mellor. Therefore, there is little difference in capabilities. Incidentally, the Member has never changed his position that that chairman needs to be reinstated, even though Mr Mellor argued that tens of millions of pounds' worth of contracts being wrongly procured was simply a matter of getting the paperwork right. The Member is still of the view that a person who holds that view of public finances is fit to be the chairperson of a public organisation here. I have never heard Mr Dallat change that view.

In respect of my responsibility, I was confident at the time and remain confident — I think that the report reflects it — that I acted on my responsibility for NIW. In its oversight role, the Department will continue to ensure that NIW lives up to the report's clear, consistent and evidence-based recommendations on where responsibility lay and where improvements must be made. There is no hand-washing effort about that at all. At my request, I came to the Assembly's first sitting after Christmas to make a statement on the issue. Other Ministers had to be dragged to the Assembly to make statements related to their area of responsibility. I brought terms for recommendations to the Executive. Although the Member shakes his head, I asked my Executive colleagues for their support for the review and its terms of reference, again unlike other Ministers.

Reviews are being conducted across a broad range of areas of responsibility. As a Minister in the Executive, I do not know who set the terms of reference for those reviews. I do not know who is conducting them. I do not know when they will report. They have never been discussed around the Executive table. I have never seen any of the other Ministers asked to come to the Assembly to answer, as they should, questions about those reviews. That is in stark contrast to my approach. I asked to come to the Assembly with the first item of business after Christmas to answer questions from my Assembly colleagues on this. I asked the Executive to conduct a review. I brought terms of reference to the Executive for their approval, and the report went back to the Executive. Mark that against reports on other areas of government here. Scrutiny committees cannot get access to those reports. They do not know who is conducting them or what the outcomes may be. Some SDLP Members may shake their head, but that is the reality. This report was open and transparent. I have been upfront, never washed my hands and never shirked responsibility in dealing with the Assembly and making myself available to it and asking to come to answer questions on these matters. That is in marked contrast to, perhaps, the Member's colleague and some other Ministers.

Mr McDevitt: That is outrageous.

Mr Deputy Speaker: Order.

Mr Sheehan: Go raibh maith agat, a LeasCheann Comhairle. The Minister mentioned the former chairperson of NIW, Mr Chris Mellor, who stated publicly, on television, that he would have done a better job than the interim non-executive directors appointed by the Minister. What is the Minister's view on that?

The Minister for Regional Development: I commented on his fitness for public office in terms of his approach and commentary around the wrongful procurement of tens of millions of pounds in contracts. He said that that was simply a matter of getting the paperwork right. I do not think that that is the standard that

the Assembly should apply to meet its desire to have open, transparent, accountable and properly scrutinised public spending. As for his doing any better, the plan that the NIW board operated to was developed and devised under Chris Mellor's leadership.

Mr Lyttle: I join my colleagues in commending front line staff and all the community groups on the ground who responded to the freeze-thaw over Christmas. I recognise that exceptional weather was at play. I also share the report's concern about the "failure" of Northern Ireland Water's executive leadership during the incident. Given that the Public Accounts Committee report on procurement and governance in Northern Ireland Water found departmental oversight of the company to be "clearly deficient" and that the Utility Regulator's report finds that there was a failure to address lessons identified from the 2009-2010 freeze-thaw incident, why does the Minister feel that departmental governance is so fit for purpose and dismiss mutualisation as an option to be considered to improve governance of our water supply?

The Minister for Regional Development: The Member strayed into an area of the PAC report, which is yet to be responded to by the Department. Although I am happy to get into those issues, it is not normal protocol for me to answer questions on a report that the Department has not responded to.

On the arrangements for managing NIW's operational response on the ground and its implementation plan for emergency responses, the regulator and the review found that the governance arrangements were adequate. The Department asked questions, it was given assurances, and the governance arrangements were adequate.

As for mutualisation, at least the Member's party is upfront in arguing that domestic customers should pay for water. Other parties have argued that that should not be the case. People may feel that, in the first instance, there should be a stronger connection and more responsibility between the Department and whoever happens to be the Minister and NIW, which provides our water and sewerage services. I am simply making the point that mutualisation would loosen those arrangements, bringing the organisation further from government. If Members feel that water and sewerage services, in which the Executive and the public whom we represent have invested billions of pounds, are vital, I am advising them that, under mutualisation, we would have a looser and less authoritative arrangement.

In addition, mutualisation involves self-financing. Therefore, people proposing that arrangement should explain it in its totality. It would mean that domestic customers would pay, as is the case with Welsh Water, an average of £411 per household each year. If that is the proposition, I am happy to debate it, but let us not try to offer a solution where we are saying that the Executive cannot afford to pay for NIW and the people should not pay for it, but, somewhere at the end of a rainbow, there is a crock of gold that will sort it all out for us.

Mr Elliott: First, I put on record my thanks and praise to all front line Northern Ireland Water staff who were out during those difficult times. At that stage, contractors were brought in as well. Is the Minister aware that some of those contractors have yet to receive payment? I am not even sure whether their payments have been processed, and that may have a significant effect on future work that they might be required to do for Northern Ireland Water.

The Minister for Regional Development: I was not aware that that may be the case. None of the contractors involved has brought the matter to my attention. I will certainly take note of the Member's question and take the issue up with NIW to ensure that the Executive's policy of prompt payment for services, which was initiated through the Department of Finance and Personnel, is observed. The Executive set a standard of prompt payment for people who do work for government services. Particularly at this time, people are working with very tight margins and are struggling to keep organisations open and companies afloat, so I will raise the issue with NIW and ensure that people who did work are properly paid in sufficient time.

Mr Callaghan: The report deals with events from and beyond 27 December. As we all know and as Roy Keane has said on many occasions, "Fail to prepare; prepare to fail". Does the Minister accept that the report should have dealt with matters before 27 December, because, no matter what was done after the event, given the lack of emergency planning by Northern Ireland Water before then, it was fairly obvious that

a disaster was going to happen? How can he argue credibly for more powers over Northern Ireland Water now, when everything that he said today and over the past number of weeks was about evading responsibility?

The Minister for Regional Development: Perhaps the Member has not read the report. It goes into issues prior to 27 December. It makes an assessment of NIW's preparation, saying clearly that NIW was prepared for the expected. You should have read it. The report is a matter of record. Although the Member and the SDLP might dispute that, it says clearly:

> *"NIW was … prepared for the expected … but … unprepared for the unexpected."*

Therefore, the report does assess NIW's state of preparedness before Christmas; the fact that the company put the emergency planning operation in place in early December and stood it down again; how effective that plan was during the freeze in early December; and what lessons were learnt following the regulator's view of the freeze incident in the earlier part of last year. So, the Member clearly has not read —

Mr Callaghan: *[Interruption.]*

The Minister for Regional Development: I am sorry; I cannot answer questions asked from a sedentary position. If the Member has other questions to ask, perhaps he should have asked them.

The Member clearly has not read the report. It assesses the situation prior to December 2010 and NIW's state of preparedness, and it makes criticisms of that. Where recommendations flow from those criticisms, NIW needs to address them.

I listened intently to two or three days of Budget debate in which, on the one hand, the SDLP made propositions and then, on the other, made arguments that completely contradicted them. The Member is doing that again. He argues that I am trying to avoid responsibility and that I should take responsibility. That was the SDLP mantra throughout the whole freeze-thaw incident. The party has come up with proposals that move NIW further from the responsibility of government. So, as I said, the only thing consistent about the SDLP over the past period has been its inconsistency. It may fool some of the people some of the time, but SDLP Members cannot stand here and argue that more authority is needed and that the Minister in charge of the DRD needs to be more in control of NIW, while advancing propositions that will move the organisations that deliver water and sewerage services further away from government and further away from responsibility so that —

Mr McDevitt: *[Interruption.]*

The Minister for Regional Development: I am sorry; I am getting hectored by the bad-mannered Mr McDevitt. I have answered his question about discussion. He wants to set up some sidetrack process that involves himself and I am not sure who else when we already have open, transparent opportunities in these political arrangements for discussion through the Committee of which he is a member. Why he wants to sidestep the Chairperson, the Deputy Chairperson and the rest of his Committee colleagues —

Mr McDevitt: *[Interruption.]*

The Minister for Regional Development: I am sorry, Mr Deputy Speaker, it is difficult to answer questions when I am being continuously interrupted. Manners are very easily carried. My mother used to say, "Manners maketh the man". Obviously, they have not made much of a man over there.

Last September, I outlined to the Assembly that I would bring proposals to the Executive for discussion and to inform an incoming Executive. I am not sure what parallel process Mr McDevitt wants to become involved in, but it does not involve transparency or openness.

Mr McDevitt: *[Interruption.]*

Mr Deputy Speaker: Order.

The Minister for Regional Development: Such a process does not involve the established institutions of the Assembly. Mr McDevitt appears to want to sidestep his own Committee, his Committee colleagues, the Executive and his colleague on the Executive, which is where those discussions and decisions rightly take place. That is the forum for debate, and, ultimately, that debate comes back to the Floor of the Assembly.

Ms M Anderson: Go raibh míle maith agat. The Minister will not have been surprised by the SDLP proposal to mutualise the water service, which will, as he said — I agree with him — lead inevitably to water taxes. It was first mooted by

the previous leader of the SDLP, Mark Durkan, and was called a Durkan tax.

I will pick up on the question that Tom Buchanan asked. Have the Executive allocated the required capital funding to the DRD over the Budget period to allow the necessary investment to continue?

The Minister for Regional Development: There is no doubt that, as a consequence of the reduction in our Budget delivered from Westminster, where the Tory cuts were unsuccessfully challenged, if challenged at all, we have a substantial reduction in the capital budget. The initial allocation that I received as part of that capital budget would have left a substantial shortfall, particularly in years 2 and 3, in the allocation for NIW. Through reallocating the Department's resources and through further allocations that we received as a consequence of the final Budget proposition, I have been able to bring that up to a substantial level of £660 million over the next four years, which meets the regulator's recommendations for investment in NIW.

Mr Deputy Speaker: That concludes questions to the Minister for Regional Development on his statement. We now move to the next item of business, which is —

11.30 am

Mr Boylan: On a point of order, Mr Deputy Speaker. A Member indicated that I was misleading the House in the question that I asked. Let me say that I was referring to a statement that Mr McDevitt himself released.

Mr McDevitt: Further to that point of order, Mr Deputy Speaker, what was said earlier was misleading. It is not the case that the SDLP ever suggested that any report was a whitewash. I strongly counsel Members to pay due respect to what was and was not said. I will ask you, Mr Deputy Speaker, whether it is in order to knowingly misrepresent another party's position in the House.

Mr Deputy Speaker: Could I please respond to the two points of order? Both Members made their points. They are now on record, so I wish to move on.

Mr Boylan: On a further point of order, Mr Deputy Speaker. Can I hand the statement in to the Speaker's Office? If you will indulge me, I will read out exactly what it says.

Mr Deputy Speaker: Order. It is not in order to read out the statement. If the Member wishes to hand it to the Speaker, he is quite at liberty to do so. I wish to move on.

Executive Committee Business

Health and Social Care Bill: Legislative Consent Motion

The Minister of Health, Social Services and Public Safety (Mr McGimpsey): I beg to move

That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Health and Social Care Bill dealing with the abolition of the Health Protection Agency; functions in relation to biological substances; radiation protection functions; revocation of the AIDS (Control) (Northern Ireland) Order 1987; co-operation with bodies exercising functions in relation to public health; the regulation of health and social care workers; arrangements between the National Health Service Commissioning Board and Northern Ireland Ministers; and relationships between the health services.

In July 2010, the UK Government announced their intentions to carry out a radical reform of the NHS. One of the key elements of that reform is streamlining the number of existing arm's-length bodies. Most of the changes to those bodies will be given effect by the UK Health and Social Care Bill, which was introduced at Westminster on 19 January 2011.

At the outset, it is important to say that the vast majority of the Bill's provisions apply to England only. Members will be aware that any proposed changes to a Westminster Bill that relate to a devolved matter or that require a specific amendment or reference to legislation that applies in Northern Ireland must be agreed by the Assembly by means of a legislative consent motion. It is primarily those provisions to which I will now draw Members' attention.

All healthcare regulatory bodies, including the Pharmaceutical Society of Northern Ireland, will be given new powers to establish voluntary registers. That may affect the future delivery of regulation for some healthcare professionals on a UK-wide basis. The Bill will abolish the General Social Care Council and will transfer the role of regulating social workers in England to the Health Professional Council (HPC). Given the close working relationships that have been established between social care regulators in each country of the UK, the Northern Ireland Social Care Council is taking steps to develop a working relationship with the HPC. In future, the HPC will be known as the Health and Care Professional Council, and it will utilise its expertise to provide administrative, technical or advisory services to any body or individual that is involved in maintaining registers of health or social work professionals and social care workers.

The Council for Healthcare Regulatory Excellence (CHRE), which scrutinises and oversees the work of the nine healthcare regulatory bodies, will become the Professional Standards Authority for Health and Social Care, and it will be otherwise known as the authority. It will become self-funding through a compulsory levy on the healthcare regulators, and ministerial requests for advice from the authority will be subject to a fee. The authority will be given the power to provide advice or auditing services to the regulatory bodies and to charge for that advice. Accountability to the four UK Parliaments and Assemblies will be achieved by placing a duty on the authority to lay its strategic reports before those bodies.

My Department will continue to appoint one non-executive member to the council of the authority. The authority will have responsibility for accrediting the voluntary registers mentioned earlier. The Bill will abolish the Office of the Health Professions Adjudicator (OHPA), which was established under the Health and Social Care Act 2008 to undertake fully independent adjudication of fitness-to-practise cases. The issue, as highlighted in the Shipman inquiry, was to separate the functions of investigation and adjudication in fitness-to-practise matters. The General Medical Council (GMC) has enhanced the independence of adjudication and modernised existing processes, so it is considered that similar benefits to the setting-up of the OHPA can be achieved through reforms to the GMC's legislation. The OHPA is still in shadow form and would not have been operational until April 2011. Therefore, it has no impact on Northern Ireland.

The Secretary of State for Health wishes to take a more direct role in health protection in England, with the result that the Health Protection Agency (HPA) is to be abolished in its current form and will become part of the new public health service (PHS) for England. The HPA was established under the Health Protection Agency Act 2004. The Act gives a number of functions to the HPA, including health and radiation protection functions. The Health and Social Care Bill will abolish the HPA as a

statutory organisation and will repeal the 2004 Act. Health protection functions that are not devolved to the Department of Health, Social Services and Public Safety will be transferred to the Secretary of State for Health as part of the new public health service.

Non-devolved functions that the HPA currently undertakes for Northern Ireland, such as aspects of radiation protection and other UK-wide functions will continue to be provided for Northern Ireland by the public health service. My Department, along with the Public Health Agency and the health and social care sector in Northern Ireland have sought assurances that we will continue to receive the range of expert advice and support currently being provided and will also be able to participate actively in health protection matters on a UK-wide basis.

I also wish to assure Members that our own Public Health Agency will remain as a freestanding body and will continue to carry out its public health functions across Northern Ireland. The Bill also seeks to make changes to the National Institute for Health and Clinical Excellence (NICE), which is responsible for producing guidance on good clinical practice and the cost-effectiveness of NHS resources in England. It also examines new interventional procedures developed throughout the UK to check that they are safe and effective.

The Department of Health, Social Services and Public Safety (DHSSPS) has links with NICE, whereby all guidance published by the institute is reviewed locally to test its applicability to Northern Ireland and, where appropriate, endorsed for implementation here. Part of that endorsement process is to provide information to allow the guidance to be interpreted in the Northern Ireland context and to identify any important differences in service provision here.

My Department's arrangement with NICE ensures that Northern Ireland can access the same safety checks as England and can get timely advice from NICE staff on guidance issues. NICE will be re-established as a non-departmental public body (NDPB) and will be known as the National Institute for Health and Care Excellence to reflect its extended remit, which will incorporate elements of social care. For example, it will assume responsibility for producing quality standards for adult social care. For my Department to continue its existing arrangements with the newly established National Institute for Health and Care Excellence, it will be necessary to amend article 8 of the Health and Personal Social Services (Northern Ireland) Order 1991. Article 8 enables the Department of Health, Social Services and Public Safety to enter into arrangements with special health authorities. However, it does not allow arrangements with non-departmental public bodies. For the Department to continue arrangements with the National Institute for Health and Care Excellence, which will become an NDPB, the 1991 Order needs to be amended. That amendment will be effected through the Health and Social Care Bill. Therefore, it will require the consent of the Northern Ireland Assembly. The legislative consent motion seeks to put in place a mechanism that will allow us to continue our current relationships with those organisations and to access the information and expertise that we need. On that basis, I ask Members to support the motion.

The Deputy Chairperson of the Committee for Health, Social Services and Public Safety (Mrs O'Neill): Go raibh maith agat, a LeasCheann Comhairle. I speak on behalf of the Committee. On 3 February 2011, the Committee took evidence from departmental officials on the need for a legislative consent motion on the Health and Social Care Bill. I want to say at the outset that, after hearing evidence and exploring issues with officials, the Committee was content for the legislative consent motion to proceed.

As Members will know, the British coalition Government have put in process various reforms of the NHS in England, which include streamlining the number of arm's-length bodies or "quangos", as they are often called. The Bill is relevant to here because it will make changes to arm's-length bodies that are already established or will be newly established by the Department of Health in England. As some of those bodies provide or will provide expertise and services, some consequential amendments are required to our legislation. In a nutshell, that is why legislative consent is required of the Assembly and why the Minister tabled the motion that is before the House.

Many of the arm's-length bodies in question play a vital role in legal, ethical, quality and safety issues associated with the service's access and research. They also provide advice and guidance, regulation, inspection and monitoring, and a measure of uniformity and public

assurance across a wide spectrum of services. One such body, to which the Minister referred, is the National Institute for Health and Clinical Excellence, which produces best-practice guidance that is designed for the Health Service in England, but is also appropriate for us in many instances. Indeed, many other countries, such as New Zealand and Canada, use its services.

The simple reason for that buy-in of NICE services is that they cost £90 million a year to run. As we all know, we do not have a spare £90 million in the current Budget process with which to set up a similar service for our own use. Therefore, it is important that we are able to tap into that function and share that expertise. For that reason, legislation is needed to create a mechanism by which to enter into a contractual relationship with NICE and other bodies when their status changes as a result of the Bill.

In conclusion, I reiterate that the Committee is content for the Department to proceed with the legislative consent motion. I commend the motion to the House.

Mr McCallister: I agree with the Minister and the Deputy Chairperson of the Committee that it is important that we build and work on our relationships with NICE and its successor organisation. It is encouraging that the coalition Government are moving to streamline the public Health Service. I wonder whether the Minister will want to comment on where they might have got such an idea. It is important that streamlining takes place, that relationships with groups such as NICE are maintained and that we continue to buy into that expertise, because there are issues of quality and safety. It is important that we have had the debate and that the Committee took evidence to move that forward. I support the motion.

Mr Gallagher: The SDLP supports the legislative consent motion, which asks the Assembly to consent to the provisions of the new Health and Social Care Bill at Westminster. We accept the importance of the role of, for example, the National Institute for Health and Clinical Excellence, which will, as the Minister said, be under a new name and that we are able to avail ourselves of its services. The SDLP is, however, of the view, as we stated previously here, that we will have a better Health Service not only through working more closely with the rest of the UK, but by taking the tremendous opportunities that exist to work with the Republic on an all-Ireland context. It is important to understand that.

The motion has been before the Executive and agreed by all Ministers. Like I said, the SDLP has no difficulty with that.

11.45 am

Mr Callaghan: I concur with what the Member said about the potential for better outcomes and better value for money in developing North/South joint procurement and joint services, among other things. Does the Member share my sense of frustration, and that of many families, about the fact that although on the one hand we are striving to keep up to the standards or developments of the National Institute for Clinical Excellence and its successor, the National Institute for Health and Clinical Excellence in London, we are at the same time still in a position in which many standards set by NICE, including the offer of fertility treatment, are not being fulfilled here for various reasons? We should strive towards that, and hopefully that will be reflected in the Budget settlement.

Mr Gallagher: The Member has made the point well. On that note, Mr Deputy Speaker, I conclude.

Mr McCarthy: In recent times, much comment has been made about the funding of our National Health Service. Any reasonable proposal to make efficiencies throughout the Health Service, thus saving money, is welcome, and the money should be put back into front line services. The Bill seeks to reduce bureaucracy by cutting down the Department's NHS functions and abolishing quangos that do not need to exist and streamlining the functions of those that do. The Health and Social Care Bill will rationalise a number of public bodies. Let us hope that by so doing our community will not be disadvantaged.

I pay tribute to the work of the Health Protection Agency. Our constituents' expectation is that the Northern Ireland Health Department will continue to provide a first-class Health Service. Every man, woman and child in Northern Ireland expects to receive nothing but the best. It is our hope that the Health and Social Care Bill will come up to expectations. The Alliance Party supports the motion.

Mr Callaghan: I am happy to forgo this opportunity to speak, Mr Deputy Speaker.

The Minister of Health, Social Services and Public Safety: I thank the Members who contributed to the debate and the Health Committee. I already said that a number of the bodies provide advice, guidance, regulation, inspection and monitoring, as well as a measure of uniformity and public assurance across not only a wide spectrum of services but the UK as a whole.

My officials liaised closely with Department of Health colleagues to ensure that we maintain the expertise or service currently provided by the bodies affected. The main focus of our engagement has been to make sure that Northern Ireland continues to receive services or expertise under the new arrangements that will come about as a result of the proposed changes to bodies.

Members will appreciate that an arrangement whereby a body provides services and expertise on a UK-wide basis not only reduces unnecessary duplication but makes good economic sense. It is also clear that Northern Ireland could never hope to replicate the range of experience and expertise that a UK-wide body can provide. It is important that Northern Ireland continues to have access to that experience and expertise. I therefore commend the motion to the House.

Question put and agreed to.

Resolved:

That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Health and Social Care Bill dealing with the abolition of the Health Protection Agency; functions in relation to biological substances; radiation protection functions; revocation of the AIDS (Control) (Northern Ireland) Order 1987; co-operation with bodies exercising functions in relation to public health; the regulation of health and social care workers; arrangements between the National Health Service Commissioning Board and Northern Ireland Ministers; and relationships between the health services.

Civil Registration Bill: Further Consideration Stage

Mr Deputy Speaker: I call on the Minister of Finance and Personnel to move the Further Consideration Stage of the Civil Registration Bill.

The Minister of Finance and Personnel (Mr S Wilson): Thank you, Mr Deputy Speaker. I move that the Further Consideration Stage of the Damages (Asbestos-related Conditions) Bill is now taken.

Mr Deputy Speaker: Minister, it is the Civil Registration Bill, not the Damages (Asbestos-related Conditions) Bill.

The Minister of Finance and Personnel: I move that one as well, Mr Deputy Speaker. You have got two for the price of one this morning. *[Laughter.]*

Moved. — [The Minister of Finance and Personnel (Mr S Wilson).]

Mr Deputy Speaker: The Minister is obviously switched on today.

As no amendments have been tabled, and there is no opportunity to discuss the Civil Registration Bill today, Members will be able to have a full debate at Final Stage. The Further Consideration Stage of the Bill is, therefore, concluded. The Bill stands referred to the Speaker.

Damages (Asbestos-related Conditions) Bill: Further Consideration Stage

Mr Deputy Speaker: I call the Minister of Finance and Personnel to move the Further Consideration Stage of the Damages (Asbestos-related Conditions) Bill.

The Minister of Finance and Personnel: I just had them in the wrong order there, Mr Deputy Speaker.

Moved. — [The Minister of Finance and Personnel (Mr S Wilson).]

Mr Deputy Speaker: No amendments have been tabled, so there is no opportunity to discuss the Damages (Asbestos-related Conditions) Bill today. Members will, of course, be able to have a full debate at Final Stage. Further Consideration Stage is, therefore, concluded. The Bill stands referred to the Speaker.

Planning Bill: Consideration Stage

Mr Deputy Speaker: I call the Minister of the Environment, Mr Edwin Poots, to move the Consideration Stage of the Planning Bill.

Moved. — [The Minister of the Environment (Mr Poots).]

Mr Deputy Speaker: Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in the provisional grouping of amendments selected list.

I inform members that a valid petition of concern was presented on Monday 7 March on amendment Nos 20 and 102. I remind Members that the effect of the petition is that votes on those amendments will require cross-community support.

There are four groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on the functions of the Department and local development plans. The second debate will be on the amendments dealing with enforcement and penalties, including time limits. The third debate will be on planning control. The amendments deal with third-party appeals, commencement, the Planning Appeals Commission and the protection of trees. The fourth debate will be on the 64 technical amendments to the Bill. Those include Assembly controls on subordinate legislation.

Once the debate on each group is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. The Questions on stand part will be taken at the appropriate points in the Bill. If that is clear, we shall proceed.

Clause 1 (General functions of Department with respect to development of land)

Mr Deputy Speaker: We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2 to 16, 78 to 80 and 86. The amendments deal with the functions of the Department and local development plans. Amendment No 16 is consequential to amendment No 15, and amendment No 79 is consequential to amendment No 78.

The Chairperson of the Committee for the Environment (Mr Boylan): I beg to move amendment No 1: In page 1, line 11, leave out "contributing to the achievement of" and insert "furthering".

The following amendments stood on the Marshalled List:

No 2: In page 1, line 11, after "development" insert "and promoting or improving well-being". *— [The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 3: In page 1, line 12, leave out "have regard to" and insert "take account of". *— [The Minister of the Environment (Mr Poots).]*

No 4: In clause 2, page 2, line 7, after "prepare" insert "and publish". *— [The Minister of the Environment (Mr Poots).]*

No 5: In clause 2, page 2, line 11, at end insert

> *"(3) The Department must prepare and publish a statement of community involvement within the period of one year from the day appointed for the coming into operation of this section." — [The Minister of the Environment (Mr Poots).]*

No 6: In clause 3, page 2, line 27, at end insert

> *'( ) the potential impact of climate change;'. — [The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 7: In clause 5, page 3, line 25, leave out "contributing to the achievement of' and insert 'furthering". *— [The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 8: In clause 5, page 3, line 27, leave out "have regard to" and insert "take account of". *— [The Minister of the Environment (Mr Poots).]*

No 9: In clause 6, page 3, line 36, after "Act" insert

> *"and in any other statutory provision relating to planning". — [The Minister of the Environment (Mr Poots).]*

No 10: In clause 6, page 3, line 37, leave out "local". *— [The Minister of the Environment (Mr Poots).]*

No 11: In clause 6, page 3, line 37, leave out "other". *— [The Minister of the Environment (Mr Poots).]*

No 12: In clause 6, page 4, line 5, leave out "the local development" and insert "that". *— [The Minister of the Environment (Mr Poots).]*

No 13: In clause 8, page 5, line 11, at end insert

"(7) A plan strategy is a plan strategy only if it is—

(a) adopted by resolution of the council; or

(b) approved by the Department in accordance with section 16(6)." — [The Minister of the Environment (Mr Poots).]

No 14: In clause 9, page 5, line 36, at end insert

"(8) A local policies plan is a local policies plan only if it is—

(a) adopted by resolution of the council; or

(b) approved by the Department in accordance with section 16(6)." — [The Minister of the Environment (Mr Poots).]

No 15: In clause 10, page 6, line 10, at end insert

"(4A) The Department must not appoint a person under subsection (4)(b) unless, having regard to the timetable prepared by the council under section 7(1), the Department considers it expedient to do so." — [The Minister of the Environment (Mr Poots).]

No 16: In clause 16, page 8, line 5, leave out "(5)" and insert "(4A)". — *[The Minister of the Environment (Mr Poots).]*

No 78: In clause 221, page 142, line 41, after "understanding" insert "of planning policy proposals and". — *[The Minister of the Environment (Mr Poots).]*

No 79: In clause 221, page 142, line 41, at end insert "other". — *[The Minister of the Environment (Mr Poots).]*

No 80: In clause 221, page 143, line 8, leave out from ", with" to "Personnel," in line 9. — *[The Minister of the Environment (Mr Poots).]*

No 86: Before clause 224, insert the following new clause:

"Review of Planning Act

223A.—(1) The Department must—

(a) not later than 3 years after the commencement of this Act, and

(b) at least once in every period of 5 years thereafter,

review and publish a report on the implementation of this Act.

(2) Regulations under this section shall set out the terms of the review." — [Mr Boylan./Mr W Clarke.]

The Chairperson of the Committee for the Environment: Go raibh maith agat, a LeasCheann Comhairle. Ar son an Choiste Comhshaoil cuirim fáilte roimh Chéim an Bhreithnithe den Bhille Pleanála. On behalf of the Committee for the Environment, I welcome the Consideration Stage of the Planning Bill.

The Bill was referred to the Committee on 14 December 2010. Although it was the largest Bill ever to come before the Assembly, the Committee was determined to conduct the best possible scrutiny in the short time available. The Committee sought a brief two-week extension but managed to produce its report a week in advance of that, thereby enabling the Department to bring the Bill back for consideration today. That required the Committee to meet all day twice a week throughout February, and I wish to put on record my thanks to the members and staff for accommodating that heavy workload.

There were 61 written submissions to the Committee's call for evidence, and the Committee took oral evidence from 11 organisations, including NILGA, the NI Housing Executive and the Consumer Council. The Committee also held a very well-attended stakeholder event, at which organisations and individuals were encouraged to give their comments on four specific areas of the Bill. Departmental officials were in attendance to respond to the issues raised, and it proved to be a very useful way of gathering a lot of views in the short space of time available to the Committee.

The Committee's scrutiny of the Bill led to it making 25 recommendations. Most have been addressed by the Department tabling its own amendments today, and some by commitments from the Department to future work or legislation. I thank the Minister for that. However, a few outstanding recommendations required the Committee to table its own amendments. Disappointingly, there are a couple of recommendations that the Minister originally indicated he would make amendments to address, going as far as to provide draft amendments for the Committee to see. However, between then and now, he declined to table them, without explanation.

Where that has happened, the Committee has gone ahead with its own amendments. However, I, and, I imagine, other members, find it very unsatisfactory. Where amendments could not resolve members' concerns, the Committee

sought commitments from the Minister to make sure that those concerns would be addressed. To some, he responded in writing; to others, he or his officials gave verbal commitments. I welcome confirmation of those commitments again today.

Resources were a key concern. Councils are worried about being handed responsibility for planning without sufficient resources to deliver it effectively and efficiently. The Committee was adamant that it wants to see full transfer of resources from Departments to councils for the planning functions that they are taking on and that will not be covered by planning fees.

The Committee also recognised that the introduction of the new planning system will result in a sea change of responsibility and behaviour for councillors and council staff. The Committee welcomed the proposed pilot projects that will help to inform the change process but also wants to see comprehensive capacity building and training. Token gestures and lip service to training will not suffice.

Another key Committee recommendation was for local development plans to have a statutory link to community plans. The Department told the Committee that community planning was being developed through local government reform proposals and that legislation for that process had still to be developed. The Committee therefore welcomed the Minister's written commitment that a statutory link between community plans and local government development plans will be provided in future local government legislation.

With regard to amendment Nos 1 and 2, most respondents to the Committee's call for evidence felt that the function of the Department under clause 1 should be expanded to reflect the desired outcome of the new planning system. They felt that it was no longer satisfactory that the Department's sole aim should be:

"the orderly and consistent development of land".

They wanted to see a much greater aspiration, going beyond governing the development of land to promoting sustainable development and tackling disadvantage and poverty. Organisations also sought recognition of environmental limits, well-being and other social factors such as disadvantage and good relations.

The Department insisted that duties to the environment were covered by its obligations to local, national and European legislation and that the social factors were already requirements for the public sector. It also maintained that well-being as a concept was still being consulted on as part of the local government reform consultation.

Despite that response, the Committee agreed with the concerns of stakeholders and sought amendments to improve the Department's commitment to sustainable development and well-being as a way to recognise the full aspiration of the new approach to planning in the North. As I alluded to earlier, the Department initially agreed to an amendment in relation to sustainable development but again I note my disappointment that the Minister will not now bring that amendment forward. I hope that he will explain to the House why he will not do so.

Regardless of the Minister's decision, the Committee was clear and unanimous: sustainable development should be at the heart of planning, underpinning decisions. Although members accepted that it was unrealistic to expect the Department or councils to secure sustainable development, it was perfectly reasonable and right to require them to further sustainable development. There should be a clear direction to do so in clauses 1 and 5, and I support amendments Nos 1 and 7 on behalf of the Committee.

The Department refused the Committee's request for an amendment on well-being. Although it may be true that the concept is still being consulted on as part of the local government reform consultation, that should not rule out its inclusion in the Bill. We were assured that the local government reform legislation will be implemented in tandem with the Bill. If that is truly the case, there should be no nervousness about introducing a concept now that will eventually fall into place, and I urge the House to support amendment No 2.

12.00 noon

On amendment Nos 3 and 8, the Committee recommended that the Department remove any risk of misinterpretation regarding the obligations of the Department and of councils to policies and guidance issued by the Department for Regional Development. The wording of clauses 1 and 5 is inconsistent with that of

clause 8, and the Committee supports the Department's amendments to address that.

On amendment Nos 4 and 5, the Committee was concerned that, although there had been an obligation on the Department to produce a statement of community involvement since the Planning Reform Order was published in 2006, one had never been produced. To avoid repetition of that situation, the Committee recommended that a time limit be placed on the production and publication of the Department's statement of community involvement. The Committee welcomed the Department's commitment to do that through amendment Nos 4 and 5.

On amendment No 6, the Committee was keen to place a requirement on local authorities to take the potential impact of climate change into consideration when conducting surveys of districts, and the Committee asked the Department to consider amending clause 3 accordingly. However, in its response, the Department indicated that it did not believe that it would be possible for councils to collate the necessary information from the sectors that produced emissions in their region to enable them to meet such a requirement. The Committee maintained that that was not its intention and that it wanted councils to look at best practice and guidance on taking the potential impact of climate change into consideration and to factor those into their district surveys accordingly. In the absence of such an amendment from the Department, the Committee agreed to table its own amendment at Consideration Stage.

Having conducted an inquiry into climate change for the best part of a year, Committee members are aware of its importance and of the impact that planning has and could have on it in future. There is huge potential through the Bill to tackle climate change at a local level and to ensure that all councils are actively working to introduce climate change measures through local plans.

The Committee felt that councils should be required through the legislation to take the implications of mitigating and adapting to climate change into account in their surveys. That would not necessarily require councils to collect and collate detailed local emission information, but it should necessitate the consideration of long-term flooding predictions and an observance of best practice in reducing carbon emissions etc. On behalf of the Committee, I support amendment No 6, and I urge the House to recognise its importance and to support it too.

I cannot comment on amendment Nos 9 to 14 on behalf of the Committee, because, during Committee Stage, Committee members were content with the relevant clauses. However, the amendments do not appear to alter the policy principles established in the relevant clauses.

On amendment No 15, there was considerable concern among the stakeholders who responded to the Committee about the proposal in clause 10 to enable the Department to appoint an independent examiner. Some stakeholders felt that it would give the Department inappropriate control. Others suggested that, if the Planning Appeals Commission could not meet its requirements, it should be tasked with appointing an independent examiner, thereby ensuring that the independence of the PAC is extended to the independent examiner.

The Committee was concerned about the allocation of costs for the process. Members were concerned that, although the cost for the PAC to carry out its duties is covered by OFMDFM, there is no indication of how an independent examiner would be paid. The Department later confirmed that it would pay for independent examinations conducted by an independent person that it appointed. That clarity was welcomed, as was the fact that the costs would fall to the Department rather than to individual councils.

On the appointment of an independent examiner, the Department stressed that the PAC would be the first choice to conduct independent examinations. However, if it was unable to do so within the appropriate timescale, clause 10 would give sufficient flexibility to appoint an alternative examiner. The Department insisted that it was important to retain the option, but it agreed, through amendment No 15, to strengthen its position that the appointment of an independent examiner would be done only in exceptional circumstances and only when necessary to meet a council's timetable. On behalf of the Committee, I welcome amendment No 15 and encourage support for it and for amendment No 16, which is consequential to it.

I move to amendment Nos 78 to 80. A respondent to the Committee's call for evidence suggested that clause 221 should be

strengthened by the inclusion of a requirement for bodies in receipt of planning grants to further the understanding of planning policy proposals. The Committee asked the Department to consider such an amendment and was content with amendment Nos 78 and 79 accordingly.

Amendment No 80 removes the requirement for the Department of Finance and Personnel to be consulted before grants can be awarded. That was another suggestion made by the Committee on the grounds that the requirement was no longer necessary and was out of keeping with similar grant-awarding processes. I support amendment No 80 accordingly.

The final amendment in the group is amendment No 86. As a result of its scrutiny, the Committee expressed concern about how the process will roll out, and it asked the Department to consider the possibility of introducing a review period following the implementation of the Act. The Department did not agree to that on the grounds that reviews can be instigated at any stage, and the Committee agreed not to pursue the matter.

Having spoken at length on behalf of the Environment Committee, I will now say a few words on this amendment as a representative for Newry and Armagh. I am disappointed that the Minister has not taken on board the point about carrying out a review. Yesterday in the House, we talked about maturity and common sense, and the Minister was willing to take forward a review in respect of the matters debated then. Yet, when we ask for a review in respect of planning policies being transferred to local government, he has refused to take that request on board. I want to make some points about a review.

At present, the e-PIC system has not reached its potential but is vital to the future of the Planning Service and how it rolls out. There are teething problems with the system. As the Minister is well aware, we asked for a rural design guide, and there has been no sight of that. Also, professional and technical members of staff from the Planning Service are being redeployed. Although it is recognised that planning receipts are down and the number of applications is not as high as in previous years, it is understood that the workloads are being transferred to those in the Planning Service at this time. It would not be appropriate, having not brought forward a workload programme, to transfer this policy in its current state without a mechanism to review how that planning process will operate and be implemented on the ground. The Minister should take that on board seriously and look at exactly what we are going to transfer to local government.

If the Minister is minded to support a review, we could look at the amendment's reference to five years and the requirement to publish a report. If planning policy were to be split and if we could look at what will be delivered through development planning and development management at local level, we could get the Department to come back with a suggestion about exactly what we would need to review. I do not think that it would be an overall review. I think that there are ways of keeping an eye on it and checking it. This issue could be considered at Further Consideration Stage, if the Minister is willing to bring it forward and if the Members across the Floor are concerned about the type of review we are suggesting.

We asked for a review of PPS 21, which the Minister agreed to previously. If we properly define the type of review that we want to have, it would not be difficult to ensure that proper planning policy is rolled out, that proper resources have been given to local councils and that accountability exists. Many Members still sit on councils and are well versed in the planning process. If we are going to lift this policy from the Department and set it down in local government, we need to have a review. This is also relevant to other clauses. Also, as part of the review, maybe we could look at a third-party appeal process, if the Minister was keen to bring that forward.

With that in mind, I support a number of the amendments. My party colleague Willie Clarke will give the Sinn Féin view on the amendments.

Mr Kinahan: I very much welcome the chance to speak at Consideration Stage. Before I start, I thank the staff from the Committee and the Department for the long hours that they put into the Bill. Without all their hard work, we would not be able to make any of the comments that we make today. I am sure that they worked long hours and well past midnight many times. I thank them for all the hard work.

When I first spoke about the Bill, I was concerned that we were dealing with it too quickly. I shall be brief, before I get on to the amendments, but I am still concerned that we

are doing this too quickly. Only time will tell. We know that there are 17 or more sets of guidance to come through and that this is really an enabling Bill. I want to ensure, both today and at Further Consideration Stage, that we get the right checks and balances into the Bill to make sure that the next Assembly has some control but, at the same time, is able to hurry it all through. We do not want the Bill to be sitting for ages without being implemented. We know that there are regulations to follow, we know that we have to get RPA in, and we know that RPA failed to get there the last time. There is a great deal that we need to get in place.

I am also concerned that, with such a large Bill with so many clauses, however human any of us are, we can start off for the first 25 or 50 clauses with full concentration, but, after two or three hours, concentration has lapsed and things are getting more complicated. Without the help of the Department and Committee staff, we would never have got through it, and I congratulate everyone on all of their hard work.

We need to change our planning system, and the Bill is absolutely vital to that. Therefore, the Ulster Unionist Party will support most of the amendments. The group 1 amendments deal with the functions of the Department and local development plans. I hope that Members do not go through each amendment one by one. I will go through, as quickly as I can, the few that I think are necessary.

We very much welcome amendment No 1, which replaces "contributing to the achievement of" with "furthering" in relation to sustainable development. I hope that the legal side that is advising us and will be advising councils makes sure that we find a nice, comfortable way through that that councils can afford.

We welcome amendment No 2. It means that we are taking well-being into account, and I welcome the fact that it will allow us to plan our walkways and our use of parks, forests, rivers and all sorts of things. It will be a challenge for councils to find a way of interpreting it, and we will need good guidance from the Department on that.

Mr Weir: I appreciate the sentiments behind amendment No 2. However, does the Member not envisage a bit of a problem? Well-being is not defined in legislation, so there is a danger that, if it is contained in this legislation, we will be affording a duty but people will not know what they are supposed to be doing. Is there not a technical problem with that?

Mr Kinahan: I thank the Member for that comment. I agree that there is a problem with defining well-being, but given that the legislation is going to be there —

Mr McGlone: On that very point, surely, if the sequence of events is that we have reform of local government first and the legislation to enable that is first, those powers of well-being and the definition of well-being should be included? The Planning Bill and the transition of those powers should follow that reform of local government. Therefore, a definition should be in there by the time any transition of powers for planning takes place.

Mr Kinahan: Again, I see the Member's point. We need good guidance on the definition of well-being. However, the review system proposed in the last amendment in this group is one way of looking at how we define well-being and take it forward.

It is absolutely right that we put the onus on councils and the Department so that well-being is part of the future. We have to find a way of defining well-being. We want walking routes and pavements in the local development plan in order to encourage people to walk, enjoy the countryside and get fresh air. There is a whole lot more to it, and it is, therefore, right that well-being is put in the Bill. However, we must find a way of defining it in the future, and we all need to work on that.

12.15 pm

Amendment No 3 proposes that the Department "take account of" policies and guidance. Amendment Nos 3, 4 and 5 are technical and ensure that the Bill is tidied up, so I will not to go into them in great detail.

Amendment No 6 proposes that councils take account of the "potential impact of climate change". It is rather like the amendment that deals with well-being. It is absolutely meet and right that that is in the Bill. We know that climate change is happening, whether we believe that we are responsible for some of it or that it is natural. I am very concerned about the possible massive costs to councils. We will need good guidance from the Department and good discussions — particularly in the review,

if we have it — of what we mean by climate change.

We can pinpoint the easy issues, such as flooding and not building on flood plains, but there are the other impacts, such as the grit from road gritting going into gullies and poisoning the ditches or sheughs and the impact of snow, if we continue to have longer cold spells. Another easy point is transport and trying to get people out of their cars and lorries. Northern Ireland relies very much on its transport system, and that puts an onus on the Department and councils to keep an eye on climate change.

Amendment Nos 9 to 14 are technical. I agree with them, so I will move on.

With regard to amendment Nos 15 and 16, I welcome the ability to bring in an independent examiner. I particularly welcome it as it will help councils to timetable. I see this as a learning process. As councils produce their surveys and pull their local plans together, they will need as much help as possible. It is absolutely right to have an independent examiner to help things to move quickly, as long as the Department is not too heavy-handed, and I have faith that it will not be. There will be backlogs, and we must find our way through. The more people we have helping councils, the better.

Amendment Nos 78 and 79 will allow the Department to give grants, and that is another good idea. However, I am slightly concerned about giving grants to bodies that are not-for-profit, as most bodies are there for profit in some way. I am not sure how that can be defined, and maybe the Minister will clarify that. I also welcome amendment No 80, as it removes the oversight role of DFP.

Amendment No 86 is extremely important. As Members heard, we had much discussion about that in Committee. We need a review mechanism in place, and we have heard all along that a lot of the legislation is based on legislation in England and Wales and that they, too, are constantly learning. It is absolutely right that we have something in place so that we can constantly look and see how well we are doing. If there is to be a review once in the first three years, will that be done with a body that is there all the time collecting information and advising us how to do better, or will a new body be brought in in the third year? My feeling is that it should be the first option, because it is probably more cost-effective. I like the amendment because it forces us to have a review, no matter who is Minister and no matter what Assembly we have. It is absolutely right to do that. I hope that the Minister will look at the amendment and that, if he does not support it, he will find a way of putting something in to act as a check and balance in the future. The Ulster Unionist Party supports all the amendments in group 1.

Mr McGlone: Go raibh maith agat, a LeasCheann Comhairle. Today, I am reminded of why we are discussing the transition of powers to local authorities. After the Macrory report and the 1973 reform of local government, those powers were taken away from local authorities because they had been abused. In any normal society, it is accepted as the norm that local councils — parish councils, district councils or whatever they are in other western democracies — deal with planning and have various other powers. As we well know, however, the North is not the norm.

The challenge for us as politicians is to move to a society in which local politicians reflect the community and perform their duties and functions in a role of absolute commitment to equality, transparency and to the removal of the barriers to exclusion. As the Committee scrutinised the Bill, usually in the Senate Chamber, it became increasingly apparent that the Bill had been rushed through and was out of sequence. The document on the reform of local government is merely out for consultation at the moment. That reform must be in place before the Bill in order that —

Mr Deputy Speaker: Order. I thank the Member for setting the context for the debate. I would like you now to address the amendments in this group, please.

The Deputy Chairperson of the Committee for the Environment: I appreciate your guidance, Mr Deputy Speaker and, indeed, your forbearance. However, without one reform setting the context, we will get the other reform absolutely wrong. If the Planning Bill is dealt with outside the context of the reform of local government, the issues to which I referred — the lack of transparency, openness and equality and the failure to protect against discrimination — will be repeated. Those were pivotal to the errors of the past, and that is why I set the context.

The SDLP broadly supports the first group of amendments. I have no intention of going through each amendment individually. Mr

Kinahan highlighted the issue of well-being in amendment No 2. It is important for that term to be defined. I hope that, as part of local government reform, it will be defined.

I, like the Chairperson of the Environment Committee, sat through an important inquiry by that Committee into climate change. Therefore, I welcome amendment No 6, which requires councils to take into account the "potential impact of climate change" when conducting surveys of their district.

Amendment No 15 provides for the independent examiner to be appointed by the Department. I welcome the recognition by the Department that the independence of that examiner is pivotal and must be beyond reproach. Therefore, the Department was asked by the Committee to tighten up the conditions under which that independent examiner might be appointed, and the amendment is welcomed accordingly.

Moving quickly though the amendments, I welcome amendment No 86 and thank Committee Members for tabling it. It is important because, as I outlined earlier, the progress of the Bill, local government and reform should be monitored. It is an important amendment that allows us to keep a close watch on whether progress is made.

It would be wrong and remiss of me not to reflect the fact that local government welcomes progress. It also welcomes the powers and the oversight role that it is so necessary to deliver equality. Likewise, it wants to make sure that it is not sold a pup by having to bear the costs of the transition and the handover of those powers and that the process will, in effect, be cost-neutral, not because the Department bumps up prices but because a smooth transition is made. The Department must ensure that there is compatibility when planning powers move from central government to local government and that ratepayers are not lumbered with excessive rates bills as a consequence. I know that the Minister has spoken about that issue before, but the Environment Committee got mixed messages about it.

Mr Deputy Speaker, I thank you for your forbearance. However, before I forget, I would like to pay tribute to the Committee staff who punched in very long hours and to the departmental staff who put pedal to the metal virtually every day to make sure that all of the information was brought before us as efficiently as possible. I would like to pay tribute to and thank them because, quite often, that goes unrecognised.

Ms Lo: I welcome the Bill's Consideration Stage. We support the first group of amendments except for amendment Nos 1 and 7. Clause 5 says that the Department must carry out its functions with the objective of contributing to the achievement of sustainable development. However, those two amendments would change the wording to say that the Department must carry out its functions with the objective of "furthering" sustainable development. We believe that the amendments dilute the Department's commitment to sustainable development and water down the legislation to achieve that. We, therefore, oppose amendment Nos 1 and 7.

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. Amendment Nos 1, 2 and 7 put sustainable development at the heart of the planning system and link that to the well-being of people in the North of Ireland. At Committee Stage, I felt that the Planning Bill needed to be more robust in promoting sustainable development and well-being. Sinn Féin believes that there is a huge opportunity to move away from a land-based planning system to one based on spatial planning, with people and communities at its core.

The Member who spoke previously said that the amendments on furthering sustainable development will dilute the Department's responsibility. However, Sinn Fein's opinion is that the amendments will actually strengthen that responsibility, because they ask local authorities to go further than they normally do. That is what we are trying to get at with "furthering".

Other Members touched on the definition of well-being. I think that it is widely know what is meant by "well-being". It has already been pointed out that that is out for consultation as part of the local government reform process, of which well-being is a major plank. The Planning Bill, which deals with well-being and sustainable development, is a driver for real change by lifting people out of poverty, affording them better mental health and ensuring that they have a better quality of life, all of which will have great significance for Departments' budgets. By putting planning at the heart of people's lives, we will make greater savings in the long run. We

have heard the debates about the health budget not having enough resources. If Members think about this strategically, they will realise that we are looking to front-load the system in order to make savings in the long run. As I said, by giving communities a greater sense of well-being, people will have better mental health and self-esteem and will make a contribution through their taxes to this establishment.

12.30 pm

The Department rejected the inclusion in the Bill of the concept of well-being, because it said that there was no precedent for it. I reject that. If there is a will, there is a way. The Department is being very dogmatic about the issue. As I said, the local government consultation refers to well-being, and it should be in the Bill. The majority of responses to the Committee supported having sustainable development and well-being in the Bill. We have a duty to ensure that, when the people speak, we listen. There is no point in putting things out to consultation and people asking for major change if we then decide not to implement those changes.

Sinn Féin supports amendment Nos 4 and 5, which strengthen the requirement for statements of community involvement. We also support amendment No 3.

Amendment No 6, which Sinn Féin also supports, makes the link between the planning system and the need to tackle and respond to the impact of climate change. The amendment would make it a requirement for councils to consider the impact of climate change when carrying out surveys of their district. There is a need for local authorities to factor in best practice. That is what we are talking about. We are talking about using the best practice from around the world that helps to mitigate the impact of climate change. We are not asking local authorities to carry out emission surveys on a global level. We are asking that they gather the evidence and let that formulate their views on implementing or designing local plans. We are talking about using best practice to reduce our carbon footprint and emissions and to combat flooding, which has a major impact on the island of Ireland.

Sinn Féin supports amendment No 15. The Department gave clarification on the appointment of an independent examiner, saying that he or she would be appointed only in exceptional circumstances and that the PAC would always be the first choice in an examination. I welcome the clarification that OFMDFM would cover the cost of the independent examiner.

Amendment No 86, proposed by my colleague and me, calls for the Department to carry out a review within three years of the implementation of the Bill. It is Sinn Féin's opinion that that is a sensible thing to do, so that any problems that may arise can be addressed and greater comfort can be given to local authorities.

At this point, I declare an interest as a councillor on Down District Council. Local authorities are nervous about the number of powers that are coming down from the Assembly, and they feel that resources will be a problem, no matter what the legislation is, be it the High Hedges Bill, the Welfare of Animals Bill or the Planning Bill. We need to give comfort to local authorities and their umbrella support groups, such as NILGA, which were very supportive of a review. As the Chairperson outlined, we are willing for the review to be flexible, if there is a willingness in the Department for that. That would be sensible, as it would help the Department, communities and local authorities. If things are not working or need to be tweaked, there would be an opportunity to do that.

Also outlined was the opportunity to look at third-party rights of appeal. That is the subject of an amendment that does not have a snowball's chance in hell of going through because of the petition of concern. Tabling a petition of concern is an abuse of power, because it was not designed for this type of legislation. Planning impacts on everybody, not just people on one side of the community or the other. This petition of concern is a total abuse of power. We should be mature enough to debate what we want in a Planning Bill. I hope that we get that maturity, and I hope that, if and when there is a review, we can look at that again.

Obviously, there are problems. There is front-loading of the system, a lot of community involvement and a lot of community planning. I accept that. However, if there are still problems with ordinary citizens having their rights heard, there is an onus on us to ensure that their voice is heard.

I will finish by speaking about sustainable development, the key deliverer in this Bill. It will add to a low-carbon economy in the North

and provide good job opportunities. Companies throughout the world that are seeking to relocate are aware of their carbon emissions and carbon footprint. If we are ahead of the game and leading the way, those companies are more likely to set up their businesses in our part of the island of Ireland.

We need to look seriously at the renewables industry. I know that I am going off slightly, but we need to ensure that everything that we do is sustainable in the best possible manner. By putting that in the Bill, we are saying that that will be the framework that the public sector and the private sector work off. That will be the skeleton, and it will be up to the rest of the sectors to put flesh on the skeleton.

Every Department says that it makes a contribution to sustainable development, but no one ever leads that work. Through the Planning Bill, there is now an opportunity for the planning sector to lead the rest of the sectors in that regard. It will help to improve community life and well-being. It will cut down on emissions and on people travelling in vehicles. Instead, jobs, schools and opportunities will be relocated in neighbourhoods. For too long, housing developments have been pushed out of the way to the outskirts of towns — the problem is out of the way. Then you see major difficulties, with people underachieving and having major health problems such as obesity and mental illness. This is an opportunity to address that. I will leave it at that.

Mr Deputy Speaker: The Business Committee has arranged to meet immediately upon the lunchtime suspension. I propose, therefore, by leave of the Assembly, to suspend the sitting until 2.00 pm. The first item of business when we return will be Question Time.

The debate stood suspended.

The sitting was suspended at 12.38 pm.

On resuming (Mr Speaker in the Chair) —

2.00 pm

Oral Answers to Questions

Health, Social Services and Public Safety

Lagan Valley Hospital

1. **Mr Givan** asked the Minister of Health, Social Services and Public Safety if, and when, his Department will commission the South Eastern Health and Social Care Trust to progress the development plans for the Lagan Valley Hospital site. (AQO 1223/11)

The Minister of Health, Social Services and Public Safety (Mr McGimpsey): The South Eastern Health and Social Care Trust has already been asked to develop its outline proposals for the future redevelopment of the Lagan Valley Hospital site. I will need capital to progress that work. However, I submitted bids of £1·8 billion of capital to address the legacy of underinvestment under ISNI II. I had been expecting £1·3 billion. In the run-up to the draft Budget, there were suggestions of £1·1 billion, falling to £0·9 billion.

I eventually received £851 million over four years, which was less than half my bid. With contractual commitments of £250 million and annual fixed costs of £100 million for the maintenance of an ageing health and social care estate, that leaves less than £200 million for new investment. That level of funding is insufficient to meet the demands that are being placed on the Health Service. The impact on the health capital programme will be disastrous, and some very difficult decisions will have to be made.

Mr Givan: I thank the Minister for his response. I am sure that he would like to apologise to the people of Lagan Valley for his party urging them to support the Tories, who reduced our capital allocations. Perhaps he can explain why, given that the strategic outline business case for the £50 million-plus development of Lagan Valley Hospital was submitted over a year ago, his Department has not asked the South Eastern Health and Social Care Trust to commission the development of a full business case.

The Minister of Health, Social Services and Public Safety: I will begin by referring to the Member's opening comment. Of course, a block grant came across to us of around £10 billion, and it is up to the Executive to decide. I am looking at DUP/ Sinn Féin cuts. If Mr Frew is serious about the hospital in Lisburn, he would — *[Interruption.]*

Mr Speaker: Order.

The Minister of Health, Social Services and Public Safety: Mr Givan. It is very hard to remember the names of these unelected Members.

Mrs D Kelly: Eighty million pounds has been set aside in the Budget for the social investment fund. Has the Minister had any discussions with other Ministers about how that fund may be disbursed, or, indeed, would it be available to him for capital for projects such as the Lagan Valley Hospital?

The Minister of Health, Social Services and Public Safety: I am not aware of any such moneys being available. I have a fund of £851 million over four years, but when £250 million of current contractual commitments are taken out of that, along with £100 million a year for maintenance, it leaves very little money to do anything. That is why I protest so strongly. *[Interruption.]*

Mr Speaker: Order.

The Minister of Health, Social Services and Public Safety: The reality is that there is enough money in the Budget. The fact is that the Department for Regional Development (DRD) was getting £2 billion under ISNI II. Under the new block, with all the cuts in it, DRD still gets £2 billion. The question is whether we want to spend our money on hospitals or road bypasses. That is a very pertinent question. I repeat: that is a matter for the DUP and Sinn Féin, who came together to devise the Budget and vote it through, in opposition to Ulster Unionist Party and SDLP Ministers. We are where we are, but I assure Members that there is not enough money in the Budget to begin to do what has to be done, never mind work our way through the comprehensive list that I have.

Mr Speaker: The Member is not in his place for question 2. Question 3 has been withdrawn because it requires a written answer. I call Ms Sue Ramsey.

Suicide Prevention

4. **Ms S Ramsey** asked the Minister of Health, Social Services and Public Safety for an update on suicide prevention following the recent ministerial and Executive meetings. (AQO 1226/11)

The Minister of Health, Social Services and Public Safety: The ministerial co-ordination group on suicide prevention supported the development of guidance on building emotional resilience in schoolchildren and managing critical incidents in schools, the development of community crisis response plans and further consideration of preventative measures on the Foyle Bridge. The response to deaths in the Colin area and the operation of the "card before you leave" protocol were also discussed.

I have provided an updated paper on suicide prevention for discussion at the next Executive meeting.

Ms S Ramsey: Go raibh maith agat, a Cheann Comhairle. I genuinely thank the Minister for meeting my colleague Jennifer McCann and me yesterday. We had an in-depth discussion. It just so happens because of the way the questions fell that the subject has come up again today.

I would appreciate it if the Minister could provide as much information as possible on the work that is going on in the Executive, because I have concerns about other Ministers playing their roles. Media guidelines also need to be looked at. I know that the Minister has given a commitment, but if he could provide perhaps a written report, without going into too much detail, on the incident in Lagan Valley psychiatric unit a number of weeks ago around the issue of suicide and self-harm, I would appreciate it.

The Minister of Health, Social Services and Public Safety: On the latter issue, I said at our meeting yesterday that I would write to the Member, and I will do that when I have full details on the issue around the patient at Lagan Valley.

As the Member and the House are aware, we have set guidelines for the media on the reporting of suicide, because improper reporting of it has an effect on those individuals who are liable to self-harm. That is why it is so important that those guidelines are in place and are observed. Most of the media and press outlets observe them, although I regret that there have recently been lapses. We will look to ensure

that such lapses do not happen again, because when they do, harm occurs.

This is not a health issue alone. I think we are agreed on that. This is a matter for the Department of Education, the Department for Education and Learning (DEL) and the Department for Regional Development; it is a matter for all Departments working together. We are looking at certain responses; for example, I mentioned work being done on Foyle Bridge, which is a suicide point in the north-west. We are also looking at pupils' emotional health and well-being. It is about building resilience. DEL wants to reduce the number of young people who are not in education, employment or training, and we are looking at other areas where the Departments of Health and Education can co-operate, such as the Roots of Empathy programme in schools.

A lot of work is being done as well as what is being done through the anti-suicide strategy. However, this is a matter of stamina; we must keep with it and keep the pressure on. It will take a number of years to fully address the issue, but we must never lose heart, because so many of the victims of suicide are youngsters, and that is a double tragedy.

Mrs M Bradley: Are the trends any different to what they were? What age group is most at risk? Do we know the stats for the past couple of years, so that we can compare them to now?

The Minister of Health, Social Services and Public Safety: The trend is up and down. In one year, the number will be down and we get a wee bit of comfort, but the next year it will jump up and then go down again, so we are getting spikes in the numbers, which can be very discouraging. However, I am told that that is to be expected. We have a number of actions in place through our Protect Life strategy.

As far as the statistics are concerned, I understand that people in the 25-44 age group are most likely to successfully commit suicide. However, to an extent, and rightly so, we concentrate on the very young people because some very young people are being affected. In the Colin and Lagan Valley areas recently, there were a number of very young people in a cluster. We now have strategies in each trust for cluster responses, because that is one of the very terrifying aspects of this.

Mr McCallister: I join others in commending the Minister for the work and effort that he and colleagues have put into suicide prevention. Will he elaborate on the divide between urban and rural areas? Is the Department of Agriculture and Rural Development engaged in the strategy to tackle suicide on a rural basis? When the Health Committee visited Lifeline, mention was made of mobile phone roaming charges.

The Minister of Health, Social Services and Public Safety: As far as mobile phone roaming charges are concerned, we have agreements with some providers, although some are now charging; it could be Orange or O2, I am not sure which. However, we will follow that up because it is important that they give us that contribution.

Suicide affects all strata in society and all ages, but it is concentrated in the young. There is a clear correlation between suicide and economic deprivation and educational disadvantage. That is unquestionable. The main concentrations of suicide are in north and west Belfast, which are the areas that are the most economically deprived. As well as a general response, we have a policy in which money follows priority. That works in rural areas too, because they are by no means immune, which is a point that the Minister of Agriculture and Rural Development makes routinely with me. We do not ignore that, and we are not complacent about it.

DHSSPS: Capital Projects

5. **Mr Cree** asked the Minister of Health, Social Services and Public Safety for his assessment of his Department's capital projects in light of the draft Budget 2011-15. (AQO 1227/11)

The Minister of Health, Social Services and Public Safety: I submitted capital bids of £1·8 billion to address the legacy of underinvestment and I received less than half of that — £851 million — for the next four years. With contractual commitments of £250 million and annual fixed costs of £100 million for the maintenance of an ageing health and social care estate, less than £20 million is left for new investment. That level of funding is insufficient to meet the demands being placed on the Health Service. The impact on the health capital programme will be disastrous, and there will be serious implications for our ability to deliver a modern Health Service. Some very difficult decisions will have to be made.

Mr Cree: Will the Minister tell us when the planned improvements to Dundonald hospital are likely to commence as a result of the budget?

The Minister of Health, Social Services and Public Safety: We need £1·8 billion, but we planned to spend £1·3 billion at one stage and then it was £1·1 billion — the number is all over the show. When one gets less than half of what is needed, there is a critical mass of money that has to be spent before one even starts, including £100 million on the routine maintenance of old buildings.

I have four major capital priorities: the Dundonald ward block, the Altnagelvin radiotherapy unit, the maternity hospital in the Royal and the local hospital in Omagh. All of those need the funding to go with them, which means that although I may be able to get them started, the completion times will be over years. That is the problem and the worry. The ward block that the Member referred to in the Ulster hospital is failing. It has concrete cancer and health and safety problems. It has a wiring system that is more than 50 years old, and the heating system is in a similar condition. That building will not last the time that it will take to get the money, which is why the capital funding for the Health Service is so bad. It is disastrous. To paraphrase somebody else, it is, frankly, obscene that we are being placed in this situation bearing in mind that the Health Service has been starved of funds for generations — over 40 years. The Health Service is again the main bearer of the burden and pain as far as capital is concerned.

Mr Buchanan: Will the Minister inform the House where the proposals for the new local enhanced hospital in Omagh now sit in his priority capital works? He will be aware that the project was in the 2007-2011 comprehensive spending review (CSR) period. We in Omagh were told by the Minister that the money was in the bag. The project seems to have slipped off the radar. When will that new hospital be built for the people in Omagh?

The Minister of Health, Social Services and Public Safety: I remind Mr Buchanan that our bid was for £1·8 billion, and then it was cut again and again. Even Mr Buchanan will realise that those sort of cuts to a budget, which leave less than half of what you were getting, will have an effect on how we deliver. As I explained to him, the Omagh local hospital is one of my top four capital priorities. There are others, but let me remind him that the Budget to come forward tomorrow provides amounts of money that will not allow me to go forward on a number of major projects. Mr Buchanan will have his opportunity tomorrow to vote for the Omagh local hospital by rejecting the Budget that the DUP and Sinn Féin have concocted.

2.15 pm

Mr Gallagher: The Assembly is aware that money is already in place for the new hospital at Enniskillen to be completed and opened next year. In light of the permanent secretary's statement, made following the cuts agreed by the DUP, Sinn Féin and the Alliance Party, that the Health Service will be broke next year, will the full range of services at Enniskillen that were identified in 'Developing Better Services' be delivered and fully funded by his Department? Will he give us such an assurance?

The Minister of Health, Social Services and Public Safety: The Enniskillen hospital contract is one that is let and to which we are legally bound. That is one example of our contractual commitments that amount to £250 million annually. As far as services are concerned overall, in real terms, the health budget goes down by 2·4% over the next four years, and that is indisputable. It is a 2·4% reduction in real terms. That means that whatever activity is going on at the minute will fall by 2·4% over the next four years, and that is before we take into account increases in demand and elderly population growth.

The Health Service is needed most by younger and older age groups, both of which are growing. We have the fastest growing population in the UK — the highest birth rate. At the same time, our elderly population cohort is growing faster than in anywhere else in the UK. All those demands are coming forward; never mind new drugs, therapies and treatments that we can see coming down the line. Therefore, it is a mathematical fact that activity will fall. It cannot do anything else. If we do not have the resource to drive the activity, that activity will fall, and this Budget proposes a 2·4% cut in Health Service activity right across the board.

Health: Shared Services

Mr McCarthy: Question No 5 for the Minister. I beg your pardon, Mr Speaker, Question No 6

6. **Mr McCarthy** asked the Minister of Health, Social Services and Public Safety what steps he has taken to encourage the sharing of health services with the Republic of Ireland. (AQO 1228/11)

The Minister of Health, Social Services and Public Safety: I am always glad to hear from Kieran McCarthy.

My duty as Minister of Health, Social Services and Public Safety is to secure the best possible services for the people. Where tangible benefits are to be achieved, such as economies of scale, enhanced viability of projects and concrete improvements for patients, I am ready to work with the Republic of Ireland for our mutual benefit. The existing range of co-operation is extensive and goes beyond the original five areas of co-operation in the Belfast Agreement, which, for example, did not refer to child protection or suicide prevention.

Mr McCarthy: I thank the Minister for his response. What dialogue did he have with the previous Health Minister in the Republic? A new one will be appointed shortly. Will the Minister get involved in further talks, so that the duplication of services is avoided and the people in that part of the world will receive nothing but the best from health services North and South?

The Minister of Health, Social Services and Public Safety: I have routinely reported in ministerial statements to the House the dialogue that I have had. Mr McCarthy has had occasion to routinely ask me questions on that issue. As far as the principle is concerned, it is where we gain mutual benefit. We go forward in areas where I see mutual benefit for the Northern Ireland population and the Minister down South sees mutual benefit for citizens of the Irish Republic.

Beyond the original five areas of co-operation, such as accident and emergency and co-operation in high-technology equipment, we have moved forward in areas including suicide prevention, child protection, paediatric congenital cardiac services, the satellite radiotherapy unit at Altnagelvin, GP out-of-hours, and so on.

There are a number of areas on which we have moved forward, including cancer research and, indeed, the Ambulance Service memorandum. I have always looked at such matters on the basis of where we will gain benefit, and, yes, we gain benefit on both sides of the border. I will be active wherever I see benefits.

Mrs O'Neill: I welcome the areas of co-operation that the Minister outlined. However, since the Minister frequently commissions reports but does not publish them, when can we expect to see the publication of the North/South feasibility study, which explores areas of efficiency in health and social services throughout the whole island?

The Minister of Health, Social Services and Public Safety: I do not commission reports and not publish them. The Member was referring to a feasibility study that was commissioned by Paul Goggins, who, as she will probably be aware, was a direct rule Minister. I have no ownership of that report. Besides, I have, by and large, taken forward the issues in it. As I said, I am not into spending money on bureaucracy, which is what that report was about.

Not all cross-border co-operations are as fruitful as anticipated. For example, two cross-border GP out-of-hours schemes are running at the moment: one in the south Armagh/Castleblaney area, which is averaging only 34 patients a month; and one in Donegal/Londonderry, which is averaging only 10 patients a month. Those are examples of where we have tried cross-border co-operation that does not work. However, there are successful areas, such as the satellite radiotherapy unit. If only I could persuade the DUP and Sinn Féin to come up with a proper capital budget, we could secure cross-border co-operation that would serve as an example. *[Interruption.]*

Mr Speaker: Order.

The Minister of Health, Social Services and Public Safety: It is wonderful to hear cries from a sedentary position, because it means for certain that my remarks are accurate. *[Interruption.]*

Mr Speaker: Order.

Mr McDevitt: Has the Minister read the programme for government that was agreed recently between the Labour Party and Fine Gael in the South? Does he agree that that programme offers a further opportunity to mitigate the impact of the DUP/Sinn Féin Budget by joint procurement on an all-island basis? *[Interruption.]*

Mr Speaker: Order.

The Minister of Health, Social Services and Public Safety: I have not had a chance to read it. I have been engaged in battling those self-same DUP/Sinn Féin cuts, which were voted through the Executive only last week. Of course, I am in a position to speak about that. None of the Back-Benchers to my left was at that meeting, so they are relying on reports; whereas I can report personally on what actually happened.

We look forward to seeing how we can best deliver the budget. Of course, the key relationships are within the kingdom: England, Scotland and Wales working together in a joint Health Service. Of course, I have no compunction whatsoever about co-operating with the Irish Republic where it benefits Northern Ireland.

Altnagelvin Area Hospital: Neurology

7. **Mr Callaghan** asked the Minister of Health, Social Services and Public Safety to outline the reasons for the additional waiting times for a neurology appointment at Altnagelvin Hospital. (AQO 1229/11)

The Minister of Health, Social Services and Public Safety: I understand that, as a result of staff absences, there are specific challenges in the Western Health and Social Care Trust. I have been assured that the trust is actively engaged with the board in addressing pressures. However, it has proved very difficult for the trust successfully to recruit a locum consultant to sustain services in the short term. I fully acknowledge that people are waiting much too long for a neurology appointment at Altnagelvin. That is totally unacceptable. This year, I have invested £6·3 million to improve access to outpatient appointments.

Mr Callaghan: I thank the Minister for his answer.

Does he acknowledge, as I do, that the increasing delays of up to 50 weeks have caused huge distress not only for patients with neurological conditions but their families? Does he also agree that it makes no sense from a health-outcomes point of view and from an economic point of view to allow what are often degenerative conditions to worsen and that we need to take specific measures in the west to address some of those recruitment and retention issues? In particular, does he see scope for further North/South co-operation in the north-west of the island to ensure that we build capacity there?

The Minister of Health, Social Services and Public Safety: Current capacity for neurology services in the Western Trust does not meet demand. That is a fact. Efforts to recruit have proved unsuccessful, and, in fact, consultants from the Belfast Trust are attending to support the services in the west and in Altnagelvin. It is very difficult to recruit a locum neurologist. That skill is very scarce. We need to build capacity, and the best way to do that is through training and support for our own staff. That, of course, needs a resource and investment that we currently do not have. However, I have put in some £6·3 million this year to do that. That is the best win and is the same approach that I have taken to cardiac surgery, where capacity is short and where we need to build it. However, I accept that patients in the Western Trust area are having to wait too long.

Mr Bell: Is it not the case that the cuts in neurology came as a result of the Cameron cuts that the Health Minister acted as a cheerleader for? When will the Health Minister be honest and tell the House when he will move from Cameron's cutter to Cameron's quitter?

Mr Speaker: Order. Let us be careful. That is not a supplementary question to the original question. *[Interruption.]* Order. It is not. Let us move on.

Ms S Ramsey: Go raibh maith agat, a Cheann Comhairle. Is the Minister aware that, to date, in some trusts, private clinics are still being used to deal with NHS patients? The reality is that we are still being charged extortionate prices. Will the Minister agree to review some of those issues? When we talk about the efficiencies in the Health Service, it seems to me that private medical services are creaming off public patients.

The Minister of Health, Social Services and Public Safety: I would love to know where that is happening. Consultants have a contract and are contracted to work so many hours a week. What they do out of hours is, frankly, their business. Whether they do a bit more consultancy or paint their bedroom ceiling is a matter for them. We have 11 consultants in Northern Ireland. That is not enough, and we require more. Talking about "extortionate this" and "extortionate that" is running away from the issue and the problem. What is extortionate is the way that the Health Service is being run down here. We

currently have the worst-funded Health Service in the UK pro rata. We are worse than England, Scotland and Wales, and I have the figures to demonstrate it. *[Interruption.]* Here we go.

Mr Speaker: Order. Allow the Minister to continue.

The Minister of Health, Social Services and Public Safety: Shouting will not change the facts. We were not in that situation four years ago. It is the situation now, and that is why we have such waiting times for neurology services in the Western Trust and all over. For anyone who has a capacity to listen, I will say that that is getting worse. *[Interruption.]*

Mr Speaker: Order.

The Minister of Health, Social Services and Public Safety: It is getting worse, and these are "made in Northern Ireland" cuts that have been voted through by the DUP and Sinn Féin at the Executive.

Justice

Parades: Lurgan

1. **Mr Moutray** asked the Minister of Justice what discussions he has with the PSNI, the Public Prosecution Service and the Parades Commission following the arrests of people involved in an illegal dissident republican parade in Lurgan. (AQO 1238/11)

The Minister of Justice (Mr Ford): I have regular discussions with the Chief Constable on a range of issues and have discussed the topic of illegal parades. I have also discussed the matter with the chairman of the Parades Commission. Decisions on investigations in individual cases, however, are a matter for the Chief Constable and his officers.

I am advised that, to date, four people have been arrested in relation to the parade in Lurgan on 23 January. All four have been released pending a report to the Public Prosecution Service. Therefore, it would not be appropriate for me to comment further on the matter.

2.30 pm

Mr Moutray: I thank the Minister for his response. Many people across society in Lurgan have done tremendous to create a situation that is now much improved. Given that, will the Minister commit to pressing for speedy prosecutions and for the maximum tariff allowable to be imposed on anyone who is convicted in relation to events of this nature?

The Minister of Justice: I fear that Mr Moutray misunderstands my position. My responsibility is to ensure that the Police Service has adequate resources to protect the community, but issues of prosecution and pressing for maximum sentences are entirely outwith the responsibility of the Department of Justice.

Mrs D Kelly: Will the Minister join me in urging all political representatives to support the Parades Commission in its decision-making role?

The Minister of Justice: Clearly, an election is coming up. I have no difficulty in doing that. I highlighted the fact that I met the new chairman of the Parades Commission. In the absence of agreement in the House on any other arrangements, the Parades Commission has an important role to perform this coming summer and, perhaps, for some years ahead. I hope that all public representatives, all agencies related to the issue, those who parade and those who wish to protest about parades will recognise that the Parades Commission has a job to do and will engage constructively with it.

Mr Gardiner: Last year, dissident activities in Lurgan cost £220,000 to the rail network alone. Can the Minister give an overall estimate of the policing and other costs associated with managing the dissident threats?

The Minister of Justice: I cannot give an accurate estimate of the costs, because the overall policing budget covers a number of areas between which there is significant interplay. However, I can agree with what I suspect is Mr Gardiner's point. The costs of providing for the security needs of this region are excessive, and it is incumbent on all politicians and everyone in public life to do all that they can to dissuade others from getting involved in such activities.

McGurk's Bar: Police Ombudsman's Report

2. **Ms S Ramsey** asked the Minister of Justice to outline any discussions he has had with the Chief Constable in relation to the Police Ombudsman's report on the McGurk's Bar bombing. (AQO 1239/11)

6. **Mr D Bradley** asked the Minister of Justice to outline any discussions he has had with the

Chief Constable in relation to the findings of the Police Ombudsman's report on the bombing of McGurk's Bar. (AQO 1243/11)

The Minister of Justice: With your permission, Mr Speaker, I will answers questions 2 and 6 together.

I met the Chief Constable on Monday 28 February, and the bombing of McGurk's Bar was among the items that we discussed. I was also briefed by the Police Ombudsman on his findings. Having had those discussions, I place on the record of the Assembly, as its Justice Minister, that it is clear that those killed were in no way responsible for the bombing and were innocent victims. I am deeply conscious of the pain that suggestions to the contrary have caused to the relatives of those killed.

How we deal with the legacy of our past is a challenge to the Assembly and the Executive. The Department of Justice and the organisations that it funds will continue to play their part, but the issue is far wider than one simply for my Department. The development of a coherent and effective approach is, as I said, a challenge for all of us in the House.

Ms S Ramsey: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his response. It is important that he has put on record that it is clear that the people killed were not responsible and, indeed, were innocent. Does the Minister agree that the interests of justice were not served by the inadequate investigation by the RUC into the McGurk's Bar bombing?

The Minister of Justice: We need to be careful not to stray excessively far into the past in the assumptions that we seek to make. It is clear that the Police Service of Northern Ireland, as it exists today, has a significant and serious role to perform in providing the policing needs for the people of Northern Ireland and deserves the full support of everyone in the House in doing so. As I said in my first response, it is also clear that there are other aspects relating to the past for which agencies of the Department of Justice, specifically the Historical Enquiries Team and the Police Ombudsman, have a remit.

However, there are serious difficulties in seeking to address all the concerns of the past if we simply use that as an opportunity to drag up individual issues and seek to make major cases. There are matters of concern, but the key issue must be to ensure that we provide for the needs of the present day.

Mr D Bradley: Go raibh míle maith agat. The central finding of the Police Ombudsman's report on the McGurk's Bar bombing was that there was an investigative bias on behalf of the RUC. Does the Minister regret the effective rejection of that finding by the Chief Constable?

The Minister of Justice: I thank Mr Bradley for that question, but I am not sure that there is much to be gained by my seeking to engage with matters that are for the ombudsman or the Chief Constable about how the report was written and the response to it. I am aware that the Chief Constable met representatives of the families a few days after the report was published, and, on the basis of that discussion, I understand that he agreed to make no further comment on the arrangements, in accordance with the wishes of the family. In that respect, it is probably best that I do the same.

Mr Spratt: The Police Ombudsman's initial report was published, and, seven months later, a completely rewritten report was published. Will the Minister examine the botched work of the Police Ombudsman? Also, has the Chief Constable indicated whether any new evidence has been presented? The ombudsman indicated that there was new evidence, but the Chief Constable has denied that. Has the Chief Constable indicated to the Minister that new evidence has been provided in the second report?

The Minister of Justice: It would be a very dangerous prospect for any Minister to start to criticise the work of a body such as the Police Ombudsman's office. That would lead us into significant difficulties. The Chief Constable has not told me of any new evidence being provided. It is quite proper that he did not tell me because it is an issue for the Chief Constable.

Community Safety Partnerships

3. **Ms M Anderson** asked the Minister of Justice what steps he intends to take to ensure that the objectives of community safety partnerships will be taken into consideration if the amalgamation of district policing partnerships and community safety partnerships become the new policing and community safety partnerships. (AQO 1240/11)

The Minister of Justice: At the outset, I stress that I see community safety as being of equal

importance to policing in the concept of each new policing and community safety partnership. From their inception, those partnerships will establish their own plans, taking into account community safety and policing issues in meeting the needs of their local area. They are new partnerships, but they may choose to build on the objectives of existing CSPs and DPPs while working within the remit set out by the Justice Bill, in which the functions inherited from CSPs and DPPs are of equal importance. The PCSPs' plans will also have to sit with the strategic objectives of the joint committee, which will be my Department and the Policing Board working together as equal partners. Those strategic objectives will encompass the objectives of the Department of Justice and the Policing Board in respect of policing and community safety and will ensure a coherent approach across the 26 council areas.

Ms M Anderson: Go raibh míle maith agat. Does the Minister agree that the valuable work carried out by community safety forums and partnerships should continue and not be replaced by PCSPs and that they should work alongside them in some way to try to promote better community safety?

The Minister of Justice: I thank Ms Anderson for that question. It is clear that we are seeking to enhance the good work done on community safety in the new partnerships. A number of groups will be related to the work of community safety in different areas. The provisions are there for an open arrangement for membership of the various partnerships to suit the needs of the local community. However, it is vital that we build on the good work done by existing partnerships if we are to seek maximum benefit from the new partnerships.

Lord Empey: I raised this issue with the Minister during discussions on the Justice Bill, but with CPLCs, PACTs and the DPCSPs, it would be possible to deliver an essay without saying a word.

Does the Minister agree that, although we encourage engagement between the police and the community, having to attend so many different meetings puts a huge burden on the Police Service of Northern Ireland? If police attend and service those meetings, obviously, they cannot be out fighting crime. Is the balance right or are there too many bodies for police to attend?

The Minister of Justice: I was wondering whether we would get a kind of alphabet soup out of Lord Empey's acronyms. He raises an entirely reasonable point. However, the key issue is that in bringing DPPs and CSPs together into PCSPs — if we are going to talk acronyms, let us really talk acronyms — the number of bodies will be reduced. Those are the key bodies. There will be a single partnership for each of 25 districts. In Belfast, there will be a single partnership citywide and four DPCSPs, which represent the city's four area-command sectors as they are currently composed.

Lord Empey, rightly, draws attention to a number of other bodies. Those bodies do not have the same status as proposed new partnerships, nor are they touched by operation of the Bill. They remain in existence in so far as, frankly, sector inspectors in the Police Service see them as serving a valuable purpose in meeting the needs of their relationship with people in a particular local neighbourhood. As Minister, I am not going to be prescriptive and say that they should not exist. The issue is to ensure that there is an overall structure that meets the needs of each district. Then, we allow local liaison to proceed in a way that best suits the needs of local policing. That is the appropriate way forward, regardless of whether there is an alphabet soup.

Mr I McCrea: The Minister will be more than aware of my views on DPPs and whether there is any need for them. I suggest that there is not. Nonetheless, through the Bill, the Minister has decided to bring DPPs and CSPs together. Will he ensure that when the two bodies are amalgamated, the new body will provide value for money and, indeed, the service that is required to show that community safety is at its heart?

The Minister of Justice: Indeed, as he said, Mr Ian McCrea has made his views well known on a number of occasions in the past. After detailed discussion at Consideration Stage and Further Consideration Stage, the House has accepted that we will go down the route of seeking to rationalise partnership by having a single partnership in each district. One key issue is that it produces value for money in that less money will be directed to administration of the two partnerships and more money from available funding can, therefore, be devoted to appropriate projects to promote community safety on the basis of whatever each local partnership decides for its area.

Mr A Maginness: Will the Minister reassure the House that, despite Mr Ian McCrea's bizarre and strange view on DPPs, the original idea behind them, which was to bring accountability for policing to local areas, will be preserved with the new arrangements along with the enhancement of community safety, and that it is in everybody's interests that that takes place?

The Minister of Justice: I am sure that Mr Maginness would not necessarily expect me to agree with his description of Mr Ian McCrea's views. However, he is correct; we have sought to maintain one of Patten's key reforms, the creation of DPPs, in the policing committees of new partnerships. I am committed to ensure that that continues, alongside the work of the wider partnership as it seeks to promote wider notions of community safety. At some point in the future, there may be further rationalisation of the operation of those partnerships. However, I doubt very much that I will be Minister when that happens.

Maghaberry Prison: Drugs

4. **Mr P J Bradley** asked the Minister of Justice if he can confirm that prison authorities recently introduced a drugs amnesty in Maghaberry prison. (AQO 1241/11)

The Minister of Justice: Recently, the Northern Ireland Prison Service (NIPS) was made aware that a quantity of illegal drugs had been smuggled into Maghaberry prison. As a result of using those drugs, one person collapsed and had to be taken to Lagan Valley Hospital to receive medical treatment. It is clear that that bad batch of drugs posed serious risks to prisoners. In such cases, the overriding concern must be for the health and welfare of prisoners. That is why, in order to minimise risk and proactively encourage prisoners to hand over their drugs, the governor of Maghaberry prison alerted prisoners to concerns about the potential harm that those drugs could cause and took the decision to not impose any sanction on any prisoner who handed in illegal drugs within a 48-hour period.

The Prison Service has a duty of care to prisoners, and that action is in line with its policies on safer custody and on reducing the harm of illegal drugs in prisons. Such amnesties are taken in only very exceptional circumstances in which the risk posed is considered very high. However, they are not unique to NIPS and are used from time to time by police and prison services in other jurisdictions. On this occasion, no drugs were handed in to the authorities, although it is possible that they may have been disposed of in other ways.

2.45 pm

The Prison Service maintains a tough stance on drugs and will continue to take every measure necessary to reduce the supply of drugs in prisons and, in partnership with the South Eastern Health and Social Care Trust, to provide a range of interventions and support services to prisoners with addiction problems.

Mr P J Bradley: I welcome the Minister's reply. Was that a one-off amnesty? Does the Minister have plans to introduce further amnesties, if he cannot ease the drug situation?

The Minister of Justice: Mr Bradley raises a fair point. There are no plans for further amnesties, but that does not mean that further amnesties may not happen in the future, if they are felt to be necessary in the interest of the health and safety of prisoners. As I said in my substantive answer, this issue has to be addressed from time to time by prison services and police services in every jurisdiction. It is not a unique feature of Maghaberry or of Northern Ireland, but it is important that we protect the lives of those who are in the custody of the Prison Service.

Ms Ní Chuilín: Go raibh maith agat, a Cheann Comhairle. As part of a policy for clean health for prisoners in relation to drugs, and in addition to the recent amnesty that was seen in Maghaberry, has the Minister had discussions with the director general of the Prison Service about education programmes and drugs awareness programmes?

The Minister of Justice: The Member has raised a very interesting question. The simple answer is that I, personally, have not discussed the issue with the director general. I understand that it is an issue that is continually considered by the Prison Service, but, in light of what has been said, it is, perhaps, an issue that we need to prioritise.

Mr Craig: Will the Minister address another issue that is occurring in Maghaberry and other prisons? Some prisoners are faking incidents. They get themselves taken into hospital at taxpayers' expense, get themselves treated

with legitimate drugs, then overdose on those legitimate drugs and cause even greater expense to the public purse?

The Minister of Justice: I have no evidence of any occurrences of the sort that has been suggested by Mr Craig. In the case of the recent incident that we talked about, I understand that only one prisoner was taken to Lagan Valley Hospital and that prisoner received only outpatient treatment there.

Mr Cree: Has the Minister assessed the impact of the drugs amnesty in the prison on prison staff morale? To what extent was the amnesty made necessary by the problems associated with supervising visitors?

The Minister of Justice: I am not aware that staff morale was affected by the one-off, short-term amnesty. As I said, amnesties are held in prison services in every jurisdiction, and to suggest that the problem is unique to or particularly felt in Maghaberry is flying in the face of reality.

Policing

5. **Ms Lo** asked the Minister of Justice for an update on determining long-term policing objectives. (AQO 1242/11)

The Minister of Justice: I am working with the Chief Constable, his senior staff, the Policing Board, partners in the policing and justice field and the wider community to develop and shape the long-term policing objectives that our community needs. Based on initial discussions, I have outlined some key themes and proposals for new objectives. They are centred round the nature of policing and the role of police in society.

In January, I published for public consultation a paper in which those key themes were explored in more detail. The proposed objectives cover the following areas: policing that is delivered in a way that protects and vindicates the human rights of all; policing with the community as the model for all policing; policing in partnership with other police services, the public and statutory, voluntary and private partners; policing that responds and adapts to emerging changes in society and contributes positively to that transformation; and a police service that is free from external interference in operational matters, but accountable, through the Policing Board, for operational decisions and to the Department and the Assembly for the use of public money.

The public consultation is ongoing and runs until 13 April. A number of meetings and discussions have already taken place during the consultation period, and more are planned with key stakeholders before the closing date.

Ms Lo: I thank the Minister for a comprehensive answer, and I welcome the consultation. I know that the Minister agrees with me that setting long-term objectives for policing is a very important task and one that would benefit from the widest possible participation, particularly from the community. Will the Minister let us know the range of individuals and organisations he has so far engaged in discussions?

The Minister of Justice: The range of organisations consulted was the usual wide range that my Department would consult across many issues and included other Departments, public bodies with any particular interest in policing, local councils and DPPs. There is also the opportunity for the public in general to engage. I am disappointed that, so far, we have received relatively few formal responses, although they have come from, for example, the Lord Chief Justice, one or two DPPs and the Police Superintendents' Association. However, it is clear that, to date, politicians in general, whether as Members of the Assembly or through political parties, have not engaged with the policing objectives. I think that that is something that we are all guilty of. We tend to respond when issues arise, rather than respond at an earlier stage when consultation is going on. I urge Members to take the opportunity to contribute to the discussion in whatever format they wish in order to enhance the proposals for the new objectives, which will be coming forward in the next Assembly.

Mr Humphrey: I thank the Minister for his answers so far. He has outlined to the House that his Department is currently involved in a consultation process. Can he give an assurance to the House that, when that process is completed, there will remain one police service in Northern Ireland and that there will not be two-tier policing in this country?

The Minister of Justice: I can certainly assure Mr Humphrey that the objectives for the Police Service of Northern Ireland are overarching objectives that will apply to every part of the PSNI. Clearly local work will then need to be

done in conjunction with the new partnerships. I hesitate to name them for fear that Lord Empey will pick me up on it. The issue is the overarching responsibilities of the Police Service, in conjunction with the Policing Board. Mr Humphrey is quite right to talk about a single police service meeting the needs of every person in Northern Ireland.

Mr K Robinson: I thank the Minister for his answer. I have noticed his five overarching objectives, but does he agree that the pre-eminent objective for the PSNI has to be meeting the dissident threat and that, in doing that, the fullest measures for the protection of police personnel must be in place?

The Minister of Justice: Mr Robinson is quite right to highlight the concerns we have about the security threat, but it would be wrong to suggest that that is the overarching issue as opposed to a very serious and significant issue that has to be considered alongside the other work that being done to provide a modern police service for every section of the community. We certainly need to take account of the threat that this society is under, but to suggest that we should somehow concentrate solely on that would be to undo a considerable amount of good work being done by PSNI officers day and daily across Northern Ireland.

Mr McDevitt: I am sure the Minister will concur that the single biggest objective facing policing in the decade ahead should be to continue to build a police service that is truly representative of our community as a whole. Does the Minister, therefore, agree that any talk of ending 50:50 recruitment at this stage is both premature and against the best interests of our community as a whole.

The Minister of Justice: No, I do not agree with Mr McDevitt. The policing objectives are about setting appropriate objectives for the Police Service, regardless of who serves in it in the years ahead. The 50:50 recruitment measure is the responsibility of the Secretary of State and not the Department of Justice. However, as an individual, I believe that in recent years we have seen a significant improvement in the representativeness of the PSNI in serving this community, and I certainly agree with those who believe that such artificial measures do not have a place in a progressive, liberal society.

Mr Speaker: Question 6 has been answered. The Member is not in his place for question 7.

DOJ: Budget

8. **Mr O'Dowd** asked the Minister of Justice what impact a £7 million reduction in his Department's budget would have on the work of his Department and its agencies. (AQO 1245/11)

The Minister of Justice: Any budget reductions for my Department would have significant implications. Although a £7 million reduction to a resource budget of £1·4 billion is only a 0·5% reduction, recognition is needed that my budget is ring-fenced. That does not mean that my budget is protected but that it derives from the direct Barnett consequentials arising from changes in the funding levels of the Home Office and Ministry of Justice. Given the security situation, I could not reduce the police budget, so any additional cuts would have to come from areas such as youth justice or probation. A £7 million cut to services in those areas would be significant and could be as much as 17% of their annual budgets.

Mr O'Dowd: Go raibh maith agat, a Cheann Comhairle agus a Aire. I thank the Minister for that answer. The Minister will be aware that a recent SDLP proposal to deal with £4 billion of cuts imposed on the Budget by the Tories was that we would remove £7 million from the justice budget on the basis that it would have absolutely no effect on the Justice Department. Will the Minister confirm, and I think that he did confirm in his answer, that agencies such as the Probation Board would suffer as a result of that? Will the Minister also confirm that another agency already under pressure is the Police Ombudsman's office, which is another area that could suffer under further cuts to his budget?

The Minister of Justice: I am not sure whether it is my function to sit between Sinn Féin and the SDLP as they debate the election campaign. However, I answered Mr O'Dowd accurately: any such cuts imposed on the Department, failing to take account of the issues about ring-fencing, would come from what are generally seen as some of our most successful agencies, which provide significant services in diverting adults and young people from crime, or from community safety, the need to ensure the budget for which was discussed earlier. So, I am extremely glad that in the context of a difficult financial settlement for the Department of Justice based on that ring-fencing, with the

exception of the additional security funding grant, I am not facing a further £7 million of cuts.

Mr Speaker: Jonathan Bell for a supplementary. Sorry: Lord Morrow, Chairperson of the Committee.

Lord Morrow: That is the first time that I have discovered that the Chairperson of a Committee has some benefits, anyway. *[Laughter.]*

I listened carefully to what the Minister said about the cuts. Can he confirm that the £200 million that has been secured and confirmed will ensure that the police have adequate resources to carry out the task before them, particularly in relation to the dissident threat?

The Minister of Justice: Mr Speaker, maybe you should have called Jonathan Bell. *[Laughter.]*

I entirely take Lord Morrow's point. He quotes the £200 million. However, allowing for the additional funding granted from the Finance Minister, we are talking about a package of about £244·5 million over four years. So, I accept the grateful acknowledgement from my Committee Chairperson that that is even better. However, it is necessary funding, predicated on real threats to Northern Ireland and the United Kingdom and granted on the basis of serious and significant need. At the same time, the Police Service has to make the same kind of efficiencies as other sections of the Department of Justice. It will be a difficult settlement but provides adequate funding. Of course, the option is there, should it be required, to seek further additional funding from the Treasury.

Mr Speaker: That ends Question Time. I ask the House to take its ease as we move back to the Planning Bill.

3.00 pm

Executive Committee Business

Planning Bill: Consideration Stage

Clause 1 (General functions of Department with respect to development of land)

Debate resumed on amendments Nos 1 to 16, 78 to 80 and 86, which amendments were:

No 1: In page 1, line 11, leave out "contributing to the achievement of" and insert "furthering". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 2: In page 1, line 11, after "development" insert "and promoting or improving well-being". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 3: In page 1, line 12, leave out "have regard to" and insert "take account of". — *[The Minister of the Environment (Mr Poots).]*

No 4: In clause 2, page 2, line 7, after "prepare" insert "and publish". — *[The Minister of the Environment (Mr Poots).]*

No 5: In clause 2, page 2, line 11, at end insert

> *"(3) The Department must prepare and publish a statement of community involvement within the period of one year from the day appointed for the coming into operation of this section." — [The Minister of the Environment (Mr Poots).]*

No 6: In clause 3, page 2, line 27, at end insert

> *'( ) the potential impact of climate change;'. — [The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 7: In clause 5, page 3, line 25, leave out "contributing to the achievement of' and insert 'furthering". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 8: In clause 5, page 3, line 27, leave out "have regard to" and insert "take account of". — *[The Minister of the Environment (Mr Poots).]*

No 9: In clause 6, page 3, line 36, after "Act" insert

> *"and in any other statutory provision relating to planning". — [The Minister of the Environment (Mr Poots).]*

No 10: In clause 6, page 3, line 37, leave out "local". — *[The Minister of the Environment (Mr Poots).]*

No 11: In clause 6, page 3, line 37, leave out "other". — *[The Minister of the Environment (Mr Poots).]*

No 12: In clause 6, page 4, line 5, leave out "the local development" and insert "that". — *[The Minister of the Environment (Mr Poots).]*

No 13: In clause 8, page 5, line 11, at end insert

"(7) A plan strategy is a plan strategy only if it is—

(a) adopted by resolution of the council; or

(b) approved by the Department in accordance with section 16(6)." — [The Minister of the Environment (Mr Poots).]

No 14: In clause 9, page 5, line 36, at end insert

"(8) A local policies plan is a local policies plan only if it is—

(a) adopted by resolution of the council; or

(b) approved by the Department in accordance with section 16(6)." — [The Minister of the Environment (Mr Poots).]

No 15: In clause 10, page 6, line 10, at end insert

"(4A) The Department must not appoint a person under subsection (4)(b) unless, having regard to the timetable prepared by the council under section 7(1), the Department considers it expedient to do so." — [The Minister of the Environment (Mr Poots).]

No 16: In clause 16, page 8, line 5, leave out "(5)" and insert "(4A)". — *[The Minister of the Environment (Mr Poots).]*

No 78: In clause 221, page 142, line 41, after "understanding" insert "of planning policy proposals and". — *[The Minister of the Environment (Mr Poots).]*

No 79: In clause 221, page 142, line 41, at end insert "other". — *[The Minister of the Environment (Mr Poots).]*

No 80: In clause 221, page 143, line 8, leave out from ", with" to "Personnel," in line 9. — *[The Minister of the Environment (Mr Poots).]*

No 86: Before clause 224, insert the following new clause:

*"**Review of Planning Act***

223A.—(1) The Department must—

(a) not later than 3 years after the commencement of this Act, and

(b) at least once in every period of 5 years thereafter,

review and publish a report on the implementation of this Act.

(2) Regulations under this section shall set out the terms of the review." — [Mr Boylan.]

Mr Weir: Much has been said already about the amendments in group 1, and I intend to keep my remarks fairly brief. At the outset, I join others in thanking departmental and Committee officials for the many long hours that they have put in. That work enabled us to get through the Bill with a high level of consensus and to deal with what is probably the largest Bill that has ever come before the Assembly, certainly the largest Bill in the lifetime of the current Assembly. It is due to the work of the Department, the Minister and the Committee that many issues were resolved. It is important that the Planning Bill is got right, and the reason for the large number of amendments is so that what we put in place will be fit for purpose.

I now turn briefly to a couple of the amendments in group 1. When councils take responsibility for planning — Mr McGlone and others expressed caution about that — there will be a massive culture change for those in the councils who will be involved in planning. Therefore, it is important that it is got right. Although, the focus in most people's minds is on individual planning applications, it is important that development plans, which will be a key aspect for local authorities, are also got right. Consequently, amendment Nos 13 and 14 to clauses 8 and 9, which highlight that plan strategies and local policies plans must be approved by either the resolution of the council or the Department, are important and significant. They will provide a guarantee that what will be put in place will be supported and has been got right.

Concerns were raised about the Planning Appeals Commission and the creation of the independent examiner, and amendment Nos 15 and 16 will mean that the latter should only really intervene when the PAC is unable to conduct the independent examination. That issue was discussed at great length by the Committee, and I am glad that the Minister took its position on board. As a result of those amendments, what was implicit in the intention of the Department will be made explicit in

the Bill. Many Members expressed the need to have something in place in addition to the PAC, and we can all point to long delays in the planning process. Amendment Nos 15 and 16 will improve the process and will ensure that the independent examiner is only used in limited situations. As a consequence, it will be done in the right way.

With reference to amendment No 5, there has been much discussion about the importance of community involvement, the broader issue of which will be discussed in a different guise when we debate the third group of amendments. The position that was taken to try to front-load community involvement and to get things right at the start, so that we do not need to make corrections later, is correct. Consequently, there is a duty, at an early stage, to work with the community, while the need to have a statement of community involvement in any development plans, which is contained in the very clear-cut departmental amendment No 5, should also be strongly welcomed.

I indicated that there was a high level of consensus. However, there are some aspects that concern us, and I will highlight one. Other amendments largely involve tinkering with wording, which may not be of major significance, but I have strong concerns about amendment No 6, which proposes to add the potential impact of climate change as a matter for councils to keep under review.

Climate change is largely dealt with on an international basis. Certainly, where monitoring is done, it is on a high-level national basis. The expectation that councils will make an assessment of the potential impact of climate change in their locality will inevitably drive them in one of two directions. The assessment may become, in effect, a tick-box exercise. A high level of expertise and technical knowledge is required for a proper assessment. Councils may give a vague, general assessment, perhaps through a lack of evidence, in which case it becomes a slightly meaningless gesture. The scientific or statistical value of that has to be questioned. Alternatively, there will be a compulsion on councils to invest vast sums of money on highly technical and sophisticated monitoring. Members, including, I think, Mr McGlone, raised councils' concerns that what is put in place must be cost-neutral and must not place an extra burden on the ratepayer.

My concern is that focusing the issue of the impact of climate change on local councils is to focus it in the wrong direction. That issue needs to be tackled nationally and internationally. If amendment No 6 is made, it will lead to one of two situations: it either becomes a glib, tick-box exercise that benefits no one, or, if it is done properly, it will be at a high technical and administrative level that would place a great burden on ratepayers. Consequently, I do not believe that that amendment is to be commended.

Most people will not have objections to the broad thrust of the amendments in group 1. Therefore, having made my remarks, I am happy to see the Bill move forward.

Mr Savage: The amendments in group 2 relate to enforcement and penalties. I welcome amendment Nos 17 and 18.

Mr Speaker: Order. I remind the Member that we are at group 1. There may have been a misunderstanding on his part.

Mr Savage: Thank you, Mr Speaker. I declare an interest as a member of Craigavon Borough Council.

Group 1 relates to the functions of the Department and the local development plans. Amendment No 2 amends clause 1 and requires the Department to take well-being into account as part of its planning functions. Although I broadly support that principle, I question how it can be enforced or what proof will exist that the Department has actually taken well-being into account. What or who will define what well-being is?

Amendment Nos 4 and 5 introduce a time limit within which the Department must produce and publish its statement on community involvement. What penalty exists, should the Department fail to produce such a statement? I ask that because I am aware that that requirement already exists in statute and has done for several years, but a document has never been produced. What assurance is there that the Department will comply this time and within what timescale?

I am broadly in support of what amendment No 6 sets out to accomplish. However, I am concerned about the extra costs that could be incurred by councils. Perhaps the Minister or the Member who tabled the amendment could elaborate on how those potential costs would be

paid and by whom. I also welcome amendment No 15 as a positive step forward.

Amendment Nos 78 and 79 give me cause for concern. Perhaps the Minister could provide further clarity and detail on how those amendments would work in practice.

Amendment No 86 is a new clause tabled by my Committee colleagues, and I am keen to support it in principle. I am keen that legislation, especially key legislation such as that before us today, is reviewed regularly to ensure that it is fit for purpose. The legislation must also be cost-effective. Will a three-year review and a review every five years thereafter deliver value for money?

Those are my concerns. Other than that, I am content with the group 1 amendments.

Mr B Wilson: I begin by paying tribute to the Committee Clerk, the Committee staff and the departmental officials for all the work that they put into getting the Bill to this stage. The Committee received this massive Bill in December, and I shared other Members' concerns about the speed with which it was being processed. Without the exceptional efforts made by the staff, the Bill would not have reached this stage.

I share Mr McGlone's concern that we are putting the cart before the horse. He said that we should carry out the reform of local government before we transfer any additional powers to councils. I well remember the comments in the Macrory report on why planning powers were taken away from councils and centralised. Having said that, I support the principle of transferring planning powers to local government, and I support the amendments, which will strengthen the Bill and can restore public confidence in the planning system.

I welcome amendment Nos 1 and 2, which are designed to put sustainable development at the centre of the planning system. At present, the planners argue that each planning application should be considered on its individual merits, with no regard for the cumulative effect of each decision. In many cases, that is unsustainable and will lead to problems in the future.

I also welcome amendment Nos 4 and 5, which strengthen the opportunity for community involvement. I support amendment No 6, which links planning to climate change. That is essential, given what is happening today. Climate change will become increasingly important over the next few years, as was recognised by many respondents to the consultation.

I also welcome amendment No 15, which tightens the conditions under which an independent examiner may be appointed.

Finally, I support the introduction of the new clause through amendment No 86. Although I accept that the Department will keep all new legislation under review, the specific timetable in the amendment will ensure that the Department focuses on the issue.

Overall, I support the amendments and believe that they can increase public confidence and involvement in the planning system.

The Minister of the Environment (Mr Poots): A number of the amendments in group 1 arose from recommendations made by the Committee for the Environment during Committee Stage. So I thank the Chair and Committee members for the considerable time and energy that they devoted to the Bill, which has clearly been scrutinised carefully. The Committee raised helpful questions and made a number of recommendations, most of which I was pleased to accept.

As mentioned, a lot of work was done by the Committee staff and my staff to ensure that we got to this point. I put on record my gratitude to all parties involved in achieving that.

Clauses 1 and 5 place a duty on my Department, councils and others to exercise their functions under the Bill with the objective of

> *"contributing to the achievement of sustainable development".*

In amendment No 1, the Chair of the Environment Committee proposes a change to "furthering" sustainable development. His wording is at odds with the general sustainable development duty on public authorities, as set out in section 25 of the Northern Ireland (Miscellaneous Provisions) Act 2006.

As Ms Lo pointed out, the amendment would weaken the sustainable development provision. So I am in something of a quandary: Brian Wilson seems to support the weakening of the sustainable development proposal, and Ms Lo is opposed to it being weakened. I am in the hands of the House on that, but my Department's view is that the amendment would

weaken the sustainable development duty outlined in the Northern Ireland (Miscellaneous Provisions) Act 2006.

3.15 pm

The Chairperson of the Environment Committee also proposed through amendment No 2 that my Department's planning functions be expanded to include, "promoting or improving well-being". We are considering a new power of well-being for councils but, as yet, that does not exist in statute. Therefore, it may be deemed inappropriate to refer to it in the Bill as we do not have a definition at this point and it may be some time before we have a definition of well-being. Again, I will be in the hands of the House on that issue.

In amendment Nos 3 to 8, I propose that, in exercising the functions under the Bill, DOE and the councils should "take account of" guidance issued by DRD and OFMDFM, rather than "have regard to" it. The wording was recommended by the Environment Committee as a more accurate reflection on the Department and councils in that context.

Clause 2 requires the Department of the Environment to prepare a statement of community involvement. That statement sets out the Department's policy for consulting the community about its planning control functions. Through amendment Nos 4 and 5, I aim to make it clear that the Department must also publish its statement and that that must be done within one year of clause 2 of the Bill coming into effect.

Clause 3 requires councils to keep under review matters that affect the development of their district. Through amendment No 6, the Chairperson of the Environment Committee proposed that councils must keep under review

"the potential impact of climate change".

The clause already requires councils to keep under review an extensive list of issues, including

"the principal physical, economic, social and environmental characteristics of the council's district".

Across the UK, greenhouse gas emissions are estimated in line with the United Nations Framework Convention on Climate Change reporting guidelines. Data are recorded annually, and included in the greenhouse gas inventories is one for Northern Ireland. The gathering of that information requires particular methodologies and expertise. It is costly, and the amendment could place an expensive burden on councils with little benefit derived. I want to make it clear that I am urging Members not to accept the amendment, as it would be wholly detrimental to the work of local government and would pass on a burden to local government that would not create significant benefit. To that extent, I agree with Mr Savage that we should resist the amendment strongly.

Clause 6 states that a local development plan comprises two development plan documents: the plan strategy and the local policies plan. The clause also identifies the local development plan as the primary consideration in the determination of planning applications. Amendment Nos 9 to 12 are designed to add clarity to the clause.

Clauses 8 and 9 describe the preparation requirements for the two development plan documents, and I propose amendment Nos 13 and 14 to make it clear that the plan strategy and the local policies plan must be adopted by resolution of the council or approved by the Department of the Environment.

Clause 10(4) requires the Department of the Environment to cause an independent examination of a council's development plan document to be carried out. The Department can appoint either the Planning Appeals Commission or another person to carry out the examination. I have consistently made it clear that the Planning Appeals Commission will be the Department's first point of contact for an examination. An independent examiner would be used only where the Planning Appeals Commission is unable to conduct the independent examination within a reasonable time frame. We have just gone through a period in which there has been a two-year tailback for individual applications. If we look at the time taken to bring forward the Magherafelt area plan and the Belfast metropolitan area plan and if the capacity does not exist in the PAC to turn those area plans and significant decisions round within a reasonable time frame, we can see that we need to have a fallback position. This gives us that fallback position, and I strongly recommend it to the House.

The Committee recommended that the Bill should make it clear that the PAC should be the first port of call.

I have designed amendment Nos 15 and 16 to fulfill the Committee's recommendation. They make clear that the Department will appoint an examiner only after it has had regard to the district council's timetable for the preparation of its development plan.

Clause 221 re-enacts provisions of the Planning (Northern Ireland) Order 1991. It allows my Department to award grants to non-profit-making organisations to provide technical or other assistance to the community or to further the preservation etc of historic buildings. Let me clarify for Mr Kinahan that a not-for-profit organisation is an NGO or a voluntary body. The Environment Committee recommended that this clause should allow grants to bodies which have the objective of furthering an understanding of planning policy proposals. I welcome that suggestion, and have proposed amendment No 78 to achieve it.

The Committee also suggested that DFP's oversight role in relation to such grants was no longer needed. DFP is content that the legislative provision requiring its approval is no longer required for all grants. Of course, DFP approval will be required for any grant that exceeds the relevant delegated limit. So, in amendment Nos 79 and 80, I propose to remove the legislative requirement for DFP approval and, with it, a little red tape. I thank the Committee for bringing that to my attention.

Cathal Boylan and Willie Clarke proposed, in amendment No 86, that a report on the implementation of the Bill should be prepared within three years and at least once in every period of five years thereafter. The Bill affords the Department of the Environment an audit role in relation to the councils. As an additional safeguard, the Department will also have considerable oversight and intervention powers. The Environment Committee and the Department may choose to review the workings of the Bill or any aspect of it at any time. The amendment itself is not necessary and does not add to the Bill. I do not necessarily support it, but I am not opposed to it either. It is something that we can do in any event, and it is not something that causes me a great degree of concern.

I will respond to a few of the Members' points. Mr Boylan, the Committee Chairperson, suggested that the amendment on climate change has to do with councils taking action to reduce climate change. However, clause 3 is to do with councils keeping issues under review. As regards addressing climate change through planning, it is our intention to address that issue in the revision of Planning Policy Statement 1without adding that extra burden onto councils, as I said earlier. Therefore, we have a way of achieving the outcome which Members rightly desire without placing a heavy financial burden on local authorities in the process.

Patsy McGlone engaged in a bit of revisionism and seemed to be stuck in the 1970s. To bring him on: we are well into the twenty-first century now, and we would do better to concentrate on what we are doing to take things forward, as opposed to harking back.

As to the planning fees review, we are not bumping up prices but adjusting the fee structure to ensure that the fee charged realistically addresses the cost of processing applications. Historically, the cost of providing a planning service has been subsidised by the taxpayer, often to the benefit of developers and multinationals. For example, the maximum fee for housing or commercial plant development is £11,834, yet many of those developments run to many millions of pounds. I am not one to ask the public to subsidise those who are doing well, whether they are developers or multinational supermarkets. The public should not have to subsidise them, and that money can be better spent elsewhere. Therefore, I will seek to get a fee structure that ensures that we get an adequate return.

Mr McGlone referred to the £10,000 that we would charge for our work associated with each environmental impact assessment (EIA).

An awful lot of that is specialist work involving environmental statements. We also have considerable advertising costs. In one recent case, for example, advertising cost my Department £9,000. Consultants and developers build in £100,000 to the cost of preparing an environmental statement when an EIA is needed, so the £10,000 that is associated with our work is only 10% of what they already build in to the cost.

Willie Clarke referred to the Northern Ireland (Miscellaneous Provisions) Act 2006 and the duty on all Departments and councils to contribute to sustainable development, which I have already made clear will be weakened

if we accept the amendment. I advise him that OFMDFM leads on a cross-departmental strategy associated with that duty, so I hope that he does not get into too much trouble with the deputy First Minister for saying that no one is leading on it. I am sure that the deputy First Minister will not be too sore on him for his misdemeanour on this occasion. I am just politely pointing that out to him. Each Department then has a responsibility to respond to it on those issues.

We are happy to go with most of the amendments, as they do not do violence to the Bill. However, I strongly urge the House not to impose something on district councils that would place a significant financial burden on them in addressing climate change.

The Chairperson of the Committee for the Environment (Mr Boylan): Go raibh maith agat, a Cheann Comhairle. It is clear from today's debate that planning functions, which are currently with the Department but which will soon be with councils, are of huge interest to us all. The Bill is the underpinning primary legislation that will support a new way of planning in the North. Let us now take the time to think about what that should look like and to listen to the different contributions in this the first of four debates on the Planning Bill today.

I particularly urge all in the Chamber to think about the Committee's recommendations, all of which were made on the back of stakeholder input. At the start of this process, the Minister suggested that we did not need to ask stakeholders what they thought of the Planning Bill because his Department had already undertaken several consultations on it. However, I can tell the House today that, although he may have invited comments on several occasions, stakeholders were quick to inform the Committee that he was not always willing to listen or to act on their comments. That is what the Committee is doing today. Our evidence has been consistent and compelling and is shared by most if not all stakeholders. The Committee tabled amendments that the Department refused to bring forward to address the concerns.

I thank Members for their contributions. I just want to pick out some of the issues that were raised. Overall, the work from the Committee was good and well-focused. I know that we have all heard about the issues with the time frame, but I actually think that that made us more focused. Mr Kinahan said that he supports all of the amendments, but he talked in particular about amendment Nos 1 and 2, which deal with furthering sustainable development and well-being, as did Mr McGlone. Mr McGlone also referred to a review of the Planning Act, which is dealt with in amendment No 86. I do not propose to go through everything that the Members said. However, I think that confusion reigns over amendment Nos 1 and 7, which deal with furthering sustainable development. Maybe we all need to have a wee look again at that in the dictionary. It would not be like Planning Service to base everything on interpretation, or the lack of it. Anna Lo made that point, and her views on it have to be clearly recognised. However, other Members have a different view, so maybe we need to seek clarity on that in the future. Mr Clarke strongly supports the inclusion of well-being in the Bill and the amendment that he and I tabled. I think that there is a need for a review. The Minister said that that process already exists, but I think that it needs to be set out in the Bill.

3.30 pm

Mr Weir welcomed amendment Nos 13 and 14. He also talked about the statement of community involvement. He was correct in what he said about front-loading, although he will no doubt use that argument when we debate third-party appeals in the group 3 amendments. I thank him for his contribution.

Mr Savage talked about the well-being principle, but he was concerned about support for amendment No 6, which deals with climate change. He was concerned, in particular, with the cost implications. However, I believe that we need that provision in the Bill. People should recognise the cost and consider how we will deal with the issue.

Brian Wilson supported most of the amendments. He has spent a number of years on the Committee and has, from day one, talked about climate change. He feels very strongly about that and wants to see the amendment on that in the Bill.

I will finish by mentioning some of the Minister's comments. He alluded to maybe fitting the climate change issue into PPS 1 and the guiding principles. He also supported amendment Nos 13 and 14.

We have another three groups of amendments to get through, so I do not propose to go through all the amendments. I ask the Assembly to support the amendments in group 1.

Question, That amendment No 1 be made, put and agreed to.

Amendment No 2 made: In page 1, line 11, after "development" insert "and promoting or improving well-being". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

Amendment No 3 made: In page 1, line 12, leave out "have regard to" and insert "take account of". — *[The Minister of the Environment (Mr Poots).]*

Clause 1, as amended, ordered to stand part of the Bill.

Clause 2 (Preparation of statement of community involvement by Department)

Amendment No 4 made: In page 2, line 7, after "prepare" insert "and publish". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 5 made: In page 2, line 11, at end insert

> *"(3) The Department must prepare and publish a statement of community involvement within the period of one year from the day appointed for the coming into operation of this section." — [The Minister of the Environment (Mr Poots).]*

Clause 2, as amended, ordered to stand part of the Bill.

Clause 3 (Survey of district)

Amendment No 6 proposed: In page 2, line 27, at end insert

> *"( ) the potential impact of climate change;". — [The Chairperson of the Committee for the Environment (Mr Boylan).]*

Question put.

The Assembly divided: Ayes 58; Noes 33.

AYES

Ms M Anderson, Mr Attwood, Mr Beggs, Mr Boylan, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Brady, Mr Burns, Mr Butler, Mr Callaghan, Mr W Clarke, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Dallat, Mr Doherty, Mr Elliott, Lord Empey, Dr Farry, Mr Ford, Mr Gallagher, Ms Gildernew, Mrs D Kelly, Mr G Kelly, Mr Kinahan, Ms Lo, Mr Lunn, Mr Lyttle, Mr A Maginness, Mr A Maskey, Mr P Maskey, Mr McCallister, Mr F McCann, Ms J McCann, Mr McCarthy, Mr McCartney, Mr McDevitt, Dr McDonnell, Mr McElduff, Mrs McGill, Mr McGlone, Mr M McGuinness, Mr McKay, Mr McLaughlin, Mr McNarry, Mr Murphy, Ms Ní Chuilín, Mr O'Dowd, Mr O'Loan, Mrs O'Neill, Mr P Ramsey, Ms S Ramsey, Ms Ritchie, Ms Ruane, Mr Savage, Mr Sheehan, Mr B Wilson.

Tellers for the Ayes: Mr W Clarke and Mr F McCann.

NOES

Mr S Anderson, Mr Armstrong, Lord Bannside, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr T Clarke, Mr Craig, Mr Easton, Mr Frew, Mr Gibson, Mr Girvan, Mr Givan, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr McCausland, Mr I McCrea, Mr McFarland, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr K Robinson, Mr P Robinson, Mr Ross, Mr Spratt, Mr Weir.

Tellers for the Noes: Mr Buchanan and Mr T Clarke.

Question accordingly agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4 ordered to stand part of the Bill.

Clause 5 (Sustainable development)

Amendment No 7 made: In page 3, line 25, leave out "contributing to the achievement of' and insert 'furthering". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

Amendment No 8 made: In page 3, line 27, leave out "have regard to" and insert "take account of". — *[The Minister of the Environment (Mr Poots).]*

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6 (Local development plan)

Amendment No 9 made: In page 3, line 36, after "Act" insert

> *"and in any other statutory provision relating to planning". — [The Minister of the Environment (Mr Poots).]*

Amendment No 10 made: In page 3, line 37, leave out "local". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 11 made: In page 3, line 37, leave out "other". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 12 made: In page 4, line 5, leave out "the local development" and insert "that". — *[The Minister of the Environment (Mr Poots).]*

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clause 8 (Plan strategy)

Amendment No 13 made: In page 5, line 11, at end insert

"(7) A plan strategy is a plan strategy only if it is—

(a) adopted by resolution of the council; or

(b) approved by the Department in accordance with section 16(6)." — [The Minister of the Environment (Mr Poots).]

Clause 8, as amended, ordered to stand part of the Bill.

Clause 9 (Local policies plan)

Amendment No 14 made: In page 5, line 36, at end insert

"(8) A local policies plan is a local policies plan only if it is—

(a) adopted by resolution of the council; or

(b) approved by the Department in accordance with section 16(6)." — [The Minister of the Environment (Mr Poots).]

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10 (Independent examination)

Amendment No 15 made: In page 6, line 10, at end insert

"(4A) The Department must not appoint a person under subsection (4)(b) unless, having regard to the timetable prepared by the council under section 7(1), the Department considers it expedient to do so." — [The Minister of the Environment (Mr Poots).]

Clause 10, as amended, ordered to stand part of the Bill.

Clauses 11 to 15 ordered to stand part of the Bill.

Clause 16 (Department's default powers)

Mr Speaker: Amendment No 16 is consequential to amendment No 15, which has been made.

Amendment No 16 made: In page 8, line 5, leave out "(5)" and insert "(4A)". — *[The Minister of the Environment (Mr Poots).]*

Clause 16, as amended, ordered to stand part of the Bill.

Clauses 17 to 42 ordered to stand part of the Bill.

Clause 43 (Notice requiring planning application to be made)

Mr Speaker: We now come to the second group of amendments for debate. With amendment No 17, it will be convenient to debate amendment Nos 18, 28, 31 to 33, 40, 42 to 49, 52 to 55 and 58.

The amendments deal with increases to the level of fines throughout the Bill and time limits beyond which no enforcement action may be taken for breach of planning control.

The Minister of the Environment: I beg to move amendment No 17: In page 26, line 2, leave out paragraphs (a) and (b) and insert

"within the period of 5 years from the date on which the development to which it relates was begun,".

The following amendments stood on the Marshalled List:

No 18: In clause 44, page 27, line 16, leave out from "4" to "be," and insert "5 years". — *[The Minister of the Environment (Mr Poots).]*

No 28: In clause 84, page 53, line 37, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 31: In clause 102, page 64, line 3, leave out "3" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

No 32: In clause 102, page 64, line 3, after "scale" insert

"or on conviction on indictment, to a fine". — [The Chairperson of the Committee for the Environment (Mr Boylan).]

No 33: In clause 102, page 64, line 11, leave out "3" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

No 40: In clause 116, page 75, line 31, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 42: In clause 125, page 80, line 26, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 43: In clause 131, page 83, line 23, leave out "4" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

No 44: In clause 131, page 83, line 27, leave out "4" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

No 45: In clause 131, page 83, line 30, leave out "10" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

No 46: In clause 131, page 83, line 37, leave out "4" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

No 47: In clause 133, page 85, line 21, leave out "3" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

No 48: In clause 135, page 86, line 28, leave out "4" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

No 49: In clause 136, page 87, line 18, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 52: In clause 146, page 95, line 15, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 53: In clause 148, page 96, line 27, leave out from "level" to "scale" and insert "£7,500". — *[The Minister of the Environment (Mr Poots).]*

No 54: In clause 149, page 97, line 13, leave out "4" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

No 55: In clause 149, page 98, line 6, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

No 58: In clause 163, page 109, line 1, leave out "4" and "insert "5". — *[The Minister of the Environment (Mr Poots).]*

The Minister of the Environment: In explaining amendment No 17, I should say that this group of amendments mainly arises from recommendations made by the Committee for the Environment during Committee Stage. I repeat my thanks to the Committee Chairperson, members and staff for their assistance.

The Bill sets time limits within which enforcement action may be taken in respect of breaches of planning control. When a breach consists of the carrying out of building, engineering, mining or other operations without planning permission, no enforcement action may be taken after four years. That period begins with the date on which operations were substantially completed. Similarly, if a breach consists of a change of use of any building to a single dwelling house, no enforcement action may be taken after four years. However, in the case of any other breach of planning control, including other changes of use, no enforcement action may be taken after 10 years. When the Committee proposed simplifying the system by having only one time limit, I was happy to agree. Therefore, I propose amendment Nos 17, 18, 43, 44, 45, 48, 54 and 46 to simplify and clarify the system by setting the time limits within which enforcement action may be taken for all breaches of planning control at five years.

The Committee expressed its strong and clear view that the fines for a range of offences in the Bill were no longer a sufficient deterrent and should be increased. The Chairman of the Committee has tabled amendment Nos 28, 40, 42, 49, 52 and 55, which propose that the maximum fine for offences relating to certain breaches of planning control be raised from £30,000 to £100,000. Those breaches are the unauthorised alteration, demolition or extension of listed buildings, contraventions of hazardous substance control, contraventions of tree preservation orders, contraventions of temporary stop notices and contraventions of enforcement notices and stop notices. They appear in clauses 84, 116, 125, 136, 146 and 149. The Minister of Justice has questioned the proportionality of £100,000 fines in that context.

Clause 102 establishes that anyone carrying out damage to a listed building will be guilty of an offence. It also establishes that a person who fails to prevent damage or further damage resulting from that offence is guilty of a further offence. For each of those offences, the clause imposes fines at level 3 on the standard scale,

which is currently £1,000. Given the scale of the potential impact of such damage to listed buildings, I propose, through amendment Nos 31 and 33, to raise the fine to level 5, which is currently £5,000. I am also pleased to support amendment No 32, which is proposed by the Chairperson of the Committee. It would make acts causing damage to a listed building a more serious offence by including an option of conviction on indictment and an unlimited fine.

I will move to amendment No 47 and refer first to clause 132, which provides for the issue of a planning contravention notice. That notice gives councils the power to obtain information prior to taking enforcement action. The aim is to encourage dialogue with any persons who are thought by a council to be in breach of planning control and to secure their co-operation in taking corrective action. Failure to comply with such a notice within 21 days is an offence. On summary conviction, an offender would be subject to a fine not exceeding level 3 on the standard scale, which is currently £1,000. Having taken account of the views of the Committee, I propose that that fine should be raised to level 5, which is currently £5,000. That proposal represents a tougher yet proportionate approach. Once an enforcement notice has been complied with, the requirements in it continue to stand for the future use of the land to which it relates. That continuance of use must be permanent, as must the alteration or removal of buildings. A breach of that requirement is punishable by a level 5 fine, which is currently £5,000. A fine of £7,500 would be a more appropriate and proportionate deterrent, and that is what I propose through amendment No 53.

Those are the amendments in group 2.

The Chairperson of the Committee for the Environment: Go raibh maith agat, a Cheann Comhairle. Amendment Nos 17 and 18 pave the way for an amendment later in the group that the Committee was keen to see. Although the Committee was originally content with the relevant clauses, I am confident that I can support the amendments on the Committee's behalf.

I will deal with amendment Nos 28, 40, 42, 49, 52 and 55 together because they all address the same principle. As I mentioned in the debate on the first group of amendments, it is disappointing to note that, during Committee Stage, the Department indicated that the Minister would bring forward these amendments. The Department not only provided draft amendments for the Committee to consider but even advised the Committee, which had pushed for the first three amendments in this group, that the other three amendments would bring consistency to the Bill. The amendments add up to six in total.

Many respondents to the Committee's call for evidence stated that the fines mentioned in the Bill, whether listed as scales or levels, were no longer of a sufficient deterrent value to prevent the unauthorised demolition of listed buildings or protected trees. The Committee felt that it was important that fines listed in the Bill gave a clear indication of the seriousness of such breaches. Members are concerned that developers no longer see fines as deterrents but as something more akin to costs to be factored into their plans. The Committee was also mindful that the fine amounts were largely determined some 20 years ago in the Planning Order 1991. Then, a fine of £30,000 may have been appropriate, but it would not act as a deterrent today. The Committee, therefore, recommended that all fines of £30,000 in the Bill should be increased to £100,000 to ensure that the fine is a proper deterrent that reflects the seriousness of the offences. On behalf of the Committee, I support amendment Nos 28, 40, 42, 49, 52 and 55.

Amendment Nos 31, 33 and 47 are also to do with fines. The Committee called for current level 3 fines of £1,000 to be raised, and it welcomed the Department's agreement to amend them to level 5 fines, which have a current value of £5,000. Similarly, the Committee welcomes the Minister's agreement to augment to £7,500 the current level 5 fine, as proposed by amendment No 53.

It is not immediately clear to me why the Minister feels that he can table amendments to raise those fines but not the other, much more significant ones. The Committee and I believe that we must send out a clear signal, through the Bill, that the days of developers treating fines as part of the process are over. We need to have meaningful deterrents to stop deliberate acts of damage to listed buildings and trees and to stop breaches of planning permission, protection orders and so on. The amendments provide the opportunity to do that, and I urge the House and the Minister to show more consistency by supporting all the amendments that will increase fines.

The Committee tabled amendment No 32 when it realised that, unlike with most offences in the Bill, there was no option for fines on conviction on indictment for acts causing or likely to result in damage to listed buildings. The Committee felt that that must be rectified, and it was disappointed when the Department refused to bring forward such an amendment. Fines on conviction on indictment offer an opportunity for courts to reflect the seriousness of a breach and to penalise repeat offences in a way that upper-limited penalties cannot. If we are serious about protecting our heritage, the House should support amendment No 32.

I will now speak to amendment Nos 43, 44, 45, 46, 48, 54 and 58. The Committee questioned the continuation of the 10-year time limit for breaches of planning control other than for building, engineering, mining or other operations and for the change of use of any building to be used as a dwelling house. The Committee asked the Department to consider reducing that period, on the grounds that a single period would reduce confusion, lead to better enforcement and require less time to identify such breaches.

The Department indicated that the Minister accepted that introducing a single time period would make the system simpler and less open to misunderstanding. It suggested that seven years for all planning activities might be appropriate. The Committee questioned the point at which a change would become applicable and was assured that the time limits would not be applied retrospectively. The Committee was not content for the current four-year period to be increased to seven years, but it agreed that a single period of five years would provide the most appropriate balance for time limits on breaches of all planning controls. Members were content that the Department accepted that, and, as Chairperson, I accordingly support the seven related amendments.

That concludes my discussion of the Environment Committee's position on the group 2 amendments. I know that my party colleague will say more, but, on behalf of Sinn Féin, I would like the Minister to clarify why he withdrew his support for the £100,000 fine. I welcome the change of use limit to five years. I know that there will be a wee bit of a debate on that in the Chamber, which is welcome. I support the amendments.

4.00 pm

Mr T Clarke: Compared to the Chairman of the Committee, I am probably starting off in reverse on regularising the dates in relation to the time between types of developments. I welcome the fact that we now have five years on both, because there was confusion in the countryside about the four- and 10-year rules. I welcome the amendment in relation to five years and five years, because that will remove the confusion.

(Mr Deputy Speaker [Mr Molloy] in the Chair)

I would never wish anybody to say that we are going soft on planning, and that was not the reason for or intention behind that. It was actually to make things clearer and easier to understand. If we look at how we have treated fines in all the amendments, we see that the Committee was consistent in its argument that it wanted to prevent the opinion that we are going soft on developers, which, in the past, many of us thought was happening. The risk of a fine of £30,000 has never deterred a developer from knocking down a property if they have an opportunity to build many developments. Therefore, I welcome the fact that the fine will increase to £100,000. I could go further and say that, in today's market, £100,000 is probably not enough. Nevertheless, it is quite a lift from the £30,000 that was originally in the Bill.

As for the other amendments, we have taken the opportunity to raise fines from level 3 to level 5. Again, I do not think that we have gone far enough, but we are going in the right direction. In every amendment, we are trying to increase the deterrent for people who flout planning rules. In general, in the amendments, we are trying to bring these all into line by increasing fines from £30,000 to £50,000, replacing level 3 fines with level 5 fines and regularising the two periods to five years. I welcome all the amendments.

Mr Kinahan: I am pleased to speak on the group 2 amendments on enforcement and penalties. I must declare an interest as the owner of a historic building and demesne and of many trees that are subject to tree preservation orders.

I shall start with breaches of planning permission. I welcome the fact that we are moving both domestic and commercial to five years, although I am slightly puzzled about why we are making it easier for one group to carry on when, the rest of the time, we are

increasing punishments. Here we are actually making it easier to hide a breach in planning permission, so I wonder whether we should look at that before Further Consideration Stage. Nevertheless, I am happy to support those amendments.

I welcome raising the penalty for damaging a listed building, misusing hazardous substances and ignoring tree preservation orders etc from £30,000 to £100,000. The Committee discussed the fact that we must be much stronger on breaches. However, I would like the Minister to look at whether a percentage of the value of the development land should be used, rather than a figure of £100,000. If the Bill is in place for 30 or 40 years, as the previous one was, that figure may not seem as much. Maybe we should look again at the mechanism at Further Consideration Stage.

Mr T Clarke: I thank the Member for giving way. Surely that point was covered in the group 1 amendments. We are reviewing the whole Bill after three years and every five years thereafter. If, after that time, the fines are not working, surely the matter can be addressed at that stage.

Mr Kinahan: I thank the Member for his intervention, and I hope that he is right. That may be exactly the way that we have to deal with it.

The Chairperson of the Committee for the Environment: Like me, the Committee decided to support the notion of raising fines. The Member has brought up something in relation to a percentage. I know that the Member has tabled an amendment that will be debated later. Would he not like to see something set? Maybe the Minister will respond on raising the fine by a percentage. If the fine in the Member's amendment was to remain at £30,000, it would not get much support in the House. I would certainly like to see those fines increased, whether by a percentage or a set figure.

Mr Kinahan: I thank the Chairman for his intervention. It is certainly worth considering whether to change to a percentage increase now. My concern, which I will raise at this moment, is that, if the Bill sits on a shelf for some 14 months — we have been told that it may — anyone with a listed building or trees that are subject to a tree preservation order might feel that they would be better not to take the risk of that stopping their development, so, in the meantime, they might pull down the building or cut down the trees. So, one of my amendments, on which I will go into a bit more detail later, is to try to make sure that that is put into place as soon as possible following Royal Assent.

I will return to this group of amendments. In other cases, we have raised the fines and the punishment for breaches, and, again, I wonder whether we have been tough enough. However, as Trevor Clarke has just said, we can deal with that in the future when we are reviewing matters.

I want to raise one more matter. If we go down the route of a £100,000 fine, it would seem a shame if all that money were to go to the Treasury. We should look to see whether there is a way to give that a different title — a community levy or some other form of levy — so that the money comes to the Department of the Environment in the same way that the carrier bag levy comes to us here in Northern Ireland and is not lost to the main Treasury. I support the amendments.

Mr McGlone: Go raibh maith agat, a LeasCheann Comhairle. On behalf of our party, I support the amendments as they appear today.

Many of us have heard the stories, both true and anecdotal, about occasions when developers have gone ahead with unauthorised and illegal development — in some instances, that may have applied even to listed buildings — in the sure knowledge that, although enforcement will come after them, it will be for a petty fine. The developer will pay the £2,000 or £3,000 because he is making many thousands of pounds out of the project. So, it is important that we firmly convey, through the extent and scale of the fines, that that is unacceptable. It is important that, first, the Planning Service has powers and, secondly, it is prepared to implement those powers, which will then transfer to the councils. That in itself is important.

The harmonisation of the period after which enforcement may not be taken has been addressed through amendment Nos 17, 18, 43, 44, 45 and 46 and the consequential amendment Nos 54 and 58. For a dwelling, that period is currently four years and, for a business, it is currently 10 years. Harmonising the periods at five years is a useful and progressive step, because there was a lot of confusion there. Many of us, including, I am sure, yourself, Mr Deputy Speaker, if you will forgive me for referring to it, have come across cases where that anomaly in the Planning

Service regulations has led to complete and utter confusion when we have sought to gather information about one form of development and one form of use, particularly of a business, which then translates into another form of use and where you have to try to establish more than 10 years of continuous use. So, I welcome that as pragmatism and realism on the part of the Department. It is a welcome measure to address that anomaly and to harmonise the rules that apply for a dwelling and for a business.

In conclusion, we support the amendments, and I thank the Department for working with the Committee to bring them before us.

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. I will speak about amendment Nos 28, 40, 42, 49, 52 and 55. Those amendments relate to the various types of enforcement and the increase in the fines to £100,000.

During Committee Stage, I was keen for the fines to represent a modern-day deterrent, and, after a while, the Minister agreed that the fines needed to be increased, as they were not fit for purpose. However, he has given an explanation today that the Department of Justice was either not consulted or does not believe that the increase is valid. Others have talked about that.

I will speak generally about developers during the boom period, when they had a total disregard for enforcement laws in general. As others said, they built into their development plans when they were carrying out a development. If they cleared a woodland or a listed building, the fine would match or be considerably less than for a single site. The Committee and, indeed, Sinn Féin are keen to prevent that in future. The maximum fine of £30,000 is not a sufficient deterrent; it was set 20 years ago and is no longer fit for purpose. Developers laugh at it, so this is our opportunity to increase the fine and the enforcement duty to £100,000. I am keen to hear from the Minister the thoughts of other Executive Committee members.

There are examples in my constituency of developers' complete contempt for planning enforcement. I am sure that other Members from my constituency have been in contact with the Department. As I said, there is no deterrent, so there is a duty on us as elected representatives to ensure that deterrents are included in the Bill. That is particularly the case with clause 102, which deals with listed buildings. Across the North, a spate of listed buildings suddenly burned down. As soon as they became redundant and their windows were boarded up, they spontaneously combusted and burned in considerable numbers across the North of Ireland.

In conclusion, clear guidance is needed on how to make enforcement fit for purpose. Sinn Féin supports amendment Nos 43, 48 and 54.

Mr Savage: Group 2 relates to enforcements and penalties, and I welcome amendment Nos 17 and 18, which relate to time limits. Amendment No 28 provides a strong deterrent for offences related to listed buildings. We ought to protect our architectural heritage, and amendment No 28 is wholly in agreement with that aim. Amendment No 53 will raise the fine from £5,000 to £7,500, maybe more for developments without permission. I welcome that. The other amendments in the group, to which I have not spoken, are technical and, that being the case, I am content to support all the amendments in the group.

The Minister of the Environment: Members raised a number of issues. At a personal level, I welcome and will support the uplift in the maximum fine from £30,000 to £100,000. I put that suggestion to my ministerial colleagues; however, as there was an objection from the Department of Justice, I did not get clearance from OFMDFM, which has to clear the issue. Therefore, I asked my staff to indicate to the Committee that, if it tabled such an amendment, I would not oppose it. At a personal level, I support the amendment, but I did not have the authority of the Executive to table such an amendment myself.

Mr Kinahan spoke about what he termed a relaxation from 10 years to five years. The amendment is about having something that is consistent and easier to interpret, so the Department decided that we could accept the Committee's proposal.

I should say that a Crown Court can, in certain instances, impose an unlimited fine on conviction for a planning breach, so, in some cases, £100,000 will not be the maximum fine. However, in the cases that we are referring to, moving the level of fine from £30,000 to £100,000 gives the judiciary much more latitude where more serious crimes are committed. A few years ago, in the constituency of Newry and Armagh, a row of five cottages was demolished over a weekend. In that instance,

the developer received a £5,000 fine, which was wholly inappropriate given the scale of the offence. Therefore, I hope that giving judges the latitude to go up to £100,000 will mean that the fine will be proportionate to the offence. We want to see that be the case. Clause 84 deals with the demolition of listed buildings.

4.15 pm

There is fairly strong consensus around the House on most of the issues, which is useful. A few Members may have some minor issues or concerns, but I welcome the fact that there has been general agreement on the issues before us this afternoon and wish that we move to the votes on the amendments.

Question, That amendment No 17 be made, put and agreed to.

Clause 43, as amended, ordered to stand part of the Bill.

Clause 44 (Appeal against notice under section 43)

Amendment No 18 made: In page 27, line 16, leave out from "4" to "be," and insert "5 years". — *[The Minister of the Environment (Mr Poots).]*

Clause 44, as amended, ordered to stand part of the Bill.

Clauses 45 to 48 ordered to stand part of the Bill.

Clause 49 (Power of Department to decline to determine overlapping application)

Mr Deputy Speaker: We now come to the third group of amendments for debate. With amendment No 19, it will be convenient to debate amendment Nos 20, 21, 26, 27, 34, 41, 62, 63, 71, 72, 77, 99, 102 and 104 to 106. The amendments deal with third-party appeals, commencement, the Planning Appeals Commission and the protection of trees.

I remind Members that, as I have received a valid petition of concern on amendment Nos 20 and 102, the votes on those amendments will be on a cross-community basis. Members will note that amendment No 72 is consequential to amendment No 71, amendment Nos 102 is consequential to amendment No 20, and amendment Nos 104 and 105 are mutually exclusive.

The Minister of the Environment: I beg to move amendment No 19: In page 30, line 29, after "land" insert

"made to it in accordance with section 26(5)".

The following amendments stood on the Marshalled List:

No 20: In clause 58, page 35, line 33, at end insert

"(1A) The Department shall by regulations provide for an appeal under subsection (1) to be made by a person other than the applicant." — [Ms Lo.]

No 21: After clause 58, insert the following new clause:

*"**Matters which may be raised in an appeal under section 58***

58A.—(1) In an appeal under section 58, a party to the proceedings is not to raise any matter which was not before the council or, as the case may be, the Department at the time the decision appealed against was made unless that party can demonstrate to the satisfaction of the planning appeals commission—

(a) that the matter could not have been raised before that time, or

(b) that its not being raised before that time was a consequence of exceptional circumstances.

(2) Nothing in subsection (1) affects any requirement or entitlement to have regard to—

(a) the provisions of the local development plan, or

(b) any other material consideration." — [The Minister of the Environment (Mr Poots).]

No 26: In clause 78, page 49, line 16, at end insert "(c) Part 5." — *[The Minister of the Environment (Mr Poots).]*

No 27: In clause 78, page 49, line 40, leave out from "(except" to "107)" in line 41. — [The Minister of the Environment (Mr Poots).]

No 34: In clause 103, page 65, line 13, at end insert

"(13) An area may be designated under this section notwithstanding the absence of any building or development on the land in question." — [Dr Farry.]

No 41: In clause 121, page 79, line 8, leave out "are dying or dead or". — *[Dr Farry.]*

No 62: After clause 187, insert the following new clause:

*"**Compensation: decision taken by council or the Department where consultee fails to respond under section 224***

187A. Where a consultee fails to respond to a council or departmental consultation in accordance with section 224(3) and that council or, as the case may be, the Department—

(a) takes a decision under this Act to grant planning permission in the absence of such a response; and

(b) subsequently receives information which the council could reasonably expect to have been included in that response; and

(c) decides to revoke or modify planning permission under section 67, or make an order under section 72, due to the information referred to in paragraph (b); and

(d) compensation is payable by a council under section 26 of the Act of 1965 in connection with the decision under paragraph (c);

the sponsoring department (if any) shall pay to the council the amount of compensation payable." — [The Chairperson of the Committee for the Environment (Mr Boylan).]

No 63: In clause 194, page 127, line 30, at end insert

"or

(c) the period referred to in section 191(2) has expired." — [The Minister of the Environment (Mr Poots).]

No 71: After clause 202, insert the following new clause:

*"**Power to award costs***

202A.—(1) The appeals commission may make an order as to the costs of the parties to an appeal under any of the provisions of this Act mentioned in subsection (2) and as to the parties by whom the costs are to be paid.

(2) The provisions are—

(a) sections 58, 59, 95, 96, 114, 142, 158, 164 and 172;

(b) sections 95 and 96 (as applied by section 104(6));

(c) in Schedule 2, paragraph 6(11) and (12) and paragraph 11(1);

(d) in Schedule 3, paragraph 9.

(3) An order made under this section shall have effect as if it had been made by the High Court.

(4) Without prejudice to the generality of subsection (3), the Master (Taxing Office) shall have the same powers and duties in relation to an order made under this section as the Master has in relation to an order made by the High Court.

(5) Proceedings before the appeals commission shall, for the purposes of the Litigants in Person (Costs and Expenses) Act 1975 (c. 47), be regarded as proceedings to which section 1(1) of that Act applies." — [The Minister of the Environment (Mr Poots).]

No 72: After clause 202, insert the following new clause:

*"**Orders as to costs: supplementary***

202B.—(1) This section applies where—

(a) for the purpose of any proceedings under this Act—

(i) the appeals commission is required, before a decision is reached, to give any person an opportunity, or ask any person whether that person wishes, to appear before and be heard by it; and

(ii) arrangements are made for a hearing to be held;

(b) the hearing does not take place; and

(c) if it had taken place, the appeals commission would have had power to make an order under section 202A requiring any party to pay any costs of any other party.

(2) Where this section applies the power to make such an order may be exercised, in relation to costs incurred for the purposes of the hearing, as if the hearing had taken place." — [The Minister of the Environment (Mr Poots).]

No 77: In clause 219, page 142, line 17, at end insert

"(7A) Without prejudice to the generality of subsection (7), regulations made under that subsection may provide for the payment of a charge or fee in respect of an application mentioned in paragraph (a) of that subsection to be a multiple of the charge or fee to be paid under regulations made under subsection (1) in relation to the determination by a council or the Department of an application for planning permission for development not begun before the application was made." — [The Minister of the Environment (Mr Poots).]

No 99: In clause 237, page 154, line 32, at end insert "( ) tree preservation orders;". — *[Dr Farry.]*

No 102: In clause 242, page 156, line 3, after "sections" insert

"58(subsection to be inserted by Amendment 20)". — [Ms Lo.]

No 104: In clause 247, page 160, line 16, at end insert

"( ) No order shall be made under subsection (1) in respect of Part 3 unless a draft of the order has been laid before, and approved by a resolution of, the Assembly." — [The Chairperson of the Committee for the Environment (Mr Boylan).]

No 105: In clause 247, page 160, line 16, at end insert

"( ) No order shall be made under subsection (1) in respect of Part 2 or 3 unless a draft of the order has been laid before, and approved by a resolution of, the Assembly." — [Mr Kinahan.]

No 106: In clause 247, page 160, line 16, at end insert

"( ) Sections 84 and 125 come into operation on Royal Assent." — [Mr Kinahan.]

The Minister of the Environment: Amendment Nos 19, 26 and 27 are technical amendments. They do not change policy. Amendment No 19 clarifies that the Department's power to decline to determine overlapping applications for planning permission is restricted to applications for development that are of regional significance. Amendment Nos 26 and 27 ensure that Part 5 of the Bill applies to land owned by councils and to development carried out by councils, just as it applies to any other land or development.

The intention of amendment Nos 20 and 102 is to introduce third-party rights of appeal through regulations made by affirmative resolution. The Executive's position on third-party appeals is clear and long-standing. I reiterated it at Second Stage on 14 December 2010, and I will repeat it now:

"further consideration of third party appeals should be deferred until the extensive changes to the planning system under planning reform and implementation of the RPA have settled down and are working effectively".

The planning system to be introduced by the Bill has been especially designed to make sure that the public can become involved at every stage of the planning process.

They can comment on the Department's draft planning policies. They will have the opportunity to influence councils' planned strategies and local policy plans. Most important of all is pre-application community consultation, which is being introduced through the Bill.

Developers who bring forward applications for a major or regionally significant development must consult the community about their proposals. In making their applications, they must demonstrate to the planning authority how they have modified their proposals to take account of the community's views. If the planning authority is not satisfied with a developer's pre-application consultation, it must decline to determine the application. Pre-application consultation will give people a real say in development proposals that affect them.

It is also worth explaining that an earlier regulatory impact assessment could not quantify the potential benefits of third-party appeals. It did, however, identify adverse impacts for the planning system, developers and, indeed, the economy. The planning system would become slower and more costly. Delays would need to be built in to give third parties time to appeal. Developers, planning authorities and the Planning Appeals Commission would all face the cost of the appeal. Investors would face greater uncertainty as to the outcome of the planning process. Therefore, in the strongest possible terms, I urge Members to reject amendment Nos 20 and 102.

I turn now to the system of planning appeals that is set out in the Bill. Through amendment No 21, I propose to restrict the introduction of new information during a planning appeal. Having failed to obtain planning permission for development proposals, some applicants revise their proposal during the course of the planning appeal. Some revisions are so great that the amended proposals should really be submitted to the planning authority as an amended application or even as an entirely new application. Clearly, that is wrong. The application that is considered by the Planning Appeals Commission is different from the one that is seen by the planning authority. The planning authority and any third parties are denied the proper opportunity to consider and respond to the revisions. Therefore, amendment No 21 will prevent parties to an appeal raising

any matter that was not before the planning authority when it made the decision that is being appealed against unless the applicant can satisfy the Planning Appeals Commission that the matter could not have been raised prior to the appeal or that there were exceptional circumstances that prevented the matter being raised as part of the original application.

Amendment Nos 71 and 72 would allow one party to an appeal to apply for a cost to be awarded against another party in the appeal if they believed that they had been left out of pocket by the other party's unreasonable behaviour. Unreasonable behaviour includes that which results in a hearing being unnecessarily adjourned, prolonged or cancelled. A planning authority would be behaving unreasonably if it were unable to produce evidence to support each of its reasons for refusing planning permission or for imposing a condition on the granting of planning permission. The Planning Appeals Commission would determine whether costs are to be awarded. The amount would be agreed between parties, with any disputes being referred to the taxing master of the High Court. The policy that underpins that amendment was consulted on as part of the planning reform consultation and agreed by the Executive. However, it could not be included in the Bill as introduced for technical and legal reasons. That is why I am proposing that amendment.

Clause 219 provides that multiple fees should be charged for retrospective planning applications. Amendment No 77 ensures that multiple fees will also be charged where deemed planning applications are submitted to the Planning Appeals Commission on foot of an enforcement appeal.

Amendment No 34 seeks to extend the scope of conservation areas to include areas where there is no building or development. Clause 103 provides for the designation of areas of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance. Designation is, therefore, not restricted to areas with buildings or development. That means that amendment No 34 is not required. I urge Members not to support it.

Clause 121(5) ensures that tree preservation orders do not apply to trees that are dead or dying and have become dangerous.

Amendment No 41 seeks to remove dead or dying trees from that exemption. Most trees that are subject to TPOs are in urban or suburban areas, where they may be close to roads or footpaths. As trees die, they deteriorate and lose strength. The risk of them shedding branches or even falling increases. That could be a danger to the public. Depending on the disease, it may be necessary to remove a diseased tree to prevent the infection of healthy specimens. For both those very practical reasons, I urge Members not to support amendment No 41.

Amendment No 99 will require councils to list tree preservation orders in a planning register. That will continue existing practice by ensuring that information about tree preservation orders is available to the public. I am therefore pleased to support that amendment.

The Environment Committee tabled amendment No 62 to prevent councils being out of pocket where compensation has been paid for any decisions that they make without the required statutory consultee input and before the consultee has failed to respond within the set period required under clause 224. Ministers have not had the opportunity to consider the implications of that amendment. Therefore, I am not in a position to comment on it further.

Amendment No 63 is a technical amendment that will ensure that councils can fully apply the procedure governing the use of purchase notices, as provided for in clause 194.

Amendment No 104, which the Environment Committee tabled, would require that Part 3 of the Bill be commenced by affirmative resolution only.

As Members know, the Bill provides for the transfer of the majority of planning powers from the Department of the Environment to councils. As I have said consistently, the transfer of powers will happen in circumstances and within a timescale to be agreed by the Executive. The intention is that new governance arrangements and an ethical standards regime for councils will be put in place before the transfer of powers. I am consulting on those now, with a view to legislation being made in the next mandate.

In bringing forward amendment No 104, the Committee is seeking to copper fasten the commitment that the introduction of new governance arrangements and an ethical standards

regime precede the transfer of planning powers. I am happy to support that amendment.

Amendment No 105 will provide that the introduction of Part 2 of the Bill should also be subject to affirmative resolution. That amendment is unnecessary, so I encourage Members to reject it.

Amendment No 106 proposes that clause 84, as amended, and clause 125, as amended, should come into effect when the Bill receives Royal Assent. That relates to the £100,000 fines for breaches of planning control for listed buildings and tree preservation orders. A number of technical and legal issues relate to that amendment, which may make the provisions somewhat difficult to impose. However, I have sympathy with the Member on the issue.

Those are the group 3 amendments. I urge Members to support the amendments that I indicated.

The Chairperson of the Committee for the Environment: Go raibh maith agat, a LeasCheann Comhairle. During Committee Stage, the Department advised the Committee of several amendments that it would be bringing forward that were required to ensure that a consistent approach was achieved throughout the Bill. They were provided before the Committee produced its report. Members sought clarification on them. Most of those amendments are included in the next group for debate, but amendment No 19 falls into this category and was supported by the Committee.

Amendment No 20 will introduce the right of third-party appeal. The Committee has discussed that issue, but it was not referred to in the Bill. Due to the time constraints in Committee Stage, the Committee did not take time to thrash out the complexities that are involved. Members were aware that most respondents who were called for evidence had views on third-party appeals and invited participants to a stakeholder event to present their comments. Those are recorded in the Committee's report.

During Committee Stage, the Committee recommended that the Department consider an amendment to restrict any new material that can be presented at appeal. Members referred to the frequent occasions when material is presented at the last moment and that parties have little time to consider it before a decision is taken. Members welcomed the Department's suggestion that acceptable material be limited to that which did not exist at the time that the case went to appeal or that could not have been provided due to exceptional circumstances. The Committee was very content with that approach, and I welcome amendment No 21, which brings that forward by introducing a new clause to the Bill.

4.30 pm

The Committee also welcomes amendment Nos 26 and 27, which are designed to delete an unnecessary reference, and which were provided to the Committee during Committee Stage. I cannot offer a Committee position on amendment Nos 34 and 41, as this is the first time that members have seen them.

In relation to amendment No 62, the Committee was extremely concerned when advised by the Department that, in the event of a late or non-response from a statutory consultee, a council would be liable for its decision. Apparently, that would apply even if a decision that had been made after the agreed time limit had to be revoked as a result of information coming forward from a statutory consultee that had not responded in time. In the Committee's opinion that is unfair, and members asked the Department to consider an amendment. The Department refused, so the Committee decided to table amendment No 62.

It cannot be right that a council can be held liable for a decision that it has made in good faith. The onus should be on the statutory consultee to reply in a timely fashion to ensure that the decisions of councils are informed by all the relevant information being available at the time of the decision. There is no fairness in a council being financially penalised due to the inability of a statutory consultee to respond in time. On behalf of the Committee, I support the amendment.

I cannot offer a Committee position on amendment No 63, as the Committee agreed to the clause as drafted during Committee Stage. However, I can indicate that it does not appear to contradict the Committee's position or alter the policy principles of the Bill.

In relation to amendment Nos 71 and 72, several respondents to the Committee's call for evidence felt that the Planning Appeals Commission should have the power to award

costs where it felt that an appeal had been made frivolously or vexatiously. The Committee agreed with that and asked the Department to consider amendments, which the Department agreed to introduce. I welcome those amendments on behalf of the Committee.

I cannot offer a Committee position on the wording of amendment No 77, as the Committee agreed the relevant clause as drafted during Committee Stage. However, the Department mentioned the principle of councils being allowed to charge higher fees for late applications to act as an incentive for proper procedure to be followed. The Committee welcomed that approach, and I therefore support the amendment that allows for that. I cannot offer a Committee position on amendment Nos 99 and 102, as the issues they cover were not discussed during Committee Stage.

I will now move on to the Committee's amendment — amendment No 104. The Committee was extremely concerned about the timing of the Bill, because the governance arrangements for ensuring equality and fairness in council decisions are not yet in place. The Department insisted that the Planning Bill would not be implemented until the local government reform had taken place, and the two processes would progress in tandem. The Committee sought and received a letter of confirmation from the Minister that planning functions would not be devolved to local authorities until the necessary governance arrangements were in place. However, as we are on the cusp of elections and a new Government will be taking over, the Committee was keen to ensure through legislation that the Bill could not progress without local government reform. The Committee was advised that, because local government reform legislation did not yet exist, it was not possible to link the Bill to legislation yet to come. The Committee therefore agreed to table the amendment, which will prevent commencement of any powers in Part 3 that devolve planning functions to councils without the prior approval of the Assembly. It is only right that the House has the final say as to when the planning powers transfer to councils.

The governance arrangements and the code of ethics must first be in place before we can have any confidence in transferring those significant and far-reaching powers. The arrangements must also be allowed to bed in to allow us to have enough confidence that they are fully understood and functioning well. Only then should we even think about transferring the powers. On behalf of the Committee, I support the amendment and strongly urge the House to do likewise.

I cannot offer a Committee position on amendment No 105, as this is the first time that members have seen it. Although members have not had an opportunity to see amendment No 106, I can inform the House that the Committee, mindful of the risk that increasing penalties might place on listed buildings and protected trees, recommended that the Department looked into ways of ensuring that compliance is enforced. It would appear that the amendment aims to do that, and I suggest that it is in keeping with the Committee's recommendation.

I would like to say a few words on behalf of Sinn Féin in relation to third-party appeals, and I know that my colleague will continue the debate after listening to some of the contributions that will be made. The Minister was keen to talk about a front-loaded system.

In an ideal world, a front-loaded system should be able to protect and to give people the opportunity and right to be consulted on the planning process. However, that has not been the case, and an independent mechanism is needed to challenge that.

It will be up to councils and the statement of community involvement to ensure that people consult on the planning process. However, as I said to the Minister, it is a question of how meaningful any contribution to the planning process is and the impact that people who contribute to the process have.

I take it that the Minister said that he would see how things bed in and maybe look at a third-party right of appeal. I said earlier that that might be the case with the review process. However, the Assembly should look at a limited third-party right of appeal. If we are talking about people being included at the start of the planning process, nobody should come in at the eleventh hour to stop the process.

The issue is to get the balance right and to create proper planning policy. However, there must be something there to ensure a challenge. I support a limited third-party right of appeal, but maybe the Minister will clarify his thinking on such appeals.

Mr Weir: It was maybe remiss of me during the debate on the previous set of amendments not to declare an interest as a member of North Down Borough Council, so I happy to put that on the record. There is a range of amendments, and I do not intend to deal with all of them. Nonetheless, Members' attention should be drawn to a number of significant amendments.

I will come back to the issue of third-party appeals. However, as an MLA, I have represented residents at planning appeals, so I consider amendment No 21 to be prescient. At appeals, goalposts are suddenly moved, particularly by developers with expensive legal teams that start to throw in a lot of additional information, which means that there is not a level playing field. It is reasonable that the PAC takes completely new evidence into account. However, in limiting the circumstances in which that new evidence can be introduced, amendment No 21 is a sensible way forward.

Mr T Clarke: I am sure that the Member has sat at planning appeals at which developers had submitted plans for large schemes, but, at the eleventh hour, after such schemes had been through the Planning Service and a local council, those developers reduced the size of the schemes. The PAC then views the file of the reduced scheme, which has cut out the Planning Service and the community, which may not have had concerns at that stage. That is how developers flout and abuse the system.

Mr Weir: On occasion that has happened, which is regrettable. Hopefully, the provisions of amendment No 21 will counteract that. People submitting planning applications use tactics and psychological moves. They submit plans that go beyond what they believe that they are likely to be granted, and they then appear reasonable by compromising and reducing the size of the plan at the eleventh hour. It is important that that position is covered.

Amendment No 71 on the power to award costs and amendment No 72 on orders as to costs are interlined and are a sensible way to regulate the appeals process.

Amendment No 77 deals with the power to charge additional or multiple fees in post-enforcement situations, or when there has been a retrospective application. I am sure that other Members, particularly those who have served in local government, have been frustrated time and again by people who seem to flout planning regulations. They simply go ahead and build something, occasionally through ignorance, but more often because they are prepared to flout the regulations in the hope that the Planning Service will not go after them. When enforcement is used against them, they try to obfuscate things through retrospective applications. Clearly, the circumstances must be judged on their merits, but the proposal in amendment No 77, which will link this issue to a financial penalty for someone who acts in such a way, is a sensible way forward.

I also welcome amendment No 99, which proposes to include tree preservation orders in planning registers. It is right that these should be included, and, as the Minister indicated, it is currently part of best practice and should be supported.

I am concerned that amendment No 105 goes beyond what should be in the Bill, and my preference would be for amendment No 104, which is the Committee's amendment. When the Planning Bill was being drawn up, the Executive's intention was to link it to the reorganisation and reform of local government. Much of the detail was worked out as part of the RPA process, and, although some people will complain that that process was not brought to a conclusion, many good things emerged from it. One of those was the creation of a broad cross-party consensus on the way that local government could be reorganised through the provision of checks and balances. There are concerns about the planning system that date from the 1960s and 1970s, but how much those are overstated is questionable. However, people genuinely want to ensure that checks and balances are built in when significant power is granted. The proposal in amendment No 104 provides that reassurance, because it links with the transfer of functions under Part 3 of the Bill that will not occur until there is affirmative resolution in the Assembly. That can be linked with the issue of the reform of local government and provides, in and of itself, a useful check and balance.

I have sympathy with the proposal in amendment No 106. As the Minister indicated, there may be technical and legal issues to be ironed out in connection with the amendment, but it does address a genuine concern. If we put in place proper and additional protection for listed buildings and tree preservations orders, we should not have the situation in which some people act unscrupulously and see a window of

opportunity — or a window of destruction — and use it to act inappropriately.

The most controversial amendments are amendment No 20 and its consequential amendment No 102, which deal with third-party appeals. As indicated, the proposed system is frontloaded as far as community consultation is concerned. For a range of reasons, I am hesitant, at best, about third-party appeals and I express grave concerns about them. The Chairperson of the Committee for the Environment was prescient in his early comments on those amendments, although it probably did not take a clairvoyant to anticipate the sort of remarks that would be made. If we have a frontloaded system, which we then backload with appeals, we will overburden it. The system will be already overburdened when it comes to time: indeed; a major criticism of planning in Northern Ireland is that it takes far too long for decisions to be taken. That could impact on the construction industry and development, and it could impact on communities by not giving them a certainty of result. It could also impact on the commercial side of things, because, when we are looking for investment in Northern Ireland, one barrier is a planning system that sometimes takes too long. Introducing third-party appeals will extend that problem and overburden the system even more.

Appeals would have to be dealt with through the Planning Appeals Commission. I well remember a debate in the House not that long ago in which the performance of the PAC and the time that it took to deal with appeals were criticised. If we add to those appeals and, perhaps, open the floodgates to a large number of appeals — some may be vexatious but would have to be dealt with anyway, and some may have some merit — we will massively overburden the Planning Appeals Commission and create a situation in which it will not be able to deal with matters in a timely fashion.

Regardless of the procedures that are put in place, there is concern that, although a lot of third-party appeals would have genuine merit, the system is open to abuse. There may be a situation in which a neighbour or someone else puts in an appeal with the aim of possibly being bought off by the developer. There is concern that third-party appeals will lead to a degree of corruption.

The case for third-party appeals would be stronger if one of two circumstances pertained. First, the argument would be much stronger had there not been early community involvement and the front-loading of the system, because in that circumstance it would be a form of check and balance. However, the check and balance is already built in. Secondly, the argument in favour of third-party appeals would have more merit if this was simply a situation in which decisions were taken by faceless bureaucrats — I mean no disrespect to the officials who are here.

We are talking about a situation in which planning issues are devolved to local councils. Democratically elected local representatives will be able to reflect their understanding of what is best for their area. They will be able to respect and give views and, ultimately, to make a local, democratic decision on any planning application. Such circumstances weaken the argument for third-party appeals. I think that to go down the route of third-party appeals at this stage, in a situation that is untested as regards planning, would be potentially disastrous for Northern Ireland. It would overburden the system. Instead of ensuring that planning was fairer and more focused, it would lengthen the process and potentially make it less fair, consequently —

4.45 pm

Mr McCarthy: Will the Member give way?

Mr Weir: I am happy to give way to Mr McCarthy.

Mr McCarthy: I have listened attentively to what has been said. Does the Member not agree that there is certain disadvantage to the objectors? Hundreds of people may object to plans, for instance, to infill a quarry with inert material, and those are really dedicated people who are against what is being proposed. The developer has the opportunity to take it the full hog. Yet, when the proposal is approved by the Planning Service, the objectors do not have anywhere to take their case. That is unfair, and there is an inequality. Is there no sympathy in what the Member is saying for those people? Many objectors are good, genuine people.

Mr Weir: I do not doubt the genuineness of the people. The whole point is that any member of the community will have their opportunity at the front-loaded community involvement stage. If we were cutting out the community altogether —

Ms Lo: Will the Member give way?

Mr Weir: I will finish the point that has been raised, and then I will be happy to give way to the Member.

A planning application should be judged on its merits, not on whether there is one person against it or 100 people against it. The volume of objection should not be taken into account.

I return to the point about weighing up the arguments that are used. The people who will be making decisions on applications in the future will be councillors. It will be people such as Alderman McCarthy and me. I am sure that Kieran McCarthy's good sense and that of his colleagues means that he would have absolute faith in those people. If we are placing the decision in the hands of people in whom Kieran McCarthy would have complete trust, what have we to worry about? Local, democratically elected councillors will be taking the decision. If Mr McCarthy has no faith in his colleagues, that is perhaps a sad day. I see him shaking his head in response to my comment. He clearly does have faith. That will be able to weigh in what the community is saying. I am now happy to give way to Ms Lo.

Ms Lo: I listened carefully to Mr Weir, and I hope to set out my argument later in my deliberations. Mr Weir kept mentioning the front-loading of consultation. However, the third-party appeals are limited to major developments; the other developments would not involve pre-consultation with the community.

Mr Weir: The Member is not a member of the Environment Committee, so I appreciate that she has not gone through the discussions. The idea is that councils would structure the consultations in such a way that they would take on board the opinions of the community on any application. In that sense, there would be an open door. Consultation would not just take place on the broad development plans or the major applications. Rather, there would be consultation on broad development in totality, so development control would also form part of the process. Additionally, as I said, those democratically elected by the entire community would ultimately be the decision-makers.

As with all groups of amendments, some in group 3 will add greatly to the Bill, and I have greater concern about some others. I am happy to leave my comments on the group 3 amendments there and listen to the rest of the debate.

Mr Kinahan: I am pleased to speak on the group 3 amendments, which deal with planning control. I will go through them in chronological order.

Amendment Nos 19, 26 and 27 are technical, and I welcome them. Amendment No 20, which we have just been discussing, seeks to introduce third-party appeals. I have a lot of sympathy for that amendment, as do the mass of the public. I am extremely disappointed that a petition of concern has been submitted in respect of that amendment, because that is the wrong way to deal with a matter of that type. A petition of concern should be used only for something that is sectarian. In a way, those who submitted it are trying to steamroller the amendment because they know that they will not win the argument.

There is a strong move out there towards third-party appeals. I understand the argument on the front-loading of consultation. It will be hard, however, to get across to the public that there should never be a need for a third-party appeal if councils carry out a proper survey, produce a good local development plan, include the community and go through all the right stages. We ask for a belt-and-braces approach. From the debates on the earlier groups of amendments, we know that the legislation will be constantly under review, and we will have a review within three years.

We need checks and balances. That is not a reflection on fellow councillors, but having been a councillor, I know that decisions are not always taken in the right way because lots of pressures are put on people. I will support amendment No 20, but I want the Minister to look at it, because the use of a third-party appeal should be an exception. There must be a tight limit on third-party appeals so that they do not slow up the planning process. Amendment No 20 starts the discussion, and maybe we need to have it tightened for Further Consideration Stage.

We thoroughly agree with amendment No 21. I am slightly stymied by the English in amendment No 34 and would love clarification on it. As I understand it, it means that we can have a conservation area that does not have a building or any development on it. I would like clarification, because the double negative rather throws me.

Amendment No 41, tabled by the Alliance Party, removes the words "dead or dying trees" from clause 121. That has always concerned me,

because every growing tree is nearing its death and is, therefore, dying. When tree surgeons are asked about a tree, if it suits them, the tree will be dying or ill, and they will fell it. Keeping that in mind throughout, we should support the amendment, because it allows dead or dying trees to remain subject to tree protection orders. However, we need to find some way of dealing with them if they are dangerous. I hesitate to throw out suggestions at this late stage, but the Bill has come at us quickly. Maybe we need a body similar to the Historic Buildings Council, which deals with listed buildings. Such an organisation could deal with trees, look at them and give a fair judgement on whether a tree is really dying and whether it needs to be felled or pollarded.

The Ulster Unionist Party supports amendment No 41.

Amendment No 62 deals with compensation to councils. I thoroughly agree with the Committee and support that amendment. Amendment Nos 71, 72 and 77 are extremely welcome.

Amendment No 99 adds "tree preservations orders". It is absolutely vital to get councils to keep registers of tree preservation orders, and it is also vital that councillors are kept informed, so that they know which trees in their patch are on the register of tree preservation orders. As part of the survey that councils will have to do, I encourage them to concentrate on all the special trees in their area and to put tree preservation orders in place wherever they are needed, instead of just in the one or two locations where somebody has raised an issue, as happens at the moment.

As regards amendment No 104, I totally support the Committee's wish to bring forward Part 3 to affirmative resolution in the Assembly, and I am pleased to hear that the Minister supports it, as it is essential that we get RPA and the local government reform in place before that happens.

I am not going to move amendment No 105, but my concern, and that of many councillors, is that so much is being thrown at councils that a massive cost will be incurred. The Minister has promised pilot studies and many other matters. However, I am concerned that things will be thrown at councils, and I wanted to include that, as in amendment No 104. I am not going to move it this time but will, perhaps, look at it in a different form at the next stage.

I am pleased that the Committee Chairperson supports amendment No 106, as, I think, do all Members. As I said before, I am concerned that, in the lull before the Bill is passed, anyone could fell trees or knock down historic buildings. I am sure that all Members have stories. I can think of a line of Victorian houses in Ballycastle that were damaged by a fire one weekend, and, by the end of the weekend, the whole terrace had been pulled down. I want to see that practice stopped. By agreeing amendment No 106, I hope that that will take place from the moment of Royal Assent, subject to the legal side being sorted out. I am also asking the Minister to look at a way — whether it is retrospective or whether something else can be brought in — to bring it forward to today, so that, from today, anyone who pulls down a historic building or cuts down a tree that has been preserved will be punished by the fines that we have put in place. I urge the Minister to see whether he can find a way of putting that in. Therefore, even if it is six or eight weeks until Royal Assent, the more scurrilous people will not be able to pull down our trees.

Mr McGlone: Go raibh maith agat, a LeasCheann Comhairle. In supporting the range of amendments, I will select those that I want to speak on. I have given a lot of thought to amendment No 20, which deals with third-party appeals. I can weigh up and hear both arguments. There is the argument from one side that says that, in order to develop a robust and efficient planning service and local councils that are robust and efficient and deliver on time to the customer or the ratepayer, there must be efficiency. However, there is no reason why that should not be the case. Today, I talked to someone who has quite a substantial project in England, and he anticipates that it will take six weeks from application to determination stage. That is a benchmark that the Department and Planning Service should look at to see how quickly they can move to efficiently process planning applications. With regard to efficiencies that are developed, it is how we do things, as much as what is done that is important.

5.00 pm

I have thought a great deal about third-party appeals. I represent a rural constituency where one is often on the side of the developer, who could be building a single house or a small business. I am not as fully au fait with many of the issues that occur, principally in urban areas,

around objections. Through the endeavours of my colleague at the Environment Committee, I have listened to the objectors especially around Knock and heard a range of objections raised there. Those people, too, are entitled to have their views heard and their cases presented.

I am absolutely honest when I say this: I see the genuinely heartfelt integrity of people who have concerns about how the planning process operates. I was not, by any stretch of the imagination, airbrushing history, as the Minister said, or presenting my own view of it. We have to learn from the excesses of the past and the things that went wrong and get it right this time. If third-party appeals can contribute to that, I fully welcome their role and function.

My one reservation is that, like many in the Chamber, I have been to tribunals and seen situations where people have sought to use a variety of levers, including public representatives, to extract the best they can from a developer — who could be a person with a single-house development — for a sight line or whatever it might be. I can foresee situations where third-party appeal can be used as a lever or a tool for negotiation. We cannot prevent that. However, what legislators and people of great legal wisdom can do is develop criteria for third-party appeals. In that way, they could do what they can to get people justice and underwrite the integrity of the planning process by way of the third-party process while, simultaneously, making sure that abuses cannot take place using that avenue. It is a challenge, I know, but it has happened elsewhere. It is done elsewhere, and third-party appeals are very much the norm in a robust, transparent and fair planning system. I stand in favour of third-party appeals, and my party colleagues will speak in favour of them.

I regret that a petition of concern has been raised against that. Mr Kinahan referred to it earlier. It is very unfortunate that a lever or mechanism that was built into the political process of this Assembly for other purposes is to be used to nobble something that could serve a wider system of justice for people who make third-party appeals. However, Members have chosen to do that and they have a right and an entitlement to take that route.

I spoke on amendment No 21 in Committee. It introduces a new clause that restricts the information that can be presented at an appeal; or, rather than restrict, it clarifies what information can be presented. That, too, is very important. Those Members who have attended planning appeals have seen situations where someone may be suffering from a condition yet to be diagnosed or awaiting further information or evidence of a medical nature that might be crucially important. Such information could prove to be the linchpin in presenting a case and in winning an appeal for a person who may require a house or dwelling for special needs, as mitigating medical circumstances would be taken into account. Amendment No 21 represents a fair recognition of people's rights and entitlements and the difficult circumstances that some people find themselves in, whereby they require an application for planning to be approved.

Likewise, amendment No 62 is important, although for a different reason. Councils are not liable to pay compensation in cases where other agencies may not have been up to the mark in delivering evidence or information material on a planning application that could have swung the decision one way or another.

That may have consequences for a refusal or, indeed, an approval, because the information, had it been up to speed, received in time, adapted or improved, could have swung that decision one way or the other. If that is external to the council, that council should not be held liable for it.

Amendment No 102 is obviously consequential to amendment No 20, but is important in its own right. Nevertheless, there is no need for me to recite again why that is the case. Amendment No 104, on which I appreciate Members' input, is extremely important. As I said at the start of the debate, the sequence of events involving the reform of local government, the review of public administration and everything that goes with that should have taken place before the Planning Bill came about or should have at least run in parallel with that. Instead, we have a situation where the reform of local government has still to be completed, where the safeguards, checks and balances have yet to be delivered, and where those have yet to manifest themselves, in whatever form, on paper for us to consider them. However, we are still tearing away with a Planning Bill that everybody knows is being presented simply because the Executive want to establish themselves and to show that they are beginning to deliver, albeit after three and a half years when they were not exactly

delivering. The amendment is vital because it ties in the reform of local government with —

The Minister of the Environment: Will the Member give way?

Mr McGlone: Certainly.

The Minister of the Environment: Does the Member accept that the Executive have delivered twice as much legislation as the one that was in power between 1998 and 2003, when his party was one of the largest at the polls?

Mr McGlone: I accept that, as well as the fact that his party was instrumental in trying to pull down that Executive. We are talking about building the future, and that is what the planning is all about. Nonetheless, I thank the Minister for his comment.

Amendment No 104 is vital because it ties in one with the other, and one cannot progress without the other. The SDLP believes that that is important. I realise why Mr Kinahan tabled amendment 106, and the SDLP is open to the suggestion that he makes. We thank him for that.

Ms Lo: I will speak on five amendments in group 3 and will start with amendment Nos 20 and 102, on third-party appeal. Like others who spoke before me, I am completely disgusted by the DUP's use of the petition of concern. The amendments will benefit all sections of our community. This is not a contentious issue between the two major communities, so for the DUP to try to veto the amendment is a total abuse of power.

As an MLA for South Belfast for the past four years, I have supported many residents and residents' associations in their dealings with the Planning Service. The majority of those residents have told me that they have endured serious detrimental effects in their residential and conservation areas for many years because of inappropriate development and the cumulative effect of piecemeal development projects. Furthermore, some streets are now blighted by abandoned properties with overgrown gardens bought before the collapse of the housing market. There is a great sense of anger and frustration that the planning system is always in favour of the developer, and although the developer can appeal against a decision, residents have no such right of appeal.

The issue of third-party appeal attracted a large number of responses to the planning reform consultation, with strong views for and against its introduction.

Of those who supported the introduction of third-party appeals (TPA), many indicated that it should be a limited or restricted right to avoid vexatious challenges. Some respondents see third-party appeals as a fundamental part of a reformed planning system that is fair and accessible to all, based on principles of equality and genuine engagement. However, those against the introduction of such rights stated that, with the proposed front-loading system of pre-application community consultation, there is no need for third-party appeals, as Mr Weir advocated earlier. Some were concerned that that could cause further delays in the already slow and inefficient system. However, our amendment reflects the fact that many stakeholders called for the introduction of TPA.

We recognise that the Department has decided that further consideration of third-party appeals should be deferred until the extensive changes to the planning system and the implementation of the review of public administration (RPA) have bedded down and are working effectively. However, nobody knows whether that will or will not happen. Even if it is going to happen, it could be a long time in the future before it does. People would like some reassurance now that third-party appeals are going to be included in the Bill to give a degree of certainty.

It is important to stress that the amendment does not provide for the immediate introduction of TPA in Northern Ireland. Rather, it is an enabling clause that would allow TPA to be brought forward by the Department in an appropriate manner within an appropriate timescale with, as Mr Patsy McGlone said, criteria attached to that.

We fully understand the need for caution in introducing third-party appeals to balance the right of individuals and other third parties against the need for progress and development, especially at this time of economic uncertainty. The fact that this is enabling legislation means that the Department and the Assembly could ensure that the system of TPA introduced in Northern Ireland is developed to make sure that the bar for appeal is set at an appropriate level and conditions are in place to prevent the planning process becoming hostage to frivolous or vexatious appeals. Final regulations would

have to be brought before the Assembly for affirmative resolution.

We believe that there are many good reasons to provide a limited third-party right of appeal. It would provide an incentive for developers to undertake genuine participation and meaningful pre-application consultation. The public and communities would then feel that their comments were being given proper consideration in pre-application consultations. Planning authorities would be more inclined to get their decisions right in the first place.

Evidence from the Republic of Ireland shows that 99·3% of third-party appeals in 2008 were wholly or partially successful. That refutes claims that third-party appeals are frivolous and supports the view that, over time, they improve decision-making by planners.

Developers have a right of appeal through which they influence how policy is interpreted by establishing precedence. The public do not have that opportunity. That creates a sense of unfairness, which can be removed only either by abolishing appeals or by allowing third parties a limited right of appeal. That would make planning authorities as accountable for their approvals as they currently are for their refusals.

5.15 pm

People seeking to exercise the right to a third-party appeal should demonstrate the soundness of their case so that it is not a free-for-all. The soundness test should include showing that the appeal is in line with planning policies, including the development plan, and that it is not being made for financial or commercial gain.

A number of proposed measures might mitigate the potential abuse of appeals. Those include the introduction of a levy fee, although a balance is required so as not to restrict totally, or restrict unfairly, access; the introduction of qualifying criteria, such as that the third party must have made an observation to the original planning application; the possible exclusion of major infrastructure; the setting of restricted timescales for appeal decisions so as not to delay the process; and an ongoing audit of the system. We will perhaps need a number of years to ascertain the success of the system.

The Planning Appeals Commission shall have absolute discretion to dismiss an appeal when it is of the opinion that the appeal is vexatious, frivolous or without substance, made with the sole intention of delaying the development or is not based on sound planning grounds.

We need to balance the need for economic growth and the rights of individuals who are affected by the planned development. Those people have to live beside the new developments, which might blight their quality of life, shadow their gardens and look into their bedrooms or bathrooms. We want a planning system that is accountable, transparent and equitable. Therefore, it is important that we include a third-party right of appeal.

The Alliance Party also has three amendments that concern trees. Amendment No 34 calls for areas to be made conservation areas in respect of planning, even if there are no buildings in that area. An area with an important historic landscape could be made a conservation area for planning purposes. Areas thick with tree cover could also be considered as conservation areas. I will be interested to hear the Minister's comments on that. If he can convince us that amendment No 34 is not necessary, we may not move it.

Amendment No 41 changes the current wording of the Bill that states that dead or dying trees, or those that may be dangerous, can be felled even if a tree preservation order is in place. The removal of the phrase "dying or dead" will mean that only dangerous trees can be felled if a tree preservation order is in place. The key consideration must be whether a tree is dangerous or not. Whether it is dead or dying is immaterial. Indeed, we believe that even dead or dying trees can play a useful role in the ecosystem by providing a habitat. Furthermore, there is a lack of clarity about what exactly is understood by the word "dying". It can be a broad category. The Woodland Trust categorises trees as dying when their annual growth rings start to decrease in size. However, an oak tree could be considered to be in that dying phase for up to 400 years. Removal of the reference to "dying or dead" would also bring Northern Ireland into line with practice in the rest of the UK.

Amendment No 99 simply adds tree preservation orders in each council area to the list of things of which councils must keep a database.

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. Sinn Féin supports amendment No 20, which would mean that regulations can be made to allow third parties to

appeal planning decisions. That is the only way to make the planning system fair for all citizens and remove the bias in favour of developers. I spoke about that earlier. There needs to be a system that is tightly time framed, with a quick turnaround. Other Members spoke earlier about creating a logjam in the system.

It is unfair to use the petition of concern mechanism, as it was not designed to be used in instances such as this. I think it does the House an injustice to use it in such a manner, because planning impacts on all communities. We should be mature enough to have the debate. I will not waste a lot of time on these matters, because there is a snowball's chance in hell of getting the amendment through.

Mr Weir: The Member may well be underestimating his powers of persuasion and argument. No vote has taken place, and I am sure that if the Member presents an utterly convincing argument the Members on these Benches could be persuaded.

Mr W Clarke: I would not like to look at my odds for that.

The system that we are designing is front-loading. We are looking at community involvement and community planning. The system should work a lot better than it does at present. Communities have to take a leap of faith; the Members to my left outlined the difficulties that individuals have in dealing with developers. I ask the Minister to have a review after three years, as we talked about earlier. Maybe he could commit to including, in a review, a consultation on third-party appeals as an appropriate option. If everything works in the way that we are led to believe it will work, and if the front-loading system will resolve the problem, then carrying out a consultation should quite clearly show that the system in working fine. It will be interesting to hear what the Minister has to say on that matter.

Sinn Féin supports amendment Nos 71 and 72, which allow the Planning Appeals Commission to award costs where it is felt that an appeal has been made in a frivolous manner. I welcome that. I support amendment No 77, which deals with retrospective applications following enforcement proceedings being subject to councils being allowed to impose extra charges. As the Minister said, that will act as an incentive to follow proper planning processes.

I understand that amendment No 34, which was tabled by the Alliance Party, is a probing amendment. It certainly probed my thoughts, because I was not really sure what it was about. Is it intended to designate a buffer zone in and around a conservation area or a historic site or what used to be historic woodland? I was not clear about it.

I support amendment No 41, which removes dead or dying trees from the exemption under tree preservation orders in clause 121. I just needed clarity on the health and safety aspects, particularly in relation to decaying trees in public parks or those that may fall on people in their homes or in their cars.

Mr T Clarke: If I picked the Member up right, he said that he is accepting the argument about dead or dying trees. If he does so, how can he have concerns about people being in danger from trees in public parks? If the trees are dead, they are a danger. Surely, dying and dead trees should be included.

Mr W Clarke: I do not accept that. A dead or dying oak tree could take 100 years to fall. It would still be robust. It is a bit like human beings; as soon as we are born, we are dying. As soon as the tree starts to grow, it is on its way to dying. There are trees in Donard Park in Newcastle that are a couple of hundred years old and have been dying for about 100 years. I do not buy into what the Member said.

Amendment No 99 is sensible. It requires councils to include information relating to tree preservation orders in their planning register. That is best practice and common sense.

Sinn Féin strongly supports amendment No 104, which will offer reassurances to communities and minorities. Planning powers were taken from councils because of abuse of powers, and discrimination was rife. I will not get into historical debates or lectures, but it is very important to have checks and balances in place before powers can be handed over to local authorities. This is a very sensible amendment.

I also support amendment No 106 and agree with the Member who proposed it. Historical buildings and woodlands could be cleared away overnight, and I think the amendment is a sensible precaution.

Mr Savage: A lot has been said today about planning regulations, but the amendments in

group 3 refer to planning control. Amendment No 20 amends clause 58 and requires the Department to provide regulations allowing persons other than the applicant to appeal a decision. It is also useful to note at this point that the Environment Committee did not discuss third-party rights of appeal during Committee Stage. However, in light of the issues raised in this proposed amendment and amendment No 102, I and my party are happy to support them.

However, I note with amazement —

Mr T Clarke: If, by some miracle, the amendments on third-party appeals are accepted, what will the Member's opinion be if one of his constituents applies for planning permission for a bungalow close to him and goes through the proper process, but another neighbour decides that he should not be building there because they just do not want him there and decides to take a third-party appeal against that permission?

Mr Savage: Thank you.

Amendment No 21 introduces a new clause restricting the information that can be presented in an appeal. In most cases, it is right and proper that new information is brought forward only if it is necessary, expedient and applicable.

Amendment No 41 amends clause 121 to remove dead or dying trees from the exemptions under tree preservation orders. I welcome that amendment. It has been supported by the Woodland Trust and will help bring Northern Ireland into line with best practice in the UK.

Amendment No 62 introduces a new clause to ensure that councils are not liable to compensation if they made a decision on a planning application that will later have to be revoked as a result of information being made available by a statutory consultee that had failed to provide it within the original deadline. The amendment is most welcome because it protects councils from a problem not of their own making and transfers liabilities, and, therefore, associated costs to the statutory consultee that failed in its duties in the first instance.

Amendment No 77 amends clause 219 to allow for fees charged for retrospective applications to be higher than those for an ordinary application. I welcome that amendment, as it gives applicants an incentive to get things right first time and to conduct their planning applications in a wholly appropriate manner.

Amendment No 99 amends clause 237 to require councils to include information relating to tree preservation orders in their planning register. I welcome the amendment, as I think that it is good practice. I also welcome the amendment proposed by my party colleague and fellow Committee member Danny Kinahan that ensures that any commencement orders for parts 2 and 3 of the Bill cannot be laid without being affirmed by the Assembly. That was agreed by the Environment Committee as a means of ensuring planning control functions could not pass to councils until the Assembly was content that the necessary checks and balances were in place at council level. It is designed to provide a mechanism —

5.30 pm

Mr Weir: I thank the Member for giving way. Mr Kinahan stated that he will not move that amendment. The Part 3 element is in amendment No 104, which was agreed by the Environment Committee and which, I think, will be supported. However, there was no particular agreement on Part 2, which is also in Mr Kinahan's amendment. That is where the difference lies.

Mr Savage: I thank Mr Weir for that intervention. The amendment is designed to provide a mechanism to allow the Assembly to be satisfied that central government has provided the necessary resources and capacity before councils are required to prepare local development plans.

Amendment No 106 will amend clause 247 to ensure that clauses 84 and 125 come into operation as soon as the Bill becomes law. The amendment is designed to reduce the time between higher fines being agreed in the Bill and their coming into force. That will minimise the opportunity and/or incentive for wilful damage to trees and listed buildings.

I am content to support all the amendments in the third group. I know that there has been a lot of talk today and concerns about what has been going on, but we have to move the system forward and bring ourselves into the twenty-first century.

Mr Deputy Speaker: I call Mr John Dallat.

The Minister of the Environment: Hear, hear.

Mr Dallat: I welcome the cheer from the far side of the Chamber. No doubt there are

high expectations of what I might say. I thank the planning officials, who were extremely constructive in the help that they gave to the Committee. I acknowledge that freely.

The vast majority of people whom I have met in my lifetime are honest and submit their planning applications properly. When they do not get it right, they accept the planners' advice. There are, however, a few people who are morally corrupt, if I may use that term. That is what the safeguards are about. The third-party appeal issue, which has attracted the petition of concern, would apply to only a very small number of cases where whole communities have been affected by perhaps one major planning application. My colleague Patsy McGlone mentioned Knock Golf Club. Perhaps we should not focus on one particular case, but I am extremely proud that I saved the trees in that club. I hope that, every time the Minister drives past it, he will appreciate that there is sometimes a need for us to go outside our constituencies. That was something else that he was critical of.

I see no reason why third-party appeals are not possible. If as much thought was put in to the Planning Bill as was put in to how to conduct third-party appeals, there would not be a problem. I hope that, given that we are told that this is a living document, this opportunity is not closed down. I also hope that, at some time in the near future, some Minister — whoever it is — will take seriously the enormous number of people who gave evidence to the Committee and submitted their opinions about the right to a third-party appeal.

I come from a rural area where that is not a big issue. However, I belonged to a bigger council for more than 30 years, so I saw what happened in the coastal area where there was no opportunity for appeals. The whole heritage of the place was pulled down, and the healthiest of trees became diseased overnight. That could be called "the chainsaw society". The people involved in such activity need to be held accountable for what they do, and a third-party appeal is one democratic way to do that. I am surprised that a party that has "Democratic" in its title is so opposed to third-party appeals. That is unfortunate.

Generally speaking, we should be able to face a future in which planning legislation does not need a petition of concern presented, because we will perhaps begin to trust each other. However, that must be demonstrated. I am talking now about amendment No 21, which illustrates that we have yet to agree what mechanism local councils will have to protect people against the kind of abuses that happened in the distant past. I know that my colleague was criticised for daring to even mention times past. However, we lived through that era and would like to pass on to a new generation our advice on how things can be done differently rather than be repeated. Let us hope that common sense will prevail and that the general public will have some kind of ownership of planning.

Finally, amendment No 21 restricts the information that can be put into a planning appeal. I suggest that a serious look should be taken at information put into the planning application in the first place. My recent experience, particularly with the Knock golf course case, was that letters of support came from people in public life making the most outrageous claims about planning applications. Such claims included that local councils had supported the application, jobs would be created and community associations would benefit. As the Chairman knows, we discussed that at the Committee meeting, and we got an assurance from the planners that those concerns can be accommodated as the Planning Bill makes its way to becoming the final product. I hope that that will create a better society and one in which people can have confidence, particularly the communities that have been so adversely affected by really bad planning approvals in the past, some at ministerial level and others at a bit more of a local level.

Mr B Wilson: I will deal first with third-party appeals. In my election campaign, I said that, if I was elected to the Assembly, I would promote third-party appeals. Therefore, I welcome this amendment. However, I now see that, because of the petition of concern, my vote on the issue becomes irrelevant. Not only is my vote irrelevant, but the people who voted for me who wanted to introduce third-party appeals are totally disenfranchised on this issue, which is a total abuse of the Assembly.

That said, the Green Party supports limited third-party appeals. There is a widespread public perception that there is a bias in the Planning Service in favour of developers. Many residents feel frustrated and have lost confidence in

the planning system. Time after time, local community groups get together to oppose developments and their views are ignored. Recently, a development in Bangor involved knocking down a Victorian house and replacing it with an apartment block. That was opposed by all the residents, residents' groups and, in fact, unanimously by the council.

Mr Weir: I thank the Member for giving way. Does he acknowledge that there would be no need for a third-party appeal in those circumstances? The Bill envisages that planning decisions will be passed to councils. As the Member rightly said, the council unanimously opposed that development, so it would have been rejected by the council. Therefore, there would not have been a supported planning decision against which to appeal.

Mr B Wilson: I thank the Member for his intervention. I was going to make the point that that would not apply when planning powers are given to councils.

Nevertheless, it still does not resolve the problem of local residents being totally opposed to it. Members suggested that the problem could be resolved by front-loading the system and by pre-consultations. That is only partly true, because most applications will not be submitted for pre-consultation; only major planning applications will be. We have faith in pre-consultations leading to the Planning Service taking the correct decision. However, if the service cannot get turning down an application wrong, it should not be able to get an approval wrong. We should have a level playing field; if applicants can appeal, objectors should also be able to.

As Ms Lo pointed out, there must be safeguards to prevent abuse and vexatious or frivolous applications. However, given the expertise in the Planning Service, I am sure that it could devise an appeals system that is acceptable to the community as a whole, while ensuring that beneficial developments go ahead without significant delay. The appeals system in the Irish Republic seems to work, so I see no reason why a similar system should not work here.

I shall move on to welcome —

The Minister of the Environment: Will the Member give way?

Mr B Wilson: Sure.

The Minister of the Environment: Is the Member suggesting that the Republic of Ireland is an exemplar of good planning?

Mr B Wilson: I did not suggest that at all, but people there seems to be happier with their planning system, although I will not go into that, because if you scrutinise other aspects of the planning system there, you will find problems. However, as far as the Planning Appeals Commission and third-party appeals are concerned, the part of the system that deals with such matters there seems to work OK.

I welcome amendment No 21. Having, like other Members, represented residents at Planning Appeals Commission meetings, I have found that developers tend to come in at the last minute with totally new proposals, and objectors have no opportunity, or perhaps they do not have the expertise, to consider them. That is totally unacceptable.

I welcome amendment No 62, which would mean that councils would be liable for delays caused by others failing to produce information on time. That is totally unfair on councils.

On the removal of dead or dying trees that are subject to a TPO, the most common problem is that perfectly healthy trees suddenly develop a disease because somebody wants to build a house. When somebody puts in a planning application, trees immediately become diseased. It happens all the time. I am concerned that the power to cut down dying trees will be used to get round the planning laws. TPOs are often put on trees or places designated as conservation areas; however, having been protected, trees suddenly develop some strange illness. As other Members pointed out, trees often have illnesses from the day they start to grow. In that sense, it takes them hundreds of years to die. Therefore, trees that are dying anyway generally pose no significant danger to the population.

In some cases they are, but the vast majority of trees affected by those planning applications would have lived. They may have been dying, but they could still have lived for another 100 years. It is amazing how many tree surgeons can confirm that every tree that a developer asks them to look at is in the process of dying. It is part of the planning process. TPOs give very little protection to trees, and we give should them further protection and exclude situations in which dying trees can be cut down because,

again, it depends on the definition of "dying". They provide habitat for wildlife and perhaps have a particular presence in a conservation area. It is a shame that, just because somebody wants to develop, they cut the trees down.

5.45 pm

I also support amendment No 99, whereby the council has to register TPOs. At present, the public have a problem in that, if they see a tree that may be under threat from development or feel that it is a prominent tree that they want to preserve, they do not know whether there is a TPO on it and do not really know how to find out. If the council kept a register, the public would be able to check that. That would also enable the public to ensure that people do not cut down trees that have TPOs. At the moment, if someone cuts down a tree, a member of the public might say that that tree should have a TPO. However, they do not know whether it does and, therefore, cannot take action. Therefore, the register that will be retained by the council will be very useful in helping residents to make that decision and to, perhaps, apply for a TPO. I support the other amendments.

Mr McDevitt: I want to take the opportunity to pay tribute to my colleagues on the Environment Committee, which I do not sit on. I know that the Chairperson, the Deputy Chairperson and all MLAs on that Committee have had an extraordinarily busy period, and, under huge pressure, they have done the Assembly a great service over that time. That needs to be said.

I rise to speak because I am an MLA for South Belfast. Amendment No 20 is one that I and, I believe, Alex Maskey, Dr McDonnell and Mr McGimpsey would have really loved to have added our names to. Because of time constraints, that did not happen, and Ms Lo opted for the comfort of her colleagues in the Alliance Party. However, we support the amendment nonetheless, and it reflects entirely the wishes and desires of the representatives of residents in our part of this city. I believe that the amendment is on the Marshalled List because people want it to be there. Those people have, for many years, been at the wrong end of bad decisions that have blighted our communities, left lasting scars and, in some instances, caused considerable unrest. We still have to live with the consequences of those decisions today.

The Holylands is a case in point. The Minister may or may not be familiar with that area. If he is not, I invite him to join us there on St Patrick's Day. If he chooses to take us up on that invitation, he will see what bad planning decisions really mean. He will see what happens when communities become entirely disenfranchised and when the voice of the few begins to count more than that of the many.

I really struggle to understand what the problem could possibly be with an amendment that provides an enabling power. It does not actually technically make new law. It just enables new law to be possibly made in the future by the Minister. Where is the threat in that? It is certainly not threatening to the Minister or to his integrity. It is not threatening to his stated policy position. It is not threatening to anyone's manifesto commitments, because it is only an enabling power. It is certainly not threatening to communities. It is not threatening to democracy or due process, because, of course, the regulations that would be required to enable the power would need to be properly consulted on and would receive scrutiny in Committee.

It is maybe threatening to a few, a tiny minority of people with a narrow vested interest in making a lot of money on the backs of residents and communities and people who have sought to build lives in cities. Ironically, cities are places that, as it says in the regional development strategy and on the Minister's website, we want to reinvigorate and restore to their former glory. They are places where we want to promote communities and encourage families to live, so where is the threat in an amendment that provides an enabling power? I would appreciate an intervention if the Minister or his DUP colleagues could clarify that.

It gets even more worrying that there is a petition of concern on an amendment that does nothing more than introduce an enabling power. What is possibly of threat to the unionist community in an amendment that is one line long and which gives the Minister the power to make the law? How does that, in any way, fulfil the purpose for which the petition of concern was created?

It is clear that, in this House, the DUP is a minority in opposing the amendment. Colleagues in the Ulster Unionist Party support it. The Alliance Party, obviously, supports it. The SDLP, Sinn Féin and the Green Party support it,

yet a tiny minority of people, who represent less than one in three of the population, are abusing a technical power that was designed for an entirely different purpose. It is awfully ironic that they are choosing to do so on legislation that is aimed at returning powers to councils. Those powers were taken away from councils because, at a time in our not-so-distant history, a small number of people chose to abuse the powers that were in their hands.

Mr Ross: The Member is making much of the petition of concern. Is he now developing the argument that we should get rid of the ugly scaffolding of the Belfast Agreement and reform the structures to change all of that?

Mr McDevitt: I thank Mr Ross for his concern. It was a good attempt, Mr Ross. The answer is no, and here is why. The safeguards —

Mr Deputy Speaker: Order.

Mr McDevitt: I will return to the amendment, Mr Deputy Speaker.

Mr Deputy Speaker: I remind Members to address the amendments that are before us.

Mr McDevitt: The amendment before us could not possibly, in anyone's mind, be argued to be controversial from a community perspective. That is the issue. There is no way that anyone could possibly argue that the amendment would have a detrimental impact on one community or the other. It just would not work out that way. There is a reason for those mechanisms. They are for occasions when decisions could be taken by the House that could be perceived to have an impact on one community or another; and those occasions do arise. The amendment deserves to be decided on democratically. The amendment deserves to be agreed or disagreed to by vote of a majority or a minority in the House. It is not an amendment that qualifies in your wildest of dreams for a petition of concern, except if you just happen to have the numbers to move it.

I go back to the point of why we need the amendment. We need this amendment because it is common sense to allow society a last backstop against bad decisions. It is interesting to note that where third-party rights of appeal exist, there are no huge delays in the planning system. It is worth noting that, across these islands, they do not lead, as Members mentioned, to massive backlogs, the clogging up of systems and spurious applications. When they are put in place, they are rightly designed in a way that makes sure that there are no opportunities for highly dodgy, spurious or dubious appeals. It is ironic that we are trying to give the Minister and his officials the power to make the best possible regulation. We are not trying to specify or determine. We are just saying that he should do the best that he can in the time that is available to him.

If Mr Weir's express sentiment earlier was that he wished to have an honest debate on the issue and that he remained to be convinced, I respectfully suggest that he reflect on the amendment. It is an enabling amendment. It is not threatening, determining or specific. It simply indicates that we wish to allow ordinary people to be given the opportunity to have an appeal. If that is threatening to him, we are in a much worse place than any of us thought we were in. If he is serious about hearing this argument, I strongly request that the petition of concern be withdrawn and the democratic will of the House be heard.

The Minister of the Environment: I was waiting for Mr McDevitt to continue and to deal with some other issues, but he seemed to run out of steam on this occasion.

Mr Weir: I noticed that Mr McDevitt spoke for less than 15 minutes. If Norris McWhirter were still alive, we could call the Guinness Book of Records.

The Minister of the Environment: We have done a good thing in this debate today if we have restricted Mr McDevitt to 15 minutes. I think that we should congratulate ourselves on that success story.

Members raised a range of issues, but the two key issues that were raised related to the amendment around dead or dying trees and third-party appeals. First, I will deal with the issue of dead or dying trees. At this point, I encourage Members not to move the amendment and to wait until Further Consideration Stage to move it. I would like to consult the Attorney General and the Departmental Solicitor's Office to see the consequence of it, as I have some concerns. There is a fundamental difference between a dead tree and a dying tree. A number of Members made the point that an oak tree can be dying for a considerable time. Therefore, although it may not be in the best of health,

it does not pose a particular danger to any property. On the other hand, a dead tree can pose a danger to people. We need to get some legal background on this issue before we go ahead and make legislation.

I find it a little ironic that, yesterday, Mr Lyttle wanted to include trees as well as hedges in the High Hedges Bill so that they could be removed. That included deciduous trees, not just leylandii types, which the Bill was aimed at dealing with. Therefore, we have some concerns that the Alliance Party was looking for the removal of trees yesterday, yet today it is looking to protect dead trees.

6.00 pm

Mr McGlone: At this stage, I am not sure whether we need an arborist or someone from 'CSI' to determine whether a tree is dead or dying. However, at this point in time, does the Minister accept that the debate has become a wee bit surreal? I am not sure whether you would get anyone at the Attorney General's office or the DSO to determine whether a tree is dead or dying. Certainly, it would prove difficult. In fact, I am sure that if anyone is listening to the debate, they will find that it moves from one level of surreality to another.

The Minister of the Environment: With respect, Mr Deputy Speaker, I did not introduce the issue. It was not me who pointed out that dying trees can continue for many years. However, if a tree is dead — the leaves are not growing and the bark is coming off — and the Assembly decides that that tree still warrants protection, we would be in danger of being a laughing stock. I think that the Member was actually supporting that amendment. Therefore, the joke was on him.

Dr Farry: I appreciate the Minister's giving way. Although I missed most of that, I caught the drift.

Mr McGlone: *[Interruption.]*

Dr Farry: Very good, guys. *[Laughter.]*

Surely, the key consideration is whether a tree is dangerous. If it is dangerous, whether it is alive or dead is immaterial; it should come down in those circumstances. Even if a tree is dead but is not dangerous, it is still of value to the ecosystem and habitat. Indeed, we talk about a tree dying — a big oak tree, for example, can actually be dying for up to 400 years.

The Minister of the Environment: As regards a dead tree being valuable, there is little value in a dead standing tree. The Member may believe that to be the case, and that, as a consequence, other decisions cannot be taken. I do not believe that we should go down that route.

Mr Kinahan: Does the Minister not agree that when a tree is dead and, possibly, not dangerous, an entire ecosystem survives on it, from bugs and birds to everything else? That is why it is important.

The Minister of the Environment: In fact, the ecosystem and the bugs that Mr Kinahan refers to could actually still survive in the tree if it was not standing. If the dead tree were cut down, the ecosystem that he refers to would still enjoy it. Several other trees could be planted in its place. To put a protection on a dead tree is, in my opinion, not a good use of the Assembly's time. It appears foolish. However, I encourage people not to make a decision on it until we seek some further advice. The issue is clear: the dead tree could pose a danger to members of the public and to people's property. Therefore, we do not want to rush ahead into legislation without giving adequate thought and consideration to possible pitfalls. There is ample time for further consideration at Further Consideration Stage.

In respect of third-party appeals, quite a number of Members complained about the use of the petition of concern. If those Members, who cross a wide range of parties, want to join the Assembly and Executive Review Committee in dealing with the ugly scaffolding of the Belfast Agreement, we will be happy to dispense with petitions of concern. That will not be an issue. We will not resist getting rid of petitions of concern. However, those who introduced petitions of concern cannot come weeping, wailing and gnashing their teeth when someone uses them and it is not to their liking.

Mr McDevitt: The Minister is a great champion of road safety. I applaud his efforts to try to improve road safety in the region. One debate that he has promoted is the lowering of the threshold for certain substances in a person's blood when he or she is in charge of a vehicle. Does the Minister suggest —

Mr Deputy Speaker: Order. We are not debating the Good Friday Agreement, the transport Bill, or anything else: we are debating the Planning

Bill. Therefore, I ask Members to return to the amendment.

The Minister of the Environment: Thank you, Mr Deputy Speaker. I am happy to deal with the amendment and the issues that were raised as a result of it, which certainly did not relate to road traffic.

As regards third-party appeals, perhaps Members sometimes need to use mechanisms like the petition of concern to save Members from themselves. Even earlier today, there were instances when Members went into a Lobby and, without any thought whatsoever, imposed another burden upon local authorities without even knowing the costs that it would impose on local government.

If certain Members are going to go into decisions ram-stam, and without going through the proper processes and giving them adequate thought, perhaps we should use the mechanism to save them from themselves and prevent them from causing further harm to Northern Ireland plc as a consequence.

Dr Farry: I assure you, Mr Deputy Speaker, that this is entirely on the matter in hand. Does the Minister recognise that all that amendment No 20 is doing is to write the concept of third-party appeals into the legislation and provide an enabling clause for future debate on the subject? The question requires a simple yes or no answer from Members on whether they are in favour of the concept. The detail as to how and if this would be taken forward based on the enabling clause, and on regulations if we want to go down that route, will be a matter for the Department and the next Assembly. Therefore, there are plenty of safety valves in place to ensure that anything put in place will be properly thought through, if that is what a future Assembly wants to do. Today, we are simply enabling the debate to happen.

The Minister of the Environment: It is at times such as this that we miss our old friend Bob McCartney. Perhaps he could have explained how the word "shall" does not leave a lot of flexibility. If the word "may" had been used, the Member would have had a case, but the word "shall" seems pretty clear to me. I suspect that Mr McCartney, were he here, would agree with me on this issue.

Mr A Maskey: Dare I say it; thank God that we do not have Mr McCartney here. If we did, we would be here until tomorrow night, notwithstanding tonight's 8.00 pm watershed.

I know that the Minister is resolute in his proposals to front-load the system and, for the sake of protection, does not want to backload it. However, will he consider the experiences that a number of Members have had in their constituencies? Mr McDevitt mentioned the situation in our South Belfast constituency. The experience that many of us have had with the Planning Service over the past number of years is that it almost does not matter what the policy is; there is always a presumption in favour of developers, in particular. A lot of people in our constituency have expressed bad and negative experiences.

If there is confidence that front-loading the system will almost resolve any outstanding problems, why is there such resolute opposition to providing the safeguard of a third-party right of appeal? If the system works as the Minister and the Department intend it to work, surely there would be very little cause or need for the recourse of a third-party right of appeal. In a way, this would give people protection. We know that from our experience.

The Minister of the Environment: I thank the Member for the point that he has made; it was well made. If we were coming at the Bill from the current position of Northern Ireland's planning system, then a third-party appeal system would make a lot of sense; but we are changing planning in Northern Ireland fundamentally, and that is where the difference lies. First, we are going back to a situation in which democratically elected local people will make decisions. Today, I heard a number of Members refer to planning decisions with which local communities and local authorities disagreed. It will be the local authorities who will be the decision-makers in this piece of legislation.

With respect to the people in the planning office, I do not think that Belfast City Council would have made the decisions relating to the Malone area or to Piney Hills. If councillors had had the overall say, they would not have allowed those decisions to be made. However, councillors did not have the overall say. As a result of this piece of legislation, the councillors — who are accountable to the public — will be making the decisions. We seem to have had the debate about third-party appeals with some sort of glaze over what is happening in

the Bill. It seemed as if we were continuing with the existing planning system, when we are fundamentally and wholly changing it.

I know that Mr McDevitt lived in another jurisdiction for many years and that that jurisdiction has had a third-party appeal system for many years. If Mr McDevitt has come up to Northern Ireland to tell us that he has had a good experience of planning where he lived and that the planning system that we are proposing for Northern Ireland is considerably worse, I would be happy to give way to hear how it is such a better system.

Mr McDevitt: I am grateful to the Minister for giving way. He is, of course, right; I did live in another country for many years. I grew up in the south of Spain, and there is a third-party right of appeal there, which is devolved to local municipalities, where councillors make planning decisions. The Minister will be glad to hear that in that country, which is, indeed, a foreign country, the third-party right of appeal sits alongside a highly devolved planning system, such as the one he envisages.

The Minister needs to reflect on two levels. It is perfectly acceptable that, where there is highly accountable, democratic decision-making in planning, there can still be a third-party right of appeal, and it works exceptionally well. I commend the model to the Minister. When he is no longer Minister and is on his summer holidays, he may want to visit Spain and enjoy the benefits of that system in certain communities where it works.

The Minister of the Environment: I have visited Spain on a number of occasions, and the destruction that is being carried out on the coastline there is even worse than the destruction being carried out in the other foreign country that Mr McDevitt lived in, such as bungalow blight and everything else that has gone on in the Republic of Ireland.

Mr Dallat and others referred to the pre-1973 system. Let me make it absolutely clear that there were considerably fewer complaints about the pre-1973 system than about the current system. What has happened in constituencies such as mine, where period dwellings on the North Circular Road were pulled down and replaced by apartments, has taken place in many parts of south Belfast and in north Down, where we have seen what has happened in the coastal areas. I suspect that if planning had been under the control of councils, such as Coleraine Borough Council, Belfast City Council, Lisburn City Council, North Down Borough Council or Newry and Mourne District Council, half of the things that developers were able to do would not have happened.

Mr Dallat may wish to criticise what happened before 1973, but I suspect that planning has taken a turn for the worse since then.

Mr McGlone: Will the Member give way?

The Minister of the Environment: I will give way in a moment. I am very glad that this House will be vesting powers back into the hands of the local authorities, which are democratically accountable.

Mr McGlone: I thank the Minister for giving way on that point, but he has taken us into an area. Will he accept that no case of discrimination has been proven against the Planning Service?

The Minister of the Environment: If the Member believes that the planning system in a number of areas was not more lax and lenient than it should have been, he must have cocooned himself in some cave or something for a period. One can look at the lax attitude that was demonstrated in particular areas and the haciendas that were built in those areas, which were wholly inappropriate for the countryside. The Member must have been living somewhere different from the rest of us, because it is quite clear that many poor planning decisions were made in many areas.

Dr Farry: This is an important intervention, hopefully. I bear in mind the comments that the Minister has made. I would hate to fall out with him over a single word: “shall” versus “may”. Given the inevitability that the amendment will fall because of the petition of concern — whether one is for or against such mechanisms — in the event that the amendment is not moved today and a further amendment, potentially on a cross-party basis, is brought back for Further Consideration Stage on the basis of the word “may”, which does not bind any future Minister or Assembly but simply enables it to be discussed, would the Minister and his officials be prepared to reflect on that as a potential way forward?

6.15 pm

The Minister of the Environment: It was not the Minister who lodged the petition of concern; it

was the party to which the Minister belongs. Albeit that it was an important intervention, perhaps unlike some previous ones, I am unable to answer for the party without due consultation with my colleagues.

We have dealt adequately with the fact that councils will make the decisions. The issue of front-loading the system is wholly different from anything heretofore. The expectation is that developers will consult the local community on all major planning applications. If a significant housing development is taking place, developers will need to consult people, work within the context of the planning policy statements on creating places and other documents, and demonstrate to the Planning Service that they have taken any public concerns on board.

(Mr Speaker in the Chair)

Indeed, if developers have not adequately addressed the concerns of the local community, planning authorities could decide to discount a planning application at the outset. Again, that is fundamentally different from anything heretofore. It would be foolish for us to front-load a system and facilitate engagement throughout the decision-making process, only for third-party appeals to roll in thereafter.

I regularly hear complaints that decisions are already inordinately slow in Northern Ireland. Today, some Members propose to make them even slower. I want a more efficient planning system that is more responsive to the needs to the public as well as to those involved in construction. If we want to encourage development and attract investment in Northern Ireland that is desirable and for the public good, we need an efficient planning system that is capable of delivering. The proposal to introduce third-party appeals in conjunction with what the document proposes would result in a lack of flexibility, and we would not achieve the decision-making time frames that would be acceptable to many people.

It was Mr McDevitt who said that third-party appeals worked well on these islands. I am not sure what islands in the British Isles he was referring to. There are third-party appeals in the Republic of Ireland and on the Isle of Man. Perhaps that is the second island to which Mr McDevitt referred. However, third-party appeals are not available on the mainland, which is the other island of which we happen to be an integral part.

The Republic of Ireland has a completely different system of planning from Northern Ireland. In the Republic of Ireland, planning applications are much easier to approve in the first instance. Area plans do not go through the public consultation processes that exist in Northern Ireland, and the third-party appeal in the Republic of Ireland is very much a check and balance on a lax planning system that led to thousands of acres being identified for development. Those areas now have to be de-zoned.

We are going down a different route that will deliver better for the residents, to whom many Members referred, than the route taken by the Republic of Ireland. In fact, in the Republic of Ireland, third parties have to pay for third- party appeals if they are deemed to be vexatious. That may mean paying for QCs and planning consultants whom the developer employed. Third parties must also have strong reasons for challenge. Despite that, it is much easier to get approval from the system that approved those applications than would be the case here in Northern Ireland.

Therefore, getting through the first processes will be considerably more difficult, given, first, the need to deal with the community prior to the lodging of the application, and, secondly, the application process itself. I believe that introducing a third-party appeal after all that would slow the system down considerably, if not grind it to a halt.

We currently have a planning system where those who have lodged appeals are waiting two years to have planning appeals heard. Therefore, introducing a whole series of third-party appeals to that system would not be conducive to economic growth in this country. It is important to remember that planning is fundamental to economic growth in our country, and if we want economic growth, we must have a flexible planning system. If some Members do not want economic and job growth, more employment, more leisure activities and more facilities to encourage tourism in Northern Ireland, perhaps they should stand up and make their case now. However, I certainly want all those things, and that is why I urge the House to resist amendment No 20, which deals with third-party appeals.

Ms Lo: I thank the Minister for giving way. Of course we want economic growth and growth in the construction industry. The economy is our

top priority, and we all agree on that. However, that does not mean that we can trample over ordinary citizens who should have a right to speak out.

The Minister of the Environment: Perhaps I should bring this debate to a conclusion now, because I am clearly not getting through. Members of the community will have the opportunity to input into the system at the pre-consultation stage. However, that input will not end at that stage. They can continue to engage in the process, and their public representatives, who they elect, will ultimately be the decision-makers. If that is not giving the community an opportunity, and if it is trampling over a community, I am not sure what particular angle the Member is coming at it from. However, I think that the case is clear, and I urge the House to oppose this particular amendment.

Question, That amendment No 19 be made, put and agreed to.

Clause 49, as amended, ordered to stand part of the Bill.

Clauses 50 to 57 ordered to stand part of the Bill.

Clause 58 (Appeals)

Mr Speaker: I remind Members that, as I have received a valid petition of concern on amendment No 20, the vote will be on a cross-community basis.

Amendment No 20 not moved.

Clause 58 ordered to stand part of the Bill.

New Clause

Amendment No 21 made: After clause 58, insert the following new clause:

> ***"Matters which may be raised in an appeal under section 58***
>
> *58A.—(1) In an appeal under section 58, a party to the proceedings is not to raise any matter which was not before the council or, as the case may be, the Department at the time the decision appealed against was made unless that party can demonstrate to the satisfaction of the planning appeals commission—*
>
> *(a) that the matter could not have been raised before that time, or*
>
> *(b) that its not being raised before that time was a consequence of exceptional circumstances.*
>
> *(2) Nothing in subsection (1) affects any requirement or entitlement to have regard to—*
>
> *(a) the provisions of the local development plan, or*
>
> *(b) any other material consideration." — [The Minister of the Environment (Mr Poots).]*

New clause ordered to stand part of the Bill.

Clauses 59 to 69 ordered to stand part of the Bill.

Clause 70 (Procedure for section 67 orders: unopposed cases)

Mr Speaker: We now come to the fourth group of amendments for debate. With amendment No 22, it will be convenient to debate the other 63 technical amendments in group 4. Those include amendments relating to Assembly controls on subordinate legislation. I call the Minister to move amendment No 22 and to address all the other amendments in the group.

The Minister of the Environment: I beg to move amendment No 22: In page 42, line 32, leave out paragraph (b).

The following amendments stood on the Marshalled List:

No 23: In clause 75, page 46, line 10, leave out from "council" to the end of line 11 and insert "appropriate council". — *[The Minister of the Environment (Mr Poots).]*

No 24: In clause 75, page 47, line 15, leave out paragraph (b) and insert

> *"(15) In this section, and in sections 76 and 77, 'relevant authority', in relation to a planning agreement proposed to be made in connection with an application for planning permission, means—*
>
> *(a) where the application has been made to a council, and the council has an estate in the land to which the proposed agreement relates, the Department;*
>
> *(b) where the application has been made to the Department, the Department;*
>
> *(c) in any other case, the council in whose district the land to which the application relates is situated." — [The Minister of the Environment (Mr Poots).]*

No 25: In clause 76, page 47, line 29, leave out from "council" to the end of line 30 and insert "appropriate council". — *[The Minister of the Environment (Mr Poots).]*

No 29: In clause 85, page 54, line 28, leave out "directions" and insert

"the regulations or by any direction". — [The Minister of the Environment (Mr Poots).]

No 30: In clause 85, page 54, line 41, after "councils" insert "or the Department". — *[The Minister of the Environment (Mr Poots).]*

No 35: In clause 104, page 65, line 38, leave out from "consent" to "made" in line 39 and insert "conservation area consent made". — *[The Minister of the Environment (Mr Poots).]*

No 36: In clause 104, page 65, line 40, after "any" insert "conservation area". — *[The Minister of the Environment (Mr Poots).]*

No 37: In clause 106, page 67, line 2, leave out "Act" and insert "Chapter". — *[The Minister of the Environment (Mr Poots).]*

No 38: In clause 113, page 72, line 28, leave out from ", 109" to "(4)" and insert "and 109". — *[The Minister of the Environment (Mr Poots).]*

No 39: In clause 115, page 74, line 20, at end insert

"(3A) Subsections (2) and (3) do not apply if the control of land changes from one emanation of the Crown to another." — [The Minister of the Environment (Mr Poots).]

No 50: In clause 144, page 92, line 38, leave out "Department" and insert "council". — *[The Minister of the Environment (Mr Poots).]*

No 51: In clause 145, page 93, line 42, leave out "carrying into effect this Part" and insert "taking steps under subsection (1)". — *[The Minister of the Environment (Mr Poots).]*

No 56: In clause 160, page 106, line 15, leave out "a listed building" and insert

"(a) a listed building, or

(b) a building in respect of which a direction has been given by the Department that this section shall apply". — [The Minister of the Environment (Mr Poots).]

No 57: In clause 160, page 107, line 3, after "council" insert

"or, as the case may be, the Department". — [The Minister of the Environment (Mr Poots).]

No 59: In clause 167, page 112, line 22, after "council" insert

"or, as the case may be, by the Department". — [The Minister of the Environment (Mr Poots).]

No 60: In clause 172, page 115, line 26, leave out from "within" to the end of line 27 and insert

"—

(i) in the case described in paragraph (a), within the period of 4 months from the date on which the application is refused or is refused in part or such other period as may be prescribed;

(ii) in the case described in paragraph (b), within the period of 4 months from the end of the period referred to in that paragraph or such other period as may be prescribed." — [The Minister of the Environment (Mr Poots).]

No 61: In clause 174, page 116, line 36, leave out from "that it" to the end of line 37 and insert

"either of the matters specified in subsection (4).

(4) The matters are that—

(a) the advertisement was displayed without the person's knowledge; or

(b) the person took all reasonable steps to prevent the display or, after the advertisement had been displayed, to secure its removal." — [The Minister of the Environment (Mr Poots).]

No 64: In clause 197, page 129, line 22, after "(1)" insert "or (2)". — *[The Minister of the Environment (Mr Poots).]*

No 65: In clause 197, page 129, line 25, after "(1)" insert "or (2)". — *[The Minister of the Environment (Mr Poots).]*

No 66: In clause 202, page 132, line 38, at end insert

", subject to any provision in rules made under subsection (5),". — [The Minister of the Environment (Mr Poots).]

No 67: In clause 202, page 133, line 10, after "shall" insert

", subject to any provision in rules made under subsection (5),". — [The Minister of the Environment (Mr Poots).]

No 68: In clause 202, page 133, line 32, at end insert

"(7A) Rules made under subsection (5) shall be subject to negative resolution." — [The Minister of the Environment (Mr Poots).]

No 69: In clause 202, page 133, line 37, after the first "the" insert "relevant". — *[The Minister of the Environment (Mr Poots).]*

No 70: In clause 202, page 133, line 37, leave out the second "the" and insert "that". — *[The Minister of the Environment (Mr Poots).]*

No 73: In clause 208, page 137, leave out line 1. — *[The Minister of the Environment (Mr Poots).]*

No 74: In clause 208, page 137, leave out lines 16 and 17. — *[The Minister of the Environment (Mr Poots).]*

No 75: In clause 215, page 140, line 2, after "it" insert "—(a)". — *[The Minister of the Environment (Mr Poots).]*

No 76: In clause 215, page 140, line 2, after "or" insert "(b)". — *[The Minister of the Environment (Mr Poots).]*

No 81: In clause 222, page 143, line 17, leave out "(except section 26)". — *[The Minister of the Environment (Mr Poots).]*

No 82: In clause 222, page 143, line 18, leave out

"(except sections 103 to 105 and 119)". — [The Minister of the Environment (Mr Poots).]

No 83: In clause 222, page 143, line 19, leave out "141,". — *[The Minister of the Environment (Mr Poots).]*

No 84: In clause 222, page 143, line 20, at end insert "(e) Part 7." — *[The Minister of the Environment (Mr Poots).]*

No 85: In clause 223, page 143, line 42, leave out from "under" to the end of line 3 on page 144 and insert

"under Part 3, 4, 5 or 7." — [The Minister of the Environment (Mr Poots).]

No 87: In clause 224, page 144, line 30, leave out "prescribe" and insert "specify". — *[The Minister of the Environment (Mr Poots).]*

No 88: In clause 224, page 144, line 31, leave out "prescribe" and insert "specify". — *[The Minister of the Environment (Mr Poots).]*

No 89: In clause 226, page 145, line 27, at end insert

"(4) Rules made under subsection (3) shall be subject to negative resolution." — [The Minister of the Environment (Mr Poots).]

No 90: In clause 229, page 147, line 14, leave out "Advocate General for Northern Ireland" and insert "Attorney General". — *[The Minister of the Environment (Mr Poots).]*

No 91: In clause 229, page 147, line 18, leave out "Advocate General for Northern Ireland" and insert "Attorney General". — *[The Minister of the Environment (Mr Poots).]*

No 92: In clause 229, page 147, line 21, after "provision" insert "—(a)". — *[The Minister of the Environment (Mr Poots).]*

No 93: In clause 229, page 147, line 23, at end insert

"(b) as to the functions of a person appointed under subsection (1) or (2)". — [The Minister of the Environment (Mr Poots).]

No 94: In clause 229, page 147, line 25, leave out subsections (5) and (6). — *[The Minister of the Environment (Mr Poots).]*

No 95: In clause 231, page 149, line 15, leave out ", adoption or approval" and insert "or adoption". — *[The Minister of the Environment (Mr Poots).]*

No 96: In clause 231, page 149, line 35, leave out ", adoption". — *[The Minister of the Environment (Mr Poots).]*

No 97: In clause 231, page 150, line 15, after "Environment" insert "or a council". — *[The Minister of the Environment (Mr Poots).]*

No 98: In clause 231, page 150, line 20, leave out from "section" to the end of line 21 and insert

"any of sections 180 to 186". — [The Minister of the Environment (Mr Poots).]

No 100: In clause 239, page 155, line 14, leave out "125(1) or". — *[The Minister of the Environment (Mr Poots).]*

No 101: In clause 240, page 155, line 21, at end insert

"(aa) planning agreements under section 75;". — [The Minister of the Environment (Mr Poots).]

No 103: In clause 243, page 158, leave out lines 43 and 44. — *[The Minister of the Environment (Mr Poots).]*

No 107: In schedule 2, page 164, line 33, leave out from "in" to the end of line 34 and insert

"within the period of 15 years ending on the date on which this Schedule comes into operation;". — [The Minister of the Environment (Mr Poots).]

No 108: In schedule 2, page 179, line 17, leave out "either sub-paragraph (2)" and insert "sub-paragraph (2), (3)". — *[The Minister of the Environment (Mr Poots).]*

No 109: In schedule 3, page 185, line 26, leave out "council" and insert "Department". — *[The Minister of the Environment (Mr Poots).]*

No 110: In schedule 4, page 189, line 18, leave out sub-paragraph (a) and insert

"(a) in subsection (1) for 'a development plan for the area in which the land is situated' substitute 'a local development plan';". — [The Minister of the Environment (Mr Poots).]

No 111: In schedule 4, page 189, line 26, leave out from "24" to the end of that line and insert

"27(5), for the words from 'with the substitution' to the end substitute 'with the substitution—'". — [The Minister of the Environment (Mr Poots).]

No 112: In schedule 6, page 195, line 14, at end insert

"39A. In Article 15(1) for 'Department of the Environment' substitute 'council within whose district the land is situated'.

39B. In Article 15(4), for 'Department', where that word occurs for the second and third times, substitute 'council'.

39C. In Article 15(4), (5), (7) and (8) and in Article 16, for 'Department of the Environment' substitute 'council'.

39D. In Article 17, for paragraph (2) substitute—

'(2) Regulations under paragraph (1) may include provisions—

(a) as to the manner in which notices of appeals are to be given and the time for giving any such notice; and

(b) requiring councils to furnish the Department of the Environment and such other persons (if any) as may be prescribed by the regulations, with such information as may be so prescribed with respect to applications under Article 15.'". — [The Minister of the Environment (Mr Poots).]

No 113: In schedule 6, page 196, line 35, after "125" insert ", 125A". — *[The Minister of the Environment (Mr Poots).]*

No 114: In schedule 6, page 198, line 20, at end insert

"59A. In Article 80(13), in the definition of 'development order', for 'the Planning Order' substitute 'the Planning Act (Northern Ireland) 2011'." — [The Minister of the Environment (Mr Poots).]

No 115: In schedule 6, page 203, line 21, at end insert

"The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011

101. In section 26—

(a) in subsection (3) for 'Article 84(2) of the Planning (Northern Ireland) Order 1991' substitute 'section 174(2) of the Planning Act (Northern Ireland) 2011';

(b) in subsection (10)—

(i) in the definition of 'advertisement' for 'Article 2(2) of the Planning (Northern Ireland) Order 1991' substitute 'section 243(1) of the Planning Act (Northern Ireland) 2011';

(ii) in the definition of 'relevant offence', for the words from 'Article 84(2)' to 'that Order' substitute 'section 174(2) of the Planning Act (Northern Ireland) 2011 (displaying advertisements in contravention of regulations made under section 129 of that Act'.

102. In section 31(1), for 'Article 67 of the Planning (Northern Ireland) Order 1991' substitute 'section 129 of the Planning Act (Northern Ireland) 2011'.

103. In section 38, omit subsections (1), (2) and (3)." — [The Minister of the Environment (Mr Poots).]

No 116: In schedule 7, page 203, line 26, in the column on the right, at end insert "In Schedule 6, paragraph 4(1)." — *[The Minister of the Environment (Mr Poots).]*

No 117: In schedule 7, page 203, line 35, leave out "113" and insert "115". — *[The Minister of the Environment (Mr Poots).]*

No 118: In schedule 7, page 204, line 6, after "Articles" insert "123". — *[The Minister of the Environment (Mr Poots).]*

No 119: In schedule 7, page 204, line 6, leave out ", 127(2)" and insert "to 129". — *[The Minister of the Environment (Mr Poots).]*

No 120: In schedule 7, page 204, line 8, leave out "and 3" and insert "1A, 1B, 3 and 4". — *[The Minister of the Environment (Mr Poots).]*

No 121: In schedule 7, page 205, line 6, at end insert

"The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011.	*In section 38, subsections (1), (2) and (3)."*

— [The Minister of the Environment (Mr Poots).]

The Minister of the Environment: The amendments in this group are technical. They include textual amendments to ensure a consistent approach throughout the Bill, typographical corrections, updating amendments and amendments prompted by comments from the Examiner of Statutory Rules. These amendments do not involve any change in policy and have been supported by the Committee. Therefore, I do not wish to prolong the debate by commenting on each amendment individually, but I will highlight key amendments.

Clause 174 allows a council to deal with the enforcement of advertisement control. Clause 174(3) re-enacts article 84 of the Planning (Northern Ireland) Order 1991 and contains defences where an advertisement is displayed in contravention of the advertisement regulations. Those defences have been amended by clause 37 of the Clean Neighbourhoods and Environment Bill as introduced. That clause provides that anyone displaying an advertisement in contravention of the regulations will not now be guilty of an offence if the advertisement was displayed without their knowledge, and they took all reasonable steps to prevent the display or to remove the advertisement after the display. It is anticipated that clause 37 of the Clean Neighbourhoods and Environment Bill will be brought into operation in advance of the Planning Bill. By the time that the Planning Bill is in operation, article 84 of the Planning Order will have been amended. Therefore, clause 174 needs to be amended to reflect amended article 84. Amendment No 61 provides that amendment.

Clause 202 sets out the procedure for the Planning Appeals Commission. The Examiner of Statutory Rules commented that the rules made by OFMDFM under clause 202(5) are subject to no Assembly procedure. Amendment No 68 applies the negative resolution Assembly control.

Clause 226 allows my Department to hold a public inquiry when carrying out any of its functions of the Bill. The provisions of the Interpretation Act (Northern Ireland) 1954 apply to such inquiries. My Department may make rules for the procedures to be followed during the inquiry process, and the rules are currently subject to no procedure. The Examiner of Statutory Rules commented that those rules should be subject to negative resolution. Amendment No 89 gives effect to that.

Under clause 227 and in relation to inquires to be held in public, subject to certain exceptions, the Department of Justice may direct, for example, for reasons of security, that certain evidence may be heard or be open to inspection only by certain persons. Clause 229 allows the appointment of a person to represent the interests of anyone prevented from hearing or inspecting such evidence. As currently drafted, the clause conveys that power on the Advocate General. My proposed amendment Nos 90, 91, 92, 93 and 94 update clause 229 to the effect that the Attorney General for Northern Ireland may appoint a person to represent the interests of any person prevented from hearing or inspecting evidence. The Department of Justice may make rules as to the person's functions.

Those are the amendments in group 4.

The Chairperson of the Committee for the Environment: Go raibh maith agat, a Cheann Comhairle. As the name suggests, the amendments in this group are largely technical. I will go through them very quickly.

At Committee Stage, the Committee was content with amendment No 22, having been given sight of the wording and an explanation by the Department. I support the amendment accordingly.

I cannot offer a Committee position on amendment Nos 23, 24 and 25, as the Committee agreed to the relevant clauses as drafted at Committee Stage. However, those amendments do not appear to contradict the wishes of the Committee or to alter any policy principles of the Bill.

The Committee supports amendment Nos 29, 30, 35 to 38, 50 and 51, 59 and 60, 73 and 74, 81 to 85, 87 and 88, 95 to 98, 100 and 101. They were provided to the Committee at Committee Stage to ensure a consistent approach throughout the Bill and, having been advised by the Department about their detail, members accepted the relevant clauses, subject to those amendments.

In relation to amendment No 39, during Committee Stage, members were content with clause 115, subject to a departmental amendment to allow the hazardous substances consent to remain in place if the control of land remains within the Crown. Therefore, I welcome the amendment on behalf of the Committee.

The Committee supports amendment Nos 56 and 57, which specify the range of buildings on which urgent works can be carried out. The Committee also supports amendment No 61, which reflects changes to the enforcement of advertisement control provided by the Clean Neighbourhoods and Environment Bill.

6.30 pm

I cannot offer a Committee position on amendment Nos 64 to 67 and 69 to 70, as the Committee agreed the relevant clauses as drafted during the Committee Stage. However, those amendments do not appear to contradict the wishes of the Committee or alter any policy principles in the Bill.

Amendment No 68 amends clause 202 to require that any rules made under that clause for regulating procedures of the PAC should be subject to negative resolution. Such orders are not currently subject to any Assembly procedure and, on the advice of the Examiner of Statutory Rules, the Committee has recommended the amendment, and I urge the House to support it. Similarly, amendment No 89 makes rules for regulating procedures of the Department in relation to local inquiries subject to negative resolution. Again, those rules are currently not subject to procedure, and the Committee urges the House to address that by supporting the amendment.

Amendment Nos 75 and 76 tidy up clause 215, as requested by the Committee, and I welcome that.

With regard to amendment Nos 90 to 94, the Examiner of Statutory Rules drew the Committee's attention to the fact that the Bill allocates the function of appointing special advocates for the purposes of clause 229 to the Advocate General. He pointed out that, as a consequence of that, rules under the clause would be made by the Lord Chancellor and laid before Parliament at Westminster in accordance with the negative procedure there. The Examiner of Statutory Rules suggested to the Committee that that is out of place in clause 229, which, in contrast to clause 228, is the fully devolved provision on the public interest relating to the security of premises or property other than that in clause 228. He, therefore, suggested that clause 229 should, more appropriately, confer functions on the Department of Justice and the Attorney General for the North and that all the rules made under clause 229 should be subject to draft negative resolution. Following consultation with the Department of Justice, the Department agreed to make those changes, and I welcome the appropriate amendments.

I cannot offer a Committee position on amendment Nos 103 and 108 to 121, as the Committee agreed to the relevant clauses and schedules as drafted during the Committee Stage. However, once again, I suggest that they do not appear to contradict the Committee's position or alter any policy principles in the Bill.

On amendment No 107, the Committee was advised of the proposed amendment to schedule 2 and accepted the schedule as amended.

That concludes the Committee's position on the amendments in group 4. I thank the Committee staff and the departmental officials for bringing the Bill to this stage. Go raibh mîle maith agat, a Cheann Comhairle.

Mr Kinahan: Members will be pleased to know that I will be very quick. I support all of the amendments in group 4. However, on amendment No 56, I want to raise a slight concern. It seems to throw councils the ability to repair a listed building that is in danger, which may allow someone to let his or her building fall apart, knowing that the council will look after it. That is my only concern. We support the amendments.

Mr Savage: Group 4 consists of technical amendments that I am happy to support.

The Minister of the Environment: I thank Members for getting to this point and for their comments thus far. I welcome the fact that the Bill has reached its Consideration Stage and will move to its Further Consideration Stage on the back of today. The work that has been done thus far has been very useful. At the end of the process, we will have a Bill that is very significant in moving Northern Ireland forward through the planning legislation that it puts in place. Ultimately, as a consequence of the work that has been carried out by the Department, the Committee and the House, the Bill will make a real and considerable difference to planning in the future. I ask Members to support the amendments.

Question, That amendment No 22 be made, put and agreed to.

Clause 70, as amended, ordered to stand part of the Bill.

Clauses 71 to 74 ordered to stand part of the Bill.

Clause 75 (Planning agreements)

Amendment No 23 made: In page 46, line 10, leave out from "council" to the end of line 11 and insert "appropriate council". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 24 made: In page 47, line 15, leave out paragraph (b) and insert

"(15) In this section, and in sections 76 and 77, 'relevant authority', in relation to a planning agreement proposed to be made in connection with an application for planning permission, means—

(a) where the application has been made to a council, and the council has an estate in the land to which the proposed agreement relates, the Department;

(b) where the application has been made to the Department, the Department;

(c) in any other case, the council in whose district the land to which the application relates is situated." — [The Minister of the Environment (Mr Poots).]

Clause 75, as amended, ordered to stand part of the Bill.

Clause 76 (Modification and discharge of planning agreements)

Amendment No 25 made: In page 47, line 29, leave out from "council" to the end of line 30 and insert "appropriate council". — *[The Minister of the Environment (Mr Poots).]*

Clause 76, as amended, ordered to stand part of the Bill.

Clause 77 ordered to stand part of the Bill.

Clause 78 (Land belonging to councils and development by councils)

Amendment No 26 made: In page 49, line 16, at end insert "(c) Part 5." — *[The Minister of the Environment (Mr Poots).]*

Amendment No 27 made: In page 49, line 40, leave out from "(except" to "107)" in line 41. — *[The Minister of the Environment (Mr Poots).]*

Clause 78, as amended, ordered to stand part of the Bill.

Clauses 79 to 83 ordered to stand part of the Bill.

Clause 84 (Control of works for demolition, alteration or extension of listed buildings)

Amendment No 28 made: In page 53, line 37, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

Clause 84, as amended, ordered to stand part of the Bill.

Clause 85 (Applications for listed building consent)

Amendment No 29 made: In page 54, line 28, leave out "directions" and insert

"the regulations or by any direction". — [The Minister of the Environment (Mr Poots).]

Amendment No 30 made: In page 54, line 41, after "councils" insert "or the Department". — *[The Minister of the Environment (Mr Poots).]*

Clause 85, as amended, ordered to stand part of the Bill.

Clauses 86 to 101 ordered to stand part of the Bill.

Clause 102 (Acts causing or likely to result in damage to listed buildings)

Amendment No 31 made: In page 64, line 3, leave out "3" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 32 made: In page 64, line 3, after "scale" insert

"or on conviction on indictment, to a fine". — [The Chairperson of the Committee for the Environment (Mr Boylan).]

Amendment No 33 made: In page 64, line 11, leave out "3" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

Clause 102, as amended, ordered to stand part of the Bill.

Clause 103 (Conservation areas)

Amendment No 34 not moved.

Clause 103 ordered to stand part of the Bill.

Clause 104 (Control of demolition in conservation areas)

Amendment No 35 made: In page 65, line 38, leave out from "consent" to "made" in line 39 and insert "conservation area consent made". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 36 made: In page 65, line 40, after "any" insert "conservation area". — *[The Minister of the Environment (Mr Poots).]*

Clause 104, as amended, ordered to stand part of the Bill.

Clause 105 ordered to stand part of the Bill.

Clause 106 (Application of Chapter 1, etc., to land and works of councils)

Amendment No 37 made: In page 67, line 2, leave out "Act" and insert "Chapter". — *[The Minister of the Environment (Mr Poots).]*

Clause 106, as amended, ordered to stand part of the Bill.

Clauses 107 to 112 ordered to stand part of the Bill.

Clause 113 (Call in of certain applications for hazardous substances consent to Department)

Amendment No 38 made: In page 72, line 28, leave out from ", 109" to "(4)" and insert "and 109". — *[The Minister of the Environment (Mr Poots).]*

Clause 113, as amended, ordered to stand part of the Bill.

Clause 114 ordered to stand part of the Bill.

Clause 115 (Effect of hazardous substances consent and change of control of land)

Amendment No 39 made: In page 74, line 20, at end insert

> *"(3A) Subsections (2) and (3) do not apply if the control of land changes from one emanation of the Crown to another." — [The Minister of the Environment (Mr Poots).]*

Clause 115, as amended, ordered to stand part of the Bill.

Clause 116 (Offences)

Amendment No 40 made: In page 75, line 31, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

Clause 116, as amended, ordered to stand part of the Bill.

Clauses 117 to 120 ordered to stand part of the Bill.

Clause 121 (Tree preservation orders: councils)

Amendment No 41 not moved.

Clause 121 ordered to stand part of the Bill.

Clauses 122 to 124 ordered to stand part of the Bill.

Clause 125 (Penalties for contravention of tree preservation orders)

Amendment No 42 made: In page 80, line 26, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

Clause 125, as amended, ordered to stand part of the Bill.

Clauses 126 to 130 ordered to stand part of the Bill.

Clause 131 (Time limits)

Amendment No 43 made: In page 83, line 23, leave out "4" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 44 made: In page 83, line 27, leave out "4" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 45 made: In page 83, line 30, leave out "10" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 46 made: In page 83, line 37, leave out "4" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

Clause 131, as amended, ordered to stand part of the Bill.

Clause 132 ordered to stand part of the Bill.

Clause 133 (Penalties for non-compliance with planning contravention notice)

Amendment No 47 made: In page 85, line 21, leave out "3" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

Clause 133, as amended, ordered to stand part of the Bill.

Clause 134 ordered to stand part of the Bill.

Clause 135 (Temporary stop notice: restrictions)

Amendment No 48 made: In page 86, line 28, leave out "4" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

Clause 135, as amended, ordered to stand part of the Bill.

Clause 136 (Temporary stop notice: offences)

Amendment No 49 made: In page 87, line 18, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

Clause 136, as amended, ordered to stand part of the Bill.

Clauses 137 to 143 ordered to stand part of the Bill.

Clause 144 (Appeal against enforcement notice - supplementary provisions relating to planning permission)

Amendment No 50 made: In page 92, line 38, leave out "Department" and insert "council". — *[The Minister of the Environment (Mr Poots).]*

Clause 144, as amended, ordered to stand part of the Bill.

Clause 145 (Execution and cost of works required by enforcement notice)

Amendment No 51 made: In page 93, line 42, leave out "carrying into effect this Part" and insert "taking steps under subsection (1)". — *[The Minister of the Environment (Mr Poots).]*

Clause 145, as amended, ordered to stand part of the Bill.

Clause 146 (Offence where enforcement notice not complied with)

Amendment No 52 made: In page 95, line 15, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

Clause 146, as amended, ordered to stand part of the Bill.

Clause 147 ordered to stand part of the Bill.

Clause 148 (Enforcement notice to have effect against subsequent development)

Amendment No 53 made: In page 96, line 27, leave out from "level" to "scale" and insert "£7,500". *[The Minister of the Environment (Mr Poots).]*

Clause 148, as amended, ordered to stand part of the Bill.

Clause 149 (Service of stop notices by councils)

Amendment No 54 made: In page 97, line 13, leave out "4" and insert "5". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 55 made: In page 98, line 6, leave out "£30,000" and insert "£100,000". — *[The Chairperson of the Committee for the Environment (Mr Boylan).]*

Clause 149, as amended, ordered to stand part of the Bill.

Clauses 150 to 159 ordered to stand part of the Bill.

Clause 160 (Urgent works to preserve building)

Amendment No 56 made: In page 106, line 15, leave out "a listed building" and insert

"(a) a listed building, or

(b) a building in respect of which a direction has been given by the Department that this section shall apply". — [The Minister of the Environment (Mr Poots).]

Amendment No 57 made: In page 107, line 3, after "council" insert

"or, as the case may be, the Department". — [The Minister of the Environment (Mr Poots).]

Clause 160, as amended, ordered to stand part of the Bill.

Clauses 161 and 162 ordered to stand part of the Bill.

Clause 163 (Enforcement of duties as to replacement of trees)

Amendment No 58 made: In page 109, line 1, leave out "4" and "insert "5". — *[The Minister of the Environment (Mr Poots).]*

Clause 163, as amended, ordered to stand part of the Bill.

Clauses 164 to 166 ordered to stand part of the Bill.

Clause 167 (Enforcement of orders under section 72)

Amendment No 59 made: In page 112, line 22, after "council" insert

"or, as the case may be, by the Department". — [The Minister of the Environment (Mr Poots).]

Clause 167, as amended, ordered to stand part of the Bill.

Clauses 168 to 171 ordered to stand part of the Bill.

Clause 172 (Appeals against refusal or failure to give decision on application)

Amendment No 60 made: In page 115, line 26, leave out from "within" to the end of line 27 and insert

"—

(i) in the case described in paragraph (a), within the period of 4 months from the date on which the application is refused or is refused in part or such other period as may be prescribed;

(ii) in the case described in paragraph (b), within the period of 4 months from the end of the period referred to in that paragraph or such other period as may be prescribed." — [The Minister of the Environment (Mr Poots).]

Clause 172, as amended, ordered to stand part of the Bill.

Clause 173 ordered to stand part of the Bill.

Clause 174 (Enforcement of advertisement control)

Amendment No 61 made: In page 116, line 36, leave out from "that it" to the end of line 37 and insert

"either of the matters specified in subsection (4).

(4) The matters are that—

(a) the advertisement was displayed without the person's knowledge; or

(b) the person took all reasonable steps to prevent the display or, after the advertisement had been displayed, to secure its removal." — [The Minister of the Environment (Mr Poots).]

Clause 174, as amended, ordered to stand part of the Bill.

Clauses 175 to 187 ordered to stand part of the Bill.

New Clause

Amendment No 62 made: After clause 187, insert the following new clause:

*"**Compensation: decision taken by council or the Department where consultee fails to respond under section 224***

187A. Where a consultee fails to respond to a council or departmental consultation in accordance with section 224(3) and that council or, as the case may be, the Department—

(a) takes a decision under this Act to grant planning permission in the absence of such a response; and

(b) subsequently receives information which the council could reasonably expect to have been included in that response; and

(c) decides to revoke or modify planning permission under section 67, or make an order under section 72, due to the information referred to in paragraph (b); and

(d) compensation is payable by a council under section 26 of the Act of 1965 in connection with the decision under paragraph (c);

the sponsoring department (if any) shall pay to the council the amount of compensation payable." — [The Chairperson of the Committee for the Environment (Mr Boylan).]

New clause ordered to stand part of the Bill.

Clauses 188 to 193 ordered to stand part of the Bill.

Clause 194 (Effect of valid purchase notice)

Amendment No 63 made: In page 127, line 30, at end insert

"or

(c) the period referred to in section 191(2) has expired." — [The Minister of the Environment (Mr Poots).]

Clause 194, as amended, ordered to stand part of the Bill.

Clauses 195 and 196 ordered to stand part of the Bill.

Clause 197 (Grants and loans for preservation or acquisition of listed buildings)

Amendment No 64 made: In page 129, line 22, after "(1)" insert "or (2)". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 65 made: In page 129, line 25, after "(1)" insert "or (2)". — *[The Minister of the Environment (Mr Poots).]*

Clause 197, as amended, ordered to stand part of the Bill.

Clauses 198 to 201 ordered to stand part of the Bill.

Clause 202 (Procedure of appeals commission)

Amendment No 66 made: In page 132, line 38, at end insert

", subject to any provision in rules made under subsection (5),". — [The Minister of the Environment (Mr Poots).]

Amendment No 67 made: In page 133, line 10, after "shall" insert

", subject to any provision in rules made under subsection (5),". — [The Minister of the Environment (Mr Poots).]

Amendment No 68 made: In page 133, line 32, at end insert

"(7A) Rules made under subsection (5) shall be subject to negative resolution." — [The Minister of the Environment (Mr Poots).]

Amendment No 69 made: In page 133, line 37, after the first "the" insert "relevant". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 70 made: In page 133, line 37, leave out the second "the" and insert "that". — *[The Minister of the Environment (Mr Poots).]*

Clause 202, as amended, ordered to stand part of the Bill.

New Clause

Amendment No 71 made: After clause 202, insert the following new clause:

*"**Power to award costs***

202A.—(1) The appeals commission may make an order as to the costs of the parties to an appeal under any of the provisions of this Act mentioned in subsection (2) and as to the parties by whom the costs are to be paid.

(2) The provisions are—

(a) sections 58, 59, 95, 96, 114, 142, 158, 164 and 172;

(b) sections 95 and 96 (as applied by section 104(6));

(c) in Schedule 2, paragraph 6(11) and (12) and paragraph 11(1);

(d) in Schedule 3, paragraph 9.

(3) An order made under this section shall have effect as if it had been made by the High Court.

(4) Without prejudice to the generality of subsection (3), the Master (Taxing Office) shall have the same powers and duties in relation to an order made under this section as the Master has in relation to an order made by the High Court.

(5) Proceedings before the appeals commission shall, for the purposes of the Litigants in Person (Costs and Expenses) Act 1975 (c. 47), be regarded as proceedings to which section 1(1) of that Act applies." — [The Minister of the Environment (Mr Poots).]

New clause ordered to stand part of the Bill.

New Clause

Amendment No 72 made: After clause 202, insert the following new clause:

*"**Orders as to costs: supplementary***

202B.—(1) This section applies where—

(a) for the purpose of any proceedings under this Act—

(i) the appeals commission is required, before a decision is reached, to give any person an opportunity, or ask any person whether that person wishes, to appear before and be heard by it; and

(ii) arrangements are made for a hearing to be held;

(b) the hearing does not take place; and

(c) if it had taken place, the appeals commission would have had power to make an order under section 202A requiring any party to pay any costs of any other party.

(2) Where this section applies the power to make such an order may be exercised, in relation to costs incurred for the purposes of the hearing, as if the hearing had taken place." — [The Minister of the Environment (Mr Poots).]

New clause ordered to stand part of the Bill.

Clauses 203 to 207 ordered to stand part of the Bill.

Clause 208 (Interpretation of Part 11)

Amendment No 73 made: In page 137, leave out line 1. — *[The Minister of the Environment (Mr Poots).]*

Amendment No 74 made: In page 137, leave out lines 16 and 17. — *[The Minister of the Environment (Mr Poots).]*

Clause 208, as amended, ordered to stand part of the Bill.

Clauses 209 to 214 ordered to stand part of the Bill.

Clause 215 (Correction of errors in decision documents)

Amendment No 75 made: In page 140, line 2, after "it" insert "—(a)". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 76 made: In page 140, line 2, after "or" insert "(b)". — *[The Minister of the Environment (Mr Poots).]*

Clause 215, as amended, ordered to stand part of the Bill.

Clauses 216 to 218 ordered to stand part of the Bill.

Clause 219 (Fees and charges)

Amendment No 77 made: In page 142, line 17, at end insert

> *"(7A) Without prejudice to the generality of subsection (7), regulations made under that subsection may provide for the payment of a charge or fee in respect of an application mentioned in paragraph (a) of that subsection to be a multiple of the charge or fee to be paid under regulations made under subsection (1) in relation to the determination by a council or the Department of an application for planning permission for development not begun before the application was made." — [The Minister of the Environment (Mr Poots).]*

Clause 219, as amended, ordered to stand part of the Bill.

Clause 220 ordered to stand part of the Bill.

Clause 221 (Grants to bodies providing assistance in relation to certain development proposals)

Amendment No 78 made: In page 142, line 41, after "understanding" insert "of planning policy proposals and". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 79 made: In page 142, line 41, at end insert "other". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 80 made: In page 143, line 8, leave out from ", with" to "Personnel," in line 9. — *[The Minister of the Environment (Mr Poots).]*

Clause 221, as amended, ordered to stand part of the Bill.

Clause 222 (Contributions by councils and statutory undertakers)

Amendment No 81 made: In page 143, line 17, leave out "(except section 26)". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 82 made: In page 143, line 18, leave out

> *"(except sections 103 to 105 and 119)". — [The Minister of the Environment (Mr Poots).]*

Amendment No 83 made: In page 143, line 19, leave out "141,". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 84 made: In page 143, line 20, at end insert "(e) Part 7." — *[The Minister of the Environment (Mr Poots).]*

Clause 222, as amended, ordered to stand part of the Bill.

Clause 223 (Contributions by departments towards compensation paid by councils)

Amendment No 85 made: In page 143, line 42, leave out from "under" to the end of line 3 on page 144 and insert

> *"under Part 3, 4, 5 or 7." — [The Minister of the Environment (Mr Poots).]*

Clause 223, as amended, ordered to stand part of the Bill.

New Clause

Amendment No 86 made: Before clause 224, insert the following new clause:

*"**Review of Planning Act***

223A.—(1) The Department must—

(a) not later than 3 years after the commencement of this Act, and

(b) at least once in every period of 5 years thereafter,

review and publish a report on the implementation of this Act.

(2) Regulations under this section shall set out the terms of the review." — [Mr Boylan.]

New clause ordered to stand part of the Bill.

Clause 224 (Duty to respond to consultation)

Amendment No 87 made: In page 144, line 30, leave out "prescribe" and insert "specify". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 88 made: In page 144, line 31, leave out "prescribe" and insert "specify". — *[The Minister of the Environment (Mr Poots).]*

Clause 224, as amended, ordered to stand part of the Bill.

Clause 225 ordered to stand part of the Bill.

Clause 226 (Local inquiries)

Amendment No 89 made: In page 145, line 27, at end insert

"(4) Rules made under subsection (3) shall be subject to negative resolution." — [The Minister of the Environment (Mr Poots).]

Clause 226, as amended, ordered to stand part of the Bill.

Clauses 227 and 228 ordered to stand part of the Bill.

Clause 229 (Directions: Department of Justice)

Amendment No 90 made: In page 147, line 14, leave out "Advocate General for Northern Ireland" and insert "Attorney General". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 91 made: In page 147, line 18, leave out "Advocate General for Northern Ireland" and insert "Attorney General". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 92 made: In page 147, line 21, after "provision" insert "—(a)". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 93 made: In page 147, line 23, at end insert

"(b) as to the functions of a person appointed under subsection (1) or (2)". — [The Minister of the Environment (Mr Poots).]

Amendment No 94 made: In page 147, line 25, leave out subsections (5) and (6). — *[The Minister of the Environment (Mr Poots).]*

Clause 229, as amended, ordered to stand part of the Bill.

Clause 230 ordered to stand part of the Bill.

Clause 231 (Rights of entry)

Amendment No 95 made: In page 149, line 15, leave out ", adoption or approval" and insert "or adoption". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 96 made: In page 149, line 35, leave out ", adoption". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 97 made: In page 150, line 15, after "Environment" insert "or a council". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 98 made: In page 150, line 20, leave out from "section" to the end of line 21 and insert

"any of sections 180 to 186". — [The Minister of the Environment (Mr Poots).]

Clause 231, as amended, ordered to stand part of the Bill.

Clauses 232 to 236 ordered to stand part of the Bill.

Clause 237 (Planning register)

Amendment No 99 made: In page 154, line 32, at end insert "( ) tree preservation orders;". — *[Dr Farry.]*

Clause 237, as amended, ordered to stand part of the Bill.

Clause 238 ordered to stand part of the Bill.

Clause 239 (Time limit for certain summary offences under this Act)

Amendment No 100 made: In page 155, line 14, leave out "125(1) or". — *[The Minister of the Environment (Mr Poots).]*

Clause 239, as amended, ordered to stand part of the Bill.

Clause 240 (Registration of matters in Statutory Charges Register)

Amendment No 101 made: In page 155, line 21, at end insert

"(aa) planning agreements under section 75;". — [The Minister of the Environment (Mr Poots).]

Clause 240, as amended, ordered to stand part of the Bill.

Clause 241 ordered to stand part of the Bill.

Clause 242 (Regulations and orders)

Mr Speaker: I will not call amendment No 102 as it is consequential to amendment No 20, which was not moved.

Clause 242 ordered to stand part of the Bill.

Clause 243 (Interpretation)

Mr Speaker: We are almost writing the script as we go along. Amendment No 133 has been debated and I call the Minister to move formally amendment No 133. Sorry, amendment No 103; I was just making sure that you were all still awake. *[Laughter.]*

Amendment No 103 made: In page 158, leave out lines 43 and 44. — *[The Minister of the Environment (Mr Poots).]*

Clause 243, as amended, ordered to stand part of the Bill.

Clauses 244 to 246 ordered to stand part of the Bill.

Clause 247 (Commencement)

Mr Speaker: Amendment No 104 has already been debated and is mutually exclusive with amendment No 105.

Amendment No 104 made: In page 160, line 16, at end insert

"( ) No order shall be made under subsection (1) in respect of Part 3 unless a draft of the order has been laid before, and approved by a resolution of, the Assembly." — [The Chairperson of the Committee for the Environment (Mr Boylan).]

Mr Speaker: I will not call amendment No 105 as it is mutually exclusive with amendment No 104, which was made.

Amendment No 106 made: In page 160, line 16, at end insert

"( ) Sections 84 and 125 come into operation on Royal Assent." — [Mr Kinahan.]

Clause 247, as amended, ordered to stand part of the Bill.

Clause 248 ordered to stand part of the Bill.

Schedule 1 agreed to.

Schedule 2 (Review of old mineral planning permission)

Amendment No 107 made: In page 164, line 33, leave out from "in" to the end of line 34 and insert

"within the period of 15 years ending on the date on which this Schedule comes into operation;". — [The Minister of the Environment (Mr Poots).]

Amendment No 108 made: In page 179, line 17, leave out "either sub-paragraph (2)" and insert "sub-paragraph (2), (3)". — *[The Minister of the Environment (Mr Poots).]*

Schedule 2, as amended, agreed to.

Schedule 3 (Periodic review of mineral planning permissions)

Amendment No 109 made: In page 185, line 26, leave out "council" and insert "Department". — *[The Minister of the Environment (Mr Poots).]*

Schedule 3, as amended, agreed to.

Schedule 4 (Amendments to the Land Development Values (Compensation) Act (Northern Ireland) 1965 (c. 23))

Amendment No 110 made: In page 189, line 18, leave out sub-paragraph (a) and insert

"(a) in subsection (1) for 'a development plan for the area in which the land is situated' substitute 'a local development plan';". — [The Minister of the Environment (Mr Poots).]

Amendment No 111 made: In page 189, line 26, leave out from "24" to the end of that line and insert

"27(5), for the words from 'with the substitution' to the end substitute 'with the substitution—". — [The Minister of the Environment (Mr Poots).]

Schedule 4, as amended, agreed to.

Schedule 5 agreed to.

Schedule 6 (Minor and consequential amendments)

Amendment No 112 made: In page 195, line 14, at end insert

"39A. In Article 15(1) for 'Department of the Environment' substitute 'council within whose district the land is situated'.

39B. In Article 15(4), for 'Department', where that word occurs for the second and third times, substitute 'council'.

39C. In Article 15(4), (5), (7) and (8) and in Article 16, for 'Department of the Environment' substitute 'council'.

39D. In Article 17, for paragraph (2) substitute—

'(2) Regulations under paragraph (1) may include provisions—

(a) as to the manner in which notices of appeals are to be given and the time for giving any such notice; and

(b) requiring councils to furnish the Department of the Environment and such other persons (if any) as may be prescribed by the regulations, with such information as may be so prescribed with respect to applications under Article 15.' ". — [The Minister of the Environment (Mr Poots).]

Amendment No 113 made: In page 196, line 35, after "125" insert ", 125A". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 114 made: In page 198, line 20, at end insert

"59A. In Article 80(13), in the definition of 'development order', for 'the Planning Order' substitute 'the Planning Act (Northern Ireland) 2011'." — [The Minister of the Environment (Mr Poots).]

Amendment No 115 made: In page 203, line 21, at end insert

"The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011

101. In section 26—

(a) in subsection (3) for 'Article 84(2) of the Planning (Northern Ireland) Order 1991' substitute 'section 174(2) of the Planning Act (Northern Ireland) 2011';

(b) in subsection (10)—

(i) in the definition of 'advertisement' for 'Article 2(2) of the Planning (Northern Ireland) Order 1991' substitute 'section 243(1) of the Planning Act (Northern Ireland) 2011';

(ii) in the definition of 'relevant offence', for the words from 'Article 84(2)' to 'that Order' substitute 'section 174(2) of the Planning Act (Northern Ireland) 2011 (displaying advertisements in contravention of regulations made under section 129 of that Act'.

102. In section 31(1), for 'Article 67 of the Planning (Northern Ireland) Order 1991' substitute 'section 129 of the Planning Act (Northern Ireland) 2011'.

103. In section 38, omit subsections (1), (2) and (3)." — [The Minister of the Environment (Mr Poots).]

Schedule 6, as amended, agreed to.

Schedule 7 (Repeals)

Amendment No 116 made: In page 203, line 26, in the column on the right, at end insert "In Schedule 6, paragraph 4(1)." — *[The Minister of the Environment (Mr Poots).]*

Amendment No 117 made: In page 203, line 35, leave out "113" and insert "115". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 118 made: In page 204, line 6, after "Articles" insert "123". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 119 made: In page 204, line 6, leave out ", 127(2)" and insert "to 129". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 120 made: In page 204, line 8, leave out "and 3" and insert "1A, 1B, 3 and 4". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 121 made: In page 205, line 6, at end insert

"The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011.	*In section 38, subsections (1), (2) and (3)."*

— [The Minister of the Environment (Mr Poots).]

Schedule 7, as amended, agreed to.

Long title agreed to.

Mr Speaker: I have never been as glad to see a long title in my life. *[Laughter.]* That concludes the Consideration Stage of the Planning Bill. The Bill stands referred to the Speaker. I ask the

House to take its ease until we move into the next item of business.

(Mr Deputy Speaker [Mr Molloy] in the Chair)

Private Members' Business

Single Use Plastic Bags Bill: Consideration Stage

Mr Deputy Speaker: I call the sponsor, Mr Daithí McKay, to move the Consideration Stage of the Single Use Plastic Bags Bill.

Moved. — [Mr McKay.]

Mr Deputy Speaker: Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in the provisional grouping of amendments selected list.

We will have one group debate. It will be on amendment No 1, which deals with the payment of charges to the Department of the Environment, plus Mr McKay's opposition to clauses 1 to 11 stand part and schedules 1 and 2 be agreed. The debate will also be on the amendments to the short title and the long title.

Once the debate is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. The Questions on stand part will be taken at the appropriate points in the Bill. If that is clear, we shall proceed.

New Clause

Mr McKay: I beg to move amendment No 1: Before clause 1, insert the following new clause:

> *"**Payment of charges for single use carrier bags to the Department of the Environment***
>
> *A1.—(1) In Part 1 of Schedule 6 to the Climate Change Act 2008 (powers to make regulations about charges for single use carrier bags), after paragraph 4 (amount of charge) there shall be inserted the following paragraph—*
>
> *'4A.—(1) This paragraph applies to regulations made by the Department in relation to Northern Ireland.*
>
> *(2) The regulations may require the seller to pay to the Department—*
>
> *(a) the gross proceeds of the charge, or*
>
> *(b) the net proceeds of the charge.*

(3) Paragraph 7(3)(c) does not apply to any amount required by regulations made under this paragraph to be paid to the Department.

(4) In this paragraph—

"the Department" means the Department of the Environment in Northern Ireland;

"gross proceeds of the charge" means the amount received by the seller by way of charges for single use carrier bags;

"net proceeds of the charge" means the seller's gross proceeds of the charge reduced by such amounts as may be specified.'.

(2) In section 77(4) of that Act (regulations subject to affirmative resolution procedure), after paragraph (a) there shall be inserted the following paragraph—

'(aa) they are to be made by the Department of the Environment in Northern Ireland under paragraph 4A of the Schedule;'."

The following amendments stood on the Marshalled List:

No 2: In clause 12, page 5, line 31, leave out "Plastic" and insert "Carrier". — *[Mr McKay.]*

No 3: In the long title, leave out from "Impose" to "receipts" and insert

"Make provision for the payment of charges under Schedule 6 to the Climate Change Act 2008 for single use carrier bags to the Department of the Environment". — [Mr McKay.]

Mr McKay: The Second Stage debate on the Bill attracted significant discussion, and I am grateful to Members for their contributions at that stage. At that time, there were a number of recurring themes during the debate, including the need for consultation on the proposals to allow all those who may be affected by the levy, including retailers, to put forward their views. That is interesting because, since that debate, there has been some media coverage, and I note that one BBC report surveyed some retailers in Newcastle about the levy, and they all supported it because it will save them money on plastic bags.

Another recurring theme was the concern that the district councils would be made responsible for the monitoring and enforcement of the new arrangements. The amendments that I have tabled for consideration today will address all those issues and, collectively, will remove the detailed provision from the Bill on the basis that the legislative framework will be established by regulations made under the Climate Change Act 2008.

That approach will achieve a number of objectives. First, it will allow the Department to conduct further detailed research with a view to developing the most efficient and effective means of implementing the new arrangements. Secondly, it will enable the Department to provide for full public consultation on the detail policy proposals. The legislative framework for those proposals will then be established through subordinate legislation, which will be made under draft affirmative procedure.

That will provide for scrutiny by the Committee for the Environment and for further debate in the Assembly.

7.30 pm

Finally, the amendments remove from the Bill a specific role for councils. That issue was raised by Brian Wilson and other Members during the Committee debate on implementing the new arrangements. That will enable the Department to consider alternative options, again with a view to adopting the most effective and efficient approach. That gives the Department more flexibility in dealing with the matter.

As I said during last week's debate, the primary purpose of the Bill was and remains to generate a significant reduction in the number of plastic bags that go to landfill and litter our streets and countryside. I also indicated that the proceeds of the bag levy will help to fund environmental projects. Those objectives can be achieved through the revised legislation. The Department will need to conduct further research to determine the most appropriate means of implementation. Therefore, I have decided to amend my Bill to confer broad enabling legislation. That will allow the Department to use the extensive regulation-making powers that are available already under the Climate Change Act 2008.

In concluding, I will summarise those powers. The Climate Change Act 2008 already allows the Department to require retailers to charge for single-use carrier bags that they supply to their customers, to specify the minimum amount that must be charged, to appoint an administrator to oversee the arrangements that are set out and to provide for penalties in the event of a breach of regulations. The Act, as it stands, does not

provide for retailers to pay the proceeds of the charge to the Department. However, the new clause that I have proposed today will amend the Act to allow that to happen.

Mr Ross: When the sponsor of the Bill came to the Committee a few weeks ago and said that his Bill would be changed significantly between Second Stage and Consideration Stage, I thought that we might lose two or three clauses. However, looking at the Marshalled List of amendments, I see that he was not telling a mistruth when he said that the Bill would be changed significantly. I suppose that, in legislative terms, it is the equivalent of Trigger's brush in 'Only Fools and Horses'. Trigger declared that he had had the same brush for 20 years but that brush had had 14 different heads and 20 different handles. There are significant changes to the Bill, and I am happy enough to support many of them.

It is fair to say that there was significant media attention when the Bill was debated at Second Stage. At that time, concerns were raised by small retailers and even by Friends of the Earth. It is also fair to say that I have had questions over the legislation, and anyone who read what I said during Committee Stage will recognise that I had concerns that I hoped the sponsor or the Department would be able to address. It is fair to say that, at Committee Stage, there were unanswered questions, and perhaps the amendments are trying to address some of those.

I have always had questions over the argument that was used about whether the Bill would benefit the environment. A concern was that one plastic bag would be swapped for another, including pedal-bin bags and nappy bags, which, of course, could be worse for the environment.

In fairness to the sponsor, his amendments have addressed the other issue that was raised, which was that, to avoid the tax, retailers would simply swap plastic bags for paper bags. That way, they would get around paying the tax, and, in fact, the processing of paper bags could mean that they would have a worse impact on the environment than plastic bags. By changing the wording in the Bill, the sponsor has, at least, addressed that issue.

My belief was always that the policy was to produce a tax and that it was not about saving or improving the environment. That was confirmed when it was part of the overall Budget agreement, and it should be viewed in that context. The DOE budget for the next four years is dependent on the legislation being passed, and Members should bear that in mind.

Another concern, which we will be able to address, was that adequate consultation on the Bill had not taken place. Local and independent retailers have contacted me and said that they were concerned that there had not been enough consultation.

The Bill is becoming nothing more than enabling legislation or paving legislation. If a levy is introduced at some stage in the future, the detail will be contained in the regulations. I pressed officials on this matter in Committee, and they gave me a guarantee that all the regulations that will be introduced will be fully consulted on. Perhaps the Minister can reaffirm in the House this evening or tomorrow morning, when the debate is concluded, that, when the regulations are introduced, they will be fully consulted on and people will have a chance to have their say.

I turn to the specifics of the amendments. In respect of removing clause 1 from the Bill, I am content with that; removing clause 2, again I am very happy with that; removing clause 3, again more than happy with that; removing clause 4, again happy with that; removing clause 5, again I am happy with that; removing clause 6, again I am satisfied with that; removing clause 7, yes, very happy with that; removing clause 8, more than happy with that; removing clause 9, again very happy with that; removing clause 10 from the Bill, yes, I am also happy with that; and removing clause 11, again I am more than satisfied with that. Regarding the schedules, removing schedule 1, yes, I am happy enough to vote for that and again removing schedule 2 to the Bill.

Mr McKay: It is good to see the Member back in the Chamber again, and it is good to see him supporting the Single Use Plastic Bags Bill.

Mr Ross: Absolutely. As I said, I have no difficulty in removing the 11 clauses and two schedules that I mentioned. I am happy to do so, and I am glad of the support from the Bill's sponsor for that.

Amendment No 1 is probably more substantial and deserves a bit of commentary. An issue came up in Committee, and someone said that the Climate Change Act 2008 allowed for a levy to be introduced, so what is the purpose

of the Bill? At the time, it was explained to the Committee that the Climate Change Act 2008 allows for a levy to be introduced but does not allow for the Department to get that revenue. The amendment recognises that and allows an amendment to be made to the Climate Change Act so that, if a levy is introduced after consultation on the regulations, the revenue could be brought back into the Department. That makes sense, and it corrects part of the issue that had been brought up in Committee.

The cost, the procedure, how the levy would be collected, how the Department would keep tabs on independent retailers to ensure that they knew how many bags were being used and the cost of a plastic bag to the consumer would all be included in regulations that would have to be fully consulted on and would have to go through the due process.

As I said, amendment No 2 recognises the shortcomings in the Bill and the fact that it only mentions plastic bags. As I said, plastic will be substituted for paper. Therefore, the environmental argument does not stack up in the Bill. In some way, the amendment corrects that, and I can see the logic behind it.

Amendment No 3 changes the long title of the Bill, and that is unusual. However, it recognises the fact that the Bill, in its original state, was not going to deliver what the sponsor wanted it to.

The amendments and the sponsor's opposition to clauses 1 to 11 and to the two schedules recognise and reinforce the fact that this is simply paving legislation. It is enabling legislation that will allow the Department to consider bringing forward a levy in the future and to consult fully on any regulations that will come forward. Many of the concerns that Members have brought up are the concerns that independent retailers and other organisations have brought up, and they have been addressed by the amendments. Therefore, I am happy to support them.

Mr Kinahan: I am pleased to speak on this Bill, but I wonder why we went through the accelerated passage process, given that the Bill was going to be changed so substantially. This has ended up being a victory for everybody. I am pleased that the Bill has been changed and will be properly consulted on. The accelerated passage of the Bill was wrong. The Bill has completely changed. It is no longer necessarily there for the environment, but it is there as a means to raise a levy.

I still have problems knowing whether the Bill will be consulted on properly. I imagine that NIIRTA is still very much against the Bill because the effect that it will have on small businesses and, indeed, on businesses that produce all types of bags is still unknown. Having spoken to Sue Christie of NIEL, I know that she is happy for it to go through today. More consultation is needed in the future.

Amendment No 1 changes the Climate Change Act 2008. I hope that we have got that absolutely right, that Europe will be happy with it, that it is the right legislation and that we will not find ourselves subject to an infraction fee or fine. Again, we need to ensure that it is properly consulted on with environmental groups, particularly to see whether it all fits in with the Act.

I have concerns, as we did previously, that the side effect of having fewer plastic bags will be that more big black bin bags are used, as well as more paper bags and cloth bags. However, the side effects will now be from single-use carrier bags. I guess that that will mean that even more big black bin bags will be used. We will probably raise much more money than we had originally intended. We know that paper is worse for the environment and that cloth is unhealthy, although I would like to see more details on that. We need to know an awful lot more about the Bill. I also want to know how we will define "single-use carrier bags", as most bags can be used twice. I look forward to seeing that in more detail. I still believe that we should look at how to adopt the Danish system and raise funds on the back of that.

I will not go through all the clauses but will simply welcome the fact that all the original clauses have been removed. If I am here in the new Assembly, I will look forward to the clauses being dealt with properly. My party supports the enabling Bill.

Mr Dallat: I enthusiastically support the Bill. If Members do not mind the analogy, I will say that it is, surely, the proverbial phoenix that has risen from the ashes in a new form. It is, if you like, the Houdini of Bills that have fallen foul of many a Parliament.

Of course, the need for the Bill has never been in any doubt. The issue is just the packaging,

if Members will pardon the pun, and the claims that it would generate £16 million. Oh, how I feel for the Minister, who thought that he would get £16 million to repair all those riverbanks and do things that need to be done. Now, we do not have the money. In the short term, the Bill, in its current form, will not raise any money — not a brass penny. However, who knows? In the future, it may well do so. Of course, it will be a good thing if the Bill brings about the clearing-up of carrier bags — am I allowed to use the word "plastic"? Those bags have damaged the environment, choked wildlife and caused farmers horrendous problems.

The concerns of small shopkeepers have been mentioned. They are entirely genuine. I have had it in the teeth from loads of small shopkeepers. They feel that they have had no opportunity for consultation. Some I have spoken to had, in fact, embarked on their own campaign to reduce packaging. They feel that they have been sidestepped.

I am sure that the Bill's sponsor will justify its accelerated passage. Again, I would have thought that, in a fledgling democracy, the use of the accelerated passage procedure would be occasional. Now, it appears to happen quite often.

Mr McGlone: Not only has there been a proposal for the Bill's accelerated passage, but there is an accelerated Bill: it is going so fast that it has become unrecognisable. I am not sure whether it is now a private Member's Bill or, in fact, the Department's Bill.

7.45 pm

Mr Dallat: My colleague is finished. I will conclude at this unearthly hour of the evening.

Mr Brady: Mr McGlone mentioned accelerated passage. When Ms Ritchie was Minister for Social Development, accelerated passage was used frequently.

Mr Deputy Speaker: Let us stay on the subject of the Bill.

Mr Dallat: Mr Brady's comment was not very nice. The Member, who seems to have a particular affection for Ms Ritchie and gets her into all his speeches, must realise that because of all the —

Mr Deputy Speaker: Order. We have to stick to the Bill before the House.

Mr Dallat: Mr Deputy Speaker, from one Deputy Speaker to another, I have to agree with you. I should not have taken the bait.

I will be serious. Other issues came up when the Department was discussing the Bill with the Committee. Our concern for the environment and for the filling up of landfill sites extends far beyond carrier bags. The Department has undertaken to look at other issues. There are loads of resources from the European Union that could be used constructively to create hundreds if not thousands of jobs, not only in recycling but in preventing material going to landfill.

I congratulate the sponsor of the Bill. He has had a hard struggle with it. I am sure that he is grateful to the Department, which, like Lochinvar, came and rescued the whole thing at the last minute. We will support the Bill enthusiastically.

Dr Farry: We are in unprecedented and surreal territory. Nevertheless, my party and I are more comfortable with the proposed direction of travel that has been set out. I am not going to detain the House and rehearse the points that have been made by others. We welcome what is a step back from what was originally proposed and are grateful that there is more time for consideration of the concept. We support moving ahead with addressing the overuse of plastic bags. In that respect, we continue to support the principles of the Bill.

Notwithstanding the unprecedented nature of what is about to happen, I appreciate the rationale for doing it. I am deeply encouraged that the Department believes that, potentially, it is acceptable to make major legislative departures through regulations. That is relevant not only to this debate but to other debates that we had earlier this evening.

Although the Bill may well be enabling legislation, the issue and the complexities around it, the way in which it can be introduced, the views of the various interest groups in Northern Ireland and the competing environmental arguments that we have been exposed to need to be properly thought through and properly tested through public consultation. Like other Members who have spoken, I look forward to hearing considerable reassurance from the Bill's sponsor and the current Minister of the Environment that proper consideration will be given to all the issues before the detail of this comes back through regulations.

We support what is now before us, in its almost 100% transformed status.

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. I support the changes to the Bill. Obviously, they reflect the changes of the Department, not of its sponsor.

At Second Stage, the main discussions centred on consultation. There were also discussions about district councils. The amendments allow the Department time to carry out research and further investigations to ensure that we deliver a very effective arrangement. They allow the Department to carry out a full public consultation. That was discussed at Second Stage, when it was said that there was not enough consultation and people were being excluded.

Whoever is here after the election will have an opportunity to scrutinise the subordinate legislation that will come through the House. The Assembly will have plenty of opportunity for debate, and the new Environment Committee will be allowed to really scrutinise the Bill. Members of the current Committee felt that things were being rushed through and that they were not aware of the full detail of the Bill. The amendments enable all those concerns to be addressed. They will give small businesses, retailers and businesses that supply plastic bags and other carrier bags the opportunity to feed into the process.

At Second Stage, a lot of Members spoke about local authorities having to implement or enforce the legislation. Obviously, the amendments will remove that requirement. They will give flexibility to look in detail at best practice in other areas that have implemented such a levy and get the most cost-effective way to collect that levy.

Neither I nor Sinn Féin has changed position on supporting a plastic bag levy. I will not rehearse all of that, but environmental reasons are a big component. There were concerns at Second Stage about other carrier bags, such as paper bags, that would cause more environmental damage. Amendment No 2 deals with that and gives greater flexibility in that regard.

Other reasons why I support the plastic bag levy include reducing litter and improving the quality of recyclable material. Changing consumer behaviour is one of the most important reasons, as is generating funds for environmental projects, particularly the green new deal, of which I am a great supporter.

The amendments allow us all the opportunity to reflect, look at best practice throughout the world in gathering the levy and make sure that we get it right.

Mr Beggs: I declare an interest as a local councillor. Councillors will have an interest in the Bill, because single-use plastic bags frequently end up as litter. Also, the original draft of the Bill placed a bureaucratic requirement on councils to carry the administrative burden.

The sponsor of the Bill made a significant understatement when he said that he had decided to amend the Bill. What has happened is remarkable. The first 11 clauses have been entirely removed; Clause 12, which is the short title, has been altered; and the schedule has been removed. To say that the Bill has been changed is an understatement. It has been significantly renewed, and I think that most reasonable people would say that it is practically a new Bill.

During the earlier debate, I raised concerns that the original proposal to charge 15p was unnecessarily excessive. Again, I highlight the additional burden that would have been placed on local government, along with a lot of other burdens that are falling on local government in connection with other legislation currently completing its passage. We need to take care that we do not create too great a burden. The other issue highlighted was how other types of bag can require more energy to produce and be more polluting. I am comfortable with the amendment to address single-use carrier bags. There was also concern about the use of accelerated passage, rightly so with such significant legislation.

The contents of the Bill having been stripped out, new clause A1 is merely enabling legislation, and it is, to all intents and purposes, new legislation. There will be a consultation process involved in drawing up the outworkings of the secondary legislation that will flow from it. That will help us to get a better balance. The proposed new clause can also be more easily adjusted as it proceeds, should it need to be, and as it tries to achieve its purpose of creating a better use of our resources and of reducing the litter scourge associated with any single-use bags, particularly single-use plastic bags.

I am comfortable with the proposed significant alteration to the Bill, and I will support the new clause and agree to the other changes that the original sponsor of the Bill suggested.

The Minister of the Environment (Mr Poots): I welcome the modest amendments that have been tabled. They will make some slight changes. I have stated that I support the principle of the Executive's collective decision to introduce a levy on single-use bags. I did that on the basis that it would not be an environmental tax for the sake of having a tax, as I am wholly opposed to people using the environment for tax-raising purposes. I think that that is wrong. I will support the Bill only on the basis that investment will be put back into the environment as a result of any funding that the levy raises.

With that in mind, I am conscious of the need to undertake comprehensive research to determine the best approach to the implementation of the arrangements. Indeed, I have already asked my officials to commence that process, and the amendments will allow for the consideration of all options to ensure that the new arrangements are implemented in the best way possible. That will include the amount of the charge. There was a lot of concern about 15p, which was the figure that took hold. It would be good for us to identify the right figure to charge. It may be a much smaller figure, which may raise more money. Alternatively, it could be a much higher figure, in which case the number of bags used could really be reduced. It remains to be seen how we will take that forward. For example, how will the money be collected? Will we get the co-operation of HMRC? Will we have to introduce our own system? If we introduce our own system, how much might that cost us, and would it still realise value for money? Would there be a system through which the plastic bag levy could directly fund our NGOs without it coming through government, meaning that it would not come out of our funding to begin with? All those issues need to be addressed, and we need to be creative about how we do that.

We also need to look at the administrative and enforcement arrangements. I was surprised to hear Mr Beggs complain that it might put an additional burden on councils. If I am not mistaken, the same Mr Beggs, along with his party colleagues, voted this afternoon to put an additional burden on local government by asking it to look after climate change arrangements, which is something that other bodies do already. They said that we should have a duplication of services and put additional cost and burden on to councils, and then, a few hours later, they cried crocodile tears about the possibility of burdens being put on councils.

Most importantly, the legislation will allow my Department to conduct a full public consultation on detailed policy proposals. I think that Members want to hear that. It is essential that we consult properly on this issue. It has an impact on jobs and on our small retailers. Unlike Mr McKay, I have not heard an awful lot of small retailers say that this is a wonderful idea. I do not know where he is talking to them, but I cannot honestly say that I have heard a load of small retailers suggest that this is a great idea.

If we go through full public consultation, however, we will be able to make provision for subordinate legislation to be debated in the Assembly. That should address the concerns that Members expressed at Second Stage, and it should provide all key stakeholders, including retailers, with an opportunity to consider the Department's detailed policy proposals and to express their views.

At this point, there is not much more that I need to say. The Bill, as amended, merely provides broad enabling powers, with the detail to be established through subordinate legislation. In due course, my Department will bring the draft legislation before the Assembly for consideration. I am happy to support the few amendments that are before the House.

Mr McKay: Go raibh maith agat, a LeasCheann Comhairle. I thank all the Members for their contributions to the debate.

Alastair Ross kicked off proceedings, and it is good to see him back in the Chamber again, engaging in and contributing to the debate. He raised his concern that some retailers may change from plastic bags to paper bags. In its response to the draft Budget, NIEL also expressed that concern, and we want to take those concerns on board. There is a need to look in detail at the use of plastic and paper bags in the retail trade to establish what levy should be placed on each. The Member also welcomed the amendments, which, if accepted, will put the Bill into a different state. However, he should bear it in mind that a private Member's Bill is not only about what is on the sheet but about getting Departments or the

Executive to adopt a policy or an idea. In this instance, the position has quite firmly changed.

Danny Kinahan spoke about the need for consultation, and, as the Minister outlined, the Department will conduct a full consultation process, which will give everyone an opportunity to put their views across. The Member also touched on the fact that NIEL is happy with the legislation as it stands.

John Dallat also referred to small shopkeepers, and their concerns must be taken on board during the consultation process and before regulations are put in place. He also expressed a general concern about waste going to landfill sites, which is an issue in his constituency of East Derry.

Stephen Farry said that many issues and complexities needed to be tested. He also said that he looked forward to the regulations coming to the House at a later date. Willie Clarke supported the Bill.

Roy Beggs discussed changes to the Bill and expressed concern that councils may have some roles and responsibilities with regard to it. However, as the Minister said, that will be worked out in the finer detail. We need to look at how cost-effective it will be to collect the levy, and part of that will be deciding who carries that out.

The Minister indicated that he had asked officials to commence research. He said that his Department will take things forward and that the detail will be worked out and addressed in the future.

I do not want to keep Members any longer than necessary. The Bill has changed. It changed because the Department and the Executive radically changed their position and indicated that they were committed to implementing a single carrier bag levy. That was the original purpose of the Bill. As I said, many private Members' Bills do not get to Final Stage, because their primary purpose is to get Departments and Ministers to adopt a policy and change the law. However, this private Member's Bill has been successful. The issue was brought to the Executive, and the Executive and the Minister adopted the idea that we brought to the House.

Question, That amendment No 1 be made, put and agreed to.

New clause ordered to stand part of the Bill.

Mr Deputy Speaker: No amendments have been tabled to clauses 1 to 11. However, the sponsoring Member, Mr McKay, has indicated his intention to oppose the Question that the clauses stand part of the Bill. I propose, by leave of the Assembly, to group clauses 1 to 11 for the Question on stand part.

Question, That clauses 1 to 11 stand part of the Bill, put and negatived.

Clauses 1 to 11 disagreed to.

Clause 12 (Short title)

Amendment No 2 made: In page 5, line 31, leave out "Plastic" and insert "Carrier". — *[Mr McKay.]*

Clause 12, as amended, ordered to stand part of the Bill.

Schedule 1 (Application of Central Environmental Fund monies)

Mr Deputy Speaker: No amendments have been tabled to schedules 1 and 2. However, the sponsoring Member, Mr McKay, has indicated his intention to oppose the Question that the schedules be agreed. I propose, by leave of the Assembly, to group schedules 1 and 2 for the Question that the schedules be agreed.

Question, That schedules 1 and 2 be agreed, put and negatived.

Schedules 1 and 2 disagreed to.

Long Title

Amendment No 3 made: Leave out from "Impose" to "receipts" and insert

> *"Make provision for the payment of charges under Schedule 6 to the Climate Change Act 2008 for single use carrier bags to the Department of the Environment". — [Mr McKay.]*

Long title, as amended, ordered to stand part of the Bill.

Mr Deputy Speaker: That concludes the Consideration Stage of the Single Use Carrier Bags Bill. The Bill stands referred to the Speaker.

Adjourned at 8.06 pm.

Published by Authority of the Northern Ireland Assembly,
Belfast: The Stationery Office

and available from:

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www.tsoshop.co.uk

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ISSN 1463-7162

Daily Editions: Single copies £5, Annual subscriptions £325
Bound Volumes of Debates are issued periodically during the session: Single copies: £90

Printed in Northern Ireland by The Stationery Office Limited