OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 14 November 2018

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 14 November 2018

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
31st Meeting 2018, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Monica Lennon (Central Scotland) (Lab)

COMMITTEE MEMBERS

*Annabelle Ewing (Cowdenbeath) (SNP)
*Kenneth Gibson (Cunninghame North) (SNP)
*Graham Simpson (Central Scotland) (Con)
*Alexander Stewart (Mid Scotland and Fife) (Con)
*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Claudia Beamish (South Scotland) (Lab)
Alex Cole-Hamilton (Edinburgh Western) (LD)
Rhoda Grant (Highlands and Islands) (Lab)
Gordon Lindhurst (Lothian) (Con)
Kevin Stewart (Minister for Local Government, Housing and Planning)
Adam Tomkins (Glasgow) (Con)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Local Government and Communities Committee

Wednesday 14 November 2018

[The Convener opened the meeting at 09:16]

Planning (Scotland) Bill: Stage 2

The Convener (James Dornan): I welcome everyone to the 31st meeting in 2018 of the Local Government and Communities Committee and remind everyone present to turn off their mobile phones. As meeting papers are provided in digital format, members may use tablets during the meeting.

The Minister for Local Government, Housing and Planning (Kevin Stewart): I wonder whether I could crave your indulgence, convener. Would you and the committee allow me to keep my phone on vibrate, as my niece is currently in labour?

The Convener: Yes, that would be fine.

Kevin Stewart: Thank you.

The Convener: I hope that we get the good news at some stage towards the end of the meeting.

This is the seventh and final day of stage 2 of the Planning (Scotland) Bill. I welcome to the meeting the Minister for Local Government, Housing and Planning, Kevin Stewart, and his accompanying officials. Some members of the Scottish Parliament who are not members of the committee but have lodged amendments to the bill will be in attendance today, and they are very welcome.

After section 22

The Convener: Amendment 334, in the name of John Finnie, is in a group on its own. I believe that Andy Wightman will speak to and move the amendment.

Andy Wightman (Lothian) (Green): I will speak on behalf of John Finnie, convener, and will move amendment 334, but then seek to withdraw it.

Enforcement charters seek to ensure that the polluter-pays principle is adhered to through periodic compliance reporting. The collapse of Scottish Coal in 2013 left an estimated restoration funding shortfall of £200 million and had significant negative impacts on communities and the environment. A central issue was the lack of adequate periodic compliance monitoring.

Amendment 334 would introduce compliance monitoring, including assessments of the extent to which developments are covered by financial guarantees and a requirement that such reports be made available to the public. I think that such measures would have proved useful in relation to Donald Trump's golf course development at Menie, for example.

I will leave matters there. As I said, I will seek to withdraw the amendment.

I move amendment 334.

Kevin Stewart: I spoke with Mr Finnie yesterday. Although I do not doubt his good intentions, the amendment would place a significant burden on planning authorities and would divert planning enforcement resources away from resolving breaches of planning control.

Amendment 334 makes no distinctions relating to the type or age of the development or the potential impact of any breach of conditions. It would require planning authorities to report on the status of every major development in their area four times a year without any exceptions, whether the development had yet to commence, was in progress, or had been completed.

For example, the granting of permission for a housing estate that was built 10 years ago might include a condition that the grass on a strip of land be cut twice a year, and that condition would have no end date. Under the amendment, the planning authority would have to report four times a year on the status of that housing estate and how it was monitoring that condition. I presume that, if it found that the grass was cut only once a year, it would have to report on what action it would take against the householders, as the condition transfers with ownership of the land. That might seem a trivial or absurd example, but it would be the effect of such a broad provision.

Compliance with the granting of planning permission is ultimately the responsibility of the developer or the owner of the site. Planning authorities are best placed to take decisions locally on which developments, conditions and obligations need close monitoring, and on how to monitor.

I recognise that some developments, such as mineral workings, are different from buildings, in that planning conditions might relate to their on-going operation and to restoration after they cease operation. Planning authorities might well be expected to monitor such developments more regularly. Even so, monitoring should be proportionate and based on risk in each case.

I do not support amendment 334. As I said, I have spoken to Mr Finnie and suggested talking to officials about drafting an amendment for stage 3 that is in better shape to deliver what he intends.

Amendment 334, by agreement, withdrawn.

Section 23—Liability for expenses under enforcement notice

The Convener: Amendment 267, in the name of the minister, is in a group on its own.

Kevin Stewart: Amendment 267 is largely technical. Section 23 introduces powers for a planning authority or the Scottish ministers to register a charging order, where they have taken action to ensure compliance with a planning enforcement notice or amenity notice. That will help to ensure that the costs of taking action are recovered, which, in turn, should encourage authorities to take action.

New section 158D of the Town and Country Planning (Scotland) Act 1997, which section 23 will insert, requires a charging order to be in a form prescribed in regulations. That will help Registers of Scotland, by ensuring that all the correct information is provided in a standard format. Amendment 267 inserts the same requirement in relation to the document discharging the order, once payment has been made.

I move amendment 267.

Amendment 267 agreed to.

Section 23, as amended, agreed to.

Section 24—Power to impose training requirement

Amendments 310 to 312 not moved.

Amendment 23 moved—[Graham Simpson].

The Convener: The question is, that amendment 23 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gibson, Kenneth (Cunninghame North) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Wightman, Andy (Lothian) (Green)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 23 agreed to.

Section 25—Power to transfer functions where insufficient trained persons

Amendment 61 moved—[Alexander Stewart].

The Convener: The question is, that amendment 61 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 61 agreed to.

Amendment 313 not moved.

Amendment 24 moved—[Graham Simpson]—and agreed to.

Section 26—Performance of planning authorities

Amendment 268 moved—[Kevin Stewart].

The Convener: The question is, that amendment 268 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Wightman, Andy (Lothian) (Green)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 268 disagreed to.

Amendments 148 and 149 moved—[Kevin Stewart]—and agreed to.

The Convener: I remind members that if amendment 150 is agreed to, I will be unable to call amendments 62 and 63, because of pre-emption.

Amendment 150 moved—[Kevin Stewart]—and agreed to.

Amendment 17 moved—[Graham Simpson].

The Convener: The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gibson, Kenneth (Cunninghame North) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 17 agreed to.

After section 26

The Convener: Amendment 269, in the name of the minister, is grouped with amendments 275, 157, 291 and 292.

Kevin Stewart: This is a group of technical amendments, which I hope will be uncontroversial. Amendment 269 simply makes it clear that different provision can be made in regulations and that they may make different provision for different areas.

Amendment 157 provides for certain regulation-making powers to be subject to the affirmative procedure. It covers regulations under new section 251B of the Town and Country Planning (Scotland) Act 1997, which is inserted by section 26, on the appointment and functions of, and reports submitted by, the national planning performance co-ordinator, and regulations under paragraph 3 of new schedule 5A that amend the places where a masterplan consent area may not be made.

Amendment 157 also mentions section 3AB(2), which would have been inserted by amendment 116, had that been agreed to. That will need to be tidied up at stage 3, and I suggest that other powers that have been inserted during stage 2 that are subject to affirmative procedure could be included. However, I ask the committee to agree to amendment 157 today in order to implement the Government's commitments on the powers that are listed.

Amendment 275 has been lodged to assist with clarity in the legislation. It provides that ministers may by regulations amend certain provisions so that, rather than referring to the date on which something came into force, they give the actual date. That will save readers from having to go back and find out when a provision was commenced, which is not always easy.

I ask the committee to agree to the technical amendments in the group.

I move amendment 269.

Amendment 269 agreed to.

Amendments 151 and 158 moved—[Kevin Stewart]—and agreed to.

Amendment 18 moved—[Graham Simpson].

The Convener: The question is, that amendment 18 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Wightman, Andy (Lothian) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 18 disagreed to.

The Convener: Amendment 19, in the name of Graham Simpson, is grouped with amendments 330 and 322.

09:30

Graham Simpson (Central Scotland) (Con): Amendment 19 seeks to revise the 1997 act and would beef up protections for national scenic areas. The 1997 act currently reads:

> "(1) Where it appears to the Scottish Ministers that an area is of outstanding scenic value in a national context and that the special protection measures specified in subsection (2) are appropriate for it, they may by direction designate the area as a National Scenic Area.
>
> (2) Where any area is for the time being designated as a National Scenic Area, special attention is to be paid to the desirability of safeguarding or enhancing its character or appearance in the exercise".

Removing the words "the desirability of" would give such areas an extra level of protection, because the phrase is subjective. As we have seen throughout stage 2, wording needs to be tight in legislation, and that wording is not. The minister could regard it as desirable to safeguard or enhance the character of an area, but someone else could take the opposite view. Removing the words would leave the paragraph reading:

> "special attention is to be paid to safeguarding or enhancing its character or appearance in the exercise".

That wording is more robust. Amendment 19 is backed by the National Trust for Scotland.

I will discuss amendment 322, in the name of Alex Cole-Hamilton, which deals with wild lands. We all value Scotland's wild lands. They are among some of the most diverse natural environments in Europe. The rapid expansion of onshore wind farms has led to the worrying infringement of wild land. Fragile ecosystems and peatland are often disturbed by the installation and operation of wind turbines. That is inappropriate, and the unique designation of wild land, along with the special protection measures, should be adhered to.

However, I have concerns about the drafting of amendment 322. There is a lack of clarity around the wild land definition. What does the amendment mean by "semi-natural", for example? Will there be a consultation to determine where the provision should be appropriately applied?

Alex Cole-Hamilton (Edinburgh Western) (LD): When I worked with clerks to draft amendment 322, we felt that a lot of those questions, such as determining the definition of "semi-natural", could be answered through the statutory guidance behind the bill, and that it was not necessary to include that in the bill.

Graham Simpson: I thank Alex Cole-Hamilton for that.

Amendment 322 mentions Scottish Natural Heritage. Has it been asked whether it is happy with the amendment? I have not heard from it.

Are we in danger of cutting off our noses to spite our faces? Much of the Highlands could be considered wild land. If we say no to any development in these areas, there is a danger that we will thwart change that might be welcomed by locals and economically beneficial. I would not normally quote a community council, but I was quite taken by the submission from Donald Campbell, the chair of Durness community council. He said:

"The proposed Wild Land policy risks having a detrimental effect on development and sustainability within our communities.

The current regime works. In Wild Land Area 34, Reay-Cassley Wild Land Area, we have two hydro-power stations, a commercial fish farm and telecom station—and yet this is considered by SNH to be Wild Land. The income from these projects will encourage the estates to diversify their activities, becoming more self-sufficient and creating numerous jobs. This is important in ensuring that the jobs created will be supported over the long term."

Community Land Scotland has said that amendment 322, if it is agreed to, could have a

"significantly detrimental impact on rural repopulation".

Due to those concerns, I am unable to support amendment 322.

I move amendment 19.

Alex Cole-Hamilton: Will the member take an intervention?

Graham Simpson: I have finished.

Rhoda Grant (Highlands and Islands) (Lab): A recently published research report by Community Land Scotland and Inherit: the Institute for Heritage and Sustainable Human Development found that communities feel "locked out" of Scottish landscape policy due to the participation deficit that leaves the designation process largely the preserve of landscape professionals. The community participation deficit that has been identified by the report by Community Land Scotland and Inherit is contrary to the principle of community empowerment, which was legally enshrined by Parliament.

In order that the designations work properly, local people must have ownership of them and should be involved in how they are managed and operate. The report says:

"The interviews indicated that there is a strong sense of exclusion from the process of assessing and designating landscapes and from making key decisions about landscape matters. ... The interviews indicated that the effects of this deficit can be subtle but profound. Exclusion breeds a sense of insecurity and alienation, as people feel locked out of decisions that affect their lives and feel that things that matter to them are not being recognised."

Amendment 330 applies only to national scenic areas. It seeks to involve communities by putting an obligation on the Scottish ministers to consult them on the management of local designations and to report on that consultation as part of the annual report. Although the amendment focuses on national scenic areas, there may be scope at stage 3 to extend its coverage to include all natural heritage and historic designations, if there is an appetite in Parliament for that. I am keen to hear whether the committee and the minister agree with the principle and whether they would agree to extending it to all designations.

I reiterate the concerns about the effect that amendment 322 might have on repopulation, which is something that I have spoken about to the committee in the past. It is important that we look at repopulating these areas. Many people say that they are wild lands, but they have been managed through the generations—I recently heard a presentation about the impact that crofting has on land. They are not wild lands but lands that have been managed in the past, and if we do not encourage people to move back into these areas and to manage them, we will not have the lands that we seek to protect.

Alex Cole-Hamilton: Good morning, committee. It has been great to share this experience with you. Amendment 322 is not an assault on onshore wind farm development, nor is it an assault on the growth or repopulation of

remote and rural communities. There is a view that is, I think, widely held among stakeholders and the general public that we could be doing more to recognise and protect areas of wild land in Scotland. Indeed, there is empirical evidence of that in a variety of opinion polls that show that the public do not believe that we have done enough to take that agenda forward.

Annabelle Ewing (Cowdenbeath) (SNP): Alex Cole-Hamilton refers to the general public. What consultation has he undertaken with the people of the Highlands on his amendment?

Alex Cole-Hamilton: I have had a good deal of correspondence. I freely admit that opinion is split on the matter, but that is politics and we have to pick a side. I choose to press the issue of protecting and recognising wild land. I would not have lodged the amendment if I thought that it was an assault on onshore wind farms. I passionately believe that we need to do more to encourage and develop onshore wind and I also recognise the need to repopulate and grow our rural communities.

The amendment is not a barrier to that. It would give a power to ministers, not a duty. It would be a tool in their arsenal. They will naturally be aware of the competing demands of our climate change targets, our housing development targets and the need to sustain and repopulate remote and rural communities. It is not a decision that ministers would take in isolation from those demands, but it gives them the opportunity to define and protect areas of wild land.

Wild land defines our nation. People think of wild land when they think of Scotland, whether that is through what they see in Hollywood movies or in photographs from their holidays as tourists. It is something that draws people to us and it is an important part of our ecosystem. I am the RSPB Scotland species champion for the rusty sphagnum bog moss—they call me the moss boss—which is a hugely important indicator of the CO_2 storage capacity of our peat bogs. The moss is exceedingly efficient at absorbing CO_2. Peat bogs are one of my primary drivers for supporting the inclusion of amendment 322.

To conclude, the amendment would give a power to ministers, not a duty, and they will recognise that it does not stand in isolation but has to be balanced against priorities for onshore wind development and the repopulation and growth of our remote and rural communities.

The Convener: Thank you. We welcome you sharing this experience with us.

Annabelle Ewing: I will make some comments about amendment 322, which I will not be supporting. I do not believe that we can rule out, in all circumstances, development on such land. What about the right of the people of remote, rural communities to have homes and to be able to continue to croft?

Issie MacPhail, a land expert and resident of Assynt, has described how wild land designations impinge on common grazings in north Assynt. At its annual general meeting in May of this year in Stirling, she told Community Land Scotland that

"this so-called wildland is our domestic space, for food harvest."

Alex Cole-Hamilton: I recognise and share that point of view. Amendment 322 is not a block or barrier to the wishes of the people of the Highlands. It would give a new power to ministers, who would not take any decisions in a vacuum. Ministers would take decisions, if they needed to be taken, with full cognisance of the views of the person of whom you spoke.

Annabelle Ewing: I hear what the member says. However, although it is important to have champions for various species, it is also important to have champions for people—including people in our most rural and remote communities. Had the member conducted a wide consultation of people in the Highlands, I think that he would have found that they do not take quite the same view as he does on the matter.

I will also quote from a letter from Scottish Renewables on amendment 322, which I think we all received. It states that

"the broad definition of wild land ... could conceivably exclude the development of any onshore wind, hydropower, solar or bioenergy scheme in Scotland",

and it concludes that

"a blanket designation like that set out in the proposed amendment to the Bill could have a very detrimental impact on progress towards Scotland's renewable energy and climate change targets."

Those are very serious considerations to be taken into account. For all of the reasons that I have explained, I will not support Mr Cole-Hamilton's amendment.

Andy Wightman: Briefly, I say that I do not see the need for amendment 330.

If we had time, we could debate amendment 322, on wild land areas, for a very long time. There is a substantial policy question. As Mr Cole-Hamilton knows, the wild land concept already has a role in the planning system. Were ministers to be minded to implement the powers that the amendment would give them, it would essentially put that concept on a statutory footing, and I am not persuaded, at this moment, that that is an appropriate thing to do. I am sympathetic to the notion, but it would be a major policy change to create a new statutory designation, or rather to give ministers the powers to do that.

Although I am sympathetic, I also have substantial problems with the very concept of wild land, and I always have done. I say that as someone who used to be a trustee of the John Muir Trust. As SNH says in its landscape policy on existing wild land areas,

"Measuring wildness is inherently difficult, as it's a subjective quality experienced differently by different people."

We have before us today a fairly straightforward decision as to whether we follow Mr Cole-Hamilton's proposition that wild land should be put on a statutory footing. I am not persuaded that now is the time to do that, nor that the argument has been sufficiently rehearsed and debated. I see arguments on both sides, but I am not persuaded at this stage. I will therefore vote against amendments 330 and 322 but will support Graham Simpson's amendment 19.

Kevin Stewart: The amendments highlight a key tension around how we manage our wild and scenic areas, which are so important to Scotland's identity and international image, while ensuring the sustainability of the communities who live and work in them.

The committee has already agreed to amendments moved by Ms Grant that will require both the national planning framework and local development plans to take into account depopulation in rural areas and to support resettlement where that is appropriate.

09:45

Ms Grant has spoken eloquently about the importance of supporting vibrant communities in these areas. We must be very careful about projecting an urban-centric view of our landscapes on to rural areas if we want them to thrive. The special protection that is given by the formal designation of wild land areas could have significant repercussions for communities in these areas. Therefore, it would be necessary to take special care over the extent and the location of any designated wild land area, in order to take all of that into account.

Even if we take account of existing wild land maps, we could not assume that the same areas of land would be designated. Wild land is already given strong protection in national planning policy—the Government recognises the value of wild land in Scotland and sought to achieve a reasonable balance in current Scottish planning policy between protecting these areas and not unduly restricting rural development. However, it is clear that not everyone feels that we got that balance right. A report commissioned by Community Land Scotland states that communities feel "locked out" by landscape-driven policies. Some people have suggested that, rather than wild land, those areas should be known as "clearances country".

We need to revisit that debate and, instead of significantly embedding our existing policy on wild land by giving it a statutory designation, we need to give it very careful consideration when we review the national planning framework and Scottish planning policy. I believe that policy is the right means by which to take that forward, allowing all the different circumstances that apply in different areas to be properly considered.

There are significant technical difficulties with amendment 322. As Mr Wightman has already touched on, Scottish Natural Heritage clearly states that identifying areas of wild land is inherently subjective.

I understand that the areas that are shown on the 2014 map are the larger and more remote areas, where wildness qualities are most strongly expressed. However, SNH is clear that what does or does not constitute wildness also depends on who is experiencing the area and even how each individual feels about that experience—Annabelle Ewing has articulated some of that. The 2014 map was not developed with the intention that it would be used to define a formal designation. SNH has published descriptions of wild land areas that show that, even within each area, there are varying degrees of wildness.

Given the differing views on the issue and the technical complexities involved, I feel strongly that amendment 322 should not be supported and that there should be a fuller and more open and inclusive debate on rural planning as part of the next national planning framework. That debate would be at risk if the bill added more weight on one side by giving wild land areas a statutory designation. It is a sensitive issue that needs flexible solutions that are tailored to individual areas. That is not something that legislation can easily deliver, but it is what our planning system is designed to do.

We already have designated national scenic areas, which are long established and more limited in scale than wild land. I agree with Rhoda Grant that it is important that communities are consulted by the Scottish ministers if they are designating or changing national scenic areas. That would help to ensure that any decisions are undertaken with the full and meaningful involvement of local people. However, I do not support amendment 330, because of the automatic requirement for annual reporting. It would be more reasonable to provide a report in any year in which such consultation is taking place. I ask Ms Grant not to move the amendment, although I have no problem with the consultation requirement itself.

I turn to Graham Simpson's amendment 19. The word "desirability" in section 263A(2) of the 1997 act signals that the safeguarding or enhancement of the character or appearance of a national scenic area is to be treated as a desired or sought-after objective. The requirement is to pay special attention to that objective. Section 263A(2) does not merely create a duty to consider whether or not safeguarding or enhancing the character or appearance of a national scenic area is desirable. It seems odd to remove the statutory statement that this is a desirable objective from a provision that is intended to protect national scenic areas. There is no question but that national scenic areas already have a high level of statutory protection and the wording that is proposed in amendment 19 would not, in my view, strengthen that any further, so I do not support the amendment.

The Convener: I ask Graham Simpson to wind up and press or seek leave to withdraw amendment 19.

Graham Simpson: I will press amendment 19. I will be brief because we have had a very good debate. I am disappointed to hear the minister say that he is not in favour of amendment 19. It is a technical amendment and, as I explained earlier, it would beef things up. I do not plan to rehearse the arguments around amendment 322 and, having heard the arguments around amendment 330, I will not support it.

The Convener: The question is, that amendment 19 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 19 agreed to.

Amendment 330 not moved.

Amendment 322 moved—[Alex Cole-Hamilton].

The Convener: The question is, that amendment 322 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 322 disagreed to.

Amendment 335 not moved.

The Convener: Amendment 81, in the name of Graham Simpson, is in a group on its own.

Graham Simpson: I have spoken a lot, particularly during stage 1, about the need to front load, and some of my amendments have been a genuine attempt to do that; this is another such amendment. Amendment 81 would mean that councils would have to compile lists of locally significant buildings and invite residents to suggest what should be on those lists. It would allow local residents to nominate buildings for inclusion in a list and for there to be an appeal mechanism to ensure that the buildings are properly protected.

The amendment stems from personal experience that led me to conclude that we need a better system for protecting what we value. I will be brief. There was a proposal to demolish a centuries-old pub near where I live—it does not matter whether it was a pub or not—in East Kilbride, a new town that does not have many old buildings. The building was deeply valued by people and nobody wanted it to be demolished, but demolished it was, because there was nothing in place legally to prevent that from happening. I felt that that was unacceptable and that we should look for something better.

Introducing the idea that we should give people a chance to say what they value should please the minister; throughout the passage of the bill, he has talked about front loading the planning system and wanting to get people involved in it.

There is a similar mechanism in England: local heritage listing. Local lists in England play an essential role in building and reinforcing a sense of local character and distinctiveness in the historic environment. They enable the significance of any building on the list to be better considered in planning applications. A local list can celebrate the breadth of a local area's historic environment by encompassing a full range of heritage assets in a community.

Andy Wightman: The Built Environment Forum Scotland observed that amendment 81 would

"provide more protection for locally significant buildings than currently exists for buildings listed under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997."

What kind of buildings does the member think would make it on to the list that could not be listed under the 1997 act? Would an example be a building in which a famous person was born, but which is otherwise devoid of particular architectural merit?

Graham Simpson: That would be a good example, as would the local one that I gave. People would be invited to say what they think should be on the list, but the decision would be taken by the council.

Andy Wightman: An alternative approach might be to seek to amend the current listed buildings regime to broaden its scope. I have quite a lot of sympathy for the notion. For example, there are quite a lot of fairly small, but inconsequential buildings that people value—there is one just up the road where the treaty of union was signed, and there are others in towns around here where famous people were born. Would an alternative approach be to expand the grounds on which listing could take place, instead of introducing a new list?

Graham Simpson: Mr Wightman makes a good point. Most members of the public do not know how to operate the listed buildings system. For example, they do not know that they can request that a building be listed. I am suggesting that we introduce a system in which we involve people and invite them to say what they value.

Having said that, a complete ban on the demolition of certain buildings would require some procedural safeguards and I accept that amendment 81 currently lacks those. It could be argued that it would be more proportionate to introduce the provision as a discretionary power, linked to the development plan, rather than development management. I would not be averse to making such changes at stage 3, should the committee back the amendment in its current form.

Monica Lennon (Central Scotland) (Lab): I am guessing that the spirit of the amendment is a presumption against the demolition of such buildings. Does the member recognise that some of the buildings could be at risk and there could be building standard or safety issues? Surely it is something that should not be considered in isolation, given that there are other considerations.

Graham Simpson: Of course. I accept that amendment 81 is not the finished article, but I think that it is a good idea and meets the point that the committee made at stage 1 about having more front loading and involving people in a way that is not currently done.

I accept that more work needs to be done and I will do that work. I would be very keen to work on the provision with the minister and across the political parties. However, I intend to move amendment 81.

Monica Lennon: You touched on front loading and the involvement of communities as well as a possible appeal system that would sit alongside the provision. Could that appeal be initiated by members of the community or community groups, or are you thinking about the owner of the building?

10:00

Graham Simpson: I was thinking more of the owner. Obviously, if somebody's building is put on the list, they may take a different view, so we need to safeguard the people who own the buildings as well. That is the intention behind the amendment.

Monica Lennon: However, you want to leave the decision over who has that right of appeal up to ministers.

Graham Simpson: Yes.

With that, I move amendment 81.

Kevin Stewart: I will make a general point before I turn to the amendment. I can deal only with the words that are on the page in front of me. It is up to members to ensure that their amendments do what they intend them to do. In recent weeks, there has been much talk about fixing issues at stage 3, but the best opportunity for scrutiny of the detail is at stage 2. No one can guarantee that amendments will be agreed to at stage 3 or whether a necessary fix will be agreed. Members must be aware that whatever is agreed to at stage 2 may end up on the statute book, so if the amendments do not say what they are intended to achieve, I recommend that folk do not move those amendments.

The Government understands the value and importance that people place on the historic environment and local heritage where they live and work. It is clear that people want a listing system that recognises buildings of local importance that may not qualify for national listing. In a consultation that was carried out by Historic Environment Scotland in 2017, 89 per cent of respondents wanted such a system in their area, and 70 per cent of those respondents wanted to be involved in that process.

Scottish planning policy already encourages decision makers to consider the interest of undesignated heritage. In addition, following that initial survey, HES has been exploring proposals

for local listing as part of the review of designations policy, which will be available for consultation in January. The new policy will actively take into account heritage that is not nationally designated and which has local heritage interests. One option could see local listing being compiled by community groups and potentially ratified by local authorities as a material consideration in planning matters.

Andy Wightman: It would be helpful if you could confirm whether primary legislation would be required to implement the kind of propositions that might come out of the consultation that you mentioned—for example, the communities creating their own lists that might be material considerations.

Kevin Stewart: As far as I am aware, primary legislation would not be required for that, because the matter would be dealt with under material considerations. However, I will confirm that in writing to Mr Wightman, so that he knows exactly what the intention is.

We are working on the issue, but I do not believe that amendment 81 would be a helpful way of addressing it. First, it is unnecessary to impose a statutory duty on all planning authorities to prepare lists of locally significant buildings. That would be an additional financial burden for them, and there are other options.

Orkney Islands Council piloted a local listing scheme in one parish in 2011. However, because of the costs involved and the implications for staff resources, it decided not to replicate the scheme across the council area. Instead, the council found that appropriate planning policies and guidance—through its revised local development plan—provide the necessary protection for local heritage. That has resolved some of the difficulties that Mr Wightman mentioned.

Secondly, and more significantly, the proposed approach to buildings included on a local list would be inconsistent with the established system of both designation and management of buildings on the national list. It would not allow locally significant buildings to be demolished in any circumstances, but it provides no control of alterations, which could completely change the character of the building.

That ban on demolition would create restrictions on the development of the site without any provision for consent to be obtained to allow development. Such a blanket restriction on development, which has no scope to consider individual cases, would almost certainly be viewed as a disproportionate and unjustified interference with the property rights of the owner, and the restriction on development would be much greater than for listed buildings or buildings in conservation areas.

The existing controls on works to listed buildings, including demolition, enable planning authorities to consider all the relevant circumstances at the time. They must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest, but they can also take into account the wider public benefits. Although developers generally try hard to conserve historic features, it may occasionally be necessary to demolish a historic structure to enable wider redevelopment—for example, an old bridge may have to be removed to allow for flood defence works or because it has become a danger to public safety. Any protection for locally significant buildings should surely allow for a similar system of consent for necessary works.

I ask Mr Simpson to seek to withdraw his amendment and to allow Historic Environment Scotland to take forward its consultation on approaches to recognition of locally important heritage.

The Convener: I call Graham Simpson to wind up and to indicate whether he wishes to press or withdraw the amendment.

Graham Simpson: Based on what the minister has said, I conclude that this comes out of the "We're working on it" file, which was also used when we were discussing land value capture. Everything that the minister has said suggests that he actually agrees with the idea, and if he agrees I cannot see why he would be so negative about the amendment.

Kevin Stewart: I am agin the amendment for the simple reason that, again, it would have unintended consequences as it is currently drafted. I reiterate that the amendment as it stands would not allow locally significant buildings to be demolished in any circumstances. That cannot be right, for many reasons, including the reasons of safety that Ms Lennon pointed out.

Graham Simpson: The minister is basically saying, "Leave it to us. Don't put this in legislation. We'll sort it out. It won't even be included in any legislation." Parliament has an opportunity to do the right thing and to deliver what the minister says he wants.

Annabelle Ewing: I hear what Graham Simpson says, but it seems to have been conceded that the amendment as drafted may need further work, so why are we being asked to vote on something that will not work? I do not understand that. If the member wishes to do something at stage 3, that is entirely up to him, but if the amendment is seen as unworkable why are we being asked to vote on it?

Graham Simpson: The minister does not even want it at stage 3, so I will press the amendment. This situation is not unusual. We have had a number of amendments at stage 2 that members have accepted are not the finished article, but they have pledged to go away and work on them for stage 3. Amendment 81 falls into that category, but I think that it is a good idea, and I am keen to see what the mood of the committee is.

Monica Lennon: I must apologise for my voice; I promised that I would not speak very much today.

The amendment raises some interesting questions. One of Graham Simpson's intentions appears to be to encourage local participation. He has talked about front loading and the importance of community engagement. I am a bit nervous about his intention to bring in a right to appeal. He is leading the community on a little bit. If the planning authority says that a building is not locally significant enough, there would be no right of appeal for the community. Graham Simpson has said that he has an ace card up his sleeve on equalising the appeal system for stage 3. I would have thought that he might have brought some of that thinking to the amendment before asking us to vote on it.

The Convener: Would Paul Daniels like to tell us about that?

Monica Lennon: He claims to be a magician.

Graham Simpson: There is no ace card today. I shall wrap it up there.

The Convener: The question is, that amendment 81 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Wightman, Andy (Lothian) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 81 disagreed to.

The Convener: Amendment 90, in the name of Andy Wightman, is grouped with amendment 91.

Andy Wightman: Amendments 90 and 91 deal with tree preservation orders and the preservation of trees in conservation areas. At stage 1, the Scottish tree officers group, which is a group of professionals who work in local authorities, gave evidence to the committee on matters to do with trees and their governance. We recommended that the minister should consider the observations that were made to us, but he indicated in his response to the committee's stage 1 report that he would not be doing any further work on that. As a result, I took it upon myself to engage with the tree officers group over the summer to ascertain what its concerns were.

It appeared to me that the concerns fall into two groups, which the amendments reflect. The first concern was that, if individual tree preservation orders are silent on the question, permitted development orders could potentially override them. The group was of the view that that should not happen.

The second concern relates to trees in conservation areas. I understand that, if any works are to be done on a tree or any proposal comes forward in a conservation area that would affect a tree, the only means by which a planning authority can currently effectively protect that tree or refuse to consent is by making a tree preservation order, which is a complicated thing to do within a short timescale.

I will move amendment 90, but I intend to seek to withdraw it, and I will not press amendment 91. That follows discussions with the minister's officials in which we have shared our perspectives on the mischief that is sought to be addressed. I think that we agree that that mischief is not well identified yet, but I think that there is agreement—I would be grateful for the minister's confirmation of this—that a potential concern remains. I am keen that the minister and his officials have a robust conversation with the tree officers group to ensure that, if it has legitimate concerns about the operation of the tree preservation order system or about trees in conservation areas, remedies can be introduced in the bill.

When the evidence came forward, I took the view that we have a planning bill every 10 years or so and that, if there is any tidying up to be done in the planning system, a piece of primary legislation is obviously the place to do that. The committee might recollect that amendments 19 and 20 dealt with areas of the planning system that were deemed to be in need of some tidying up.

I would be grateful if the minister would confirm that he is willing to have those discussions with the sector and that, if there are any areas that could be tidied up or if there could be an easing of the work that is necessary to properly protect trees that planning authorities think should be protected in conservation areas, that work is done.

I move amendment 90.

10:15

Kevin Stewart: I confirm to Mr Wightman that officials will continue to talk to the tree officers group. The group might have a case but, as it stands, there is insufficient evidence about the impact of the proposed changes.

I realise that Mr Wightman will not press the amendments, but it might be helpful if I put the discussions that have been going on into the context of the current legislation.

Everyone agrees that trees play an important part in the quality of our urban and rural environments. That is why there is already a range of measures and legislative duties in place to ensure that there is tree preservation and planting so that our trees and woodlands continue to be protected. Scottish planning policy has a strong presumption against the removal of any woodland, and any approval for woodland removal should be conditional on achieving significant net public benefits.

Amendments 90 and 91 relate to trees that are situated in a conservation area and to tree preservation orders. TPOs are a well-established mechanism in the planning system that can be used by planning authorities to protect trees and groups of trees that are considered important for amenity or for their cultural or historic significance.

A TPO that is made by the planning authority under section 160 of the 1997 act may prohibit works being carried out to trees without consent from the planning authority. In addition, if a tree is in a conservation area but is not protected by a TPO, it is given a level of protection under section 172 of the 1997 act. Under section 172, it is an offence to carry out works such as uprooting, felling or lopping to such a tree without first notifying the planning authority and giving it an opportunity to protect the tree by making a TPO. The authority must do that within six weeks of the notification or the works can go ahead.

A grant of planning permission, whether granted through permitted development or a planning application being approved, does not itself remove the protections that are provided to trees by TPOs or, for trees in a conservation area, by provisions under section 172 of the 1997 act. However, a TPO may include exemptions from the prohibition that it creates on works without consent. Scottish Government guidance recommends that that should include limited exemptions for works that enjoy permitted development rights, which allows the likes of the Scottish Environment Protection Agency and utilities companies to carry out necessary works without requiring separate consent for work that affects trees.

With amendment 90 and the first part of amendment 91, I understand that Mr Wightman was trying to limit or remove the exemptions for permitted development rights. I do not support that intention, as it could have restricted or delayed the ability of statutory undertakers to carry out necessary work to provide and maintain infrastructure, for example, and it would have created additional burdens for planning authorities for work that would be approved in the vast majority of cases.

However, that is not what the amendments would have done. Please bear with me as this will get quite technical, but the committee deserves to hear it.

Section 160(6) of the 1997 act allows for the cutting down, topping and lopping of a tree in certain circumstances, even if it is protected by a TPO. Those circumstances include, under section 160(6)(ba), where the work is authorised by an order that grants development consent. Section 160(6) does not authorise any works to a tree; it just prevents a TPO from prohibiting certain works to a tree in the specified circumstances. Section 172(1A) of the 1997 act similarly disapplies the requirement for notification of work to trees in a conservation area if the work

"is authorised by an order granting development consent."

Mr Wightman's amendments state that nothing in those subsections

"is to be taken as permitting a development order under section 30 to authorise the uprooting, felling or lopping of trees."

However, those subsections do not refer to orders under section 30 of the 1997 act, which grant planning permission. Development consent, as defined in section 277 of the 1997 act, relates to the Planning Act 2008, which is United Kingdom legislation. Section 31 of the 2008 act states that development consent

"is required for development"

that

"is or forms part of a nationally significant infrastructure project."

Such projects are almost all large-scale projects located in England and Wales. The only case where it would be required in Scotland would be for certain cross-country oil or gas pipelines where one end is in England or Wales and the other end is in Scotland. Therefore, nothing in the sections that are mentioned in amendments 90 and 91 would permit a development order under section 30 to override the existing protections in any case.

I know that this is not the easiest part of the legislation to follow and I would like to thank Mr Wightman for taking the time to discuss these amendments with officials. I am glad that he has agreed not to press them.

I think that I may well leave it at that. I could go into a huge amount of further technicality, but I have given the committee an insight into how complex all of this is and into the unintended consequences of the amendments. I am very pleased that Mr Wightman has spoken to officials. We will continue to speak with the tree officers group and we will continue to update Mr Wightman on those conversations. With that, I will now keep schtum.

The Convener: Thank you very much, minister.

Andy Wightman: I thank the minister for putting that on the record. During discussions on this, I encountered the Planning Act 2008, which is the UK statute on national infrastructure. I will just put on the record that it appeared to me that some planning authorities were incorrectly interpreting the consequential provisions of the 2008 act as they were inserted into the 1997 act.

Kevin Stewart: If Mr Wightman wants to pass on the names of those authorities that he thinks are interpreting the legislation incorrectly, we will have a look at that and we will talk to and write to the authorities concerned. To go a bit further than that, if we find out that that is a widespread practice, I am more than willing to write to all authorities to clarify the position or to get the chief planner to do so.

Andy Wightman: I thank the minister for that. I am not sure that I intend to tell tales out of school. Some of this information I deduced from conversations that I have had. However, I think that the minister gets the point that there is potentially some confusion in this area and that some clarification and tidying up needs to be done to ensure that the important work of protecting trees, particularly in conservation areas, can be more effectively administered.

Amendment 90, by agreement, withdrawn.

Amendment 91 not moved.

The Convener: Amendment 152, in the name of Gordon Lindhurst, is grouped with amendment 182. Welcome, Gordon.

Gordon Lindhurst (Lothian) (Con): Thank you, convener. The purpose of amendment 152 is simply to stop a gap in the current legislative scheme that means that neighbour notification for consent is required if a building is not listed but is not required if a building is listed. Not only is that counterintuitive, it places listed buildings on a less protected level than non-listed buildings, which in turn can affect not only the owners but the tenants and residents of such buildings. Neighbours in listed buildings are often aware that works are to be carried out and listed building consent has been granted only when workmen arrive and start carrying out works such as forming openings in walls, which may have structural implications in a building; installing additional bathroom facilities, which can affect drainage; or altering communal spaces, which can affect things as serious as fire safety.

All that amendment 152 seeks to do is to remove the anomaly that means that neighbour notification requirements are not required for listed buildings and it would simply make the requirement the same for both listed and unlisted buildings. The amendment has the support of Edinburgh World Heritage, the Cockburn Association and the Built Environment Forum Scotland.

In the interests of transparency, I should say that I am an owner of a flat in a listed building in Edinburgh. I am happy to take any questions from committee members on the amendment.

I move amendment 152.

The Convener: Members might want to ask questions when you are winding up. I call Andy Wightman to speak to amendment 182 and the other amendment in the group.

Andy Wightman: I support amendment 152.

Amendment 182 was lodged with the intention of sending a signal to the owners of listed buildings who are doing nothing with them and apparently waiting for the day when the building becomes too dangerous and has to be demolished. Amendment 182 seeks to send a signal within the planning system and make it clear that there is a presumption against the use of a listed building for any purpose that would affect the reason for the listing. I am aware that the amendment is potentially a very blunt tool and that the committee has not been persuaded that presumptions against—or, indeed, presumptions for—are things that make good law in planning. I am also aware that much of the intention of amendment 182 would be better secured under property law reform. When I read amendment 182 again—it has been several months since it was drafted—I came to the conclusion that I am not persuaded by my own amendment, because it has some flaws in logic. [*Laughter*.] It is good to come fresh to these things. I will therefore not move amendment 182 when invited to do so.

The Convener: I congratulate the member on his honesty. If no other members wish to comment, I invite the minister to respond.

Kevin Stewart: Amendment 152, in the name of Gordon Lindhurst, would lead to significant duplication for both planning authorities and the neighbours of buildings subject to listed building applications. The current position is that applications for listed building consent have to be advertised by a notice on or near the building and

notices published in a local newspaper and *The Edinburgh Gazette.* Where external works are considered for any development that would affect the character or appearance of the building, a separate planning application is required, which triggers direct notification of neighbouring premises. In both cases, the notice must allow at least 21 days for representations to be made.

Amendment 152 would mean that, in many cases where external works are proposed to a listed building, neighbours would receive two notifications and quite possibly would feel the need to make two representations. They would also receive notifications for internal works such as the fitting of a new kitchen or redecoration, which are unlikely to have any impact on neighbours.

Monica Lennon: Does the minister accept that the planning authority can take into account only representations on the application that is in front of it? If someone has made representations on a separate planning application, those are a matter for that application alone. In looking at material considerations for listed building consent, the authority would have to look only at the submissions that were in front of it for that application.

10:30

Kevin Stewart: I will come back to some of these points in a little while, but what we have here is a situation of duplication that would add to the bureaucracy, whereas I think that most of us have agreed that we want to streamline the system and get rid of bureaucracy. Beyond that, I find it rather bizarre that people would have to notify their neighbours if they wanted to redecorate or put in a new kitchen. That may be fine for those folks who want to keep up with the Joneses and find out what everybody is doing, but I do not think that it is a requirement.

Gordon Lindhurst: The minister talks of duplication, but what will happen if things are simply advertised in the press? Who spends their evenings reading notifications in the press every day or week of the year to make sure that their neighbours have not submitted an application? I do not think that that is a valid comment on the matter. Internal alterations—

The Convener: You will have a chance to sum up, Mr Lindhurst.

Gordon Lindhurst: Forgive my lack of knowledge of the complicated procedures that apply in this Parliament.

The Convener: That is why they are all written down in front of you.

Kevin Stewart: No fees are charged for listed building consent, so there would be a substantial additional burden for planning authorities with no income to support it. Also, it is likely that representations on listed building applications would be on the same grounds as representations on planning applications, as most folk would be unlikely to understand the difference.

The notification and advertisement requirements are set out in regulations. Mr Lindhurst is trying to import wording from the planning regulations into the primary legislation on listed buildings, and there are some technical problems with that. I am happy to consider whether there are any significant gaps in the current arrangements and to amend the regulations if necessary, but amendment 152 goes much too far and I cannot support it.

The Convener: Thank you, minister. I call on Gordon Lindhurst to wind up and to press or seek to withdraw his amendment.

Gordon Lindhurst: The minister's comments are not persuasive, in my submission. They do not assist proprietors in blocks, for example. Internal alterations can be major and they can affect other properties within the block. For example, in a listed building, flooding possibilities arise from the installation of a new bathroom in the flat above or below, and alterations of—

Kevin Stewart: Will Mr Lindhurst take an intervention?

The Convener: It is for Mr Lindhurst to decide whether to take the intervention.

Gordon Lindhurst: I think that the minister has had his say, but I will allow him to intervene briefly.

Kevin Stewart: The requirement is not just for a newspaper advert, as Mr Lindhurst well knows. The listed building application requires a notice to be displayed in the building as well.

Gordon Lindhurst: As the minister well knows, such advertisements are not always displayed prominently in a place where a proprietor of a building will see it. Also, a proprietor who wishes to have notification may have a flat that is let out to a long-term tenant, for example, and the tenant may not see the significance of a notice that happens to be placed on a street railing some distance from the flat that they live in.

Internal alterations can be very significant and there are fire safety implications as well as the other matters that I have touched on. Under the bill, the proprietor is not notified individually in such a way that they will realise what is going on and take notice of it, so I—

Kevin Stewart: Will the member take an intervention?

Gordon Lindhurst: I will not at this stage. I will press amendment 152.

The Convener: The question is, that amendment 152 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 152 agreed to.

Amendment 182 not moved.

The Convener: Amendment 231, in the name of Rhoda Grant, is in a group on its own.

Rhoda Grant: The intention behind amendment 231 is to make provision for compulsory acquisition of land that

"has been allocated in the local development plan for the resettlement of previously inhabited settlements".

In previous meetings, I have spoken about the need to repopulate many rural areas, so I will not rehearse those arguments. Amendment 231 would provide a means of resettling land that had been identified for that purpose. It would provide a useful backstop power for furthering the resettlement of land.

Of course, any power of compulsory purchase cannot be used unless it is a final step, when the sale of land will not otherwise happen. Under amendment 231, the power could be used only if the land had been allocated in the local development plan and had therefore been subject to public consultation and scrutiny and a decision by the local authority.

Without the ultimate power of compulsory purchase, the cause of repopulation might be thwarted by powerful private interests. It is a useful power to have available, and its existence would focus minds. I hope that the power would never need to be used, but that does not mean that there should not be such a power, because the power would provide leverage, to serve the public interest.

I move amendment 231.

Kevin Stewart: I set out my thoughts on rural resettlement when I commented on other amendments that Rhoda Grant lodged. I agree with the aim of addressing depopulation of rural areas, and I agree that, in principle, the resettlement of previously populated areas would help to achieve that aim.

In previous meetings, the committee agreed to amendments from Rhoda Grant and Alasdair Allan on the subject. As a result, the desirability of increasing the population of rural areas and allocating land for resettlement will need to be considered in the national planning framework and local development plans respectively.

I cannot support amendment 231, because it is unnecessary. Local authorities already have the power, under section 189 of the 1997 act, to acquire land by compulsory purchase order

"to secure the carrying out of development, redevelopment or improvement"

that is identified in a development plan, or

"for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated."

If an authority that has included policies on resettlement and allocated suitable locations for that purpose in its local development plan needs to compulsorily purchase land to deliver that, the authority already has a mechanism for doing so under section 189.

I therefore ask Rhoda Grant to seek leave to withdraw amendment 231.

Rhoda Grant: Given the minister's comments, I will not press amendment 231. I will review what he said and consider whether the provisions that he described adequately fulfil the purpose of amendment 231.

Amendment 231, by agreement, withdrawn.

The Convener: Amendment 336, in the name of Claudia Beamish, is grouped with amendments 337 to 339.

Claudia Beamish (South Scotland) (Lab): The bill presents an opportunity to simplify the processes that relate to mineral working sites in Scotland and to align planning with other areas of Government policy, in a logical way. Amendments 336 to 339, in my name, cover mineral working sites and peatland extraction sites.

Amendment 336 might look technical, but it is simple. It would add nature conservation to the recognised after-uses of mineral working sites. Currently, schedule 3 to the Town and Country Planning (Scotland) Act 1997 sets out three potential uses for land that is restored following mineral extraction: agriculture, forestry or amenity. The list fails to recognise nature conservation as a highly valuable option for former extraction sites. Nature conservation could include the restoration of peatland habitats for carbon storage and the

enhancement of biodiversity and other ecosystem services.

Amendment 336 stipulates that where nature conservation is the chosen after-use, it must meet the standard set by Scottish Natural Heritage. That could be the most appropriate and locally desirable after-use for many mineral extraction sites. It might be supported by communities and could be a standard for developers to adhere to. Including nature conservation as an after-use could transform a scarred landscape into an important space for communities and nature.

Amendment 337 looks to tackle instances in which mineral extraction sites are left dormant for several years by rebalancing the responsibility on operators, rather than planning authorities. The current legislation—schedule 8 to the Town and Country Planning (Scotland) Act 1997, on old mineral workings and permissions—empowers a planning authority to assume that a mineral extraction site has permanently ceased working when it has been dormant for two years and to therefore require the removal of machinery and the restoration of the site. However, the onus is wholly on the planning authorities to monitor whether sites are sitting dormant and for how long. It does not prevent operators from leaving sites dormant for years and then revisiting operations without input from planning authorities.

A 2009 Department for Environment, Food and Rural Affairs report shows a huge lack of information for most sites, including those in Scotland: more than half the sites listed have “unknown” status.

Amendment 337 would mean that if an operator had left a site dormant and had ceased operations for two or more years continuously, the planning permission would be automatically suspended. Operators would then be required to proactively apply to the planning authority for permission to resume operations. In view of the fact that planning officers are often up against it in monitoring dormant opencast and peatland sites, the cost to local authorities is also relevant.

Members will know how dormant and unrestored sites are a blight on communities and landscapes across Scotland. Auchencorth Moss is an example of that. Amendment 337 would put some onus on the operator to keep permissions up to date and would better enable planning authorities to become aware of dormant sites, which might benefit from some enhanced scrutiny.

Amendments 338 and 339 are about improving the processes for protecting peatlands. I read in the press this morning that there is a move to have the Flow Country designated as a United Nations Educational, Scientific and Cultural Organization world heritage site, like New Lanark and the Grand Canyon. That shows its importance for tourism.

Around 0.5 million cubic metres of peat are still being extracted annually in Scotland. That removes a carbon store that takes thousands of years to form and results in the loss of almost all biodiversity value on the site and changes to hydrology that can have a negative effect on flood management.

With increasing global recognition of the need for carbon reductions from land use activity and in order to meet our climate change targets, it is clear that action is required to address the numerous old planning permissions for peat extraction. Current permission periods are lengthy and poorly regulated. There are cases in which peat has continued to be extracted for years after the expiry of permission, such as Moy Moss in the Highlands, where peat has been extracted for 13 years after the expiry of permission.

Amendment 338 would introduce a sunset clause for all old peat extraction consents, setting a deadline for companies to reactivate permissions or see them permanently expired. That would mean that all companies with consents on phase 1 or 2 lists—I am happy to explain those in detail, but I will not do so, unless that is what members wish—would need to reactivate consents in the two-year period after the Planning (Scotland) Bill receives royal assent.

The Environment Act 1995 introduced a requirement for the periodic review of mineral permissions. However, only 15 sites are known to have gone through that review process under the statutory arrangements. The requirements are not enforced. Opportunities for inactive permissions to cease are not being realised through the process, and there is no centrally available information about any sites where planning permission has at this stage ceased to have effect. In my view, those old planning permissions also act as a barrier to obtaining funding for restoration through mechanisms such as peatland action.

10:45

A sunset clause would remove long-term uncertainty about the status of carbon in the peat soils and remove the burden on local authorities to instigate the process, overcoming the issues of lack of enforcement and clear data. Importantly, the amendment stipulates that the restoration and aftercare conditions would still apply. I do not believe that amendment 338 runs the risk of encouraging developers to start production at unwanted peatland sites with old permissions, as it would simply require companies to reactivate consents in order to work at some future date, rather than requiring work to be started.

Finally, amendment 339 clarifies that any calculation of compensation for restriction of working rights for peatland extraction should take into account United Kingdom and Scottish Government policy on peat use. The Scottish Government supports the UK's targets for retail soil supplies to be peat free by 2020 and for commercial horticulture to end peat use by 2030. The Scottish Government has also set a target to restore 250,000 hectares of peatland by 2030.

Although many members of this committee and the Environment, Climate Change and Land Reform Committee are aware of the issues, it is important to highlight the matter. Amendment 339 would ensure that compensation calculations were based on market assumptions. The Scottish Government has, rightly, given high priority to the phasing out of peat use and peat extraction in recognition of significant climate change impacts and adverse effects on water, biodiversity and wildlife from damaged peatlands. However, despite increased understanding of the importance of peatlands, and policies to phase out the use of peat in horticulture with clear target dates, I understand that peat extraction in Scotland is still being given consent with extraction allowed into the 2040s.

Although planning policy makes a presumption against new commercial peat extraction permissions, schedule 8 to the Town and Country Planning (Scotland) Act 1997 allows planning authorities to order the discontinuance of mineral extraction if it is in the interests of their districts. Any such order could trigger a claim for compensation by the holder of the extraction rights, as provided for in schedule 10 to the 1997 act.

Last year, Auchencorth Moss was regranted planning permission, despite environmental concerns and approaches from my constituents—not that that would necessarily make a great deal of difference—so I became aware of the issue then. Midlothian Council's hands were tied by its inability to pay the lost-income compensation. Amendment 339 could give planning authorities the confidence to consider restricting working rights in strategically important areas of peatland restoration and it would provide more clarity for the scope of possible compensation claims.

At this stage, amendment 339 is a probing amendment. If there is an appetite for it, I recognise that some details need to be considered further, such as definitions of retail and commercial sectors. However, I hope that members can support the amendment in the longer term, as it shows clear changes in public interest in ensuring that peatlands are safeguarded and provides a realistic basis for compensation claims without undermining human rights principles.

I move amendment 336.

Kevin Stewart: I will start with amendment 336. I agree that it would be useful for nature conservation to be one of the uses that can be specified in aftercare conditions. However, the proposal that the standard should be determined by Scottish Natural Heritage rather than by the planning authority does not work or sit well alongside the standards required for other uses. An aftercare condition is imposed by the planning authority, and may require that the steps to be taken are set out in a scheme to be approved by the planning authority.

Claudia Beamish: If I were not to press the amendment today, but looked at that aspect of it and, perhaps, made an alteration to reflect the point that the minister has made about SNH, putting SNH in more of an advisory role, would that make sense?

Kevin Stewart: I will come to those points at the end. As Ms Beamish is well aware, I am happy that she continues discussions with me and my officials around those matters. I will clarify all those points at the end.

Amendment 336, in effect, provides that what the planning authority may approve is to be determined by SNH. It elevates the role of SNH to that of decision maker rather than adviser. That is why I would not support the aim of including nature conservation in aftercare conditions and I ask Ms Beamish to withdraw that amendment.

On the other amendments in the group, I recognise that there are particular issues around peat extraction and the legislation relating to old mineral permissions that were approved prior to 1982. The policies and context in relation to peat have changed significantly since that date and it therefore seems entirely reasonable to reconsider the circumstances that allow dormant or inactive peat sites to be brought back into operation. However, I cannot support the amendments in their current form. In particular, amendments 336 and 337 are not restricted to peat but would cover all types of mineral extraction. That could have a significant impact on other industries, including aggregate extraction.

Amendment 337 would automatically suspend all mineral consents if there had been no activity on a site for two years. Planning authorities already have powers to take action where works have permanently ceased. Those existing powers include procedures such as notification requirements and powers to require steps to be taken for environmental protection, which are not provided for in the amendment.

Graham Simpson: For clarity, does the minister object to the period of two years? Would he be minded to accept a different period of time or is he against imposing any period?

Kevin Stewart: My problem is around mineral consents. We can have discussions about timescales, but the issue with Ms Beamish's amendment is around putting peat and mineral consents together.

Amendment 338 would require all permissions that were granted before 1982—for both dormant and active sites—to expire two years after the act receives royal assent. Again, that would apply to all sites and not just those where peat extraction is taking place. Under the requirements for the review of old mineral permissions in schedule 9 to the 1997 act, those sites would have had new conditions imposed on them in the early 2000s as well as the requirement that those conditions be reviewed every 15 years. Most of the sites should therefore have been reviewed quite recently and will have up-to-date conditions in place. I see no reason why those permissions should be automatically revoked.

The amendments do not reflect the operational needs of the quarrying industry and would impact on its ability to ensure that an adequate and steady supply of material is available to meet the needs of the construction industry. That would also make it difficult for local authorities to plan for a 10-year land bank of construction aggregates, as they are required by Scottish planning policy to do.

Even if the proposals were to be restricted to peat sites, I would want to ensure that they were compatible with the various powers that are contained in the 1997 act. This is a very complex part of the existing legislation and there are a number of technical problems with the drafting of the amendments, which are not easy to resolve. For example, I recognise that amendment 339 seeks to reduce compensation for withdrawing consent for peat extraction relating to the voluntary targets set by the UK Government for ending the use of horticultural peat. Given the strong environmental case, I believe that there could be justification for that. However, some further work would be needed on the definitions, and also to make sure that the provision on compensation links to any provision on the suspension and expiry of permissions. It does not currently connect properly with amendments 337 and 338.

To conclude, I understand the reasoning behind the amendments in relation to peat. I cannot accept the extension to other minerals, and the impact that that would have on the construction industry, and there are also technical issues with the amendments as they stand. I would be happy to continue working with Ms Beamish to see whether we can bring forward adjusted proposals for stage 3, but I ask her not to press the amendments in the meantime.

Claudia Beamish: I have listened carefully to the minister's comments. I do not intend to press amendment 336 today, because an important point has been made about the relationship between planning authorities and SNH in relation to other amendments, one of which was mine, as regards SNH's advisory role.

I was aware that amendments 337 and 338 both extended beyond peat extraction, and I am happy to discuss that. There are also opencast sites that have been affected by the issues raised in my amendments, but it may be more appropriate to focus only on peat. However, I am disappointed that the minister has not recognised the importance of the circular economy in relation to the gaining of aggregates. I realise that that goes back into the present mineral extraction planning arrangements, so I acknowledge that it is complicated, and I will consider firming up those amendments in relation to peat only, because that was the principal reason for lodging them.

I will not move amendment 339 today either, because of the minister's offer to discuss the complex issues around compensation. I am happy to have those meetings with him.

Amendment 336, by agreement, withdrawn.

Amendments 337 to 339 not moved.

10:58

Meeting suspended.

11:06

On resuming—

Section 27—Power to provide for levy

The Convener: Amendment 308, in the name of Adam Tomkins, is grouped with amendments 309, 99, 183, 100, 101, 64, 102, 274, 65, 277, 340, 341 and 290. I call Adam Tomkins to move amendment 308 and to speak to all the amendments in the group.

Adam Tomkins (Glasgow) (Con): Thank you, convener. It is good to be back.

Part 5 of the bill is on the infrastructure levy, which is what my amendments are concerned with. Right across the political spectrum, we probably all understand the importance of effective infrastructure to effective development. From our constituencies or regions, we all surely know of illustrations of inadequate infrastructure stymieing effective development. That is plainly not in the national economic interest.

We all know that there is a statutory device—the section 75 orders under the 1997 act—to deal with the problem. However, that scheme is narrow and has been narrowed further by the recent judgment of the UK Supreme Court in the case from Aberdeenshire. I imply no criticism of the UK Supreme Court. However, under the section 75 orders scheme, a number of local authorities, including Aberdeenshire Council, have clearly been seeking to extend the reach of section 75 orders beyond what was lawfully mandated in the 1997 act. Therefore, there is a need to at least think about whether we need to supplement the existing section 75 orders scheme with a broader infrastructure levy such as is now in place in England and Wales.

I welcome the fact that the Government is thinking along those lines, and I encourage the Government to think a little bit harder and faster along those lines—that is what my amendments 308 and 309 are designed to do. They are probing amendments; I do not intend to press them today. However, I want to start the debate on the infrastructure levy in order to test the Government's resolve on the issue and to gently encourage the Government to move more quickly and with greater fervour in the direction of understanding the importance of infrastructure to development.

As the committee pointed out in its stage 1 report, when the bill was published, in December last year, the Government said:

"no decisions have yet been made on the use of"

the power that is contained in section 27, to which amendments 308 and 309 relate. We are 11 months on. A year ago, no decisions had been made on the use of the power, so my first question to the minister—I hope that he will be able to respond to this in a few moments—is whether any decisions have yet been made on the use of the power. If they have not, why have they not?

We all know that, if there is to be an infrastructure levy in Scotland, something clear and precise will have to be said about the relationship between that levy and the existing section 75 obligation, because there is no detail on that in the bill, the accompanying policy memorandum or any of the other documentation that the Government produced when it published the bill in December. Is that detail available now? If not, why not, and when will it be available? Can we please have it before stage 3?

The committee also noted that the policy memorandum accompanying the bill states that

"further work is required to define a model which is ... practical and meets the objectives"

that have been set out for the infrastructure levy. I agree with that, but we have had a year. Has further work been undertaken

"to define a model which is ... practical and meets the objectives"?

If that work has been undertaken, can we please see it? If not, why not? That would indicate that the Government is not really serious about an infrastructure levy. That work should be undertaken before stage 3 and shared with us before then.

The committee also noted that a number of the witnesses whom the committee heard from during its stage 1 inquiry were what the committee rather nicely described as

"generally lukewarm about the proposals for an infrastructure levy."

That is the language of fudge that is beloved of all politicians seeking consensus, and it is perhaps apt for today. A number of witnesses thought that it might be helpful to have an infrastructure levy, but they had concerns about the lack of clarity in the bill. All of that has been on the record for some months.

My amendments are designed to elicit greater clarity from the Government—today, I hope, but if, for some inexplicable reason, it is not available today, at least between now and stage 3—about all those important points of detail, which are required in the interests of ensuring that our planning system does not allow the continuation of something that is clearly wrong in the planning system at the moment, which is that the lack of adequate infrastructure stymies effective development that is needed in Scotland to boost the Scottish economy.

We clearly need to address the issue. I repeat that I am glad that the Government is seeking to address it in the gestures towards an infrastructure levy in part 5. I am simply encouraging the Government to go faster and harder and be much more committed on the issue than it seems to have been when the bill was put together.

I move amendment 308.

Andy Wightman: My amendments fall into two groups: 99 to 102 and 183, and 340 and 341. Mr Tomkins referred to the observation in our stage 1 report that witnesses were "generally lukewarm" about the proposals. I clarify that the committee's report was unanimous and that a lot of work was done to have such a report, which would have greater weight. Obviously, some of the language was a consequence of that.

Personally, I am not persuaded that the provisions in the bill on an infrastructure levy are warranted. Mr Tomkins highlights one of the policy reasons for introducing the regulation-making

powers—namely, the Supreme Court's decision—but that, in itself, raises significant policy issues about who should pay for infrastructure and how it should be planned. Homes for Scotland was clear that, for an infrastructure-first approach in the planning system, we need to get the key stakeholders in the room—Scottish Water, SEPA, Transport Scotland, the planning authority and whoever else—to better align capital programmes of investment in public infrastructure with development plans. There is broad agreement that, in principle, we should try to do that.

However, it is important to note that, as the bill makes clear, when we talk about infrastructure that would be supported by a levy, we are talking about public infrastructure. The question is: who should pay for that? I am clear that it should be paid for by the public purse. I want a shift from a planning and development system that is substantially driven by private interests putting forward propositions for sites. In essence, it is a privatised system. As a consequence, section 75 came along and we started expecting—we are now proposing—that further financial provisions will be made by private interests.

I reject that. I want to see a shift towards public-led development, including appropriate provision for infrastructure. I want to see the wide adoption of land value uplift mechanisms at the outset in order to be able to support developments—instead of having a back-loaded system of demanding fees from people, I would far rather it was done up front.

11:15

The financial memorandum indicates that the infrastructure levy will raise very little money. It is also unclear how it will work. In recent discussions, we talked about the speculation that Edinburgh's population will increase substantially over the next 20 years, which may require the construction or extension of water supplies in the Scottish Borders. If I want to apply for a consent to build six flats in Leith, should I contribute to the water supplies that would be constructed in the Borders for Edinburgh? Yes, but not through an infrastructure levy.

I will vote to get rid of the provisions in part 5 through amendments 99, 100, 101, 102 and 183. I do not believe that the regulations, which give ministers wide scope to introduce a power to raise a levy, are justified. On the basis that members might not support that approach, I have also lodged amendment 340, which makes the levy subject to the super-affirmative procedure in Parliament.

Amendment 341 would introduce a sunset clause. I note that the minister proposed the same thing in amendment 274, in a rather more succinct and elegant form, so I will not move amendment 341. However, I will move amendment 340, on the need to have fuller scrutiny of the regulations in Parliament. The regulations will introduce quite a big shift in policy, which is why we should not have them in the first place. However, if we are going to have the regulations, there needs to be enhanced scrutiny in Parliament.

Alexander Stewart (Mid Scotland and Fife) (Con): Amendment 64 is a technical amendment to section 30, which allows ministers to modify section 29 of the bill so as to change and clarify the meaning of "infrastructure" in relation to parts of the bill and "the schedule". There are two schedules to the bill. Amendment 64 clarifies that the reference in section 30 is to schedule 1.

Amendment 65 would introduce review requirements in relation to infrastructure levy powers. As the committee noted in its stage 1 report, it is not good legislative practice for powers to be granted that then lie on the statute book unused until subsequent Governments seek to use them many years later—potentially in ways that were not originally envisaged. Amendment 65 would introduce a clause requiring Scottish ministers to review the operation of those parts of the act relating to infrastructure levies and to lay a report on the conclusions of such a review before Parliament.

Such a review would provide an opportunity for scrutiny of the Government's decisions relating to that part of the bill and would result in enhanced accountability. A three-year period in which the review would have to be carried out would ensure that there was sufficient time for the legislation to be enacted and regulations to be introduced—should Scottish ministers wish to do that—while ensuring that matters were kept under review in a timely manner.

Kevin Stewart: I will remind the committee how the proposals for an infrastructure levy came about. The independent panel raised concerns about the limitations of section 75 planning obligations and said that much could be gained from having a well-designed levy that took into account development viability. That idea was widely supported.

The Scottish Government subsequently commissioned extensive research and discussed the matter fully with stakeholders. It is fair to say that we have not yet found the perfect solution. However, I remain convinced that the concept of a levy is worth pursuing, as it could play a key role in supporting the delivery of future development.

I emphasise that the levy has to be well designed. We have an on-going programme of work on planning and infrastructure with the

Scottish Futures Trust. We have also established an infrastructure delivery group, which will be well placed to help us with that work.

We have to do further work on that, and it is practical to do so. I understand that Mr Tomkins and others may want to see us move at speed, but I am more concerned about having a well-designed, workable levy. We will continue to look at detailed design, but, of course, that partly depends on what happens with the final provisions of the bill. If the committee decides to keep the infrastructure levy, we will progress it as a priority in 2019.

Graham Simpson: Adam Tomkins made the point—which the minister has admitted—that there is a provision in the bill that has not been thoroughly thought through. Mr Tomkins was pressing for a commitment that more work would be done before stage 3. We have had a number of amendments, mainly from Opposition members, that have not been properly thought through, and this amendment falls into that category. Can the minister commit to doing further work ahead of stage 3?

Kevin Stewart: We are continuing to work on that with our partners, but I cannot commit to that work being complete before stage 3. We all want to see a well-designed and workable levy. As members are aware, we had some initial work done. I was a bit sceptical about some of that work and its findings; therefore, I have instigated further work to make sure that, if we move forward with the levy, it is the right thing for all—for councils, for the public sector and for all stakeholders. My commitment to the committee is that we will continue to do that work. As the work progresses, I will be happy to speak to the committee about where we are, but I cannot guarantee that the work will be completed before stage 3.

There cannot be many members here who have not heard concerns and questions about the impact that new development has on infrastructure provision in their areas. We must give local authorities better tools to ensure that existing, new and growing communities have access to the facilities and infrastructure that they need. The public sector cannot pay for that on its own, but contributions from developers must be fair and should not deter the development that we need. A well worked-out levy has the potential to achieve that balance.

I do not support Mr Wightman's proposals to remove the levy provisions altogether. Given his strong support for adding other land value capture mechanisms elsewhere in the bill, I am slightly puzzled as to why he would want to remove the one that is already there.

The affirmative procedure allows Parliament the appropriate opportunity to scrutinise the regulations, so I do not support amendment 340, in the name of Mr Wightman. I point out that Mr Wightman's procedures would apply only to the first regulations under section 27; they would not affect any subsequent regulations under that section.

I have taken account of the Delegated Powers and Law Reform Committee's concern to ensure that there should be proper consultation. My amendment 277 requires ministers to consult local authorities and others before making regulations. That consultation will be open and transparent, and the Parliament will have access to all the published responses as well as to the analysis of responses. On the basis of that evidence and whatever other evidence gathering members may choose to do, it will be up to the Parliament to decide whether to approve the regulations.

Andy Wightman: The minister mentioned that the public sector cannot pay for this. I have two questions. First, does he accept that the capital budgets of public sector roads, drainage, sewerage, education and health infrastructure providers should be aligned with development plans as much as possible? Does he agree with that general proposition?

Secondly, does the minister agree that the majority of development that comes forward does not require a levy to be introduced, because section 75 of the 1997 act provides adequate provisions for raising sums of money for infrastructure that is directly related to the particular development?

Kevin Stewart: Mr Wightman has heard me saying on a number of occasions that, in my opinion, local authorities should do more to align capital budgets with their local development plan. I was a strong believer of that when I was on a local authority. When development plans are being formulated, cognisance should be taken of what infrastructure is required in the area to ensure that the development can go forward. However, I reiterate that I do not think that the public purse can pay for all new infrastructure to deal with all new developments.

Unlike Mr Wightman's proposal, the consultation requirement that is created by amendment 277 will apply to all infrastructure levy regulations, and not just to the first set. I hope that members will support that.

I recognise that the committee has concerns that the power to establish an infrastructure levy may remain in legislation and will never be implemented. We have a range of measures that seek to address that issue.

Mr Tomkins's proposal that regulations should be laid within a year of royal assent is not reasonable, and I am pleased that he said that he will not move his amendment. I would prefer that we had the time to ensure that we develop a preferred model and undertake proper, comprehensive consultation. If the committee wants us to get the levy right, that is the right thing to do.

Amendment 65, in the name of Mr Stewart, is not particularly helpful. It requires ministers to review the operation of part 5 of the bill within three years of royal assent. It seems to me that, if ministers are taking forward regulations within that time, there will be evidence of research and consultation in progress; if not, there will be little to review. In my view, the proposal would add unnecessary procedure and possibly take resources away from working on the levy.

My amendments 274 and 290 will mean that the power to establish a levy will lapse if it is not used within 10 years of royal assent. We need to allow a reasonable time for the detailed design and consultation that are needed and to introduce the levy in an orderly way. If the committee thinks that 10 years is perhaps a touch generous, I can understand that, and I would be happy to negotiate a final date to be put forward at stage 3.

I will take an intervention from Mr Stewart.

Graham Simpson: From Mr Simpson.

Kevin Stewart: I am sorry—from Mr Simpson.

Graham Simpson: That is okay; we are very alike.

I am pleased to hear the minister say that he is open to discussions, because my gut feeling is that 10 years is too long. We will support the amendment, but it needs to be amended for stage 3. I am not sure what the right figure is—perhaps it is five years—but we can discuss that.

11:30

Kevin Stewart: I am sure that we can negotiate that point—I am open to that. As I said, I think that 10 years is perhaps a touch generous.

Mr Wightman takes a different approach with amendment 341, which seeks to provide that the levy regulations would fall after 10 years, unless they were renewed. I assume that the intention is that renewal would be required every 10 years but, because of the way that the amendment is drafted, it would seem that one renewal only is required. In any case, I do not believe that it is necessary to make the renewal of the regulations a statutory requirement. If the regulations are working well, and if the levy is based on a formula that automatically moves with the economic situation—for example if it is linked to development value—there would be no need to review the regulations. If there are problems, or if the formula needs to be updated, I am sure that the Government of the day would do so, so I do not support amendment 341.

I ask the committee to support amendments 274, 290 and 277 in my name, and not to support the other amendments in the group. I am committed to establishing a well-designed levy and will update the committee on that as we move forward with it.

Adam Tomkins: The debate has been well worth having. I do not agree with everything that Mr Wightman said, but I do agree that the issue that is on the table is who should pay for infrastructure. I do not agree with him that we should expect all Scottish infrastructure to be paid for exclusively from the public purse. I agree with the minister that we need a hybrid model—indeed, we have a hybrid model—that allows for a mix of public and private capital investment in the nation's infrastructure. That is appropriate and it seems to me that that is the only realistic way of going forward. Imagining that the entirety of our infrastructure could be paid for by public corporations is as unrealistic as imagining that it could all be paid for by the taxpayer. We need a mix, and the issue is that the current mix is not working well enough to accelerate, or even facilitate, the kind of development that we need across Scotland in rural and urban communities, because of the limited nature of section 75 orders. The issue needs to be looked at afresh—that was the view of the independent panel and, as the minister pointed out, it is the view of the Scottish Government. It is a view that I support.

Mr Wightman is right that there is a fundamental question of policy about what the relationship is and should be between the contributions that we should legitimately expect from the public and private purses for infrastructure and development.

I completely agree that the infrastructure levy must be well designed but, with respect, minister, you have had years to design it well. The current review of planning commenced in April 2015, which is three and a half years ago. The review of the independent panel was published in May 2016, which is two and a half years ago. The bill was published 11 and a half months ago—nearly a full year—and in your contributions you were, with respect, unable to point to a single concrete development in those intervening 11 and a half months that would take the policy forward. That is incredibly disappointing. My amendments are designed to accelerate, not decelerate your thinking on the issue. Of course the infrastructure levy needs to be well designed, but years have already elapsed—

Kevin Stewart: Will the member take an intervention?

Adam Tomkins: I will in a minute, minister. Years have already elapsed in which you and your officials, working alongside the infrastructure delivery group and others, in consultation with stakeholders and this committee, could have designed the levy well. With respect, you have not given me confidence that there will be significant further progress between now and stage 3, and that is disappointing.

Kevin Stewart: Mr Tomkins will be aware that we carried out research on this matter in order to get it right. As I said in the stage 1 debate, I was not happy with what we got back and that is why we have done what we have. Beyond that, and to progress certain aspects, we need to see what is going to come out of the bill in order to get it absolutely right.

I am committed to getting this right but I do not promise the committee speed because, in order to get it absolutely right, we need to have all the stakeholders on board and take cognisance of all views. The last thing that any of us would want is the implementation of an infrastructure levy of the sort that has happened in certain other places and that has not worked to the benefit of communities or economic development.

Adam Tomkins: I do not want a poor and ill-thought-through infrastructure levy to be in place in Scotland any more than you do. Equally, I do not want this all to be pushed into a "this is all a bit too difficult" box and for excuse after excuse to be piled on justification after justification for doing nothing, because the current system is not working. We need to address that, and the bill is the ideal vehicle for doing so. The provisions do not go far enough to address that, in my judgment, and I encourage you again, with your officials and consultees, to accelerate the work that I know that you are doing—endeavours in which I support you—so that Parliament can at least be better informed when we revisit this bill at stage 3, even if you have not yet found what you have described as the perfect solution. Let us not allow the perfect to be the enemy of the good. This is a concept that is worth pursuing and I respectfully suggest that it is worth pursuing aggressively and at greater speed than has hitherto been evident.

Andy Wightman: Mr Tomkins referred to the balance between the private and public sectors. He will be aware that public sector expenditure is derived from a very wide basket of taxes. Does he not appreciate that, for example, should an infrastructure levy be used to pay for a very large investment in expanding the public water supply for the city of Edinburgh, it would be inequitable that those who ultimately paid for new development—which in the case of houses would be home buyers—would in effect pay the levy, while all the existing residents of Edinburgh, who would also benefit from an upgraded water supply, would pay nothing towards the investment? That would be fundamentally iniquitous.

Adam Tomkins: I do not think that there is a fundamental unfairness there but I do think that Mr Wightman puts his finger on the issue, which is that we need an honest and robust conversation about the appropriate balance between public and private investment in terms of delivering the infrastructure that Scotland needs to drive forward the development that we all know that the economy needs. I am seeking to agree with Mr Wightman rather than disagree, although we can make it into an argument if that is what he would prefer.

Enough has been said about these amendments. Certainly, enough has been said about these amendments by me, so I am happy to wind up at this point.

The Convener: Do you want to press or seek to withdraw amendment 308?

Adam Tomkins: I seek to withdraw amendment 308.

Amendment 308, by agreement, withdrawn.

Amendment 309 not moved.

The Convener: Amendment 25 in the name of Graham Simpson is grouped with amendments 342, 343, 26, 344, 270, 271, 27, 272, 273 and 345.

Graham Simpson: I think that I might be right in saying that this is the final group of amendments.

The Convener: Will you therefore not speak for very long?

Graham Simpson: I will not speak for very long—certainly, not for as long as the minister will probably speak.

The Convener: Let us not finish on a bad note.

Graham Simpson: We will all be relieved that it is the final group. I will speak to my three amendments only: 25, 26 and 27.

The committee's stage 1 report stated that

"the infrastructure levy, as proposed, will not be a 'game changer that will fundamentally alter and remove blockages from the system'."

We agreed that, if it were introduced

"it will likely be more effective in some circumstances and in some places than others. This is because of differences in the volume and nature of development and the potential impact of the infrastructure levy on the financial viability of developments."

The committee was deeply concerned about the powers in the bill that will enable ministers to

collect all the levy funds and redistribute them to councils as they wish. Such powers seem counter to the Scottish Government's intention, as set out in the policy memorandum, where it says:

"The intention is that the levy will be both collected and spent locally, with the potential for authorities to pool the resource for joint-funding of regional-level projects."

The committee said, in its report:

"We support the principle that money raised locally should be spent locally".

That is the intention of amendments 25, 26 and 27. The bill provides the Government with the ability to require councils to transfer to ministers some or all of their levy income, to be distributed among councils. That seems to be an example of the centralising approach about which the minister is in denial. Such undermining of local democracy is unacceptable. Money that is raised locally should be spent locally, as the committee said.

Amendment 25 would require the levy

"to be set by a local authority",

but would not otherwise alter the proposed approach. That seems to me to be the right approach.

Amendment 26 would insert one word—"local"—to ensure that the levy funds local infrastructure projects. Amendment 27 would remove paragraph 14 of schedule 1, which provides that ministers may collect the cash.

The amendments in my name would therefore achieve three things: the levy would be set, collected and spent locally. That is the right approach.

We will vote to retain the levy at this stage. I am disappointed that the minister's comments will save it, as local place plans have been saved, and I think that the provision needs a lot more work at stage 3. I hope that my amendments 25 to 27 are a step in the right direction; they would deliver what the committee asked for and are the right way to go.

I move amendment 25.

Claudia Beamish: I will speak only to my amendments in this group.

I note what the minister said, in his remarks on the previous group, about his commitment to a well-designed and workable levy, but I am concerned by the speed at which things are developing. I hope that the minister will lodge further amendments on the matter at stage 3. I intend to highlight the issue anyway; we will see where that takes us.

Amendments 342, 343 and 344 are interconnected, so I will speak to all three together. They would expand the potential recipients of the proposed infrastructure levy, to include national park authorities. Section 1 of the 1997 act stipulates that the planning authority is the local authority. However, national park authorities are unique: they are not local authorities but can be planning authorities under certain circumstances, as is set out in section 26 of the 1997 act and section 2 of the National Parks (Scotland) Act 2000.

As the bill is drafted, the levy would not be payable to national park authorities. Amendments 342 and 343 would replace the word "local" with the word "planning" in section 27(2), so that the levy would be payable to "planning authorities", and amendment 344 clarifies that national park authorities would be regarded as planning authorities. Such an approach would resolve the problem—although these things are never as simple as they seem to be. I think that the terminology that I have proposed is consistent with other parts of the bill.

It is right to make the approach more inclusive. National parks bring huge benefits through sustainable land use and development, and focus on conserving our natural environment and cultural heritage. In my view, the infrastructure levy would be a welcome boost to funding for that important work.

11:45

My amendment 345 would add nature conservation management measures to the existing interpretation of infrastructure as found in section 29. Members will be aware that section 29 currently includes a list of matters such as communications, flood defence systems, supply of water and energy and, importantly, education and medical facilities. I will not rehearse the whole list, because members know it better than I do. However, section 29 does not make reference to green infrastructure needs. Nature conservation management measures would be an important addition that would allow contributions to be used for strategic habitat mitigation and the enhancement of biodiversity. Amendment 345 is drafted with the intention that section 29 could encompass green infrastructure and access management measures for biodiversity. That could include a variety of measures intended to prevent or minimise disturbance or damage to wildlife and habitats that would help to address the residual and cumulative effects of development. They might also help to facilitate further development in some areas, which could help public bodies to meet their biodiversity duties.

We will all be aware that Scotland is not—dare I say—the only country in Europe that still has issues in terms of meeting international targets. There are strains on local authorities, and some

biodiversity officers are no longer in place and there are issues of assessment. I think that the bill could better reflect those strategic environmental assessments that specifically refer to the multiple benefits of green infrastructure.

The "Scottish Planning Policy" document recognises in paragraph 219:

"Green infrastructure and improved access to open space can help to build stronger, healthier communities. It is an essential part of our long-term environmental performance and climate resilience. Improving the quality of our places and spaces through integrated green infrastructure networks can also encourage investment and development."

I would add that the two are not mutually exclusive.

I recognise at this stage that members and the minister will likely feel that the amendment's wording is too broad and, as I remarked on a previous amendment, the minister might not feel that there is the time to introduce a levy at stage 3. However, I hope that members will feel that they can support the principle of amendment 345 at this stage. If required, I would be happy to work with members and the minister, depending on his comments, to agree a consistent definition for stage 3.

The Convener: The minister will speak to amendment 270 and other amendments in the group.

Kevin Stewart: I have no difficulty with the principle behind Mr Simpson's amendments 25, 26 and 27, which is to ensure that key decisions on the levy are controlled by local authorities. Although it would be useful to have an approach that is consistent across the country, we have already included provisions in schedule 1 that allow for some local flexibility.

I am happy to support the principle behind amendment 25, which would give greater local flexibility in setting the levy rate. That said, I have some concerns about implementation. One of the levy's aims is to improve certainty and address inconsistent and unpredictable practice relating to planning obligations. We would not want to end up with a complex system of different levies across Scotland. It could also be a significant burden for local authorities if they each had to set up their levy individually. There might be scope to establish a clear framework for local authorities to work within through regulations and guidance. I would be happy to discuss that further with Graham Simpson, with a view to lodging more considered amendments at stage 3.

For today, however, I cannot support his amendment 25, because it will not work technically. It is paragraphs 5 and 6 of schedule 1—not section 27—that need to be amended to achieve what Mr Simpson is trying to achieve. To ensure that there can be no doubt that the levy is a local one and not a means of supplementing national infrastructure programmes, I am happy to support Mr Simpson's amendment 27, so that it is clear that the income cannot be aggregated and redistributed to ministers.

I ask the committee to accept amendments 270, 271, 272 and 273, in my name, which are consequential to amendment 27.

Andy Wightman: Getting rid of the aggregation powers surely undermines one of the reasons why the infrastructure levy provisions are being brought in. I go back to my example that the water supply in Edinburgh is substantially delivered from facilities in Midlothian and the Scottish Borders. If we do not have the aggregation power, the infrastructure levy will, in principle, be able to do nothing to deliver better water infrastructure for the city of Edinburgh.

Kevin Stewart: I have said previously—committee members have heard me say it a number of times—that local authorities can work together and bring moneys together to work on projects that have regional significance, so I do not see that there is a problem. The committee, however, certainly had a problem with ministers taking the resource and then aggregating it out. I am happy to follow the committee's line on the matter, but what is proposed does not stop co-operation between authorities to aggregate resources in order to deal with larger infrastructure projects.

I do not support Mr Simpson's amendment 26. I want to make it clear that the infrastructure levy is to be used by local authorities to support infrastructure projects that benefit their areas. Amendment 27, which I support, will mean that moneys that are raised by the levy will always be in the hands of the local authority for the area where the money is raised, for it to use as it sees fit, within its powers. Amendment 26 would add a further, unnecessary test of localism on top of that. That would give rise to questions as to whether a project was "local" for those purposes. It is not desirable to introduce that additional hurdle. The example that Mr Wightman gave might be one that could be affected by the amendment if it were to be agreed to.

Our research has pointed to the importance of strategic projects—projects that are larger and more complex than local or site-specific projects that are supported by the existing section 75 funding mechanism, and which are not national projects that are funded by national infrastructure programmes. It might be useful for local authorities to join forces in order to support regionally important projects together. Amendment 26 could

limit their ability to do that, so I ask Mr Simpson not to move it.

I turn to Ms Beamish's amendments 343 to 345. The aim of the infrastructure levy is to fund key enabling infrastructure to allow development. I am concerned that widening the scope of levy funds to include other types of projects, although they might be worth while in their own right, would divert key funds away from the primary purpose. In our consultations, those who will be liable to pay the levy have made it clear that they do not want the definition to be widened too far.

I do not believe that nature conservation measures would be an acceptable use of levy funds, because they would not help to address infrastructure capacity issues that act as a barrier to development. Of course, any environmental impact of a development has to be considered as part of the planning application, and mitigation measures are put in place where necessary. On that basis, I ask the committee not to agree to amendment 345.

Claudia Beamish: I seek clarification of the amendment numbers. The minister mentioned amendment 345, in my name. I am not sure that that—

Kevin Stewart: I said, "amendments 343 to 345."

Claudia Beamish: I am sorry. Are you now going to speak about—

Kevin Stewart: I am going to talk about the other amendments. I know that we are getting to the end, convener.

The Convener: It has been a long meeting.

Kevin Stewart: Amendments 342 to 344, which seek to give national park authorities the ability to receive and spend levy funds, raise some significant practical issues. National parks are situated across local authority areas, which could mean that two authorities were operating the levy in relation to a development within a national park. Local authorities have wider responsibilities for infrastructure provision and I consider that they are best placed to manage the infrastructure levy—although they should, of course, work with their partners, including the national park authorities, to consider how the funds should be spent. Therefore, I do not support amendments 342 to 344 and ask Ms Beamish not to move them.

Claudia Beamish: Will the minister take an intervention?

Kevin Stewart: I am sorry, but I have finished.

Claudia Beamish: I was asking before you stopped, minister. It is to offer clarification.

Kevin Stewart: If you are happy, convener, I am happy to take the clarification.

The Convener: What is the clarification?

Claudia Beamish: Well, actually, it is not clarification. It is a point—a very quick point. Thank you for taking this brief intervention, minister. Earlier, in relation to the levy, you rejected an amendment because it would have prevented local authorities from working on a regional basis. I am puzzled as to why you do not see amendments 342 to 344 as positive, when national parks are so important and are formed as a collective.

The Convener: The minister has already made his case.

Kevin Stewart: I am happy for the local authorities within a national park to work together on the infrastructure levy and to consult the national park authority. However, I do not agree with Ms Beamish's amendments, which would give the national parks the ability to receive and spend the levy funds. Those funds are for the local authorities that deal with large infrastructure projects.

Claudia Beamish: Thank you. I appreciate that.

The Convener: Graham Simpson will wind up and press or withdraw amendment 25.

Graham Simpson: I will be quick; I know that the committee would like that. I will come back on what the minister said. I am just checking the wording of my amendments so that we are absolutely clear. Amendment 25 would make section 27(1) of the bill read:

"The Scottish Ministers may by regulations establish, and make provision about, an infrastructure levy to be set by a local authority".

Amendment 27—

Kevin Stewart: My difficulty with amendment 25 is that it does not work technically. It is paragraphs 5 and 6 of schedule 1 that need to be amended to achieve what Mr Simpson is trying to achieve, not section 27.

Graham Simpson: Okay: I hear that.

Amendment 26 would mean that section 27(2)(c) of the bill, about the levy, would read:

"the income from which is to be used by local authorities to fund, or contribute towards funding, local infrastructure projects."

I will be moving that amendment. In fact, I will move all three. I press amendment 25.

The Convener: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Wightman, Andy (Lothian) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 25 disagreed to.

Amendments 342 and 343 not moved.

Amendment 26 moved—[Graham Simpson].

The Convener: The question is, that amendment 26 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Dornan, James (Glasgow Cathcart) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Wightman, Andy (Lothian) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 26 disagreed to.

Amendment 344 not moved.

Amendment 99 moved—[Andy Wightman].

The Convener: The question is, that amendment 99 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 99 disagreed to.

Section 27 agreed to.

12:00

Schedule 1—Infrastructure-levy regulations

Amendments 270 and 271 moved—[Kevin Stewart]—and agreed to.

Amendment 27 moved—[Graham Simpson]—and agreed to.

Amendment 272 moved—[Kevin Stewart]—and agreed to.

Amendment 183 moved—[Andy Wightman].

The Convener: The question is, that amendment 183 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 183 disagreed to.

Schedule 1, as amended, agreed to.

Section 28—Guidance

Amendment 273 moved—[Kevin Stewart]—and agreed to.

Amendment 100 moved—[Andy Wightman].

The Convener: The question is, that amendment 100 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 100 disagreed to.

Section 28, as amended, agreed to.

Section 29—Interpretation of Part and schedule

Amendment 345 not moved.

Amendment 101 moved—[Andy Wightman].

The Convener: The question is, that amendment 101 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 101 disagreed to.

Section 29 agreed to.

Section 30—Power to change meaning of "infrastructure"

Amendment 64 moved—[Alexander Stewart]—and agreed to.

Amendment 102 moved—[Andy Wightman].

The Convener: The question is, that amendment 102 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 102 disagreed to.

Section 30, as amended, agreed to.

After section 30

Amendment 274 moved—[Kevin Stewart]—and agreed to.

Amendment 65 moved—[Alexander Stewart].

The Convener: The question is, that amendment 65 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Wightman, Andy (Lothian) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 65 disagreed to.

Section 31 agreed to.

After section 31

Amendment 275 moved—[Kevin Stewart].

The Convener: The question is, that amendment 275 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Wightman, Andy (Lothian) (Green)

Against

Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 275 agreed to.

Section 32—Regulation-making powers

Amendments 276 and 277 moved—[Kevin Stewart]—and agreed to.

Section 32, as amended, agreed to.

After section 32

Amendments 340 and 341 not moved.

Section 33 agreed to.

Schedule 2—Minor and consequential amendments and repeals

Amendment 46 moved—[Andy Wightman]—and agreed to.

Amendments 153, 278 and 154 moved—[Kevin Stewart]—and agreed to.

Amendment 29 not moved.

Amendment 47 moved—[Andy Wightman].

The Convener: The question is, that amendment 47 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)

Abstentions

Ewing, Annabelle (Cowdenbeath) (SNP)

The Convener: The result of the division is: For 4, Against 2, Abstentions 1.

Amendment 47 agreed to.

The Convener: I remind members that if amendment 48 is agreed to, I will be unable to call amendment 155, due to pre-emption.

Amendment 48 moved—[Andy Wightman].

The Convener: The question is, that amendment 48 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)

Abstentions

Ewing, Annabelle (Cowdenbeath) (SNP)

The Convener: The result of the division is: For 4, Against 2, Abstentions 1.

Amendment 48 agreed to.

The Convener: Amendment 155 therefore falls.

Amendment 69 not moved.

Amendment 49 moved—[Andy Wightman].

The Convener: The question is, that amendment 49 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)

Abstentions

Ewing, Annabelle (Cowdenbeath) (SNP)

The Convener: The result of the division is: For 4, Against 2, Abstentions 1.

Amendment 49 agreed to.

Amendment 50 moved—[Andy Wightman].

The Convener: The question is, that amendment 50 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)

Abstentions

Ewing, Annabelle (Cowdenbeath) (SNP)

The Convener: The result of the division is: For 4, Against 2, Abstentions 1.

Amendment 50 agreed to.

Amendment 70 not moved.

Amendments 279 to 288 moved—[Kevin Stewart]—and agreed to.

The Convener: I remind members that if amendment 156 is agreed to, I cannot call amendment 20 due to pre-emption.

Amendment 156 moved—[Kevin Stewart]—and agreed to.

The Convener: Amendment 20 therefore falls.

Amendment 289 moved—[Kevin Stewart]—and agreed to.

Amendment 315 moved—[Kenneth Gibson]—and agreed to.

Amendment 157 moved—[Kevin Stewart]—and agreed to.

Schedule 2, as amended, agreed to.

Section 34—Commencement

Amendment 210 not moved.

Amendments 290 to 292 moved—[Kevin Stewart]—and agreed to.

Section 34, as amended, agreed to.

Section 35 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the Planning (Scotland) Bill.

I thank the minister, his officials and all the MSPs who have attended today and previous meetings. I also thank all the individuals and organisations who took the time to contact the committee or attend a meeting during the stage 2 process.

Meeting closed at 12:13.

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