

# **COMMUNITIES COMMITTEE**

Wednesday 21 June 2006

Session 2

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## COMMUNITIES COMMITTEE

21<sup>st</sup> Meeting 2006, Session 2

### CONVENER

\*Karen Whitefield (Airdrie and Shotts) (Lab)

### DEPUTY CONVENER

\*Euan Robson (Roxburgh and Berwickshire) (LD)

### COMMITTEE MEMBERS

\*Scott Barrie (Dunfermline West) (Lab)

\*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

\*Christine Grahame (South of Scotland) (SNP)

\*Patrick Harvie (Glasgow) (Green)

\*John Home Robertson (East Lothian) (Lab)

Tricia Marwick (Mid Scotland and Fife) (SNP)

\*Dave Petrie (Highlands and Islands) (Con)

### COMMITTEE SUBSTITUTES

Shiona Baird (North East Scotland) (Green)

Alex Johnstone (North East Scotland) (Con)

Christine May (Central Fife) (Lab)

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

Ms Sandra White (Glasgow) (SNP)

\*attended

### THE FOLLOWING ALSO ATTENDED:

Jackie Baillie (Dumbarton) (Lab)

Donald Gorrie (Central Scotland) (LD)

Johann Lamont (Deputy Minister for Communities)

Richard Lochhead (Moray) (SNP)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

Alex Neil (Central Scotland) (SNP)

### CLERK TO THE COMMITTEE

Steve Farrell

### SENIOR ASSISTANT CLERK

Katy Orr

### ASSISTANT CLERK

Catherine Fergusson

### LOCATION

Committee Room 2



## Scottish Parliament

### Communities Committee

*Wednesday 21 June 2006*

[THE CONVENER *opened the meeting at 09:32*]

### Planning etc (Scotland) Bill: Stage 2

**The Convener (Karen Whitefield):** I open the 21<sup>st</sup> meeting in 2006 of the Communities Committee. I remind all those who are present that mobile phones should be turned off. I welcome Donald Gorrie, Alex Neil and Richard Lochhead, who have joined us for the committee's deliberations.

The first and only item on the agenda is the Planning etc (Scotland) Bill. The committee will consider amendments to the bill at stage 2. Members should have before them copies of the bill, the marshalled list and the groupings. I welcome the Deputy Minister for Communities, Johann Lamont, to the committee. She is accompanied by the following Scottish Executive officials: Neil Ingram, of the bill team; Rosie Leven, the principal planner; Norman MacLeod, from the office of the solicitor to the Scottish Executive; and Gregor Clark, from the office of the Scottish parliamentary counsel.

It may be helpful if I point out a few things before we commence, in order to speed things along. If a member does not wish to move their amendment, they should simply say, "Not moved." In that event, any other member can move the amendment at that point, but I will not specifically invite other members to do so. If no other member moves the amendment, we will proceed to the next amendment on the marshalled list. If a member wishes to withdraw an amendment, I will put the question, "Does anyone object to the amendment being withdrawn?" If any member objects, I will immediately put the question on the amendment. If I am required to use my casting vote, I intend to vote for the status quo, which, on this occasion, is the bill as it stands.

#### Section 2—Development plans

**The Convener:** Amendment 31, in the name of Euan Robson, is grouped with amendments 88, 105, 92, 32, 107, 108, 93 and 38.

**Euan Robson (Roxburgh and Berwickshire) (LD):** Amendment 31 is a probing amendment that I lodged in the same spirit in which I lodged an earlier amendment, which concerned the use of the word "broad" in phrases such as "broad

statement" and "in broad terms". My reading of proposed new section 7(1)(a) of the Town and Country Planning (Scotland) Act 1997 leads me to think that all that is necessary in the first phrase is "a vision statement". If a vision statement is not broad, I am not sure what it would be. I suspect that I may receive the same answer from the minister that I received on my earlier amendment, but perhaps it is worth giving her the opportunity to place on record what is meant by that phrase.

I lodged amendment 32 because I believe that the use of the word "provision" in the context of energy could be misconstrued as referring to the generation rather than the distribution of energy. The "supply" of energy is the phraseology that is used—especially in the relevant electricity and gas acts—in talking about its distribution through wires or pipes. I wonder whether that technical terminology would be better in proposed new section 7(4)(d) of the 1997 act. I would be grateful for the minister's view on that.

I do not wish to speak to the other amendments in the group—I leave that to other members—but I would welcome the minister's comments on the two amendments that I have lodged.

I move amendment 31.

**Donald Gorrie (Central Scotland) (LD):** In relation to amendment 88, I draw members' attention to two sections of the bill. Proposed new section 7(1)(c) of the 1997 act states that a strategic development plan should set out

"an analysis of the relationship of the vision statement and spatial strategy to general proposals for the development and other use of land in districts which are contiguous".

So, the plan should set out the effect on contiguous areas. Over the page, proposed new section 9(4)(b) of the 1997 act states that, in compiling the strategic development report, the council must seek the views of

"each planning authority the district of which is contiguous with the strategic development plan area".

It would be logical if the plan, as published, summarised the comments—if any—that were made under that section by a contiguous authority. If the analysis that was made under proposed new section 7(1)(c) said that the effects of the proposals on the neighbouring council would be A, B and C, it would be sensible if it could be added that the neighbouring council had said either that it was happy with the proposals or that it objected to A but not B and C—or whatever its view was.

Amendment 88 is a tidying-up amendment that marries together two perfectly sound propositions that are already in the bill—first, that there should be an analysis of the effect of a plan on neighbouring authorities and, secondly, that neighbouring authorities' views should be sought. I

suggest that, as a third stage, the neighbouring authorities' views should be included in the analysis.

Amendment 107 is on a totally different subject. Proposed new section 15(1) of the 1997 act states that, among other things, a local plan should set out "a spatial strategy" and

"such other matters as may be prescribed".

I suggest that we include the design standards that developments of individual buildings or areas will be required to meet.

At present, the criticism that is made of a lot of planning is that it is too numbers based. For example, a plan might say that an area can have 200 houses but it does not say whether they should be 200 decent-looking houses or 200 awful-looking houses. The quality of the development should be mentioned in the plan. For instance, the plan might specify that really attractive houses should be produced, which need not be dearer but could be better designed, and it might prescribe the way in which open space should be set out, and so on. Quality of design should be mentioned as an important point in local development plans. I know that we cannot legislate for quality, but if that requirement was set down in the bill, councils could try to lay down reasonable standards for quality, which would be beneficial. I will move my two amendments when I am allowed to.

**Richard Lochhead (Moray) (SNP):** I welcome the strong commitment in the bill to contribute to sustainable development in Scotland. My amendments 105 and 108 are on that theme, but they relate to flooding, which is a huge threat to many Scottish communities. I feel strongly that at the heart of the bill we must have an explicit reference to the threat that flooding poses. As we all know, many communities in Scotland face the threat of flooding and have experienced tragic flooding in recent years, not least in my constituency of Moray, where Elgin and other communities have been badly affected. With climate change exacerbating the problem, flooding is an increasing threat for many Scottish communities.

Amendments 105 and 108 relate to strategic development plans and local development plans. Under proposed new section 15(4) of the Town and Country Planning (Scotland) Act 1997, when a local development plan is presented, it should be accompanied by "maps, diagrams, illustrations" and other appropriate documents. Amendment 108 would introduce an explicit reference to flooding maps being made available alongside local development plans. Amendment 105 would achieve the same for strategic development plans. The reasons for my amendments are simple. They

would ensure that flooding has due prominence in the bill and would help to concentrate the minds of local planners on the flooding risks in their areas.

In the next couple of months, the Scottish Environment Protection Agency will publish the next generation of flood maps for Scotland, which will bring the information up to date. The maps, which will be the first proper, up-to-date and comprehensive illustration of the flood risks in our communities, will be available when the bill becomes law. The bill should make explicit reference to those maps, which should be made available publicly along with the other documents that are referred to.

**The Deputy Minister for Communities (Johann Lamont):** Amendment 32, in the name of Euan Robson, is a technical amendment that would change the terminology in proposed new section 7 of the 1997 act from "provision of ... energy" to "supply of energy". The issue has been identified by Euan Robson. We acknowledge that the Electricity Act 1989 uses the term "supply" and that there might be a desire for consistency. However, our amendments 92 and 93 offer a more concise wording, by simply replacing the word "provision" in proposed new sections 7 and 15 of the 1997 act with the word "supply", so that they read "the supply of water and energy". I therefore ask Euan Robson not to move amendment 32 and to support amendments 92 and 93, which will achieve his aim more effectively.

I turn to amendment 38. I acknowledge the concerns that the committee raised in its stage 1 report about the difficulty of getting a full picture of the new package because of the fact that some of the detailed procedures will be set out in secondary legislation. The Subordinate Legislation Committee suggested that the first set of regulations on the form and content of strategic development plans should be subject to the affirmative procedure. In our response, we said that, although that was a good idea, we did not consider it to be necessary. However, we have considered the matter further and now agree that the measure would be appropriate, particularly given the Communities Committee's general concerns about lack of detail. That will be the effect of amendment 38. As the Subordinate Legislation Committee noted, subsequent sets of regulations would not need to be dealt with under the affirmative procedure, as they would be updating or tidying up the first set. On that basis, we recommend that the committee agrees to amendment 38.

As Euan Robson said, his amendment 31 seeks to remove part of the description of strategic development plans. The wording has been drafted specifically to emphasise the distinction between strategic development plans, as broad strategic

documents, and local development plans, as detailed frameworks for decision making. The term “broad” is echoed in proposed new section 7(1)(b) of the 1997 act. Therefore, I recommend that the committee rejects amendment 31, as it could diminish the clear distinction between strategic development plans and local development plans.

09:45

It is not clear what the purpose or consequence of Donald Gorrie’s amendment 88 would be, as it would require, at the start of the process, the publication of a statement of views expressed at a later stage—the main issues report stage. Amendment 88 would insert new text into proposed new section 7 of the 1997 act, which deals in general terms with the issues that must be considered in drawing up strategic development plans and with their general form and content. The section does not require any publication of reports or documentation at that stage. In addition, it would not be possible to require a statement of views to be published at that stage, as none would have been received. Therefore, I consider that amendment 88 is not appropriate and recommend that the committee rejects it.

Amendments 105 and 108, in Richard Lochhead’s name, would require flood maps that SEPA produces to form part of the strategic development plans and local development plans. I recognise the important issues that he identifies. However, it is for the development planning authority to take into account a wide range of information on the state of the land and the environment, including data on flooding, in deciding on the overall strategy and the allocation of land for development. It is not necessary for flood maps from SEPA to form part of the plan itself, particularly as the information in them may change.

As discussed during stage 1, our proposal to designate SEPA as a key agency for development planning will ensure that the most up-to-date information on flooding can be fed into planned reviews. In addition, SEPA’s continuing role as a statutory consultee on planning applications will highlight any difficulties that relate to or mitigation measures that are necessary for specific sites. Those approaches address the issues that Richard Lochhead identifies and therefore I recommend that amendments 105 and 108 be rejected.

Donald Gorrie’s amendment 107 seeks to include in the bill a specific requirement for local development plans to include design standards for developments. The planning division in the Scottish Executive has taken a keen interest in design standards and quality. We need not only to think of planning as more than simply drawings on

a map but to think about what communities and areas would look like, and design plays a critical part in that. The bill sets out the general requirements for local development plans, and we will set out the detailed requirements on such plan content in secondary legislation. There will, of course, be further discussion with planning authorities and others on those regulations. I am sure that Donald Gorrie will not be surprised to hear that I do not consider amendment 107 to be appropriate for the bill and recommend that the committee rejects it.

**Christine Grahame (South of Scotland) (SNP):** I support Richard Lochhead’s amendments 105 and 108. I hear what the minister says, but flood maps are extremely relevant. I will focus on local development plans. In the Scottish Borders, we already have buildings on existing flood areas. At one point, the local authority was about to build a school on a flood plain. It is no longer doing that, but there are issues with the casual approach that local authorities sometimes take to buildings, which, in due course, leaves people with uninsurable properties.

On Donald Gorrie’s amendment 107, I have great sympathy with the proposal on design standards. We have mentioned Legoland houses, as I call them. Developers build houses all over Scotland with the same brick, style and mock pillars that are not at all sympathetic to the community. I hear what the minister says about it being more appropriate to address that issue in regulations, but it is important to raise it here so that we do not end up with building blight, as is happening just now.

**John Home Robertson (East Lothian) (Lab):** Flooding is a serious issue, which affects every part of Scotland. Bits of my constituency—Haddington, West Barns and parts of Musselburgh—are prone to flooding from time to time. However, I am not sure that amendments 105 and 108 are the best way to approach it. There are two fundamental ways of approaching the risk of flooding. One is to improve drainage and flood protection, but we should also ensure that local authorities and the Scottish Executive do not give consent for development on land that is prone to flooding and on which it is plainly not appropriate to develop.

I fear that amendments 105 and 108 would impose an impossible duty on SEPA. Given the way in which the weather occurs nowadays, flooding can happen just about anywhere. If SEPA was asked to try to predict the flooding risk in every part of Scotland, we would end up with a comprehensive ban on development in vast tracts of the country. In the area that I represent, there was a massive flood in 1948 that covered large tracts of East Lothian and Berwickshire. There has

never been a flood like that since and it might be a long time before there is one again. Would it be appropriate to draw the extent of that flood on a map and say that there should have been no building in any of those low-lying areas because of the risk of there being a once-in-a-century flood? That would be ridiculous.

I am not sure that what we are talking about now is the best way of going about things, but I welcome the fact that the Executive is taking this important issue seriously.

**Johann Lamont:** The amendments that have been identified in discussion, as opposed to those that focus on design, flood prevention and mitigation, relate to issues that the Executive takes seriously. It is helpful to have those issues flagged up. The ministers in the Environment and Rural Affairs Department supported a specific—and quite costly—flood prevention scheme that Glasgow City Council developed, because they know that floods can have a great impact on communities and properties. The issue is much bigger than the bill.

What has been said about SEPA's status as a key agency and a statutory consultee and about the need for high regard to be paid to what it says during the planning process address the issues that have been raised.

Some of the design issue comes down to taste, for which I do not think that we can legislate. However, we want to celebrate diversity and difference in a number of ways and we have done that through planning awards and so on. The Saltire Society and others have been involved in that. Regardless of the price of the property, it can still look attractive. Again, that matter is beyond the scope of the bill. However, through our discussions with local authorities and others, we will ensure that the issue of design is highlighted.

**Euan Robson:** I do not wish to press amendment 31 or to move amendment 32, in view of the existence of the minister's amendment 92, which is probably better. I am grateful that the minister has taken on board the point that was made. It is a small point, but it is useful to note it.

I listened carefully to the debate about flooding, as that is a difficult issue. I think that it is a matter more for regulation than for the bill.

*Amendment 31, by agreement, withdrawn.*

*Amendment 88 moved—[Donald Gorrie].*

**The Convener:** The question is, that amendment 88 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

## FOR

Harvie, Patrick (Glasgow) (Green)

## AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Home Robertson, John (East Lothian) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

## ABSTENTIONS

Robson, Euan (Roxburgh and Berwickshire) (LD)

**The Convener:** The result of the division is: For 1, Against 6, Abstentions 1.

*Amendment 88 disagreed to.*

**The Convener:** Amendment 105, in the name of Richard Lochhead, was debated with amendment 31.

**Richard Lochhead:** I appreciate the opportunity to raise this issue with the committee and I welcome the contributions of the minister and of committee members. I would like to mull over and reflect on those contributions prior to stage 3. The issue is important and further amendments might be required at stage 3, but I would like to give it more thought. For that reason, I will not move amendments 105 and 108.

*Amendment 105 not moved.*

*Amendment 92 moved—[Johann Lamont]—and agreed to.*

*Amendment 32 not moved.*

**The Convener:** Amendment 106, in the name of Alex Neil, is grouped with amendment 110.

**Alex Neil (Central Scotland) (SNP):** I lodged amendment 106 in response to what is happening on the ground. The Executive published a strategy on school building, on which the Minister for Education and Young People is leading, but South Lanarkshire Council ignored the strategy in its handling of the planning application for the proposed new Uddingston grammar school.

Amendment 106 would place a statutory duty on planning authorities to have regard to

“any strategy published by the Scottish Ministers relating to the construction of schools or other civil infrastructure”.

If there is no such duty on planning authorities, such strategies will be an absolute waste of time and money. Amendment 106 offers a sensible approach and I hope that the minister will support it.

I move amendment 106.

**Donald Gorrie:** A common criticism of the planning system is that many people regard it as negative. However, planning should be positive; it should help to create communities in which people



have better opportunities and a better quality of life. That might be a statement of the obvious, but such a statement should be included in the bill as an objective in the drawing up of local development plans.

Amendment 110 would require planning authorities to have regard to the need to

“create a physical environment which contributes to the quality of life experienced by communities as a whole and by individuals”.

If a plan fell short of doing that, local people would be able to say, “Look: the legislation says that you must create such a physical environment, but your proposals will not improve my quality of life.”

Amendment 110 refers not just to the quality of life for communities and individuals but to opportunities for work and leisure—of course, members might want the bill to set different priorities. It would be helpful to planners, councillors and communities if the bill were to set out such a positive objective, so I hope that amendment 110 will find favour with the committee.

**Scott Barrie (Dunfermline West) (Lab):** Mr Neil, will you tell us about the problem that led to your lodging amendment 106? You want there to be a duty on local authorities to take into account Executive strategies, but it is not clear why there are difficulties in that regard. You mentioned South Lanarkshire Council and a particular school, but I do not know the details of the case, so I do not know what point you want to make or why we should include in the bill the duty that you propose.

**Christine Grahame:** I am sympathetic to amendment 110, but the objective that Donald Gorrie proposes would be better set out in guidance than in the bill and it could be in conflict with proposed new section 16(3) of the 1997 act, which says:

“Different local development plans may be prepared for different purposes for the same part of any district.”

**John Home Robertson:** One is instinctively suspicious of anything that Alex Neil proposes.

**Donald Gorrie:** What about me?

**John Home Robertson:** You too.

I am fascinated by amendment 106. Is Alex Neil really proposing to the committee that primary legislation should confer on the Executive the statutory authority to overrule local decisions and impose decisions on local authorities? Amendment 106 appears to provide for such a power, so I am right to be suspicious.

Amendment 106 says that the authority should have regard to

“any strategy published by the Scottish Ministers relating to the construction of schools or other civil infrastructure”.

I quite like that, actually.

10:00

**The Convener:** Before I allow the minister to comment, I shall use my discretion to bring in Mr Neil to clarify his amendment. On the basis of last week's experiences, perhaps committee members are somewhat sceptical about whether you have entirely thought through the consequences of your amendment.

**Alex Neil:** I have indeed; only some members of the committee are sceptical.

Two points were raised. First, John Home Robertson misinterprets—deliberately or otherwise—the purpose of the amendment. The amendment would not make it the statutory duty of a planning authority to follow to the letter the policies and strategies of the Scottish Executive. The wording is “to have regard to”.

Secondly, Scott Barrie asked a fair question. I shall expand on the example of Uddingston grammar school. The school buildings strategy that was agreed and published by the Executive, primarily by the Minister for Education and Young People, states that school buildings should create a safe and secure environment. Because of threats to the private finance initiative and the rush by South Lanarkshire Council to build a new Uddingston grammar school on a particular site, it has been agreed that the school can be built on a functional flood plain—not a secure and safe environment—next to a railway embankment with trains going by at well over 100mph. That is not a secure and safe environment either. The site is right next to the River Clyde and there are major road safety concerns—neither of those factors represents a secure and safe environment. There has to be due regard to related policies—in this case, to the Executive's school building strategy—so the issue is not purely a planning one. It is about ensuring that the strategy on school buildings, for example, on which a lot of money is spent, is taken into account by the planning authority.

**Johann Lamont:** You will appreciate that I am unable to comment on specific planning issues because of ministerial involvement in those issues.

The challenge to local authorities to improve the school estate can happen only because a Labour Government has funded the means by which it can happen; rather than managing estate that is collapsing in a heap, improving it represents an interesting challenge. As Alex Neil said, a lot of money is involved, so it is good to have a challenge rather than barriers to improvement in local communities. Often, when a new school is needed, there is a challenge over the best site for it. In my experience, the site that is chosen is the best one of a range of choices. Nothing is absolutely perfect. Planning authorities have a

hard job, because rather than saying, "We can't find a good site so we won't build a school", they have to find a site that is the best one in the circumstances. We recognise the challenges of that. I also recognise the challenges of identifying authority and accountability at every level in the process.

I am sure that South Lanarkshire Council can defend itself against charges that have been made about it taking a casual approach or making a rush to judgment in its decisions. That is a matter for that council.

As has been said, amendment 106 seeks to require the strategic development planning authority to take into account, in preparing strategic development plans, any strategies of the Scottish ministers on

"schools or other civil infrastructure."

The bill already requires the strategic development planning authority to take into account the national planning framework, in which any ministerial strategies that have land use implications at the national level will be identified. Strategies such as "building our future—Scotland's school estate" are intended to assist local authorities in improving their school estate and will be one factor, among other local considerations, for planning authorities to take into account. They are not a set of legal requirements. However, ministers will have a formal role in approving strategic development plans, and they can, at that stage, ensure that the plans are consistent with national priorities. Therefore, I do not consider that amendment 106 is necessary and I recommend that it be rejected.

In relation to amendment 110, I defer to almost no one in my love for planning. I say at every opportunity that planning should be seen as a positive and as a way in which we give practical delivery to all our aspirations for good, safe, happy, fulfilling communities. However, planning is not the be-all and end-all of securing such communities. The issue goes far beyond planning and I am happy that, in our approach and our legislative programme, we have recognised that building secure communities is not just about lines on maps but that it involves a range of strategies coming together.

Amendment 110 would introduce new objectives that planning authorities would have to have regard to in drawing up local development plans. The objectives should be seen in the context of the existing responsibilities of local authorities. As well as their duties to participate in community planning, local authorities have powers under the Local Government in Scotland Act 2003 to advance community well-being. Many of the issues that are raised in amendment 110 around

quality of life and economic and employment opportunities would be progressed, and are being progressed, through community planning and the related duty on well-being. Any land use implications that arise from community planning would be addressed through development plans.

As members know, the Planning etc (Scotland) Bill places new responsibilities on planning authorities to exercise their development planning function with the objective of contributing to sustainable development, which would also encapsulate the broad range of issues raised. I therefore see those objectives being met through the existing mechanisms of community planning and development planning, and I recommend that amendment 110 be rejected.

**The Convener:** There are a number of committee members who could rival the minister's enthusiasm for reform of the planning system.

I invite Alex Neil to wind up the debate and to indicate whether he wishes to press or withdraw amendment 106.

**Alex Neil:** I will definitely press amendment 106, because the experience of not only South Lanarkshire Council, but other local authorities proves that councils can and do ride roughshod over other, strictly non-planning, strategies. Particularly in relation to civil projects such as the construction of schools, hospitals and other public buildings, there must be a statutory requirement for councils to have due regard to such strategies. Councils do not have to follow such strategies to the letter; they have only to have due regard to them, but I do not think that that is happening. In the case that I cited, South Lanarkshire Council is not showing due regard to the schools strategy. I do not think that it can defend its position, even though the minister—mistakenly, in my view—approved the planning application.

**The Convener:** The question is, that amendment 106 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Grahame, Christine (South of Scotland) (SNP)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Home Robertson, John (East Lothian) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 1, Against 7, Abstentions 0. Amendment 106 has therefore been overwhelmingly defeated.

*Amendment 106 disagreed to.*

**The Convener:** Amendment 14, in the name of Donald Gorrie, is grouped with amendments 89 and 16.

**Donald Gorrie:** Amendment 14 is about consulting contiguous areas. It seems sensible that, when the planning authority draws up its strategic development plan and notifies key agencies, it should also notify the neighbouring authorities. That should probably happen anyway, but it is always better to have such things written down, so that people who do not do them can be held to account.

The other two amendments in the group concern the involvement of the Scottish Parliament, both at the consultation stage, which is covered in proposed new section 10, and when the strategic development plan is published, which is covered in proposed new section 14. The Parliament should be told about the strategic development plans, and it might well be able to make constructive comments and suggestions. It is obviously for the local authorities to draw up the plan; the Parliament would not draw up the plan, but it might have comments to make about whether the strategic development plan dealt adequately with education, health, transport, housing or recreational facilities.

Also, the local members might have well-informed inputs to make. They are local representatives who are in touch with local opinion, but they are not part of the organisations that are setting up the plan, which means that they are in a good position to express local views in a neutral fashion. I think that the Parliament should be consulted and told about the plan when it is finally produced. I think that we have to try to find ways in which the Parliament can make a more constructive contribution to such issues. This proposal would help in that regard.

I move amendment 14.

**Euan Robson:** I understand the motivation behind the amendments. There is, indeed, some value in the Parliament being involved in the process, but I am not sure that it is necessary to put that in the bill in the way that Donald Gorrie suggests. However, there is merit in amendment 14 because the phrase "key agency" could be construed as not including each planning authority whose district is adjacent to the strategic development plan area. That adds something to this section and, perhaps, clarifies a desirable process. Although that process would probably happen in any case, it is worth imposing a duty to ensure that it does. From my local experience, I think that there might be two or three strategic development plan areas in the south of Scotland and that it would be immensely important for one area to know what the other areas are doing. I am sure that processes would be developed in that

regard but, as I said, there is an advantage in placing in the bill a duty to ensure that that happens.

**Christine Grahame:** I agree with Euan Robson about amendment 14.

With regard to amendments 89 and 16, although I never thought that I would be defending local authorities, I have difficulty with the idea of micromanaging local authorities. After all, councillors are duly elected to respond to their constituency. I have difficulty with the idea of the Parliament being involved at that level. Further, I would quite like to know more about how it is envisaged that the process would work. Donald Gorrie said that the MSPs who represent an area would have relevant views. However, many MSPs represent an area and it is possible that they might have conflicting views about planning issues, as might their constituents. I think that the amendments are somewhat messy.

**Johann Lamont:** Amendment 14 requires the strategic development planning authority to send each neighbouring authority a copy of the proposed strategic development plan. The bill currently requires the strategic development planning authority to seek the views of neighbouring authorities and to have regard to any views that were expressed at the earlier stage of drawing up the main issues report. We fully support the principle of involving neighbouring authorities in the plan process. We would expect the strategic development planning authority to send copies of the plan to those authorities at the proposed plan stage, but we acknowledge that it is not a specific requirement in the bill. However, amendment 14 is slightly ambiguous in its reference to districts, so I would therefore ask Mr Gorrie to withdraw it, so that we can bring forward a reworded version at stage 3.

Amendment 89 seeks to include the Parliament as a statutory consultee on strategic development plans. I am not aware of any precedent for the Parliament to be a statutory consultee on plans or strategies prepared by local authorities. The Parliament could, of course, request copies of any plan or strategy and MSPs could be alerted to any local concerns through their contact with local constituents. MSPs will be able to make objections to a strategic development plan if they consider it necessary to do so. All objections that are outstanding will be considered at an examination of the strategic development plan and it will be for Scottish ministers to consider the recommendations of that examination in approving the plan. Therefore, I do not consider it appropriate for the Parliament to be a named statutory consultee in the bill and recommend that amendment 89 be rejected.

10:15

Amendment 16 requires the strategic development planning authority to send a copy of its approved plan to the Parliament. I am not aware of any precedent that requires this type of document to be sent to the Parliament; indeed, there is currently no such requirement for structure plans. All plans and related documentation will be available from the strategic development planning authorities and the Parliament would, of course, be able to make a specific request to an authority for any document. I therefore recommend that the committee reject amendment 16.

What we see the Parliament as being is an issue. I am not sure that its role is to be a consultee in the same way that others are. I would be hard pushed to think of a time when the Parliament has been seen as a neutral place in which issues can be discussed; rather, it is a place in which conflicting views are debated and decisions are taken. The history of the Parliament and its individual members is one of conflict and very different views being represented, particularly on individual planning issues, so I am not sure that conflicts would be ended simply by the Parliament taking a view on matters. Put simply, there is tension in the planning process that must be resolved.

In the light of what I have said, I ask members to accept that we will lodge an amendment at stage 3 as an alternative to amendment 14 and to reject the other two amendments.

**Donald Gorrie:** I thank the minister for her constructive response to amendment 14. On that ground, I will not press it and will instead await with interest her response at stage 3.

On the involvement of the Parliament in the process, I am certainly not trying to micromanage. Councils will do their thing, but issues could arise on which good advice would be helpful. I will give an example. Many years ago, Strathclyde Regional Council decided to have the M74 extension, which, it might be said, has since caused controversy. If a council were taking such a decision nowadays, the Parliament might reasonably become involved in discussions and might at least express a view that the council could note. I am not suggesting that there would be unanimous views in the Parliament on matters, but consensus or majority views might emerge that could be transmitted to councils.

I have a problem with the Executive taking every decision of any significance whatsoever. In a democracy, the Parliament should have some input into the process. I may not have fully thought out how things should be done, but how planning can be genuinely democratised is a serious issue.

*Amendment 14, by agreement, withdrawn.*

*Amendment 89 moved—[Donald Gorrie].*

**The Convener:** The question is, that amendment 89 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Home Robertson, John (East Lothian) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 0, Against 8, Abstentions 0.

*Amendment 89 disagreed to.*

**The Convener:** Amendment 53, in the name of Cathie Craigie, is grouped with amendments 54 to 60, 103, 91, 62 to 71, 117 and 118. I refer members to the note on pre-emptions in the group that is provided in the groupings list.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** The amendments that I have lodged would put in the bill what I believe is the Scottish Executive's intention—we have had feedback on this from the public and professional organisations that engaged with the committee at stage 1—which is to involve people, to encourage people to participate in the planning process and to seek the culture change that would prove to people that planning is a really important aspect of their lives and that they should become involved if they want to know what their community will look like. All the amendments in my name are on that theme.

Amendment 53 would add a statement about involving the public at large. It is difficult to identify and single out in the bill groups that should be involved, but the phrase

“involvement of the public at large”

allows the message to go out to local authorities that we want true participation in the development of plans and in the planning process.

We should not accept amendment 117, which is in the name of Donald Gorrie. As a rule, we do not govern by referendum unless important constitutional issues are involved. Development plans are important to communities, but it is important to involve the community at the outset in developing and shaping plans. I do not support the proposal to have a referendum at the end of that, because people might engage only in the referendum.

I hope that Donald Gorrie will accept that the amendments in my name will achieve what he seeks to achieve through amendment 118. It is not

only desirable but essential that local authorities should work in partnership with communities. If we pass the bill as I hope we will, it will put in place provisions to allow local authorities to do that.

I move amendment 53.

**Donald Gorrie:** Amendment 117 says that if a planning authority wishes to, it may hold a referendum in an area to obtain the opinion of the people who are affected by an issue. I agree that we do not have government by referenda but, in my time as a councillor, I found it useful to obtain the genuine local opinion. Often, people who are close to a place have a strong nimby view, whereas the wider community might support the proposition. If the opinion of all those who are affected can be obtained, that is a useful guide. That does not mean that the council must go along with the referendum decision.

We use referenda on matters such as road pricing schemes and the sale of council houses, so they have a place in the system. In my experience, the use of referenda at local level is helpful. We are not saying that a referendum must be held, but if there is a thorny local issue on which opinion seems to be split, it could be constructive to have one.

I suppose that the wording of amendment 118 is not entirely clear in that one must read the final part of it to understand the proposition. We could have a system in which community councils or other recognised community organisations could produce mini-plans for their areas that they would feed into the council when it was making up the plan for the whole area. That would be a constructive way of harnessing local opinion. People are concerned about the immediate surroundings of their village, town or suburb. It would be constructive to give them the opportunity to put forward their ideas for their community, which the planning authority could take into account. There is no element of compulsion to amendment 118—it offers an opportunity. Again, we are talking about the business of being constructive about planning. The approach that is advocated in amendment 118 is both constructive and democratic, which I would have thought were two good things.

**Dave Petrie (Highlands and Islands) (Con):** I welcome the amendments in the name of Cathie Craigie, which I will support because they are in the spirit of the full and comprehensive consultation that we are trying to achieve.

**Christine Grahame:** It was the witness from the Scottish Mediation Network who struck a chord with the committee on consultation. It will be interesting to hear what the minister has to say. I am attracted to the proposal that Donald Gorrie makes in amendment 117, but I go back to the

issue of how it could be implemented. Donald Gorrie proposes that a referendum be held

“to establish the majority view”.

There are a number of issues to do with referenda, such as who draws up the questions and who pays for them. It would not be appropriate if that was the responsibility of the local authority, because it would have an interest in the answer. I am always concerned about process. I want to know how what is a good idea on paper would work in practice. What question would be asked and what would the timescale be? The issue is difficult.

The same applies to amendment 118, which refers to community councils or other community bodies. Experience shows that such bodies are not always representative of the community at large, which in many respects tends to be passive. I have concerns about giving those bodies more clout than the community at large has. There are places that do not have community councils and some community councils—those that are self-appointed, for example—are not as good as others. Process is my concern. The idea looks good on paper, but how would it function in practice? I think that it would be difficult to deliver.

**Patrick Harvie (Glasgow) (Green):** I welcome Cathie Craigie’s amendments. They chime with much of what was said at stage 1. Amendment 117 proposes an interesting and intriguing idea, but I suspect that because it makes the holding of referendums discretionary and does not specify the circumstances in which they should be used, they would be used only when a local authority was sure that it was going to win. For that reason, I am not sure that amendment 117 would do much good.

10:30

**Johann Lamont:** As Cathie Craigie has discussed, it is clear that there is a general feeling that the use of the word “consultation” has negative connotations, in that it signifies a one-way activity that is not meaningful. That view was expressed clearly in the stage 1 debate. More important, it can be unclear what the term “consultation” will mean for the people who live in the areas that will be affected by the plans.

Meaningful engagement in the preparation of development plans is central to the package of planning modernisation; indeed, it is a central principle of what we do and how we work to address the challenges that are experienced in local communities. We want local people to be fully involved at an early stage in the preparation of development plans, when proposals can be raised and discussed and plans can evolve that reflect the views of local people. We want people

to know what the timetables are for preparing plans and to know when and how they can contribute to the process.

Cathie Craigie's set of amendments seeks to change the emphasis so that rather than merely being consulted, people participate and are involved in the planning process. It will ensure that the practicalities of what that involvement will mean for local people and other bodies can be set out clearly by the planning authorities. We support those amendments and recommend that the committee agrees to them.

Amendment 103 would require planning authorities to seek the views of

"local communities and their representatives"

when drawing up the main issues report for a local development plan. However, our intention is that specific groups or organisations that the planning authorities need to involve at that stage should be set out in secondary legislation. The general powers under new section 17(4) will allow for that and make it easier to add to or amend the list of groups at a later date. We consider amendment 103 unnecessary because planning authorities will be required to set out annually in their consultation statements—or, as Cathie Craigie proposes they should be called, participation statements—the steps that they will take to involve the public at large in plan preparation and review. The statements will be updated and republished annually and they will be assessed to ensure that the planning authority has done what it said it would do. I believe that the specific reference that amendment 103 proposes to insert is unnecessary because of the new consultation statements and because it would not be appropriate to include references to groups and organisations in the bill. I therefore recommend that members reject amendment 103.

Amendment 117 seeks to allow referenda to be held on matters in a local development plan. I am surprised at Patrick Harvie's cynicism about local authorities in that regard. On community engagement and the democratic process in general, we ought not to separate the electoral process and engagement with local elected members from community engagement, as if they were two different things. Active democracy, putting pressure on councillors and, indeed, councils—as Donald Gorrie said—and being involved in and working with the local community can, of course, produce plans for local areas that go far beyond simply responding to individual planning proposals.

I do not support the principle of amendment 117 because it fails to recognise the wide range of factors that planning authorities must take into account in drawing up local development plans.

Those factors will include, but will not be limited to, the extent of support or opposition in the local area. Other important factors for consideration might include national priorities, such as the provision of a modernised school estate or the delivery of waste facilities as set out in the area waste strategy. Although such developments are needed, they would undoubtedly attract local objection. Indeed, if we addressed the needs of a particular minority group, that could also be challenged. It is the job of the plan and the elected members in an area to reconcile local views with local needs and find the most appropriate way forward. Referenda could significantly delay the process and raise false expectations.

I believe that the most effective approach is to be transparent with the information on proposals and site allocations, and give people opportunities to make their views known. It is then for the planning authority to balance all the factors and present the most sustainable option. I therefore consider amendment 117 unhelpful and I recommend that members reject it.

Amendment 118 seeks to require authorities to consider partnership working with communities and to provide for community groups to present their own proposed local development plans as the basis for discussion. However, the whole thrust of our package of modernisation is for local communities to be involved more effectively in the planning process, particularly in drawing up development plans. The challenge is in how such consultation and participation are developed. Various provisions in the bill support the involvement of local communities. For example, there are provisions on the publication of development plan schemes that will include participation statements; neighbour notification of key proposals; and the need to consult with and involve the public at large at various stages of the plan process.

Although I agree with the spirit of amendment 118, I do not believe that further legal prescription is necessary or appropriate in this case, as it could reduce the flexibility to find effective local solutions, depending on the nature of the community and the issues that it faces. However, we will strongly emphasise the need for more and better involvement in policy and advice, and encourage best practice to be shared across authorities.

On the second part of amendment 118, given all the complex legal and policy requirements that must be taken into account in drawing up a local development plan, I would not expressly encourage community groups to prepare their own version of such a plan. That could result in unnecessary effort and duplication by community groups. We want to encourage the public at large

to be fully involved in the formative stages of plan preparation, and planning authorities to be transparent with information and to use a range of techniques to allow communities to help to shape the general principles for the settlement strategy and locations for development. I therefore consider that amendment 118 is not necessary and I recommend that members reject it.

**The Convener:** Thank you, minister. I invite Cathie Craigie to wind up the debate on this group of amendments and to indicate whether she wishes to press or withdraw amendment 53.

**Cathie Craigie:** I am grateful for the minister's support for my amendments. They will allow us to see in the bill what the intention has been all along, which is for meaningful engagement with the public in developing plans that involve the public from the beginning. Plans will be able to be reviewed and there will be statements that indicate the intentions and plans of the local authority. The dialogue will be on-going, I believe, and although I am sure that the intention behind the amendments in the name of Donald Gorrie is honourable and clear, I do not believe that they are required. I hope that he will withdraw his amendments and, although he does not have a vote today, I hope that he will offer his support to the other amendments in the group. I will press amendment 53.

*Amendment 53 agreed to.*

*Amendments 54 to 56 moved—[Cathie Craigie]—and agreed to.*

**The Convener:** Amendment 15, in the name of Donald Gorrie, is in a group on its own.

**Donald Gorrie:** I will try and move amendment 15 in an "informal and non-confrontational" manner.

I draw members' attention to proposed new section 12(3) of the 1997 act. The bill says that

"the form the examination is to take ... is to be at the discretion of the person appointed."

I accept that, because the situation might be different in different areas, it is up to the person appointed to ask for a written submission or for it to be made in person. However, I will make the point that I think I also made last week: it is bad that part of our planning system, such as discussion and court hearings, is conducted in a confrontational manner with advocates trying to rubbish the other side. We would get much better results if those discussions were conducted in a non-confrontational way with the reporter acting as a sort of chairman, getting people to have their say and allowing them to contradict each other. Examinations should be conducted in a more informal style, which would mean that the parties would be more likely to edge towards some sort of

consensus or a good solution. I hope that the committee will agree that that is a philosophy that should be at the heart of our public disputes about planning and that members will accept the amendment. Of course, members might have some better ideas that will come out in due course.

I move amendment 15.

**Christine Grahame:** I do not support amendment 15 and I take issue with what Donald Gorrie said about all confrontation and conflict being a bad idea. The general thrust of his amendment is that the system is confrontational and that we should look for a more informal way. The fact that

"the form the examination is to take ... is to be at the discretion of the person appointed"

is important. Having advocacy for the opposite sides can provide focus, which means that the examination does not drift around in a comfy chat, but gets down to the real issues of conflict. There are times when that is terribly important. Also, later on, we might deal with mediation, so elsewhere in the bill we tackle ways of dealing with disputes other than by examination. For that reason, I do not support amendment 15.

**Johann Lamont:** I will do my best to argue, in

"as ... non-confrontational a manner as possible,"

that the committee should reject amendment 15 which, as members know, goes with the grain.

Planning shows that life is sometimes shades of grey and a matter of judgment, rather than black and white. However, there are some issues that are black and white and that need to be confronted; we will not sort them out by pretending that it is possible to reach consensus about two absolute positions.

I accept the general view that confrontation should not be imported unnecessarily. We understand that there are concerns about the intimidating nature of the inquiry process. That is one of the reasons why we have introduced the proposals to give the reporter the discretion to decide on the most appropriate method of examination, depending on the type of objection. That means that inquiries will be required only if the complexity or technical nature of the issues merits detailed consideration or cross-examination. Many issues can be dealt with more effectively through round-table discussions or even written submissions. That will ensure that the process is fit for purpose and does not discourage people from getting involved.

Amendment 15 is not practical or enforceable, as it could always be argued that a less confrontational or less formal method could be

found. Given the proposals that I have just highlighted, I do not consider that the amendment is necessary and I recommend that the committee rejects it.

**Donald Gorrie:** I take some comfort from what the minister said, but I would still like to make my basic point. I also accept that to try to persuade Christine Grahame of the merits of non-confrontation is an uphill task, but life consists of uphill tasks and it is quite fun trying. I accept that there are occasions on which confrontation is right—for example, in some parts of the legal system—but planning is about shades of grey, as the minister said, and about people trying to find a way forward together. I still think that amendment 15 is a good idea and I will press it.

**The Convener:** The question is, that amendment 15 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Home Robertson, John (East Lothian) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 0, Against 8, Abstentions 0.

*Amendment 15 disagreed to.*

*Amendments 57 to 60 moved—[Cathie Craigie]—and agreed to.*

**The Convener:** Amendment 16, in the name of Donald Gorrie, has already been debated with amendment 14.

**Donald Gorrie:** In the light of my amendment 89, which was similar, having been defeated, I will not move amendment 16.

*Amendment 16 not moved.*

10:45

**The Convener:** Amendment 102, in the name of Jackie Baillie, is grouped with amendment 104.

**Jackie Baillie (Dumbarton) (Lab):** I thank the committee for the opportunity to speak to amendments 102 and 104 and look forward to witnessing another example of the minister's recent conversion to being a pussycat. In any case, I hope that the committee and the minister accept the genuine concern that underlines these amendments.

First, I want to be rather wicked and quote back to the minister her own comments on an earlier set

of amendments. She said that the bill's central thrust is to enable community participation and to bring transparency to decision making and planning. It will come as no surprise to the committee that amendments 102 and 104 seek to do just that.

As the committee knows, the bill refers only to the preparation and five-yearly review of strategic and local development plans. As provisions for altering any part of the plan have not been carried forward from the Town and Country Planning (Scotland) Act 1997, local authorities will in the intervening period use the departure procedure as the main route for change. However, that procedure attracts a lesser degree of scrutiny. I am genuinely curious about the reasoning behind the Executive's position, because I believe that the option of alteration can help to sustain a plan-led system.

The alteration procedure minimises the likelihood of regular departures, either for applications that do not conform to current plans or where it is necessary to maintain, for example, an adequate supply of housing land if, due to unforeseen circumstances, supply has expired or is no longer effective. I do not believe that such a procedure will be required that often because, to be fair, the majority of local authorities will become increasingly able to forecast needs. However, experience suggests that, even with five-yearly reviews, some authorities will not be so good at making such forecasts. I am also clear that, because the alteration procedure provides greater scrutiny of alternative development options than the departure procedure, it will give the community more confidence.

I do not want the departure procedure to be seen simply as an easy way of making sometimes quite substantial changes without appropriate scrutiny. In the interests of flexibility, openness and transparency and given the bill's central theme of community participation, I urge members to support amendments 102 and 104.

I move amendment 102.

**Johann Lamont:** I do not think that I have gone into pussycat mode.

Amendments 102 and 104 seek to allow for alterations to be made to strategic development plans and local development plans respectively, under the same procedures as those for a normal review.

Unlike the current system, the bill does not allow for alterations. Instead, it will introduce a statutory requirement for plans to be updated every five years, which means that plans will be reconsidered much more regularly and necessary changes made. The development plan process will also be given far more significance. Although the



whole plan will be reviewed every five years, the authority will be able to alter only the parts that need to be updated. Many parts of the plan will not be time-limited and will simply carry on into the next five-year period. I should also point out that five years is the maximum, which means that, if necessary, an authority will be able to review a plan earlier. Departures from a plan will be viewed in that context.

I am sure that Jackie Baillie acknowledges that we are committed to the enhanced scrutiny of departures from a plan. After all, it will be harder for an authority to justify a departure if it is responsible for ensuring that its plan is kept up to date and developed with local communities. In that respect, I see no conflict between Jackie Baillie's position and ours. Departures will be subject to more rigorous scrutiny and will not be an easy way of circumventing the planning process. After all, the authorities are responsible for ensuring that the plan is not simply something that is written on the back of an envelope.

Given the new short timescales for review, we do not consider that a provision for alterations is necessary or practical and I recommend that the committee rejects amendments 102 and 104.

**Jackie Baillie:** I acknowledge the ideal position outlined by the minister. In theory, the position that she outlines is right. However, my concern is about circumstances that we have perhaps all experienced with some local authorities—not the majority—in the past. Changes can happen in the five years before a development plan is reviewed. Although it is a vast improvement on the 10-year cycle, we must have the flexibility to ensure that we cover all eventualities.

I am clear that the main mechanism for altering the plan will be the departures procedure. Although I acknowledge the improvement that the Executive has made, it is still the case that there is a lesser degree of scrutiny for departure procedures than there is for alterations in the approach outlined in the other two amendments. Alterations perhaps represent a more robust approach, which is in keeping with the overall thrust of the bill that the minister has outlined.

**The Convener:** Do you wish to press or withdraw your amendment?

**Jackie Baillie:** I would not want the minister to cease to be a pussycat so early on, so I seek the committee's leave to withdraw the amendment, reflect on the minister's comments and, I hope, engage in further dialogue with her and consider whether it is necessary to raise the issue again at stage 3.

*Amendment 102, by agreement, withdrawn.*

*Amendment 107 moved—[Donald Gorrie].*

**The Convener:** The question is, that amendment 107 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Harvie, Patrick (Glasgow) (Green)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**ABSTENTIONS**

Grahame, Christine (South of Scotland) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)

**The Convener:** The result of the division is: For 1, Against 5, Abstentions 2.

*Amendment 107 disagreed to.*

**The Convener:** Amendment 108, in the name of Richard Lochhead, has already been debated with amendment 31. Mr Lochhead has left the committee room, but indicated before his departure that he did not want to move his amendment.

*Amendment 108 not moved.*

*Amendment 93 moved—[Johann Lamont]—and agreed to.*

**The Convener:** Amendment 109, in the name of John Farquhar Munro, is grouped with amendment 120.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** I thank the committee for giving me the opportunity to bring these issues to its attention; members will not be surprised that I am raising them. As a crofter from the west Highlands, I am seriously concerned about the loss of agricultural ground to commercial and industrial developments over the past several decades. That is why I lodged amendment 109, which suggests that there should be a presumption against development on croft land in the crofting areas, particularly on the fertile, cultivated inby land. That land seems to be the most attractive part of the territory to developers. The process, if it is allowed to continue, will erode the crofting system completely. In simple terms, I suggest to the committee that there should be a

“presumption against the development of in-by land”

in the crofting areas, other than for agricultural purposes. We cannot curtail what is happening in agriculture. We must therefore retain as much of the agricultural land as possible. It seems to be a trend these days that when developers are looking for an area to develop, whether it be for housing or for commercial purposes, they look for a green

sward of grass and decide that that is the most economical and beneficial area on which to undertake a development. That is often to the disadvantage of the agricultural element of crofting. I seek support for amendment 109 to preserve and protect the agricultural interests of crofters in the crofting areas.

Amendment 120—it would strengthen the provisions suggested in amendment 109—would require ministers to make the Crofters Commission, which is the ruling body for the crofting communities and their activities, a statutory consultee on planning proposals in the crofting areas. If amendment 120 is agreed to, it will ensure that development proposals for croft inby land are considered by the Crofters Commission and discussed with the planning authority before they are approved or rejected.

With those few words, I commend amendments 109 and 120 to the committee and I move amendment 109.

**John Home Robertson:** Obviously, my understanding of the crofting system is distant and limited, but my anxiety is that amendment 109 could present difficulties for crofters too. Presumably, a presumption against development on inby land in the crofting counties would constrain crofters who wanted to build a new house for themselves or for family members. Indeed, it could also prevent them from diversifying the agricultural and croft-related business that is conducted on the croft. We are all keen to encourage rural diversification and new enterprises in rural areas, especially in fragile crofting areas. I am worried that the amendment would create a new constraint that could make it more difficult for people to make a living in remote areas in the crofting counties and the islands. I quite understand the thrust of John Farquhar Munro's proposal in amendment 109, as I well understand the need to protect quality land, especially in areas where quality arable or grazing land may be scarce. Nevertheless, the central priority should be to sustain communities and the people who live and work in those areas. I would hate to create a new planning constraint that made that more difficult.

**Dave Petrie:** I appreciate the thrust of John Farquhar Munro's argument, but I also appreciate John Home Robertson's point about the possible restriction of development. That is a paramount consideration, although I agree with the spirit of amendment 109 that we need to endeavour to protect agricultural land.

I agree with amendment 120 that the Crofters Commission should be a statutory consultee.

**Euan Robson:** Like John Home Robertson, I have some concerns about amendment 109. Even

developments that are for agricultural purposes could be excluded if there was a presumption against development on inby land. Perhaps the amendment could be withdrawn and consideration could be given to proscribing only certain types of development. I understand the point that John Farquhar Munro is making, but the definition in amendment 109 is far too broad and all-encompassing. For example, crofters who want to diversify by adding some allied commercial activity to the crofting business would possibly be prevented from doing so by the terms of amendment 109.

I have some sympathy with amendment 120. I will be interested to know whether the minister could reflect on whether the Crofters Commission should be included as a statutory consultee, given the commission's importance. Not knowing the Highlands as well as I do the Borders area that I come from, I will defer to others who know more, but amendment 120 seems like an important addition that might add value to the bill.

11:00

**Patrick Harvie:** Amendment 120 seems reasonable, but I want to hear John Farquhar Munro's response to John Home Robertson's point about amendment 109. I hope that John Farquhar Munro will forgive a city boy for asking what might be a silly question: why should the Crofters Commission declare—more or less unilaterally—a presumption against development on certain land? It seems a bit much that the presumption against development would not be negotiated with the planning authority.

**Christine Grahame:** I support amendment 120, unless I am missing a technical point—I am sure I am, because the minister is grinning.

On amendment 109, John Farquhar Munro is simply proposing that there should be a presumption against development. I take it that the presumption could be overturned if a proposed development was sympathetic to the land and a croft's continued existence. Perhaps the amendment could have been better drafted, but John Farquhar Munro has made an interesting point that is worth thinking about.

**Cathie Craigie:** On amendment 120, why should the bill designate the Crofters Commission as a statutory consultee, given that it does not mention other organisations? A thrust of the bill is the importance of consulting key agencies, which would include the Crofters Commission.

On amendment 109, I share the concerns that Euan Robson and John Home Robertson expressed. A presumption against development might be an unwelcome constraint on a crofter who wanted to diversify his business to help to sustain his croft.

**Johann Lamont:** The issue is dear to my heart, because I like to think of myself as a child of the croft. Although I was brought up in inner-city Glasgow, it was clear to my family that we were there partly because our fragile crofting community was unable to sustain families. Many families in a similar situation continued to regard the crofting community as their home.

I am aware of my ignorance of the technicalities around crofting, which is perhaps shared by members of the committee. We might aspire to support crofting without understanding how best to do so. I am sure that we want to consider the matter in the context of developments on crofting reform. The distinction between sustaining individuals in rural areas and sustaining particular types of rural community presents a challenge for development in crofting communities.

Amendment 109 would require local development plans that include crofting counties to contain a presumption against the development of inby land. Our proposals for modernising the planning system focus on the primacy of the development plan, whereby decisions about the future development and use of land will primarily be the responsibility of locally elected members and will take account of local needs and circumstances. Development plans should be the vehicle for decisions about the extent to which development should occur and for setting out principles and policies on the determination of local planning applications. In drawing up plans for areas that include crofting land, planning authorities should have regard to the views of the Crofters Commission, crofters and other local people. Authorities should also have regard to crofting legislation when they prepare plans and determine relevant applications. In that context, there should be no statutorily imposed presumption for or against development in any particular area or category of area, so I recommend that the committee rejects amendment 109.

There are big issues about how crofting communities can be sustained, which will shape attitudes to development. We need to consider the matter in the context of crofting reform proposals and the report that the Environment and Rural Development Committee will publish on the Crofting Reform etc Bill.

I acknowledge Euan Robson's point that we need to reflect further on crofting reform, how that marries with planning reform and whether we need to do any work on that at a later stage. The issue cannot be resolved now. Therefore, at this stage, I ask members to reject amendment 109.

Amendment 120 seeks to amend proposed new section 23D of the 1997 act to introduce a requirement on the Scottish ministers to ensure

that the Crofters Commission is defined as a key agency in development planning in areas that are deemed to be crofting counties. Under the bill, the key agencies will have a duty to co-operate with the planning authorities in the completion of the main issues reports that will accompany strategic and local development plans. The bill will give ministers general powers to specify in secondary legislation which bodies are key agencies and which other bodies are to be statutory consultees for main issues reports and proposed plans. We will consult on the content of those regulations, which will be the appropriate time to decide which bodies will be granted such status. We will of course consider what role is most appropriate for the Crofters Commission.

To echo Cathie Craigie's point, it would not be appropriate to single out one body in primary legislation. Amendment 120 is therefore not appropriate and I recommend that the committee rejects it. However, I acknowledge the general point about the role of the Crofters Commission in planning, on which John Farquhar Munro, Alasdair Morrison and Maureen Macmillan have made representations. That does not have to be set out in the bill—we will reflect on the issue at a later stage.

**John Farquhar Munro:** I am pleasantly surprised by the minister's comments, particularly on amendment 109. There is a degree of sympathy with the idea that is contained in it. As a consequence, I will not press the amendment now, in the hope that I can come back at stage 3 with more appropriate wording and perhaps receive support for the amendment then.

Various points were made about amendment 120. My main concern is that, when a local authority receives a planning application, other public agencies are invariably consulted, such as Scottish Water, the Enterprise, Transport and Lifelong Learning Department and SEPA, and make recommendations or strong points to the local authority, which has the final decision on the application. I want the Crofters Commission to be one of the agencies that must be consulted when a planning application that would have an effect on a crofting area or community is lodged. I cannot understand why that would be a problem. In Argyll, a planning approval was granted against the wishes of the local community and of the Crofters Commission, which was not allowed to object. That created a lot of controversy and difficulty in the area. If amendment 120 were approved, it would go a long way towards eliminating the possibility of such an event happening again.

*Amendment 109, by agreement, withdrawn.*

*Amendment 110 moved—[Donald Gorrie].*

**The Convener:** The question is, that amendment 110 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Harvie, Patrick (Glasgow) (Green)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Grahame, Christine (South of Scotland) (SNP)

Home Robertson, John (East Lothian) (Lab)

Petrie, Dave (Highlands and Islands) (Con)

Robson, Euan (Roxburgh and Berwickshire) (LD)

Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 1, Against 7, Abstentions 0.

*Amendment 110 disagreed to.*

11:09

*Meeting suspended.*

11:19

*On resuming—*

**The Convener:** I reconvene this meeting of the Communities Committee as we wait for the minister to take her seat.

Amendment 111, in the name of Scott Barrie, is in a group on its own.

**Scott Barrie:** Amendment 111 builds on the duty on local authorities to keep under review local development plans. I refer people to the wording of proposed new section 15(5)(a) of the 1997 act and suggest that there might be changes to

“the principal physical, economic, social and environmental characteristics of the district”

that must be taken into account when making local development plans. Amendment 111 seeks to ensure that if there were major changes in those areas, a record would be made of them so that everyone was aware of how such major changes might affect the development plan. The amendment also seeks to ensure that, following such major changes, the development plan should be reviewed every two years.

I move amendment 111.

**Johann Lamont:** Amendment 111 would require planning authorities to monitor any changes in the

“physical, economic, social and environmental characteristics”

of the area and to publish a report setting out the changes at least every two years. Although we strongly support the principle of the amendment, we see monitoring as a key part of action programming whereby changes that might affect the delivery of the plan can be identified and, if

necessary, the plan’s policies and proposals can be amended at the next planned review to ensure continuing relevance.

We intend that the action programme should be published at least every two years. It would be sensible to integrate the monitoring report into that process to avoid unnecessary bureaucracy for authorities. We therefore support amendment 111 in principle, although we would like monitoring to form part of action programming. We would also like to reconsider the wording so that it reflects exactly what the monitoring process should involve. I therefore ask Scott Barrie to withdraw his amendment to allow further consideration and amendment at stage 3.

**Scott Barrie:** I am more than happy that the minister accepts the principle of what I suggest—it is relatively straightforward and non-contentious. I accept the minister’s assurance that she will look again at the wording of the section, which is an appropriate approach. On that basis, I seek to withdraw amendment 111.

*Amendment 111, by agreement, withdrawn.*

**The Convener:** Amendment 90, in the name of Donald Gorrie, is in a group on its own.

**Donald Gorrie:** I had many discussions with people who knew a lot about and had a lot of experience in planning, and they all welcomed the primacy given in the bill to the local development plan. However, they all went on to say, “In theory, there is already a similar primacy and lots of councils are years behind in keeping their local development plans up to date, so why should the new proposals be any different?”

I have tried in amendment 90 to address the need to put pressure on councils to ensure that plans are kept up to date. There are three possible reasons why a council might fall behind on its development plan. One is as a result of inadequate resources; I have dealt with that in amendment 119, which the committee will consider in a few minutes. Another reason is that the council might not be putting enough energy into keeping the plan up to date and it is the fault of the planning authority that the plan has not progressed. The third reason could be that key agencies fail to co-operate with and supply information to the planning authority, whether they are health, water or enterprise agencies or other agencies of that sort. Amendment 90 attempts to deal with the lack of co-operation among key agencies or the failure of the council to be organised.

Proposed new sections 16(8) and 16(9) of the 1997 act, which would be inserted by amendment 90, would give the Scottish ministers the power to

“instruct a key agency to co-operate”

and then to take

“such further action as they consider necessary to ensure that such co-operation is given.”

The amendment does not prescribe exactly what form the punishment or pressure would take; it would give the ministers scope to put real pressure on any agency that did not co-operate adequately.

New sections 16(10) and 16(11), as proposed by amendment 90, try to put increasing pressure on a council if, through a failure to get a grip on its own affairs, it has fallen well behind with its local development plan. Proposed new section 16(10) would mean that Scottish ministers could say that planning authorities would not receive any planning fees. Those fees would instead be paid to the local council for voluntary service or a similar local charity. The fees would therefore not be lost to the community, but they would be lost to the council.

If that measure did not wake the council up, and if the development plan was six months behind, proposed new section 16(11) would mean that Scottish ministers could declare the existing local development plan invalid and could appoint a reporter to advise the planning authority on its decisions until it had prepared a new development plan. There would therefore be quite an incentive for a council to get a grip on the situation, because its original development plan could be declared null and void.

Amendment 90 is an effort to ensure that ministers can ensure that key agencies and councils get their act together. Further on in the bill, in proposed new section 23B on page 25, there are provisions on ministers trying to sort out councils. However, amendment 90 does not undermine those provisions, because it says something slightly different. My proposal is a straightforward way of trying to ensure that councils deliver. The local development plan will be the key to the whole new planning system and it must be delivered. Pressure must be put on councils to ensure that it is.

I move amendment 90.

**Christine Grahame:** With respect, I have to say that amendment 90 is pretty messy. All kinds of problems lurk within it. When we make law, it has to be clear and, where possible, simple. It also has to be enforceable.

Proposed new section 16(8) includes the words:

“provides evidence of a key agency failing to comply”.

There are degrees of “failing to comply”. I can foresee litigation and delays. Once financial penalties were applied, disputes would arise between planning authorities, agencies and so on.

I do not know how much the planning fees would amount to.

Amendment 90 is very open in places. Proposed new section 16(9) says:

“Where ... a key agency fails to co-operate with a planning authority, the Scottish Ministers may take such further action as they consider necessary”.

What action is that? If people are going to have action taken against them, they will want to know what the stick will be.

Proposed new section 16(10) is bizarre. It amounts to a fine, with planning fees being remitted to some voluntary organisation. We are talking about money levied within a community. Although there may be a reason to impose a fine, it would be a strange precedent to remit the money to a charitable body.

I can see what Donald Gorrie wants to do, but amendment 90 is not the way to do it and I do not know how on earth its provisions could be enforced. The amendment's provisions would cause litigation and set a very odd precedent.

**Scott Barrie:** I am all for carrots and sticks but amendment 90 contains all sorts of wrong sticks—if that is the right phrase. Donald Gorrie is absolutely right when he suggests that local development plans will be the cornerstone of the new planning system. We have to get such plans in place timeously and correctly. I know that he is trying to ensure that that happens but, like Christine Grahame, I think that amendment 90 goes about it in a way that is wrong or even bizarre.

A windfall for local charitable organisations when planning authorities have failed to get their development plans in on time seems a strange thing to include in a planning bill. I understand where Donald Gorrie is coming from; however, I think that, if we are trying to empower local authorities and ensure that they are doing what they should be doing, giving charities a windfall would be grossly unhelpful. As we discussed at stage 1, there could be a host of reasons why development plans are delayed—some good, some not so good. We must find a way of dealing with that, and I am not sure that amendment 90 does so. Although the intention is absolutely right, the means by which the amendment would achieve that are not.

11:30

**Patrick Harvie:** I am glad that Donald Gorrie lodged amendment 90, as it raises some important issues. The issues that it raises are sufficiently separate that it might have been useful to have had more than one amendment on the subject.

I hope that the minister will give some indication of her thinking on the consequences of a plan

going out of date—I am not thinking so much of financial incentives or where the fees go. In planning terms, what is the status of an out-of-date plan? We all want local authorities to keep their plans up to date; we accept the evidence that has been given that that is achievable, and we all want that to happen. We also trust that the Executive's intention in the bill is to promote good public participation and involvement in the preparation of the plans. If achieving that gives the plan and its content some kind of mandate, that mandate should be time limited to the five-year cycle. We need a clear indication of what the public can expect in planning terms if plans go out of date. If amendment 90 does not fit the bill, what does?

**John Home Robertson:** Donald Gorrie is right that there has, historically, been a problem. We are all familiar with the circular argument that is put by local authority planners, who say that they cannot determine planning applications in time because they are busy preparing the local plan or, conversely, that the local plan has been delayed because they are busy dealing with planning applications. We are dealing with legislation that is designed to make things better by establishing better processes to enable local authorities to do both jobs in time. That is what we should concentrate on, rather than building complicated mechanisms into the bill about what to do if things go wrong. The bill's objective must surely be to ensure that things go right.

Donald Gorrie's proposal that we create an income stream for local voluntary organisations by creating a penalty is probably tongue in cheek. I encourage the minister to stick to the key objective of making the system work to prevent those problems from occurring in the first place.

**Johann Lamont:** Amendment 90 seeks to bring in a series of sanctions for failures by either key agencies or planning authorities in relation to local development planning. Ensuring that planning authorities get up-to-date plans in place is a central part of our modernisation package, and planning authorities, key agencies, other stakeholders and Scottish ministers must all play their part in delivering that.

As discussed at stage 1, the key agencies will be defined in secondary legislation. The first proposed subsection in amendment 90 allows ministers to direct key agencies to co-operate with planning authorities when they have failed to do so in drawing up the plan. It is not clear that powers for ministers to direct would be significantly more effective than the overarching requirement to co-operate in the first place. On the second proposed subsection, it is not clear what additional action the ministers could take to require co-operation.

We have considered a range of sanctions, including making further provision in the bill, but

we do not believe that any sanction would be practical or effective. We think that a more effective approach is to support the development of protocols between the key agencies and planning authorities on what will be expected at each stage of the process, particularly the need for clear and timely responses. It will be in the interests of the agencies to engage with the process so that final decisions on the plan are consistent with their own priorities.

The third and fourth proposed subsections in amendment 90 would introduce sanctions against planning authorities that failed to deliver up-to-date plans. Again, we considered a range of options in that area and we consulted on similar proposals in "Making Development Plans Deliver".

I have two concerns—which are backed up by responses to that consultation—about the suggestion that fees should be taken away from the planning authority and passed to local charitable bodies such as the councils for voluntary service. First, penalising the authority by taking away much-needed resources is likely further to delay the production of plans. Secondly, the councils for voluntary service are non-statutory bodies that differ considerably in format throughout the country. Their remit is much broader than just planning and the sanction would not necessarily lead to what we want, which is more and better involvement in planning.

In our consultation, we also considered the suggestion that plans should become invalid if they are not updated after five years. However, up-to-date plans are central to the modernisation package and it would be counterproductive to reduce their primacy or to consider them invalid. The proposal also fails to recognise that many policies and proposals in the plan will not be time limited and will last beyond the five-year period. They include, for example, the policies on protecting listed buildings and conservation areas. In addition, it is not clear from the amendment whether the appointed reporter would be advising the authority on decisions on the local development plan or on planning applications. Either way, assigning a reporter in that way could be seen as running counter to local democracy.

I recognise the need to ensure that development plans are up to date and effective, but I do not believe that any of the proposed mechanisms offer an appropriate way forward. There are more effective statutory mechanisms—including the assessment provisions—and non-statutory mechanisms to support planning authorities.

I recommend that the committee rejects amendment 90.

**Donald Gorrie:** I am obliged to members who contributed to the debate. As others have

accepted, there is a problem. History shows that councils have often failed to keep their plans up to date. There has to be a method of putting pressure on them to deliver. It may be that my ideas of putting pressure on them are unsound, but the idea of removing the fees as the first stage of putting pressure on councils is one of the most common suggestions that have been made to me by people in the planning world. I accept their argument. If councils are underfunded already and they then lose the fees, they will be even more underfunded. Hurting somebody in the pocket is traditionally one of the most effective ways of getting a response. I thought that the idea of passing the money on to local voluntary organisations was rather an elegant idea because the money would stay in the community and help it, rather than being taken away into central Government. I will certainly pursue that, because it is an important point. Members who vote against the amendment have an obligation to think up a better idea.

I press amendment 90.

**The Convener:** The question is, that amendment 90 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Home Robertson, John (East Lothian) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 0, Against 8, Abstentions 0.

*Amendment 90 disagreed to.*

**The Convener:** Amendment 112, in the name of Patrick Harvie, is in a group on its own.

**Patrick Harvie:** Amendment 112 places a duty on local authorities in relation to the provision of caravan sites for Gypsy Traveller communities. Members will be aware that the Commission for Racial Equality and the Gypsy and Traveller law reform coalition have lobbied for the change as part of the range of legislative changes that they seek. They have done so partly in an attempt to overcome some of the health inequalities and other issues that Gypsy Travellers in Scotland face, but also as a way of ensuring that the level of provision is brought up to date.

Current provision is largely based on information that is more than 25 years old. Introducing a new duty would not resolve the differences of opinion about the level of need that exists in Scotland, but would ensure that the issue is at least addressed.

Paragraph 139 of the committee's stage 1 report on the bill states:

"The Committee calls on the Executive to examine the potential for including a provision on the face of the Bill which would require local authorities to specifically address the provision of suitable Gypsy/Travellers sites when preparing development plans."

The Equal Opportunities Committee endorsed such a legislative change in its inquiry on Gypsy Travellers a couple of years ago.

I hope that the minister will look favourably on the amendment's objective, whether or not she sees the amendment as being the right way to achieve that objective, and will support it or say that the Executive will lodge an amendment to achieve the same objective.

I move amendment 112.

**Euan Robson:** I sympathise with the motivation and intent behind the amendment, but am not clear about some of its wording, which I have tried to work out. Simply identifying

"land suitable for the provision of caravan sites"

may not be enough to ensure that that land is secured, and I am not clear about some definitions in proposed subsection (3). What is meant by "working space"? It would be helpful to take away the concept behind the amendment and lodge an improved amendment at stage 3 because the issue needs to be addressed, although I am not clear how that should be done.

**Christine Grahame:** I, too, am sympathetic to amendment 112, but take much the same view that Euan Robson does. The amendment might not be suitable.

I declare my ignorance of the existing legislation relating to Gypsy Travellers, but would like to find out whether there is an existing definition of them. The amendment states:

"The Scottish Ministers may issue guidance to planning authorities about the meaning of 'gypsies and travellers'".

I am sure that there must be extant definitions in case law, if not in legislation.

The amendment, which is a probing amendment, is worth while, but, subject to what the minister says, perhaps a similar amendment needs to be considered at stage 3.

**Scott Barrie:** Like Euan Robson and Christine Grahame, I support the intent behind amendment 112, but have reservations about some of its wording. I do not need to repeat what they have said.

I am aware that the Equal Opportunities Committee has been conducting a wide-ranging inquiry on Gypsy Travellers and wonder whether we could consider what it has been doing in order

to resolve the issues that Euan Robson and Christine Grahame have mentioned. If another parliamentary committee has taken extensive evidence on Gypsy Travellers, we should consider what it has done rather than try to come up with wording for an amendment ourselves. Perhaps that is a way forward if we want to consider an amendment for stage 3. However, addressing the issue in the Planning etc (Scotland) Bill is appropriate, and we should consider proposals in the light of what our stage 1 report said.

**John Home Robertson:** Patrick Harvie is right to flag up the matter. It is important that local authorities should fulfil their obligations to make provision in the area. East Lothian Council and Midlothian Council have shared responsibility for some time for a site that is on the boundary between the two council areas, which I understand works reasonably well, although such arrangements are never perfect.

My only anxiety is that there might be a loophole in proposed subsection (2) of amendment 112, which states:

"Subsection (1) does not apply ... where the local authority ... has entered into arrangements with another local authority relating to ... funding of such sites."

That could make it far too easy for a local authority that wanted to shuffle off the problem simply to provide a little bit of funding to another local authority at the other end of the country, but not to provide for the requirements of travelling people in its area. The issue is serious. Local authorities should be required to make appropriate provision in this area of need. I agree with Patrick Harvie that that should be done constructively, but I am a little worried that amendment 112 might be a bit too lax.

11:45

**The Convener:** For the committee's information, the Equal Opportunities Committee's report of its review of progress on the issue will not be completed and published until December, so unfortunately it will be too late for us to consider and include that in our work on the bill. However, the Equal Opportunities Committee has flagged up repeatedly its grave concerns that, despite the report that it produced on Gypsy Travellers in the first session of Parliament, there has been a lack of progress in addressing the issues. Patrick Harvie is right to raise concerns about that. I appreciate that the Equal Opportunities Committee's report will not be published until December, but the Executive must take the issue seriously and act now, when we have a legislative opportunity to do so.

I accept the points that colleagues have made that the wording of Patrick Harvie's amendment

112 might not be perfect. If that is the case, I hope that the Executive will work hard to produce an appropriate amendment at stage 3 to address the concerns of this committee and the Equal Opportunities Committee, which pursued the issue throughout the previous session of Parliament and has continued to do so in this session.

**Johann Lamont:** Amendment 112 would require planning authorities, in preparing local development plans, to identify sites for Gypsies/Travellers. Local authorities already have a duty to consider the needs of minority groups in the community in drawing up local housing strategies, which in turn inform the process of preparing local development plans. The bill will introduce a range of measures to allow greater opportunities for people, including Gypsies/Travellers, to be involved in the preparation of development plans. As members know, work is in hand to develop a planning advice note on community engagement, which will consider good practice guidance on engaging with all groups in the community, including Gypsies/Travellers, in the planning process.

We should be mindful of our discussion during stage 1 about the nature of community involvement and engagement. It is critical that that is not simply a tick-box exercise, because that might lead to Gypsies/Travellers not being involved effectively. There must be a greater understanding of how best to engage with particular groups. I, too, care strongly about the issue. As the convener said, the Equal Opportunities Committee has been working on an update to its original report on issues to do with Gypsies/Travellers. When I attended the Equal Opportunities Committee, its members raised their concern about the perceived lack of progress. We pointed out that progress has been made in certain areas, but we rose to the challenge and said that it is important to get further momentum in our work.

As a consequence, further announcements were made about financing improvements to Gypsies/Travellers sites. I also established the Scottish Executive Gypsy/Traveller strategic group. I have chaired that group throughout and have attempted to attend as many meetings as possible to ensure that we discuss the wider issues that affect Gypsies/Travellers in Scotland. Those issues include problems surrounding site provision and accommodation. An issue arises about whether we can best address those issues through an amendment to the bill or through a general approach. Other critical issues are to do with education and health. I do not want our work on Gypsies/Travellers to be confined to issues about sites, because that would miss out a lot of the discrimination and challenges that



Gypsies/Travellers experience in their lives and in their contact with public services.

The strategic group is important and I am appreciative of all those who are involved in it, who include the CRE and Gypsies/Travellers. The group is considering its recommendations. The actions that are identified will feed into the national strategy and action plan on race equality, which will be published later this year. I would be happy to ensure that the committee is informed of the conclusions of that report, and I think that it will certainly be possible to do that before stage 3.

I am more than happy to reflect on how best the concerns about Gypsies/Travellers can be addressed through the Planning etc (Scotland) Bill. I take the view that, if we are talking about a development plan process that recognises the needs of Gypsies/Travellers and of minority groups more generally, those concerns can be addressed in that way. The drafting of development plans will play a critical role in addressing their needs, and our proposals represent a consistent approach to the planning needs of minority groups. I will certainly reflect on the report of my own strategic group and on further discussions about whether further work is needed on proposals at stage 3.

At this stage, I believe that we are addressing the concerns that have been highlighted by all committee members, but I certainly do not want to signal that we are reducing our efforts to address concerns, expressed here and elsewhere, about the needs of Gypsies/Travellers and how they can be met through broader delivery of public services as well as specifically in relation to planning issues around sites and accommodation.

**Patrick Harvie:** The organisations that have called for change recognise the work that the Executive is doing; I, too, am happy to recognise the value of that work. I appreciate the minister's assurances that we will be able to see the results of some of that work before stage 3.

Placing a requirement on authorities in relation to the preparation of development plans means that we can ensure that local authorities identify sites, although that is different from issues such as funding. The Executive has provided some additional funding, but in some places it is difficult to get that funding put into place. The requirement that I am proposing is also separate from the requirement to provide a whole range of other public services, although I do not want to undermine the importance of those issues. The bill gives us the opportunity to ensure that sites are at least identified, and the people who would be most directly affected by that requirement support the introduction of that duty.

I take on board some of the criticisms that members have made about the precise wording of

amendment 112, and I am happy to think again about the wording in the light of the comments that have been made and in the light of what the minister has said. However, I hope that, before the end of stage 3, we will have included a specific duty for local authorities, and I hope that members will retain an open mind with regard to including such a provision in the bill.

With that, I will ask permission to withdraw amendment 112.

*Amendment 112, by agreement, withdrawn.*

**The Convener:** Amendment 103, in the name of Donald Gorrie, has already been debated with amendment 53. Mr Gorrie, do you wish to move amendment 103?

**Donald Gorrie:** I welcome the excellent amendments lodged by Cathie Craigie, who has the merit of having some votes on her side. However, I think that amendment 103 supplements the good points that she makes and in no way detracts from them, so I shall press amendment 103.

*Amendment 103 moved—[Donald Gorrie].*

**The Convener:** The question is, that amendment 103 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Robson, Euan (Roxburgh and Berwickshire) (LD)

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 5, Abstentions 0.

*Amendment 103 disagreed to.*

**The Convener:** Amendment 94, in the name of the minister, is grouped with amendments 95 to 97, 113, 114 and 98 to 101. If amendment 94 is agreed to, amendments 91 and 62 will be pre-empted.

**Johann Lamont:** At first sight, it seems that amendment 94 and consequential amendments 95 to 101 will import substantial change into the bill. I realise that the committee is concerned about that, so I reassure members that, although the amendments look substantial, their provisions follow the grain of the bill.

We have lodged the amendments in response to an issue that the neighbour notification working

group raised. The group brought together the Executive and a range of planning authorities to examine the new arrangements for planning applications and development plans. The general approach that we have taken to neighbour notification has been welcomed. I trust that the committee will view the amendments in that context.

Following neighbour notification on the proposed development plan, objections may be made that lead the planning authority to change an allocated site or to allocate a new site. Such changes should also require neighbour notification, which will allow newly affected parties the opportunity to make their views known before the examination begins. The amendments will therefore give ministers the powers to specify in regulations that neighbour notification must take place when changes are made to site allocations.

The provision is an important addition to the bill that will help to ensure that people who are affected by site allocations are fully aware of proposals and have every opportunity to engage in the process, if they wish to do so. I recommend that the committee accept amendment 94 and consequential amendments 95 to 101.

Amendments 113 and 114 seek to shift the policy on departing from reporters' recommendations on the local development plan examination from a presumption that they will be accepted, except in limited circumstances, to a presumption that they will not be accepted, except in limited circumstances. Our proposal, which we set out in the white paper last year, is one of the key measures that will help to restore public trust and confidence in the planning system. It will give reassurance that participation in development planning will be meaningful. If people feel that examination is a done deal from the start, they will be less inclined to become involved.

The proposal was first trailed in the consultation "Getting Involved in Planning". An overwhelming majority of respondents to it were in favour of the proposal, including about half the local authorities. As we discussed—it has been a recurring theme at stages 1 and 2—the package of modernisation is very much about striking a balance between the different levels of authority and accountability in the system. The provision will ensure that decisions are taken at the most appropriate level and will put in place the necessary checks and balances.

In agreeing that the circumstances under which authorities can depart from the recommendations should be extended, we reconsidered the balance and took on board the views of the committee, as expressed in its stage 1 report, and the concerns of the Convention of Scottish Local Authorities. We agree that there is scope for additional

criteria—for example, where the reporter's recommendations do not take into account the impact of other local authority strategies, such as a schools expansion programme or local priorities that arise through the community planning process.

In the light of our objectives for more and better involvement, I believe that extension of the criteria for departures is more appropriate than introduction of a presumption in favour of the local authority's position. I will therefore not support amendments 113 and 114. By reducing the value of participation in the examination process, we run the risk of undermining one of the key inclusion measures in the package. However, I will ensure that we work closely with planning authorities and others to develop the framework for departures through secondary legislation. I acknowledge the current that has run through our debates in respect of the tension between the different levels of accountability and responsibility and the need for confidence and trust in the system. In the light of what I have said, I recommend that the committee reject amendments 113 and 114.

I move amendment 94.

**Scott Barrie:** I note what the minister said. Members will recall the evidence that we heard on the subject, in particular from Councillor Trevor Davies of the City of Edinburgh Council, who told us of the council's recent difficulties in this regard. The issue is that the reporter, following a development plan inquiry, will be given the power to determine finally the content of the local development plan. The concern that was expressed by some local authority representatives was that, as it stands, the bill will remove from elected councils the right to make final determinations on the development plans for their areas and will place such decisions in the hands of an individual reporter who holds no elected mandate.

Amendments 113 and 114 seek to address that issue. The minister is right that the change that they seek to make would mean that, in effect, the council would be the final arbiter, but that would prevent a development plan that had been changed by a reporter from being approved without proper public consultation. It is the idea of public consultation that I want to stress. The minister said that the amendments go too far; I take that on board, but there must be a mechanism for ensuring that reporters cannot make final determinations that would introduce to a development plan new information that had not been publicly tested. I thought that the COSLA representatives' point about development plans being publicly tested was worthy of further exploration at stage 2, which is why I lodged amendments 113 and 114.

12:00

**Johann Lamont:** I acknowledge that the issues that have been flagged up to the committee are significant. As I have said before, I am anxious that the crucial role that local authorities play in the planning system be acknowledged, particularly as it is easy for them to be demonised as being the problem in the system. Local authorities have a significant role to perform in making development and development plans work, and in effecting a culture change. I recognise the importance of that role.

I think that our action in extending the criteria under which a reporter's recommendations can be departed from is more appropriate than Mr Barrie's proposed solution. Local authorities will be able to make a case to Scottish ministers for departing from a reporter's recommendations, which ministers would take extremely seriously and would, in certain circumstances, agree to.

The issue is a matter of judgment. I take the view that it is important to make people realise that although they will have significant engagement in the process, we will show due regard for the responsibilities of local authorities. We intend to extend the criteria under which a reporter's recommendations can be departed from. I emphasise that that is a more appropriate way to address the challenge, which Scott Barrie has identified, that the bill presents to the role and authority of councils.

*Amendment 94 agreed to.*

*Amendments 95 to 97 moved—[Johann Lamont]—and agreed to.*

*Amendments 63 and 64 moved—[Cathie Craigie]—and agreed to.*

*Amendments 113 and 114 not moved.*

*Amendments 65 to 67 moved—[Cathie Craigie]—and agreed to.*

*Amendments 98 to 100 moved—[Johann Lamont]—and agreed to.*

*Amendment 68 moved—[Cathie Craigie]—and agreed to.*

*Amendment 101 moved—[Johann Lamont]—and agreed to.*

**The Convener:** Amendment 33, in the name of the minister, is grouped with amendments 115, 116 and 34.

**Johann Lamont:** Amendments 33 and 34 will change a requirement in the bill so that local development plans and action programmes will be available in all public libraries within a plan area, rather than throughout the whole planning authority area. The requirement as it stands would be of very limited benefit while placing a

disproportionate burden on planning authorities. In any case, the vast majority of plans will also be available online.

Amendment 115 would require local development plan adoption to be publicised on local radio stations and in various retail outlets at the very end of the process, but it is important for such publicity to be done at an early stage in the process. Publicising of the plan at the end of the process as Christine Grahame suggests would not be particularly helpful because the opportunities to participate in shaping it will have passed. Amendment 115 also assumes that local radio stations or supermarkets would be interested in publicising the plan; I do not believe that that would be guaranteed in all cases.

We need to encourage local media to communicate the benefits and successes of planning and the opportunities for people to get involved locally, particularly in development planning. The media often portray a negative image of planning, so we need to get the message out there that engaging in development planning at earlier stages can help to address some of the negatives. I have said before that local newspapers and other local media outlets where individual planning applications and campaigns will often be reported have a crucial role in encouraging people to engage early in shaping their communities.

I support the dissemination of good practice in planning: that will be part of the role of the forthcoming planning advice note on community engagement, in which authorities will be encouraged to find the most effective ways of communicating the purpose and content of plans early in the process. I therefore do not consider that amendment 115 is helpful, and recommend that it be rejected.

Amendment 116 from Scott Barrie requires that the planning authorities' development plan schemes be brought to the attention of the public at large. The bill does not contain specific requirements for publicity on the development plan schemes because we intend to set that out in secondary legislation under the powers in proposed new section 20B(5). That will allow us to set out the full range of requirements for preparing, publicising and adopting the schemes, and for providing for later amendment, if necessary. However, following Cathie Craigie's earlier amendments, I accept the benefit of including in the bill an explicit requirement that could be expanded upon in secondary legislation, although I would welcome an opportunity to consider the most appropriate form of words. I therefore ask Scott Barrie not to move amendment 116 with a view to our coming back at stage 3.

I move amendment 33.

**Christine Grahame:** I accept what the minister says about it being more appropriate to publicise the local development plan earlier in the process. I may return to that at stage 3.

Proposed new section 20A of the 1997 act shows that nothing has moved on from the times when there was a statutory notice in the paper and there were copies in the public library—apart from the provision on publishing by electronic means, although many people do not have access to the internet. We are legislating in 2006, and where are the people? They are in the supermarkets and shopping centres and are listening to the local radio; that is where they glean information. In our informal discussion with councillors and, later, in the round-table discussion with community representatives, we took clear evidence that, if we wish to keep people engaged early or late in the process or even if we wish them to know what a local development plan is—most would not know and, for a long time, I would not have known one if I fell over it—that will not be achieved through the bill.

The time has come for the Scottish Parliament to consider why the people are not engaged in politics, let alone in planning. We are thinking about having electronic voting in supermarkets some day. We must go where the people are and, early in the process or even at end of it, we must set down a marker that says that planning—I agree completely with the minister on this—is at the heart of much that happens in communities. Planning is not dry; it is important to the way people live their lives, to what happens in the community and to whether there is employment. It is a huge issue so, to get people engaged in it, we must be where they are likely to hear what we say. I know of nobody, except activists and planners, who reads statutory notice pages. The same applies to libraries—some people go into libraries, but they do not often look at the information that is placed there.

I lodged amendment 115 as a probing amendment with a view to returning later to consideration of how we publicise planning issues at all stages of the process. It remains to be seen whether local radio stations would be interested in publicising them, but to have information in supermarkets, shopping centres and the B & Qs of this world would be a way of starting the process early on. If we did that even at the stage at which we are publicising the publication of the local development plan, people would at least know that it exists, which they do not at the moment. The way we are going will leave most people not knowing what it is all about.

**Scott Barrie:** As the minister said, amendment 116 is an attempt to increase the public's awareness of, and involvement in, the planning

process. I do not need to say much more, because the minister kindly offered to consider the measures in an amendment for stage 3. I am content with that.

**Johann Lamont:** I am mindful that community engagement and involvement are critical to the process and that we must be imaginative about how we approach them. It would be nice if the planning system were to engage with supermarkets and retail developments in ways other than those with which it engages with them currently. We acknowledge the general issues of how we address people and how they can get involved, and I hope that the planning advice note on community engagement will disseminate good practice. However, as I have said, amendment 115 is not helpful. I encourage the committee to support amendments 33 and 34.

*Amendment 33 agreed to.*

*Amendment 115 not moved.*

**The Convener:** Amendment 104, in the name of Jackie Baillie, has already been debated with amendment 102. Ms Baillie has left, but I think that it was her intention not to move the amendment.

*Amendments 104 and 116 not moved.*

*Amendments 69 to 71 moved—[Cathie Craigie]—and agreed to.*

*Amendment 117 moved—[Donald Gorrie].*

12:15

**The Convener:** The question is, that amendment 117 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Home Robertson, John (East Lothian) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 0, Against 8, Abstentions 0.

*Amendment 117 disagreed to.*

*Amendment 118 moved—[Donald Gorrie].*

**The Convener:** The question is, that amendment 118 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Grahame, Christine (South of Scotland) (SNP)  
 Home Robertson, John (East Lothian) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

#### ABSTENTIONS

Harvie, Patrick (Glasgow) (Green)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)

**The Convener:** The result of the division is: For 0, Against 6, Abstentions 2.

*Amendment 118 disagreed to.*

*Amendment 34 moved—[Johann Lamont]—and agreed to.*

**The Convener:** Amendment 35, in the name of the minister, is grouped with amendments 36 and 37.

**Johann Lamont:** Following concerns from COSLA over ministerial intervention in supplementary guidance, we have looked again at the relevant provisions in the bill. Amendments 35 to 37 clarify that proposed new section 22 of the 1997 act will govern the preparation of statutory supplementary guidance that will form part of the development plan for legal purposes and will therefore have a higher status in decision making than is given at present.

Amendment 37 will clarify that authorities may continue to produce other non-statutory guidance. I believe that there was concern that ministers would intervene in all supplementary guidance, which is certainly not the case. However, statutory guidance will—rightly—be subject to additional scrutiny, given that it will have higher status. Amendment 37 will also clarify that some topics that must be dealt with in statutory guidance will be defined in regulations, on which consultation will—of course—take place.

I believe that the amendments in the group will provide helpful clarification. They will allow authorities to give greater status to some elements of guidance and will ensure that they still have broad discretion to prepare a wide range of guidance on matters that are of concern locally. I recommend that the committee accept amendments 35 to 37.

I move amendment 35.

*Amendment 35 agreed to.*

*Amendments 36 and 37 moved—[Johann Lamont]—and agreed to.*

**The Convener:** Amendment 119, in the name of Donald Gorrie, is in a group on its own.

**Donald Gorrie:** Amendment 119 is about paying for everything. We are all acquainted with the ritual of councils not providing services that local people think they should have and saying that it is because the Government has not given

them enough money. That could happen in planning. The number of planning officials is one issue; a separate issue is training and providing enough people in the planning profession.

It is important that councils have enough people and use them in the right way. The resources are mainly human resources, but other resources come into it. I suggest that ministers and the planning authority have a joint responsibility to ensure that the authority has sufficient resources and allocates them in the right way. The authority could complain to ministers if it did not think that there was enough money and ministers could complain to the authority if they thought that it was misusing perfectly adequate resources. The ability of planning authorities to

“effectively prepare or review local development plans”

is a key element of the planning system and it is essential that authorities do that.

Many of my amendments have not been successful, but Cathie Craigie’s have, which will ensure that there is full participation by the community. It will cost money properly to consult people, get them to participate and train them up so that they have enough background knowledge and understanding of the subtleties of the planning system to play a full part in it. It is important that local authorities provide enough support and training—and the money for it—and that the Executive ensures that they are doing so.

I am trying to bring together ministers and the local authorities. They would have to use their resources to provide development plans and the correct democratic element that we are all keen on achieving. I hope that the idea in the amendment will commend itself to members. If they can think of a better way of achieving the same outcome, I would be interested to hear it.

I move amendment 119.

**Christine Grahame:** I am lining myself—or Donald Gorrie—up for a lot of amendments at stage 3. I am obliged to Donald Gorrie for lodging amendment 119. Throughout the evidence taking, it has been apparent that there are issues about resources for local authorities and communities, including the availability of planners. However, I have a difficulty with amendment 119. Donald Gorrie is asking Scottish ministers to ensure that the local authority has sufficient resources. Does that mean sufficient planners? That is just a drafting matter that might be resolved at stage 3.

The proposed provision is rather vague. It has to be enforceable. I do not know what one would do with subsection (b) of proposed new section 23AA, which would provide that local authorities must have the resources to

“provide such support and training to local communities and their representatives as is necessary to ensure that those communities and representatives ...play a full role”.

There are hostages to fortune in the language that is used in the amendment. It is hard to see how the provision could be enforced and it would be worth rarefying it at stage 3.

Another issue is whether local authority resources—financial ones—would be ring fenced. We know about the issues with ring fencing. I used to be pretty keen on it, but I can see the difficulties that it can cause local authorities.

I am concerned about Planning Aid for Scotland, which communities will go to. I stand to be corrected on this, but it is my understanding that Planning Aid Wales has three times the funding of Planning Aid for Scotland. Planning Aid for Scotland will play a key role. If communities are to engage effectively, it must be resourced. Money for that could be corralled and ring fenced, whereas ring fencing local authority funding is more difficult, given that councillors are involved as consenters to planning applications and in working on behalf of their constituents.

I am obliged to Donald Gorrie for lodging amendment 119. The issue is whether the bill can be delivered in the way that I know the minister wants it to be delivered given the issues that have been raised about finance and personnel.

**Scott Barrie:** No one will object to the principle behind amendment 119, which is that we need “sufficient resources” if we are to deliver a new and improved planning system. However, I am not sure that a provision in that respect should be set out in primary legislation, because of the difficulty of enforcing it. What if there is a difference of opinion over whether resources are “sufficient”? Sometimes such matters cannot be measured; indeed, any attempt to do so will not pass the objective test. In considering legislation, we must consider carefully how certain provisions will be interpreted and whether there is any way of testing them. Amendment 119 falls down because it does not pass the objective test: we simply cannot measure whether the system is receiving “sufficient resources”.

Evidence suggests that planning services have been underresourced because local authorities have chosen to spend money on other things. We need to address that problem, but I do not think that agreeing to amendment 119 will make any real difference, apart from setting a desirability test that already exists in the bill.

**Patrick Harvie:** I agree that there will always be a debate over whether funding is sufficient. However, I hope that even if amendment 119 is rejected, Donald Gorrie will come back at stage 3 with an amendment that focuses on its second

element, on the provision of support to communities. After all, with our decision to shift the emphasis in the bill from “consultation” to “participation”, local authorities will be expected to have a system that is more involved and complex than what passes for consultation in Scotland just now. Of course, some communities might find it more difficult to take part in that system and we must underscore the requirement to support them.

**John Home Robertson:** The classic debate about the duties of and resources for local authorities has been conducted by every single committee on every single piece of legislation since time began. Having been on both sides of the argument in Opposition and in Government, I have seen it develop into an all-too-familiar pantomime routine. The local authorities say, “We haven’t got enough resources”; the Executive says, “Oh yes, you have”; the local authorities say, “Oh no, we haven’t”—and on it goes. That is life. Central Government and local government have their own responsibilities, and they both have to get on with the job.

I am always amused by debates on ring fencing. I see that John Farquhar Munro is still with us. From his dealings with Scotland’s native cattle and sheep, he will know that those species regard fences not as an obstacle but as a challenge. The same is true of elected councillors, who will find their way through, round or over any ring fencing.

We should try to be pragmatic. Planning is a very important duty and we are trying to pass new legislation to ensure that the system works better and that there is better public engagement. Although it is incumbent on the Executive to ensure that local authorities have the resources that they require, local authorities must also fulfil their responsibilities. I realise that that is not always easy for either side, but the people of Scotland expect local government to fulfil its duty. We are trying to pass legislation to make that happen, but it can work only if people do their job. I am sorry to say that we simply cannot prescribe every last pound, shilling and penny to facilitate that.

12:30

**Euan Robson:** I will not add much to what other members have said. However, there is no definition of how the duty in amendment 119 would be discharged in the event of a dispute about the sufficiency of resources. Such disputes would be more than likely to arise. On a minor point, it is also difficult to vote for a split infinitive, even one that is disguised by being split across a subsection.

**The Convener:** We can rely on Mr Robson to find split infinitives, however well disguised they are.

**Cathie Craigie:** I agree with members that resources are important, as witnesses told the committee throughout our evidence taking meetings. I do not have the qualifications or the information to be able to say whether planning authorities have been financially underresourced by central Government over the years. Like Scott Barrie, I think that local authorities must decide how to divide up the cake that they are allocated.

A provision on resourcing is unnecessary in the bill, but it is necessary to get the message across that we expect a change of attitude among local authority planners and a much more inclusive system. We want planning authorities to give the public the opportunity to participate in the planning process, but that does not mean that only planners should go out and encourage people to become involved. We should send the message that some planners should let go of the reins a wee bit.

There will not necessarily be direct additional costs for planning departments. We heard evidence that there would be swings and roundabouts, in that some authorities would need to spend more money and others would have a lesser burden. I hope that the minister will consider ways in which we can encourage more people to enter the planning profession—I am not suggesting that she gives up her job and trains as a planner, although I know how much she is enjoying the bill's passage. The problems that might arise are not insurmountable.

**Johann Lamont:** I ask the committee not to support amendment 119. If my debating skills fail entirely I will fall back on the split infinitive argument. I am sure that we all take it as read that split infinitives are unacceptable.

There are issues about resources in general and the priority that is given to planning locally, particularly in the context of resistance to ring fencing. I take John Home Robertson's point about pantomimes. As long as people do not think that I am Widow Twankey I am happy for others to reflect on his comments.

Amendment 119 would require the Scottish ministers and planning authorities to allocate sufficient resources to development planning. However, there is an implicit assumption that authorities will allocate resources to meet their statutory responsibilities and that ministers will take into account the burdens on local authorities when they decide the level of central resource that is made available to them—that is easy to say, but it is important to acknowledge it. It is for locally elected members to set priorities in the wider local government finance settlement that is agreed by ministers.

To help planning authorities in the delivery of the new system, ministers have provided money

through the planning development programme, for example to support the development of consultation skills and engagement techniques. I take Cathie Craigie's point about the need for planning authorities to acknowledge that there is already expertise in engaging with communities, which has been supported by the Executive. We should harness such expertise.

We also give financial support to Planning Aid for Scotland, which continues to provide a useful source of advice for community groups and helps to build capacity in local communities to engage in the planning process. However, that is not all that happens around community engagement.

If I were falsely to characterise Donald Gorrie's position, I would suggest that he is in danger of veering a bit too far towards state provision of training and financial support to local communities. I believe that community engagement needs to be much stronger and more organic than that. Indeed, in some communities, the bigger test is to recognise and acknowledge that we already have in place the human resource that could play a part in supporting local communities. I contend that the bill will liberate that human resource by giving it an early critical role at the development plan stage. In some ways, that is the bigger challenge.

There will always be arguments about resource, but we are serious about the importance of the development plan-led system so it is important that we continue to have dialogue and discussion with local authorities about where resource should lie and how local communities can best be supported to express their views. We cannot simply offer support to individual community groups that have a particular view on a specific planning development—by definition, others might have a different view about the development—but we can encourage active engagement and active citizenship. Again, that issue goes beyond the bill. We hear the issues that have been raised about resource, but we are committed to ensuring that proper recognition is given at local level to the importance of the planning system. We can also play a role though supporting Planning Aid to assist community engagement.

A point was made about the planning profession. When I met young planners recently, I was struck by their enthusiasm and by the extent to which they did not resemble the picture that we might have of planners. They understood that they have a critical role and they were very much up for involving and engaging with local communities. I am sure that they could give us clear information and advice on how to ensure that the profession is supported and on how youngsters should be supported in going into the profession.

As I said, we support a development plan process that recognises the critical role of

communities as well as planning authorities. The challenge is to ensure that resource matches that. However, I do not consider that amendment 119 is necessary and I recommend that the committee reject it.

**Donald Gorrie:** I apologise for the split infinitive. My amendment was edited while I was in hospital and my grammatical energies were less than usual. I let it pass, for which I apologise.

I have focused on two issues. The first is the need to ensure that local authorities have enough resources—human and otherwise—to provide the plans. The second is the need to support the participation of local communities.

It has been argued that money should be relayed through voluntary organisations that specialise in training people to deal with planning issues. That is a good idea and more money should go that way. However, proper consultation or participation costs money. People need to print bumf and attend meetings and so on and that takes up staff time. That must be paid for. To pretend otherwise is to delude ourselves.

I may not have got things the right way, but we can address the issue by ensuring that we are serious about democracy and not just playing at it.

I will press amendment 119.

**The Convener:** The question is, that amendment 119 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

#### ABSTENTIONS

Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)

**The Convener:** The result of the division is: For 0, Against 6, Abstentions 2.

*Amendment 119 disagreed to.*

**The Convener:** Amendment 120, in the name of John Farquhar Munro, has already been debated with amendment 109. I invite John Farquhar Munro to move amendment 120.

**John Farquhar Munro:** As the convener said, amendment 120 has already been debated. The point of the amendment is simply to ensure that, when a planning application is received for a crofting area, the Crofters Commission should be considered a statutory consultee by the planning department—

**The Convener:** Mr Munro, we have already had the debate. I ask you simply to move amendment 120.

**John Farquhar Munro:** It has been a long meeting—

**The Convener:** And you have been very patient.

**John Farquhar Munro:** —so I thought that I had better remind members of what the amendment was about.

I move amendment 120.

**The Convener:** I am sure that no one has forgotten.

**Johann Lamont:** Convener, I want to clarify one point. Amendment 120 would provide that the Crofters Commission should be a key agency. Further discussion is required on the critical role of the Crofters Commission. If the committee were to agree to amendment 120, it would agree that the commission should be a key agency prior to our discussion of that.

**The Convener:** We have had the debate. In reaching their conclusions, committee members will need to reflect on the points that have been made by John Farquhar Munro, the minister and everyone else who contributed to the debate.

The question is, that amendment 120 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

#### ABSTENTIONS

Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)

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

*Amendment 120 disagreed to.*

*Section 2, as amended, agreed to.*

**The Convener:** That ends consideration of amendments for day 2.

*Meeting closed at 12:42.*



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