Northern Ireland
Assembly

COMMITTEE FOR THE ENVIRONMENT

OFFICIAL REPORT (Hansard)

Planning Bill

15 February 2011

NORTHERN IRELAND ASSEMBLY

COMMITTEE FOR THE ENVIRONMENT

Planning Bill

15 February 2011

Members present for all or part of the proceedings:
Mr Cathal Boylan (Chairperson)
Mr Patsy McGlone (Deputy Chairperson)
Mr Thomas Buchanan
Mr Trevor Clarke
Mr Willie Clarke
Mr Danny Kinahan
Mr Alastair Ross
Mr Peter Weir
Mr Brian Wilson

Witnesses:
Mr Stephen Gallagher)
Ms Irene Kennedy)
Mr Angus Kerr) Department of the Environment
Mr Peter Mullaney)
Ms Maggie Smith)

The Chairperson (Mr Boylan):

I welcome Maggie Smith, Irene Kennedy, Angus Kerr and Stephen Gallagher from the Department of the Environment (DOE). I know that you are hoping that this will be the final session, Maggie. If we can get Committee agreement, we will be fine.

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

The Chairperson:

Members deferred making a decision on the clause until the Department had responded on the wording of the Committee's suggested amendment to further sustainable development. The Department's response states that the Minister has agreed to an amendment referring to "furthering sustainable development". A departmental amendment is in members' tabled papers. Are members content for the Department to bring forward an amendment requiring it to further sustainable development?

Members indicated assent.

The Chairperson:

The Department also indicated that it will similarly amend clause 5. Members agreed clause 5 last week, subject to a Committee amendment to do that in the light of the Department's response. The Committee will now not table that amendment at Consideration Stage. Are members content with that further consideration of the clause?

Members indicated assent.

The Chairperson:

Members also asked the Department to reconsider the inclusion of a reference to well-being as per the Committee's draft amendment. In its response, which is in members' tabled papers, the Department reiterated its position, stating that:

"Well-being does not appear in statute and so cannot be referenced in the Bill."

Are members content with the Committee's amendment requiring the Department to "promote or improve social well-being"? Are there any comments about that, gentlemen?

Mr W Clarke:

Perhaps the Clerk of Bills could take us through the wording of the Department's response and discuss whether the language of the amendment is competent.

The Clerk of Bills:

The Committee's amendment, including the reference to furthering sustainable development, was drafted prior to the Department's commitment to now include that in the amendment. That means that they now overlap somewhat. If the Committee agrees that, it would be tabling just the latter part. The words "promoting or improving social well-being" would be inserted in clause 1(2)(b) after the reference to furthering sustainable development. It could be tabled as is, and both could be voted on. However, they would be alternatives.

Mr W Clarke:

That is fine.

Mr Kinahan:

Have we taken any legal advice about whether that will cause us problems? I empathise with what the amendment is trying to do.

The Clerk of Bills:

The Committee has a number of options at this point. However, the reference to social well-being is indicative of the Committee's intentions, albeit that it may not be 100% complete in terms of legislative effect. Nevertheless, it would provide a vehicle for debate at Consideration Stage and could be remedied, should it be made *[Inaudible]*. That is an option for the Committee, given the pressures of time.

The Chairperson:

Do any other members have any comments to make about amending the clause to include promoting or improving social well-being? We may have to vote on that. We could agree the Department's amendment and then perhaps take the Committee amendment to the House. However, I would like some other comments. Are we happy enough to include that?

Mr McGlone:

I am happy enough with that.

Mr W Clarke:

I am happy.

The Chairperson:

The Department has agreed to insert the words "furthering sustainable development". I need an indication from the Committee now before I put the Question. Do we need to vote on a Committee amendment requiring the Department to promote or improve social well-being?

Mr Buchanan:

I cannot accept the amendment, simply because the Department made it clear that well-being is not yet in legislation. Therefore, we are upsetting the whole issue by trying to add something such as that to the Bill when there is no legislation for it. I would have to vote against it.

The Chairperson:

I will put the Question on whether the Committee is content with the Department's proposed amendment to insert the words "further sustainable development" and with the Committee's proposed amendment requiring the Department to promote or improve social well-being.

Question, That the Committee is content with the Department's proposed amendment, *put and agreed to.*

Question put:

That the Committee recommend to the Assembly that the clause be amended as follows: In page 1, line 11, at end insert (2) "promoting or improving social well-being". — *[The Chairperson (Mr Boylan).]*

The Committee divided: Ayes 4; Noes 2.

AYES

Mr Boylan, Mr W Clarke, Mr Kinahan, Mr McGlone.

NOES

Mr Buchanan, Mr Ross.

Question accordingly agreed to.

Question, That the Committee is content with the clause, subject to the Committee's and the Department's proposed amendments, *put and agreed to.*

Clause 1 agreed to.

Clause 33 (Simplified planning zones)

The Chairperson:

I will move on to clauses 33 to 38, which deal with simplified planning zones (SPZ). Members were provided on Thursday with further information from Research Services on simplified planning zones and with a note of the meeting that I had with Professor Lloyd. Members have also been provided with a response from the Department indicating that the Minister was not prepared to drop clauses 33 to 38 from the Bill.

Members they deferred decision on the clauses and asked the Department to provide examples of guidance on SPZs and to consider including references to time limits, thresholds and the need for a business case.

The note and the research have been provided, along with the relevant extract from the Committee's summary table of the clauses and an example, which the Department provided, of an SPZ for the Slough trading estate. The Department's response is provided, and it informs the Committee that, in Scotland, there is guidance on SPZs. In England and Wales, planning policy guidance 5 (PPG) on simplified planning zones was published in 1992 but was cancelled and replaced in 2009 by planning policy statement 4 (PPS), which relates to planning for sustainable

economic growth, in which there is a brief reference to simplified planning zones.

The Department also notes that the Planning Bill sets the time period for SPZs at 10 years, and councils will be able to set their own thresholds when they prepare their SPZs in accordance with local circumstances. We asked questions that were raised about those matters. I had a chat with Professor Lloyd, and I am content that the Department has taken on board the time limits, the thresholds and local circumstances. Do members have any other comments to make?

Mr McGlone:

Can I ask the officials to expand on that?

Mr Angus Kerr (Department of the Environment):

The timescales are set in the Planning Bill at 10 years. The thresholds would be at the discretion of the council, depending on what they are trying to achieve in the particular simplified planning zone and on the circumstances that would prevail in the area in question. For example, if an economic development-focused SPZ were involved, the council may want to set certain size limits for which planning permission would be deemed to be granted through the scheme or beyond which a formal planning application would need to be submitted.

Mr McGlone:

What is the significance of the 10 years in operational terms? Why is 10 years so golden or otherwise?

Mr Kerr:

At the time of developing the Bill, we took account of the approach that is taken elsewhere, and 10 years seemed sensible. The length of time is a wee bit shorter than it would be for a local development plan. That seemed appropriate, because it enabled a review, if necessary. It is quite a strong provision for a council to use when it decides to come down and do this. That is why it is slightly shorter than some other forward-planning tools that we use.

Mr McGlone:

I am still puzzled. Why 10 years? Will a specification be built in to the Bill to say that local

development plans are done every 10 years? To my mind, there should be some synchronicity with the local development plan or area plan — call it what you will — and the simplified planning zones. I am wondering why that works in the way that it does. I still do not have that concept in my head yet. Perhaps I am continuing to have a thicko moment, but I still do not get it.

Mr Kerr:

In a sense, the simplified planning zone is similar to local development plans, but the fundamental difference is that it is a separate tool that a council can use, even if it has prepared its local development plan. There are two scenarios where it could occur. First, a council could prepare a local development plan in which it may flag up, particularly in the plan strategy part, that it has a problem with an area, and at some point in the future — it may indicate a timescale — we intend for it to bring forward a simplified planning zone in that area. The council may have decided that it does not want to do it in a local development plan, because it would delay the plan. Quite a lot of work is involved in it. It is a case of flagging it up in the local development plan, and it would appear in years to come.

Secondly, a council could prepare a local development plan, it could carry on for a number of years, and, when an issue arises, it could decide to either amend the local development plan or to go ahead with a simplified planning zone. If, four or five years into the plan, there is a regeneration or economic development issue that was not anticipated when the original plan was prepared, this tool provides the flexibility for them to go straight in, designate the area and introduce the scheme. There can be links, but not always.

Mr McGlone:

I am not sure whether we got the response to this question. What happens if circumstances change on one of the so-called designated simplified planning zones, be they amenity or development changes, that alter the impact of what the proposed development may be in that zone? The more I talk about this, the more it sounds like a complicated planning zone, rather than a simplified planning zone. I am foreseeing circumstances where this sort of situation could occur. I am dealing with a case regarding industrial zoned land where complications have arisen. You are the practitioner, so you would know better than I that one of the greatest complexities in

balance is the difference between residential and industrial land and the problems that are involved in accommodating them. I am intrigued by how this would work. In fact, I have been intrigued from the word go.

Mr Kerr:

That is a good point. If a simplified planning zone were in place and circumstances changed either in it or adjacent to it, as you are suggesting, there is the opportunity for the council to amend the simplified planning zone to take account of that. The council could even withdraw it, if the circumstances were so strong that that were found to be necessary. If it were withdrawn, the council would than revert to the normal planning process.

Mr McGlone:

I am still not over the line.

The Chairperson:

I suppose we could sit here all day. Do you have any other points, Mr McGlone? Are you not convinced?

Mr McGlone:

No, I am not.

The Chairperson:

Are there any other comments about simplified planning zones?

Mr Buchanan:

We discussed them in detail at the previous meeting. It was fairly well thrashed out at that meeting, and most members were fairly content with it. There were concerns at the beginning of the debate, but, the longer it went on, the more clarification was given, and I think that most members were satisfied with it.

The Chairperson:

I am interested to know whether anybody has any objections to it, but I asked some questions

about thresholds and time frames, and I am content.

Mr McGlone:

I am simply not content with it as an operational concept. If the rest of the Committee wants to run with it, I will be the abstaining voice.

Question, That the Committee is content with the clause, *put and agreed to.*

Clause 33 agreed to.

Clauses 34 to 38 agreed to.

Mr McGlone:

I do not agree.

The Chairperson:

That has been recorded.

New clause

The Chairperson:

Clause 58 deals with appeals. During the informal clause-by-clause scrutiny of clause 202, the Committee asked the Department to consider an amendment to stop the practice of new information being presented at appeal. Last week, the Department advised that the Minister was content to bring forward such an amendment, but it was not available at last week's meeting. The amendment is now provided in the Department's response. It indicates that the amendment to bring about the requirement will be made in a new clause after clause 58. The proposed amendment will prevent any new material being presented unless it can be demonstrated that it could not have been raised at the time when the appeal was lodged or that the reason for it not being raised was due to exceptional circumstances. Trevor Clarke raised that issue. Gentlemen, any comments about the amendment?

Mr McGlone:

I thank the Department. This makes provision for the exceptional circumstances that a lot of us

deal with.

Mr T Clarke:

It covers both. You and my colleague beside me raised concerns that were the opposite of what I suggested, but this captures both. Although it allows for some, it does not allow for them all. It is very good, so I concur with what Patsy said.

The Chairperson:

Any other comments?

Question, That the Committee is content with the clause, *put and agreed to.*

New clause agreed to.

The Chairperson:

The Committee agreed clauses 84 and 125 subject to Committee amendments raising the scale of fine from £30,000 to £100,000. The Committee agreed that if the Minister subsequently agreed to bring forward amendments to the same effect, the Committee would not table or not move the Committee ones.

Mr Kinahan:

Anyone who is looking at planning at the moment and has trees that they think might receive a tree preservation order (TPO) will be cutting them down over the next while. We will lose a lot of trees. I know that it is a bit late in the day, but it is a dangerous one because that is what they do; they cut them down at the weekend so that no one can put a TPO on them.

Mr Weir:

Is that not, to some extent, what we have already? It is the same if they think that there will be some sort of listing; they will get the bulldozers in. I am not sure how we can legislate to prevent current bad action in light of — *[Inaudible.]*

The Chairperson:

We will put a recommendation in the report. Are you happy enough? The clauses have already

been informally agreed subject to Committee amendments to raise the level of fine. They will be tabled at Consideration Stage. We did make an agreement, and the Minister is content to move forward, so are we happy enough?

Members indicated assent.

Clause 102 (Acts causing or likely to result in damage to listed buildings)

The Chairperson:

The Committee agreed to revisit this clause at today's meeting to consider the implications of arson, in particular, in relation to damage to listed buildings. Will the Department comment on that, please?

Mr Peter Mullaney (Department of the Environment):

Quite clearly, it is not always possible to say whether something is arson. Obviously, there could be destruction to a listed building in a number of ways. The Department does not have any statistics in relation to arson. If it is arson, it becomes a criminal prosecution matter, to be raised through the police rather than the Department.

Mr W Clarke:

I flagged this up, and I agree with your comments and where you are coming from. There is a lot of spontaneous combustion in listed buildings in my constituency, and then, suddenly, there is a development. I think that they are right. There is no faulty wiring; it is arson. There are very few proper police investigations into these incidents because they generally involve old buildings in a bad state of repair. In my opinion, the police generally do not treat those fires as arson. I want at least to increase the fine to make it a more serious offence than it seems to be. I am speaking just from experience. I do not have statistics either, but it is mysterious that those fires occur and then the building is tossed and a development of numerous houses put in its place. We are looking to strengthen the legislation.

The Chairperson:

Will you consider looking at that?

Ms Maggie Smith (Department of the Environment):

The Minister would be content to raise the fine to level 5, which would be a £5,000 fine.

Mr W Clarke:

That is something of a deterrent.

Mr T Clarke:

I hate to break the habit of a lifetime and agree with somebody on the opposite side of the room. *[Laughter.]* If you are actually trying to prevent something, £5,000 will not prevent someone from burning a house if that would give them the opportunity to redevelop it. A fine of £5,000 is not a strong deterrent.

Mr W Clarke:

Are we limited under that scale?

The Chairperson:

I do not know whether we are limited. Mr Clarke, are you proposing to raise that fine?

Mr T Clarke:

I think that £5,000 is meaningless if it means the difference between being able to develop or not develop.

The Chairperson:

Would you like to comment, Maggie? Obviously, you will have to go back to the Minister about that. We would like to get the clause agreed, perhaps subject to an amendment depending on the level of fine. Is that outside the scope of the Bill? Can we only go to level 5?

Ms Smith:

We have only got a line that covers to level 5. What level of fine were you thinking of?

Mr W Clarke:

I am talking about a fine for those circumstances involving arson. There could be other parts of

the clause for when damage has occurred or a wall has been knocked down. Knocking a wall down would not justify a £50,000 fine. I want to address the extreme nature of arson. Perhaps we need an amendment for that.

Mr T Clarke:

It is still "up to".

The Chairperson:

There were other cases when the fine could be raised on indictment. Is there any chance of putting in a clause in relation to that? Can we look at that?

Ms I Kennedy (Department of the Environment):

Currently there is only provision for summary conviction.

The Chairperson:

Can we look at putting in an amendment ourselves, gentlemen?

Mr T Clarke:

That might be quicker.

The Chairperson:

I think it is right. At the minute we have a level 5. If there is arson, especially in a listed building, the walls would practically fall down themselves in some cases, so a £5,000 fine, and depending on what a developer puts in after that —

Mr T Clarke:

Perhaps the Clerk of Bills could draft something and we could agree that before we finish this meeting. She knows the thoughts of what some of us are considering.

The Chairperson:

OK, we will come back to clause 102 at the end of the meeting.

Mr Kinahan:

What about wilfully not rewiring a building so that it is at risk and then catches fire? Where does that fall, given that the cost of rewiring most old buildings is sometimes prohibitive? If you chose not to, someone could easily argue the case that —

Mr Weir:

I am very supportive of higher fines. On the point that Danny has made, I suspect that the really big problem is that the deterrent or the incentive will not be the level of the fine but the difficulty of getting caught. I suspect that a court would not be able to convict in the case of someone wilfully not rewiring a building. One of the big problems is that, although a fire report will be fairly clear cut in showing that is arson, it will be difficult to prove who carried it out. That is not an argument against raising the fine to a higher level, but there may well be limitation on the basis that people will take the chance that they will not get convicted. I suspect that it will be quite difficult to prove.

Mr W Clarke:

It also applies to an owner who asks someone to carry out an act.

Mr Weir:

I am not denying that. I do not have a great deal of experience, but I suspect that it is relatively difficult to get the level of evidence in court, unless someone is caught red-handed and confesses that Joe Bloggs who owns the place bunged them some money to torch it. Nine times out of 10, however, the evidence will not be there to get a conviction. That is no argument against a higher fine, which I still support.

The Chairperson:

We are content to table an amendment, so I will put that at the end of the meeting. I will leave that to the last clause. Are members content to defer the clause?

Clause 102 deferred for further consideration.

The Chairperson:

Members agreed clause 107 as drafted, but requested more information from the Department to clarify the respective roles of the planning authority and the Environment Agency (NIEA) in relation to its enforcement. The Department's response indicates that hazardous substances must be disposed of in ways that render them as safe as possible and minimise their environmental impacts, in line with NIEA regulations. I know that Mr McGlone raised that issue. We are seeking clarity on responsibility.

Mr Stephen Gallagher (Department of the Environment):

The planning authority will be responsible for issuing hazardous substance consent. It will also be responsible for deciding whether consent is required, and it will enforce that.

Mr McGlone:

So the likes of NIEA will not have any involvement in that?

Mr S Gallagher:

It will not have any involvement in hazardous substances consent. It will have a limited involvement in the control of major hazard regulations, which are an EU thing, but that is a separate issue.

Mr McGlone:

That is fine. I just wanted a bit of clarification on that.

The Chairperson:

The clause has already been formally agreed. We were just seeking clarification.

Clause 116 (Offences)

The Chairperson:

As with clauses 84 and 125, the Committee considered tabling an amendment to raise the £30,000 fine in this clause to £100,000. However, we deferred making a decision until we had more information on the hazardous substances to which the clause might refer, how often the fine has been used to date and where the money generated from the fine will go. Members also sought an

indication of the level of fine for a similar offence in the South.

The Department's response indicates that only one warning letter has been issued in recent years and that the Department aims to avoid breaches by conducting regular meetings to discuss upcoming or potential cases in advance**.** A list of hazardous substances is provided in the same document. The Minister has indicated that he is minded to support an increase from £30,000 to £100,000, and an amendment is provided in the tabled papers.

Question, That the Committee is content with the clause, subject to the Department's proposed amendment, *put and agreed to.*

Clause 116 agreed to.

The Chairperson:

Three other clauses also refer to fines of £30,000: clauses 136, 146 and 149. Those clauses were formally agreed by the Committee last week. However, the Minister has indicated that he is willing to support levels of increase in the level of fine to £100,000. The Department has provided draft amendments. Are members content to accept departmental amendments to that effect if tabled at Consideration Stage?

Members indicated assent.

Clause 130 (

The Chairperson:

Members agreed to defer clause 130 and clauses 152 to 154 until they had received further information relating to current and past breaches. In particular, members wanted to know how many closed cases had been brought to a natural conclusion and how many had been dropped having been assessed as not expedient to pursue. Also, members wanted to know the types of breaches that were currently open. Details have been provided, along with last week's response from the Department on breaches and its enforcement strategy.

The Department's response indicates that of the 4,899 closed cases in 2009-2010, 1,093 were resolved, 842 had planning permission granted, 978 were deemed to be not expedient to pursue,

1,636 were found to not be a breach, 324 were immune and 26 had appeals allowed or notices quashed. Further information is also provided on breach of conditions and material change of use cases only. Members have been provided with a further response from the Department.

Mr Mullaney:

Hopefully, Chairman, the figures are self-evident. Concerns were raised last week, particularly in relation to the "not expedient" category. Although I have not worked it out as a percentage, I estimate that somewhere in the region of 15% to 25% of cases are closed because they are not expedient.

Mr McGlone:

To be honest, it is very difficult to absorb that detail of information from tabled papers. For me to make any conclusion on this, I would like to take a bit of time to look over it.

Mr T Clarke:

While I appreciate what Patsy says, appendix 1 gives a quick summary. The table that Patsy referred to goes into a lot of detail, but the shorter table gives a quick summary of cases not expedient to pursue in respect of breach of condition and material change, which would probably come under the 10-year rule. First of all, there are not many cases to start with. Of 1,200 cases, only 229 were not expedient to pursue. The whole thrust is that we are pushing the time frames to try to get the two to work together.

The Department suggested last week an amendment of seven and seven. I think that the Committee should be looking at tabling an amendment to make it five and five. We will go one way on one, and the Department has obviously made a move on the other. I suggest that the Committee come up with an amendment to make it five and five.

The Chairperson:

I take on board what Mr McGlone is saying. We have to try to do this —

Mr McGlone:

I know, Chairperson. However, most of us were here very late last night, and we have only

received the papers this morning.

The Chairperson:

Certainly.

Mr McGlone:

Those papers were only tabled today, and you do not need me to tell anybody here that that does not allow us to do justice to scrutinising them properly. We are normally given at least a couple of days to go through stuff. I cannot draw any definitive conclusions from that other than maybe just to absorb some bit of the detail that is in front of us.

Mr Mullaney:

Mr Clarke is right about the 10-year rule aspect. Quite clearly, there are a number of reasons why cases are closed. As Mr Clarke said, that table sets out the various categories. I have not calculated the number of "not expedient" cases as a percentage, but I imagine that it is somewhere between 15% and 20%, although I am not sure exactly. However, quite clearly, it is a minority of cases. It is significant that one of the two categories in which there are over a thousand cases is the "remedied/resolved" category. The whole purpose of enforcement is not necessarily to penalise people but to get a satisfactory outcome on the ground, and it is satisfying that a significant number of cases — over 1,000 — have resulted in that. Similarly, planning permission was granted for a number of others. Taken together, those two categories make up a significant number.

It is also significant that in some cases there was no breach. I think that it was Mr Dallat who raised an issue last week about vexatious bad-neighbour-type claims. Quite clearly, it is incumbent on us and any planning authority to investigate every case, even if there has been no breach. There are a whole variety of reasons. Some people maybe do it to be vexatious and others may do it for genuine reasons because they think that there has been a breach of control. However, quite clearly, our evidence shows that, in a significant number of those cases, there had not been a breach. If you take all those together and remember that the purpose of the exercise is to try to achieve a satisfactory resolution on the ground, you will realise that a significant proportion of those cases fall into that category.

The Chairperson:

Are there any other comments? I am content with the tables. Taking on board what Mr McGlone is saying, members are entitled to bring amendments to the Floor of the House. I think we have gone through this. We sought clarification on the numbers today. I am going to have to put it to the Committee —

Mr McGlone:

I have no problem with numbers and stuff like that. However, I have a problem with tabled papers with that level of detail being presented —

The Chairperson:

I understand. We are all in the same boat.

Mr McGlone:

We are all in the same boat. However, it is for us to ensure that we are not in that boat at all. Anyway, that is a separate thing. Mr Clarke has a very valid point about five and five —

The Chairperson:

Hold on, that is the next clause. In relation to these clauses, I am content with the clarification from the Department on the figures. I am going to have to put it to a vote. Can members indicate whether or not they are content to move on before I put the Question?

Members indicated assent.

Mr McGlone:

Go ahead. I just think that we need to learn from —

The Chairperson:

I completely understand and certainly agree. I will say this again: we have a limited amount of time in which to get through this, but we have been very focused. However, Members should bear this experience in mind the next time that they stand in the Chamber and support a Bill's

coming to this Committee knowing rightly that we will have only four to six weeks to go through it. That is something that we maybe need to look at.

Mr T Clarke:

You have done a great job.

The Chairperson:

The issue is simple. We have these tabled papers like everybody else. I am content. I will put it to the vote. Those in favour of moving on, before I put the Question on these clauses?

Mr McGlone:

You do not need a vote.

Clause 130 agreed to.

Clauses 152 to 154 agreed to.

Clause 131 (Time limits)

The Chairperson:

The Committee deferred a decision on clauses 131 and 44 pending a response from the Department relating to the requirement for the 10-year period being reduced. At last week's meeting, officials indicated that the Minister was prepared to introduce an amendment that would make both time limits for breaches of planning control seven years. The amendment was not available at that meeting. Members agreed to defer a decision until they had had an opportunity to consider the implications of such an amendment and also asked the Department to clarify whether new time limits would be applied retrospectively or at what point they would become applicable. No further information on that specific issue was provided in the Department's written response, but there is more detail on breach statistics.

Ms Smith:

Time limits will not be applied retrospectively. At the time of the last session, the Minister had proposed seven years and seven years, but members were not comfortable with that.

Mr T Clarke:

That makes sense. It could not be applied retrospectively, because that would open the floodgates on cases that are already open. However, I propose the amendment that I was a bit premature with the last time, which is that the Committee amends it to five years and five years, and accept what the Department has said about it not being applied retrospectively.

The Chairperson:

Let us get this issue ironed out before we deal with the numbers issue. So it will not apply retrospectively?

Ms Smith:

No.

The Chairperson:

At present, a number of businesses are sitting in the four- to 10-year rule — change of business use — and that will not apply to them. Is that correct?

Mr McGlone:

Can I have clarification? As any of you who have been planning officers will know, retrospection is a key part of this. How do you define retrospection in a practical application if, for example, someone says that their business has been up and running for 10 years, or that their house has been there for four years? What aspect of retrospection are you dealing with? I want to get it perfectly clear in my mind. I am sorry for being a wee bit laborious on this. Nevertheless, it is important.

Mr Mullaney:

Irrespective of whether the time limit is four years or 10, if a building's use or development has become immune from action, it is immune: it already is immune. In the case of a building it will be four years, and in the case of a change of use it will be 10 years.

Mr McGlone:

Maybe my definition of "retrospective" is a wee bit different. If a person is able to

retrospectively prove that their dwelling has been there for four years — they can look back and prove four years plus — are we still in that position with what has been proposed?

Mr Mullaney:

Yes, because you are not reducing it below four years. The proposition on the table of seven years or, as Mr Clarke suggests, five years, would not reduce it below four years. To take the example of four years, if you had had a building up for four years —

Mr McGlone:

And you can prove four years plus, that is OK?

Mr Mullaney:

Yes. To the Department's satisfaction.

Mr McGlone:

That is clear enough. Thank you.

Mr T Clarke:

But you still have to make an application for your permitted development or new use.

Mr Mullaney:

You do not have to. However, you can, for peace of mind or financial reasons or whatever.

The Chairperson:

Do members have any other questions to ask?

Mr Weir:

I am happy enough with the retrospection issue. We were talking about numbers, and the time limits of seven years and seven years, and five years and five years were mentioned. *[Interruption.]*

The Chairperson:

I ask members and people in the Public Gallery to switch off their mobile phones.

Ms Smith:

I am sorry about that, Chairperson.

Mr Weir:

I was just going to ask about the time limits of seven years and seven years. Mr Clarke mentioned five years and five years. Is there any further information about the right balance of the numbers? Do you have a view on that?

Ms Smith:

Yes, if you mean maintaining the same numbers.

Mr Weir:

I appreciate that the numbers are the same in both instances. Are you reasonably relaxed about whether a seven-year time limit or a five-year time limit is appropriate? What is the position on that?

Ms Smith:

We were sitting at seven years and seven years. Are you now asking us —

The Chairperson:

I want to talk about the retrospection issue, because Mr Clarke asked about five years and five years. I think that we got a seconder for that. That is how things sit at present. I have another proposal.

Mr T Clarke:

Can I answer Mr Weir's point? It is as well that I am sitting down here today and not beside him, because he might hit me. I suggested five years and five years because previously, it was four years and 10 years, which was confusing. The time limit was four years for residential developments and 10 years for commercial use or change of use. I could be asked why I

suggested five and five instead of settling for seven and seven. The Planning Service should have been more proactive over the past few years. If someone were to build a house in the countryside, I would find it very strange if the Planning Service had not been able to find out about it within four years. I am saying that, if it is going to be that slow, give it another year. By suggesting the five-year time limit, I am bringing it into line with the time limit for commercial use or change of use. It may be disadvantageous, however, to some people who fall into the permitted development or lawful use category, to push them into a seven-year time limit for residential developments. That is why I suggested five years and five years.

Mr Weir:

I am just trying to establish the numbers. It seems to be common sense to have an equalisation of the time limits. I am trying to tease out the Department's specific views about the numbers and whether five and five or seven and seven are reasonable.

The Chairperson:

I am going to propose four years and four years.

Ms Smith:

We can go to five and five; we cannot agree to four and four.

Mr McGlone:

You cannot agree to four and four? Who suggested that?

Mr Weir:

He was about to suggest that.

The Chairperson:

I hardly got it out of my mouth and you turned me down. *[Laughter.]*

You could take on board what Trevor Clarke said, which is fine. Likewise, however, if you look at the four years and five years, there is an extra year to find breaches. Let us be honest, there are a lot of live issues at the four-year mark already.

Mr T Clarke:

They are not live, Chairperson.

The Chairperson:

Can I have a seconder for my proposal for four and four?

Mr T Clarke:

Mr McGlone was the seconder.

The Chairperson:

That was for five and five, not four and four.

Mr T Clarke:

A case is never live until an enforcement action is opened on it. If a case is sitting there today, which you seem to be concerned about, it does not matter whether the time limit is five or six years. I threw six into the mix, because it is a totally different figure that has not been mentioned. A case is not live until an enforcement action is opened.

The Chairperson:

I am not concerned about the four-year ruling for buildings. That is not my issue, to be honest. I am concerned about the change of use and business use, and the 10-year ruling on that was the major issue. Let us try to define this. Can you give me some clarification, please? There is a proposal for five and five. You turned me down flatly on four and four, even before I got someone to second the proposal. I am not sure whether Mr Clarke was going to second it.

Ms Smith:

I beg your pardon, Chairperson.

The Chairperson:

Will you please clarify why the Department would accept five and five?

Ms Smith:

Trevor Clarke made the point that enforcement officers should be able to see a building within four years.

The Chairperson:

That did not apply to the boy in England who had bales around the building. They did not find him for six or seven years.

Mr T Clarke:

That is called an Englishman's castle.

Ms Smith:

The experience is that it can take longer than four years to spot a change of use. Mr Weir and others made the point that it can be confusing when two different lengths of time are involved.

The Chairperson:

I agree. Four and four is not confusing; four and 10 is, as is four and six.

Ms Smith:

The aim of keeping the two periods the same is to remove that confusion and to make sure that everyone is clear that, if they are operating without planning permission, there is one period.

There is a tension that four years is not sufficient time to pick up on all the cases, particularly cases of change of use. A dwelling can be changed to an office building, for instance, quite quietly, and it is possible that people would not notice it for a long time. That is why the Minister is prepared to go to five and five.

The Chairperson:

I thought that we got all our planning policy statements right. I thought that PPS 21 was good.

Mr McGlone:

Some of us did not think that.

The Chairperson:

Mr McGlone, you are agreeing to five and five. I will make a proposal for four years. Would anyone like to support that proposal?

Mr Kinahan:

From what Ms Smith is saying, I am sure that we should make it for longer.

The Chairperson:

That would be the five and five. It is four years now for enforcement for a building and 10 years for change of use to business use. I propose four and four. Do I have someone to second my proposal?

Mr W Clarke:

I will second it.

Mr Weir:

You were almost shamed into that.

Mr W Clarke:

It was the puppy dog eyes.

The Chairperson:

Thank you. There are two proposals. Are members in favour of five years and five years? I will put the Question.

Mr T Clarke:

Is the Committee making the amendment, or is it a departmental amendment?

The Chairperson:

The Department is content to make the amendment.

Question, That the Committee is content with the clause, subject to the Department's proposed amendment, *put and agreed to.*

Clause 131 agreed to.

Clause 44 agreed to.

Clause 202 (Procedure of appeals commission)

The Chairperson:

We deferred clause 202 pending an amendment from the Department that would allow costs to be awarded where a party has been put to unnecessary expense and where the Planning Appeals Commission has established that the other party has acted unreasonably. Members have been provided with details of the clause and with the Department's response from last week referring to new information at appeals, which is dealt with in clause 58. The Department's recent response is provided, and it indicates that two new clauses will be brought forward after clause 202 to allow for the awarding of costs.

I think that we are content with the awarding of costs. Is the Committee content with the departmental amendment, including introducing new clauses to allow for the wording of cost by the appeals commission where a party has been put to unnecessary expense?

Question, That the Committee is content with the new clauses, *put and agreed to.*

New clauses agreed to.

Question, That the Committee is content with the clause, *put and agreed to.*

Clause 202 agreed to.

Clause 203 (Assessment of council's performance)

The Chairperson:

Although members agreed the clause last week, the Committee requested more information on how the level of scrutiny under the clause will tie in with the audit function.

The Department's response indicates that clause 203, together with clauses 204 to 206, forms a key part of the Department's audit role in councils' performance of their planning functions. The local government auditor is currently responsible for financial and value-for-money audits, which is very different from the planning audit function. It is the Department's view that a

central government statutory audit and/or inspection function could cover a general or function-specific assessment of local government's planning functions, reviewing planning processes and the application of policy with a focus on quality assurance, advice and the promotion of best practice. Are we content with the Department's response?

Members indicated assent.

Clause 215 (Correction of errors in decision documents)

The Chairperson:

The Committee was concerned about the cumbersome wording in the clause and asked the Department to consider an amendment. The Department indicated that it will amend the clause, and the draft departmental amendments have been provided. Mr McGlone, I think that you brought this subject up. Are you content with the response, or do you need any more clarification?

Mr McGlone:

It seems to be a bit clearer.

Question, That the Committee is content with the clause, subject to the Department's proposed amendments, *put and agreed to.*

Clause 215 agreed to.

Clause 224 (Duty to respond to consultation)

The Chairperson:

The Committee was concerned when the Department indicated that, in the event of a late or non-response from a statutory consultee, a council would be liable for its decision. That would apply even if a decision that had been made after the agreed time limit had to be revoked as a result of information coming forward from a statutory consultee that had not responded in time. The Committee asked the Department to consider an amendment to ensure that councils would not be held liable for decisions where a statutory consultee had failed to respond within the required period.

The Department's response indicates that it will not bring forward such an amendment. A draft Committee amendment has been provided that would require statutory consultees to be liable for any compensation payable after a decision is revoked as a result of information that the consultee could have provided, if planning permission were granted after the time allowed for a response to be made by that consultee had lapsed. I will ask the Clerk of Bills to go through that.

The Clerk of Bills:

My understanding of the Committee's concern was that it wanted a provision to ensure that the council would not have to pay compensation where it took a decision in a situation where it had not received information that might have influenced the decision to grant planning permission, such as where a statutory consultee either did not respond or responded too late, with the result that the council then went ahead.

The Department may advise that there is a better procedural or technical method for achieving the objective. I propose that a new clause to rule the council out from liability in such circumstances be inserted towards the end of the Part of the Bill that deals with compensation. I will now go through that. A number of things would have to happen at the same time. First, the consultee would not have responded in accordance with an agreed or set time period. Secondly, the council would go ahead and make a decision after the agreed time period has expired. Thirdly, planning permission would be revoked because of the absence of information that subsequently emerges. The council could reasonably have expected that information to be in a response from that consultee. Fourthly, the council could decide to revoke or modify the planning permission because of information that comes to light later, and, finally, the council would be liable for compensation in that situation. We want to say that the council would not be responsible if all those criteria were met, but that the relevant Department would pay to the council the compensation payable. In other words, rather than trying to change the whole system here, effectively, the Department would reimburse the council. Members will notice that I said "relevant Department", rather than "agency". Subject to what the Committee might wish or advise, I drafted the amendment that way so that it would have a broader back, if you like. Referring to the Department, rather than to specified agencies, would deepen pockets for the Department. I suspect that the definition of the term "relevant Department" would need some tweaking, but I have provided a draft amendment to indicate the Committee's intention as far as I

understand it.

Mr T Clarke:

I thank the Clerk of Bills. I like the intention, but I am concerned about what she said about the council subsequently receiving information that it could "reasonably expect" to have been included. What does "reasonably" cover, given that the time period to respond is either 21 days or 28 days?

The Clerk of Bills:

"Reasonable" is a term that is understood in law. If that word were not included, in some ways, the amendment would be less effective, because a council could come along and say that it thought that it would have been in that report, whereas that might not have been a reasonable expectation. An agency might come along and say that it would not have included that information, because it is not in their purview to do so.

Mr T Clarke:

Does it not weaken it?

The Clerk of Bills:

A reference to reasonableness should not alter the position; it should just clarify what would be the case in law anyway if there were a judicial review.

The Chairperson:

Are members content with that explanation?

Members indicated assent.

Question, That the Committee is content with the new clause, *put and agreed to.*

New clause agreed to.

Question, That the Committee is content with the clause, *put and agreed to.*

Clause 224 agreed to.

Clause 229 (Directions: Department of Justice)

The Chairperson:

On the advice of the Examiner of Statutory Rules, the Committee questioned the reference to the "Advocate General" in the clause instead of to the "Attorney General". I advise members that the details of the clause have been provided. The Department's response indicates that the Department will bring forward an amendment to change the reference to "Attorney General".

Ms Smith:

We now have that amendment, and we can give it to the Committee Clerk.

Question, That the Committee is content with the clause, subject to the Department's proposed amendment, *put and agreed to.*

Clause 229 agreed to.

Clause 102 (Acts causing or likely to result in damage to listed buildings)

The Chairperson:

The Committee must consider whether it wants to table an amendment to the clause, so that a person who is currently guilty of an offence under it may be liable on conviction of indictment to a fine. Fines on indictment are not subject to the limits of a standard scale, although the clause is currently drafted to suggest that that is the case. The Department has also proposed an amendment to raise the level of fine for summary conviction to level 5 on the standard scale.

Question, That the Committee is content with the clause, subject to the Committee's proposed amendments, *put and agreed to.*

Clause 102 agreed to.

The Chairperson:

The Department has advised that it will be making textual amendments to clauses 8 and 9 and to schedule 6 to provide a consistent approach throughout the Bill. The Committee has already agreed those clauses and the schedule. However, if the Committee is content to accept those amendments now, it will be noted in its report, and the Committee position will be clear when the Bill comes back for consideration. Do Members agree with that approach?

Members indicated assent.

The Chairperson:

The Committee asked the Department to consider an amendment introducing a mandatory review period of the new planning system once it has been devolved to local authorities. The Department's response in is members' tabled papers, and it indicates that the Minister is not bringing forward an amendment on that issue. Members have been provided with a draft Committee amendment, which suggests the introduction of new clause 223A entitled "Review of Planning Reform Act." That clause will require the Department to review the system within three years of the Bill's commencement and at least once every five years thereafter. The terms of such a review will be set out in regulations, and the amendment to clause 242 would require such regulations to be subject to draft affirmative procedure and would mean that it would come back to the Assembly for debate. I will ask the Clerk of Bills like to go through that amendment, before I put the Question.

The Clerk of Bills:

Once again, this issue did not appear to fall neatly in any of the clauses of the Bill. Therefore, I propose that a new clause be added at the beginning of the Part of the Bill that deals with its miscellaneous and general provisions. The new clause would set out the time frame in which the first review of the implementation of the Act would take place. It would also require a five yearly review thereafter and a report on the implementation of the Act to be published. The detail is not clearly set out in the proposed clause, and the easiest way for the Assembly to have input to or make decisions on the content of the review or the report is to set those out in regulations. Those regulations would then need to come back to the House to be approved, thus allowing it to have some further input to the details.

The Chairperson:

Are there any comments on that proposed new clause? It will make provision for a review to be carried out no later than three years after the Bill is enacted.

Mr Kinahan:

Did you say no later than three years?

The Chairperson:

It is giving it a chance in two years, and, hopefully, it will be completed by three years.

Mr T Clarke:

What is the Department saying about that?

The Chairperson:

The Department is not content.

Ms Smith:

The Bill already provides for the Department to assess the way that councils are implementing their responsibilities under the legislation. *[Inaudible due to mobile phone interference.]* Arguably, that would cover the review.

The other point is that it would be open to a future Environment Committee or to the Assembly to review any piece of legislation that *[Inaudible due to mobile phone interference.]*

Mr Weir:

I appreciate what is being said about *[Inaudible due to mobile phone interference.]*

The Chairperson:

I would like to see a review. I will have to put it to a vote.

Mr T Clarke:

Why would something be reviewed so soon? The process will take a while to bed in and go through its outworkings. If we try to agree to a review taking place too soon, we are not giving it an opportunity to work properly.

The Chairperson:

I think that two years is a reasonable time. *[Inaudible due to mobile phone interference.]* To a certain extent, the Bill will have to hit the ground running. I am building in a mechanism that the

process can be reviewed by trying to make sure that the resources and everything else are there. It will be trial and error in some cases. I support a review.

Mr Kinahan:

[Inaudible due to mobile phone interference.]

Mr W Clarke:

I agree with having a review. *[Inaudible due to mobile phone interference.]* Surely we are learning from best practice in England, and surely the implementation should be more streamlined here in the North. It would give some degree of comfort to councils. You touched on that when we discussed resources and capacity for training. It will give a review of things overall and will show where improvements have to be made. That is sensible.

The Chairperson:

We have heard all the views on that, so I will ask the Committee whether it is in favour of a Committee amendment that deals with the review.

Members indicated dissent.

The Chairperson:

I will move now to the community infrastructure levy. At last week's meeting, the Committee asked for examples of guidance on planning agreements and information on developer contributions. The Department provided a response on the community infrastructure fund or developer contributions on 3 February. Professor Lloyd's comments on a community infrastructure levy are provided for members, as is the Department's latest response. The Department has indicated that it believes that contributions to support the infrastructure that is necessary to deliver economic and social development is a cross-cutting issue and that it should be considered at Executive level. The Department has also provided an example of guidance on planning agreements.

A draft Committee amendment is also provided. It would make provisions for a community amenity levy to be introduced if and when the Department deems it appropriate. I will ask the Clerk of Bills to go through that.

The Clerk of Bills:

The first point to note is that, as has been mentioned, the community infrastructure levy is legislated for in Britain in very different circumstances. Councils there have a greater range of powers and greater budgets than they do here. Therefore, the suggested amenity levy will reflect that difference. According to my understanding of what the Committee talked about, the intention is about leaving such funds for amenities in council areas. *[Inaudible due to mobile phone interference.]*

The Chairperson:

Any comments on that?

Mr Kinahan:

I have a slightly oblique comment. *[Inaudible due to mobile phone interference.]*

The Clerk of Bills:

That would be slightly at odds with this amendment. That is another issue that the Committee may wish to explore, but it would not sit neatly within the confines of this amendment.

Mr W Clarke:

It is an important clause to have in. We discussed the rationale behind it at the last meeting, where there is large-scale development and no community infrastructure is in place. That goes for private development and housing associations and the likes of community provision, community halls and play areas. Those should be subject to a contribution from the developer. Again, for the well-being of that community, a crèche might be required. There are a number of ideas that could be out there. We are trying to say that the well-being of the community is at the heart of the new development, and there is no point putting 100 houses in without the necessary community infrastructure. That will put a burden on local authorities. We are trying to look at when the new powers come down. There are greater powers across the water. We are hoping that the clause will be used at that stage, when the powers are delivered down to improve the well-being of the community.

Mr T Clarke:

I have a bit of difficulty with this. If we go in that direction, we will create a rod to beat the councils' backs. If we suggest that, every time there is development in an area, you have to use that money to build community facilities, once the facilities are built, the councils will be left to run them. The council has —

The Chairperson:

They will not. It goes into a central pot of money. Can we have some clarity on that?

The Clerk of Bills:

As the amendment is drafted, there is no such level of detail yet, so there is flexibility on the regulations of the detail that will come forward as a result of this.

There is another really important point that I meant to mention. Given the nature of this as a levy, it potentially engages section 63 of the Northern Ireland Act 1998, and a recommendation may be required from the Finance Minister. That is just a cautionary note.

Mr T Clarke:

The other problem with this is that it is a levy in relation to the community. However, there is also a levy in relation to other infrastructures that the developers have to do in relation to the development. If we put too many levies on this, we will have no development at all.

The Chairperson:

I will answer that quickly, Mr Clarke. Developers put it on the property. Even Tesco gets the money back. This nonsense that developers will not develop — they will put £1,000 on each house.

Mr T Clarke:

So you want to flog the people even more?

The Chairperson:

I do not; it is up to the people who want to buy the house.

Mr T Clarke:

That is what I mean.

The Chairperson:

It is up to individuals whether they want to live in or buy that house. We talked last week about a developer paying £11,000 for a planning application to develop any number of houses thereafter.

Mr T Clarke:

That is a different argument.

The Chairperson:

No, it is ridiculous. Let us be under no illusion about this, Mr Clarke: it is up to people if they want to buy a house. That will go on to that house. I am not saying that it will go on to the people.

Mr T Clarke:

But you are saying that this levy is used for community development. I welcome development in any area that I live in. When someone moves into an area, he is enlarging the rates base, which is contributing to the running of the council. That is how those things should be funded. A developer should pay for the development of the road structure. I agree with that. Road structure has to be improved for the developer to make his development. However, he should not have to put money up for community development as well.

The Chairperson:

The road infrastructure that he is developing is putting back —

Mr T Clarke:

Yes, I agree with that.

The Chairperson:

This is about building a community centre or something for the benefit of the community. There

is a lot of scope for councils to draw down match funding and everything else. Community groups can draw down match funding. That is the way that most public representatives work with community groups to try to encourage them to look after communities.

We could go round the houses with this argument over who is responsible and who is not. All I am saying is that a levy is a good idea. What it will be will have to be worked out, but it will go into a central pot. It could pay for something that the community needs, go to the community plan or anything else — whatever those people decide. That will mean the local council will take a decision on it.

Mr Weir:

There are couple of points. I take Trevor Clarke's point as well. The charge will make a pot, which may well then be used for capital. However, the issue is that there could be a complication of downstream annual year-on-year expenditure which may not necessarily be covered. There is a danger of that.

The developer contribution is a big issue, and I have heard what has been said as regards a potential issue over finance. It is something that will have to be tackled, in terms of things. I am not sure how clearly this has all been thought through. There is a level of vagueness. I am not sure that this is the appropriate place for an amendment. It is something that will have to be gone back on, but I am not minded to make an amendment to this particular Bill. Something in the broader development contribution issues is going to have to be decided upon. I do not think that this is the right place.

Mr W Clarke:

This is a unique opportunity for us to build a mechanism and put it in place. We should give the local authority at least the powers or the tools to benefit communities. Particularly in areas of deprivation where greater development is taking place, this ensures that the developer takes on the responsibilities as regards putting proper planning into place for communities and does not just stick a number of houses into an area without thinking about the amenities needed for that community.

It could be a community park, a play park, a hall, a crèche — there are a number of things that it could be. It is to give at least the flexibility when the application has been made. We talk about front-loading systems where the developer can come on board and say that, as a part of his proposal, he would like to put in place some of the community infrastructure. That is what it is about. *[Inaudible due to mobile phone interference.]*

I am not a professional planner. The Department will have to come back and give us more detail, and touch on the finance aspect as well. The clause needs to go in there to ensure that we have better communities.

The Chairperson:
OK gentlemen, I will have to put that to the Committee. Is the Committee content with inserting a new clause to address the issue of a community levy?

Members indicated dissent.

The Chairperson:
That is something. Are members content with putting in a recommendation to explore ways of doing that?

Mr T Clarke:
Yes. That is different. I agree with that.

Mr Weir:
Yes. I just think the issue needs to be thought out.

The Chairperson:
No problem. Thank you. We will bring it back and ask for further explanation of the form of words.

Can we put something in the report in relation to the three-year review?

Mr T Clarke:

We had a vote on it.

The Chairperson:

I am only asking the question.

Mr T Clarke:

I am only answering you.

The Chairperson:

OK, there is no appetite for it.

Let us turn to the land use strategy for the North. At last week's meeting we asked the Department on what basis, or against what framework, decisions on major regional planning applications would be made to ensure consistency.

Mr T Clarke:

Is that in north Antrim?

The Chairperson:

That was in response to Professor Lloyd's comments on the need for a land use strategy. In its response, the Department indicates that it will base decisions on regionally significant applications on the policy framework provided by the regional development strategy, planning policy statements, local development plans and other relevant material considerations.

Angus, we are still going with the regional development strategy. Conformity, conformity, conformity. PPSs and everything.

Mr Kerr:

We feel that that is an appropriate framework on which to make the decisions.

The Chairperson:

Do members have any comments to make on land use strategy? What about the final report on the land use strategy?

Mr T Clarke:

How can you put it in if we have no comments?

The Chairperson:

I am asking the Committee for comments.

Mr T Clarke:

Given that there is no thought or feeling in relation to that, why would we want to put anything in? I suggest that we leave it out.

The Chairperson:

So, Mr Clarke, you are content that the local development plan and community plans will roll out along with the suite of planning policy statements and the area plans, and they are all going to conform to the regional development strategy, along with the simplified planning zones that you supported last week and today. Are you content that that the way land strategy will develop?

Mr T Clarke:

You are not coming with any proposals. Why would you put something in a report, when you have nothing to put on the table?

The Chairperson:

I did. If you had read Professor Lloyd's notes, which I referred to —

Mr T Clarke:

So, it is Professor Lloyd's suggestion, as opposed to yours.

The Chairperson:

It is only a suggestion. Likewise, Mr Clarke, you have supported many people who have come to

the Committee to make presentations.

Mr T Clarke:

Where was it?

The Chairperson:

I do not think that there is any appetite for that.

I forgot to mention planning agreements. We did not get a chance to talk about them. Would you like to touch on that?

Mr Weir:

Not really.

The Chairperson:

Disregard that remark.

Ms Smith:

Planning agreements are at clause 75, I think.

The Chairperson:

You are struggling, Maggie. It is OK. This is the last day of scrutinising the Bill, and, to be fair, we have gone through a concentrated piece of work. The Bill has 248 clauses. We are going to wind up today, but I would like something on planning agreements.

Ms Smith:

Planning agreements are agreements which are negotiated during the process of agreeing planning permission, and they must be agreed before planning permission is granted. They are between the developer and the planning authority. Planning agreements can provide opportunities to include, as part of the planning permission, requirements on the developer which are relevant to the development. That links back to what Willie Clarke said earlier. That might include things like road junctions that service the development. It could also include the sorts of

community amenities that you were talking about earlier.

In the main, clause 75 is carried forward from the Planning (Northern Ireland) Order 1991. However, there is an extra provision in this Bill that relates to financial contributions, because there may be situations in which, as part of the agreement with the developer, the planning authority might wish to negotiate that a sum of money be paid over for some purpose.

The Bill, as drafted, provides that that sum of money can go either to the planning authority, which would be the DOE or the council, or to a Northern Ireland Department. Some work is ongoing in the area of social housing, whereby we are using planning policy and Department for Social Development (DSD) housing policy in the context of that new provision. That will allow developers to contribute money to DSD, through planning agreements, which can then be used by the Housing Executive and the housing associations to provide social or affordable housing.

The Chairperson:

Thank you. Did you also want to mention the proposed amendment to schedule 2?

Ms Smith:

Yes.

The Chairperson:

I have tabled a question for oral answer in the Chamber, so can you just mention that briefly?

Ms Smith:

I apologise for bringing this in at this late point. Schedule 2 deals with dormant mineral sites, and paragraph 1 of that schedule refers to sites being dormant if they were not used between 31 December 1993 and 1 June 2007. That provision was never commenced under the previous legislation, so those dates are clearly out of date. Rather than setting specific dates, the Department proposes to amend schedule 2, paragraph 1 to read:

"within a period of 15 years, ending on the date on which this schedule comes into operation".

The Chairperson:

OK. Thank you. Members were provided with a written submission on the Bill from the Belfast Civic Trust. Are members content to note that submission and to include it in the Committee's report?

Members indicated assent.

The Chairperson:

That concludes the Committee's formal clause- by-clause consideration of the Planning Bill. A draft report of the Committee Stage will be produced for members' consideration on Tuesday 22 February. I thank everyone for their patience. I also thank Maggie and her team for their sharp focus. We got through it.