

# Official Report (Hansard)

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to arrive not later than two weeks after publication of this report.

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Boyle, Ms Michaela (West Tyrone)  
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Copeland, Michael (East Belfast)  
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Lo, Ms Anna (South Belfast)  
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Lyttle, Chris (East Belfast)  
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Spratt, Jimmy (South Belfast)  
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Swann, Robin (North Antrim)  
Weir, Peter (North Down)  
Wells, Jim (South Down)  
Wilson, Sammy (East Antrim)

# Northern Ireland Assembly

Monday 24 June 2013

*The Assembly met at 12.00 noon (Mr Speaker in the Chair).*

*Members observed two minutes' silence.*

## Assembly Business

**Mr Campbell:** On a point of order, Mr Speaker. The parading season got off to a relatively peaceful start at the weekend. However, you, Mr Speaker, and the House will be aware of an incident in north Belfast at the Tour of the North parade where a Sinn Féin MLA was videoed impeding, it would appear, a police officer in carrying out his duty. Obviously, the Police Ombudsman has a direction and a system to investigate police officers, but can you advise what we, as a House, can do to ensure that we investigate fully what appears to be the attempted physical impeding of a police officer carrying out his duty by a Sinn Féin Member?

**Mr Allister:** Further to that point of order —

**Mr Speaker:** Order. Let me deal with this point of order first. This is a procedural matter. Members will know that, in dealing with procedural matters, I always advise them to go to the Business Office and to speak to the Clerks. A motion of this nature can be very complex. It is not a difficult motion, but it certainly needs to be fully explained to the Members who believe that they should bring such a motion to the House.

On the procedural matter, I will not go into the issue of the matter of the day that was submitted to the Business Office. I have made my decision on it and turned it down. So, where procedural issues on motions coming to the House are concerned, please talk to the Business Office. That is where we should leave this issue.

Mr Allister, if your point of order is on procedural issues, I am happy to take it.

**Mr Allister:** Thank you, Mr Speaker. Can you confirm to the House that, under the code of conduct for Members, it is stated as our public duty that MLAs should uphold the law? Therefore, given Mr Kelly's loutish behaviour last Friday, what investigation will be conducted

—

**Mr Speaker:** Order. The Member knows that the issue very much rests with the Standards and Privileges Committee, which is where Members should be directed. Order. Let us move on.

## Executive Committee Business

### Suspension of Standing Orders

**Mr Attwood (The Minister of the Environment):** I beg to move

*That Standing Orders 10(2) to 10(4) be suspended for 24 June 2013.*

**Mr Speaker:** Before we move to the Question, I remind Members that the motion requires cross-community support.

*Question put and agreed to.*

*Resolved (with cross-community support):*

*That Standing Orders 10(2) to 10(4) be suspended for 24 June 2013.*

**Mr Speaker:** As there are Ayes from all sides of the House and no dissenting voices, I am happy that cross-community support has been demonstrated.

### Planning Bill: Consideration Stage

**Mr Speaker:** I call the Minister of the Environment, Mr Alex Attwood, to move the Consideration Stage of the Planning Bill.

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

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

I inform Members that a valid petition of concern was presented on Friday 21 June 2013 in relation to amendment No 24. I remind Members that the effect of the petition is that the vote on amendment No 24 will be on a cross-community basis.

There are three groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1 to 19, 21 to 23, 27, 31 and 33. The group deals with environmental and cultural protection, economic development, well-being and shared use of the public realm, together with Mr Agnew and others' opposition to clause 6 stand part. The second debate will be on

amendment No 20, which deals with economically significant planning zone schemes. The third debate will be on amendment Nos 24 to 26, 28 to 30, 32 and 34, which deal with appeals, commencement and technical amendments.

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

*Clause 1 ordered to stand part of the Bill.*

### **Clause 2 (General functions of the Department and the planning appeals commission)**

**Mr Speaker:** We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2 to 19, 21 to 23, 27, 31, 33 and opposition to clause 6. The amendments deal with environmental and cultural protection, economic development, well-being and shared use of the public realm. Members should note that amendment No 3 is mutually exclusive with amendment No 4, that amendment No 10 is mutually exclusive with amendment No 11 and that amendment No 16 is mutually exclusive with amendment No 17.

**Mr Agnew:** I beg to move amendment No 1: In page 1, line 15, after "improving" insert "social".

*The following amendments stood on the Marshalled List:*

No 2: In page 1, line 16, leave out subparagraph (c).— *[Ms Lo.]*

No 3: In page 1, line 16, at end insert "(d) promoting environmental protection".— *[Mr Agnew.]*

No 4: In page 1, line 16, at end insert "(d) protecting the environment".— *[Mr Elliott.]*

No 5: In page 1, line 16, at end insert

*"(1A) For the purposes of this Order "sustainable development" means development that seeks to deliver the objective of achieving economic development to secure higher living standards while protecting and enhancing the environment."— [Ms Lo.]*

No 6: In page 1, line 19, leave out from "achieving" to the end of the line and insert

"—

(a) *achieving good design; and*

(b) *promoting shared use of the public realm between persons of different religious belief, political opinion or racial group.*"— [Ms Lo.]

No 7: In page 2, line 5, at end insert

"(3) The Department must, not later than 3 years after the coming into operation of section 2(1) of the Planning Act (Northern Ireland) 2013, review and publish a report on the implementation of this Article.

(4) The Department must make regulations setting out the terms of the review.".— [Mr Attwood (*The Minister of the Environment*).]

No 8: In page 2, line 11, after "improving" insert "social".— [Mr Agnew.]

No 9: In page 2, line 12, leave out subparagraph (iii).— [Ms Lo.]

No 10: In page 2, line 12, at end insert "(iv) promoting environmental protection".— [Mr Agnew.]

No 11: In page 2, line 12, at end insert "(iv) protecting the environment".— [Mr Elliott.]

No 12: In page 2, line 13, at end insert

"(2A) For the purposes of this Act "sustainable development" means development that seeks to deliver the objective of achieving economic development to secure higher living standards while protecting and enhancing the environment.".— [Ms Lo.]

No 13: In page 2, line 15, leave out from "achieving" to the end of the line and insert

"—

(a) *achieving good design; and*

(b) *promoting shared use of the public realm between persons of different religious belief, political opinion or racial group.*".— [Ms Lo.]

No 14: In page 2, line 20, after "improving" insert "social".— [Mr Agnew.]

No 15: In page 2, line 21, leave out paragraph (c).— [Ms Lo.]

No 16: In page 2, line 21, at end insert "(d) promoting environmental protection".— [Mr Agnew.]

No 17: In page 2, line 21, at end insert "(d) protecting the environment".— [Mr Elliott.]

No 18: In page 2, line 21, at end insert

"(aa) after subsection (1), insert -

"(1A) For the purposes of this Act "sustainable development" means development that seeks to deliver the objective of achieving economic development to secure higher living standards while protecting and enhancing the environment.".— [Ms Lo.]

No 19: In page 2, line 23, at end insert

"promoting shared use of the public realm between persons of different religious belief, political opinion or racial group; and".— [Ms Lo.]

No 21: In clause 6, page 5, line 23, after "economic" insert "and environmental".— [Mr Elliott.]

No 22: In clause 6, page 5, line 25, at end insert

"(1A) In that Article after paragraph (3) add—

"(4) The Department must, not later than 3 years after the coming into operation of section 6(1) of the Planning Act (Northern Ireland) 2013, review and publish a report on the implementation of this Article.

(5) The Department must make regulations setting out the terms of the review.".— [Mr Attwood (*The Minister of the Environment*).]

No 23: In clause 6, page 5, line 30, after "economic" insert "and environmental".— [Mr Elliott.]

No 27: After clause 16 insert

**"World Heritage Sites**

**16A.**—(1) Before Article 50 of the 1991 Order (Conservation areas) insert—

**"World Heritage Sites**

49A(1) In exercising any powers under this Order in respect of a World Heritage Site or its buffer zone, the Department or the Planning Appeals Commission shall have regard to the desirability of—

(a) protecting the Outstanding Universal Value for which the World Heritage Site was inscribed on the UNESCO World Heritage List; and

(b) Preserving the character and appearance of the World Heritage Site or its buffer zone.

(2) In this Article—

"Buffer Zone" has the meaning set out in the 'Operational Guidelines for the Implementation of the World Heritage Convention';

"Outstanding Universal Value" has the meaning set out in the 'Operational Guidelines for the Implementation of the World Heritage Convention';

"World Heritage Site" is a place that is inscribed on the UNESCO World Heritage List."

(2) Before section 104 of the 2011 Act (Conservation areas) insert—

### **"World Heritage Sites**

103A.—(1) In exercising any powers under this Act in respect of a World Heritage Site or its buffer zone, the Department or the Planning Appeals Commission shall have regard to the desirability of—

(a) Protecting the Outstanding Universal Value for which the World Heritage Site was inscribed on the UNESCO World Heritage List; and

(b) Preserving the character and appearance of the World Heritage Site or its buffer zone.

(2) In this Section—

"Buffer Zone" has the meaning set out in the 'Operational Guidelines for the Implementation of the World Heritage Convention';

"Outstanding Universal Value" has the meaning set out in the 'Operational Guidelines for the Implementation of the World Heritage Convention';

"World Heritage Site" is a place that is inscribed on the UNESCO World Heritage List.".— [Ms Lo.]

No 31: In clause 27, page 16, line 31, after "1" insert "2(1), 6(1)".— [Mr Attwood (The Minister of the Environment).]

No 33: In clause 27, page 16, line 33, at end insert

"(1A) Sections 2(1) and 6(1) come into operation 4 months after the day on which this Act receives Royal Assent.".— [Mr McCallister.]

**Mr Agnew:** Planning is fundamental to everything that we do in society. How we plan our towns, cities and rural areas is key to our health and well-being. That is why it is important to get planning right. My concern about elements of the Bill and some of the amendments that we will debate today is that we are in a rush to get planning quickly, at the expense of getting it right. No one would argue against making planning more efficient. There is no doubt that our track record has been poor, and it favours neither developer nor objector. It favours no one if development is slow or decisions are slow. I have no doubt that the Environment Minister will point out that we have seen improvements. I share the desire of, I suspect, many in the House to improve the efficiency of the Planning Service, but I do not think that we should do so at the expense of getting planning right, and I fear that we may be travelling in that direction.

Planning is for the long term. We have to plan not just for today but for decades and future generations. I am concerned that certain elements of the Bill and some amendments are very much about the here and now: quick fixes and knee-jerk reactions to current events rather than good planning for long-term sustainability.

Elements of clauses 2 and 6 cause concern for many. We are concerned that we will see a polemical argument, a debate between those who support communities and those who support developers. I am afraid that there will be a division between those who support communities having their say in planning and those who seek to restrict and deny communities the right to have a say in how their town, city or area will develop. There will be those in the House who have a holistic view of our society and those who reduce everything to mere pound signs. This could be a debate between those who look to the long term and those driven by solely economic short-termism. We see a tension between those who want



fairness and balance in the planning system and those who wish to load the dice. There are those who want to see Northern Ireland open for business and those who would leave us wide open to the exploitation of our communities and environment.

Those of us who have opposed fracking and look to the planning regulations to ensure that any decision on fracking and other major developments of that kind, specifically petroleum developments, have been assured that we will have strong regulations and will not make the mistakes that were made across the Atlantic in America, where a deregulated system allowed the health and well-being of communities to be put at risk for the search and drive for profit and cheap energy. We have been told that that will not happen in Northern Ireland, but my fear is that that is exactly what will happen if we pass some of the amendments proposed today.

Clauses 2 and 6 were of major concern to many at Second Stage. For those who see the importance of planning in furthering the well-being of our society as a whole, there is concern that the economic drivers in clauses 2 and 6 are over and above other concerns such as environmental protection and social well-being. There was some debate about how we should amend those clauses, whether we should amend them at all or simply reject them and how we should take things forward.

It is very much my view that the inclusion of sustainable development in the Bill was sufficient to promote economic development and that sub-paragraph (c), mentioned in clause 2, is not required because it was already implicit in the term "sustainable development". There are two ways to approach this. Alliance has tabled amendment No 2, which would remove sub-paragraph (c). That is certainly one avenue that the Green Party looked at. However, there is another way: if we are to be explicit about sustainable development, we can spell out its aspects.

One of the definitions of sustainable development is to seek a balance between the competing needs of economic development, social well-being and environmental protection. If we remove economic development, we are accepting that it is implicit in the sustainable development clause. I am certainly willing to support the Alliance Party's amendment to do that, but I suspect, in advance of the debate, that there will be those who will preciously protect clause 2(1)(c), "promoting economic development." If it is the will of the House that that must remain, and if we are going to be

explicit about one element of sustainable development, indeed two, because promoting well-being is there as well, we should be explicit about environmental protection. If we are not, it will leave many concerned, as is often the case, that environmental protection is the lesser cousin of the economic agenda.

## 12.15 pm

Amendment No 3, which has been proposed by the Green Party, and amendment No 4, which has been proposed by the UUP, and their consequential amendments, seek to be explicit about environmental protection and to make clear in the Bill that that is a material consideration. I am interested in the views of the House on the two wordings. It is clear that the Green Party and the UUP are of a similar mind in what they are trying to achieve through those amendments. We favour the term "promoting environmental protection", to be consistent with promoting well-being and promoting economic development. That would ensure that we did not send a signal that we thought that one was greater than the other, because, whilst it is often perceived that the Green Party is interested solely in promoting the environment and environmental protection, ultimately, we seek to achieve a balance between economic development, social well-being and environmental protection. We believe that our amendment would achieve that, but we certainly do not object to the Ulster Unionist amendment. If the House is of the mind to reject amendment No 3, we will certainly support the Ulster Unionists' amendment, but, as I say, amendment No 3 is the wording that we feel most appropriate. However, I am willing to listen to the views of Members on that issue.

I do not think there is anything to fear from the inclusion of a paragraph on environmental protection. As I said, sustainable development inherently includes environmental protection, as it does the protection of social well-being and the promotion of economic development. Therefore, it is already implicit in the Bill, but if we have sought to make well-being and economic development explicit material considerations, we should give equal weight to environmental protection. For that reason, I ask the House to support amendment No 3.

Another approach, which was considered by the Green Party, is to explicitly define sustainable development, as the Alliance Party seeks to do with amendment No 5. In tabling amendment No 3, the Green Party has attempted to pull out explicitly the elements of sustainable development. However, I have

concerns about explicitly defining sustainable development using the definition proposed by the Alliance Party. I am certainly sympathetic to that objective, and I will let the proposers speak for themselves, but I believe that it is an attempt to ensure that the balance of competing needs between environmental protection and economic development are protected in the Bill.

Sustainable development is a complex principle, and I am concerned about the definition that amendment No 5 sets out, because it simplifies sustainable development and, perhaps, in doing so, restricts how it can be applied, possibly not only in this Bill but in other legislation such as the Northern Ireland (Miscellaneous Provisions) Act 2006, which has a sustainable development clause. I am uncertain as to the outworkings of defining sustainable development in that way.

My other concern is about how that definition has been applied already in planning policy. The definition has been lifted from PPS 1. If planning decisions and the Planning Service had a history of promoting sustainable development in the way in which I understand it, maybe I would be more content to support the amendment. However, the record to date is that, with current planning policy and guidance, we still have not got to real sustainable development as I understand it. At times, economic drivers still seem to trump the other two pillars of sustainable development, which are social well-being and environmental protection. I have concerns about amendment No 5. I will certainly listen to the proposer and be informed by the debate. However, at this point, I just want to outline those concerns.

Amendment No 1 has been proposed by the Green Party. It inserts the word "social" before the word "well-being". I want to explain our intention with that amendment, because it is one that we have taken some time to consider. There is uncertainty as to how well-being will be interpreted. I argue — and it fits with some of what I have said already — that well-being should be fairly narrowly defined in the sense that "well-being" could mean financial well-being, but that is already covered by the promotion of economic development. It is my contention and that of the Green Party that "well-being" should mean social well-being — public health and the well-being of society. In one sense, it is narrow in that it should be restricted to that and should not be about economic well-being. However, in another sense, it is general as opposed to specific: in general with regard to society as opposed to the individual.

Another of my concerns is that "well-being" could be looked at as an individual's well-being. Certainly, one could assume from the outset that any developer who proposes a development will see their well-being being promoted by the development. The key question, however, is whether society's well-being — social well-being — is bettered by any development. That is how I would like to see that element of the Bill being defined. Again, I will be interested to hear from the Minister and others about their understanding of "well-being". It is not a clearly defined term, either in the Bill or elsewhere in law. It is, certainly, the aim of amendment No 1 to make it about wider society's well-being, public health and social well-being.

Clause 6, again, is a clause of major concern. Whilst many people have concerns about the agenda behind the inclusion of "promoting economic development" in clause 2, I think that it is not simply the agenda of clause 6, but its actual outworkings, that cause real concern. The consideration of economic advantage and disadvantage, in my view, takes planning beyond where it belongs. I can explain that only by looking at specific examples. If somebody wants to change the use of retail premises to a café, it will, of course, be to the proposer's economic advantage. However, to the café down the road, it will be a disadvantage. Is it for Planning Service to make the judgement as to whose economic advantage is prioritised? Is it that of the existing premises holder or the proposed development? Is that what the planning system is there to do? I am not convinced that it is, and I worry about that.

I said at the outset that we all want to see a more efficient planning system, but I think that this will do the opposite and lead to legal challenges over every supermarket that is proposed. Although there seems to be some attempt here to streamline the planning process for major economic development, I think that, through this clause, every major economic development will be challengeable in law, because someone will, undoubtedly, be economically disadvantaged by a significant economic planning application.

Although I have concerns that the agenda is to prioritise economic development over other concerns such as social well-being and environmental protection, my major concern is that this will not even do what it seeks to do. It will just clog up our planning system further, and that is the last thing that Northern Ireland needs. The last thing we need is more inefficiency in our system, slower decision-

making and more legal challenge. Again, there will be some debate today about how we address that.

I believe that clause 6 is detrimental, and that is why I stated my intention to oppose it. I think that the UUP amendment improves the clause by looking at environmental advantage and disadvantage along with economic advantage and disadvantage. Even with that amendment, I still think that it is a bad clause and will still oppose it. However, I support the amendment, because I appreciate what it seeks to do, and because I think that it would bring balance through the twin priorities of environmental protection and economic development. Nevertheless, I do not think that it will make a bad clause a good one, and that is why I still intend to oppose the clause but support the UUP amendment.

Moving on to amendment No 6, which deals with the promotion of shared use, the Green Party certainly supports the principle of doing everything we can to increase shared housing and shared living in our society. If the amendment can help us to bring that about through our planning system, we are willing to support it. I will leave it to the proposer to go into more detail on the intention of the clause. I will listen with interest and respond more fully when I make my winding-up speech.

I welcome amendment Nos 7 and 22, as proposed by the Minister, as they provide for a review of clauses 2 and 6 after three years. Again, I repeat the point that that will not make clause 6 a good clause, but it will offer some mitigation if the clause is, as I have suggested, harmful rather than helpful to our planning system, because, in three years' time, we can come back to look at the clause and reform it, and that is equally the case for clause 2. So, I welcome the Minister's amendment, as I see it as being only helpful to the outworkings of the Bill.

Finally, amendment No 27 proposes to provide protection in law for what is currently our one and only UNESCO world heritage site. I think that the protection of the Giant's Causeway is a no-brainer. I have talked about the fact that, to date, there has been some tension between environmental protection and economic development. However, here is a site that is of value in both respects. It is a wonderful example of Northern Ireland's natural heritage, which we rightly promote all around the world. Indeed, we have a responsibility as a society to protect what is a world heritage site. It does not belong to us — we certainly benefit from it — but, as a world heritage site, it has been

deemed to be of importance to the world. It is a phenomenal achievement and privilege to have such a site in Northern Ireland, and we have a phenomenal responsibility to protect it on behalf of the world. I urge the House to support the amendment.

### 12.30 pm

The Giant's Causeway is a great economic driver. It is the second most visited natural heritage site in Northern Ireland. I am proud to say that the most visited natural site in Northern Ireland, Crawfordsburn Country Park, is in my constituency of North Down. However, I will accept that, when it comes to bringing in foreign tourism, maybe the Giant's Causeway brings in more than Crawfordsburn Country Park. So, it has huge economic importance to us. Any risk of losing that UNESCO designation must be avoided. In recent weeks, UNESCO has said that the site does need protection in law. I think that we should accede to that request and ensure that we maintain good relationships with UNESCO in the maintenance of the site and help the UK facilitate its duty to protect the site. More than that, we should do the right thing. We are guardians of this site for the world, and we have a responsibility to protect it.

Mr Speaker, I will draw my comments to a close. As I said at the outset, planning can often get lost in technicalities. It is not something that we see as much public debate around as we maybe do with some other Bills, because it is complex in its nature. However, there is no doubt that, from our health to our economic well-being, planning is fundamental to everything we do as a society. I will conclude by saying that its importance is being recognised by the wider public. Like me, every MLA will, I am sure, have had their inbox filled by calls for us to amend the Bill. I hope that we will be shown to be a listening Assembly and deliver a Bill that gives communities the right to have a say in how their towns, cities and rural areas are planned. More directly, that will show that, when this Assembly is lobbied by vast numbers of our citizens, we listen and respond to their requests.

**Mr Hamilton (The Deputy Chairperson of the Committee for the Environment):** I shall speak initially on behalf of the Environment Committee. Unfortunately, the Chair has found herself not able to fulfil her duties today. I will do my best to be an able substitute. I will follow that with some comments made in a personal capacity.

Let me begin by welcoming the Consideration Stage of the Planning Bill. After the Marine Bill, the Committee urged the Minister to ensure that there were no undue delays with any of his other Bills at Consideration Stage. The Minister has listened to that and taken those comments on board, as the Committee only agreed its report on this Bill just over two weeks ago. I hope that that is an example of the swift and speedy nature that, I think, the Minister, and all of us, wants to see in the planning system. Maybe this is an example of how that might work in practice.

The Committee gave the Planning Bill very careful consideration. It was referred to us on 22 January this year. The Assembly subsequently agreed to extend Committee Stage until 7 June. That allowed us the time to put out a call for evidence. Over 100 organisations and individuals responded to us with their views on the Bill. I want to put on record the Committee's gratitude to all those who put the time and effort into responding. A number of consistent themes emerged from the evidence that we received. I will begin by addressing the issues on which there was broad consensus.

The Planning Bill's key objective is to bring forward the implementation of a number of planning reforms that are in the Planning Act (Northern Ireland) 2011 before the majority of planning powers transfer to local government in 2015. The majority of those who responded had no problem with that as an objective and neither did the Committee. Bringing forward these reforms means that not only will they be allowed to become understood and established in advance of the transfer of powers but their benefits can be realised much sooner. It is sensible that that should happen, and it is notable that none of the 34 amendments on the Marshalled List seeks to prevent the accelerated introduction of those reforms.

There was much greater concern about clauses 2 and 6. Those clauses provide for the introduction of two new reforms that were not in the 2011 Act. Clause 2 provides for the Department, when exercising particular functions, to do so with a new objective of promoting economic development. That sits alongside the other objectives of furthering sustainable development and promoting or improving well-being. Clause 6 provides that material considerations in the determination of planning applications include a reference to:

*"considerations relating to any economic advantages or disadvantages likely to result"*

in granting or refusing planning permission.

There was considerable concern about those new provisions. Many people were worried that clauses 2 and 6 would provide for economic considerations to be given greater weight than any other considerations in planning policy and when determining individual planning applications. As a result of those concerns, the Committee paid particular attention to those clauses. Given the extent of the concerns that were raised, I think that it is important to emphasise that clauses 2 and 6 do not provide for economic considerations to be given greater weight than other considerations in planning policy or when determining individual planning applications.

The Committee acknowledges the concerns that are sincerely held by many of those who responded to its call for evidence. However, we have taken our own legal advice on the clauses, and the Committee is satisfied that those concerns are unsubstantiated. It is right that the planning system should promote economic development, but it must do so while promoting sustainable development and improving well-being. Creating a statutory objective of promoting economic development does not diminish the other statutory objectives that the Department has when exercising its planning functions. Equally, providing a statutory basis for economic considerations to be material considerations in no way limits the other considerations that may be material when determining planning applications.

The Committee therefore supports clauses 2 and 6, subject to amendment Nos 7 and 22, which the Minister tabled, being made. Those amendments in no way alter the policy underpinning clauses 2 and 6; rather, they simply provide for a review of the operation of the clauses to be undertaken within three years of their coming into effect.

Where clause 2 and its three objectives are concerned, the Committee said that the Minister should confirm to the Assembly that the terms "promoting", "furthering", and "improving" shall each be treated as meaning the same thing. The Committee went on to say that if the Minister considers that there is potential for those different terms to be interpreted as having different meanings, he should table an amendment to the Bill to provide for a consistent approach. The Minister has not tabled such an amendment, so I would be grateful if he would confirm that he is therefore satisfied that those different terms shall not be interpreted as having different meanings.

The Committee noted that the Department will bring forward a single strategic planning policy statement (SSPPS) and that that statement shall provide a comprehensive consolidation of planning policy. That statement will be crucial in elaborating and clarifying a number of issues that the Bill will introduce. The Committee recommended that the Minister should confirm at Consideration Stage that the Department shall bring forward the draft single planning policy statement at the earliest opportunity. I look forward to hearing the Minister give that confirmation.

Having made the Committee's position clear, let me now turn to the amendments. I shall start by addressing the amendments to clause 2. Amendment Nos 1, 8 and 14, which Mr Agnew tabled, seek to amend the Department's duty to promote or improve well-being to a duty to promote or improve social well-being. A number of those who contacted the Committee were unclear about what was meant by the term "well-being" or how it could be promoted. The Department told the Committee that it will elaborate on the promotion of well-being in its single planning policy statement. That statement will also address social considerations as well as other issues. The Committee was satisfied with that approach and, as such, does not see the need to amend clause 2 in the manner that Mr Agnew proposes.

Amendment Nos 2, 9 and 15 from the Alliance Party would have the effect of removing the Department's duty to promote economic development. I emphasise again that the Committee is satisfied that clause 2 does not provide for the Department or the Planning Appeals Commission to give greater emphasis to the objective of promoting economic development than it does to the objective of furthering sustainable development or that of promoting or improving well-being. However, clause 2 does define the objective of promoting economic development as an objective separate from the objective of furthering sustainable development. Treating those objectives as separate does not have the effect of giving one greater weight than the other.

It is right that the promotion of economic development should be a separate objective. The Department says that, without compromising the wider purposes and principles of the planning system, it is timely, appropriate and legally correct to affirm through the Assembly and the Planning Bill that economic considerations are material when it comes to preparing planning policy. The Department goes on to say that that reflects the

Programme for Government and the direction provided by the Executive for the economy. The Committee agrees that that is the case. It would be entirely wrong, therefore, to remove the Department's duty to promote economic development. The Committee does not support those amendments.

I will deal with Mr Agnew's amendment Nos 3, 10 and 16 and the Ulster Unionist Party's amendment Nos 4, 11 and 17 together. Mr Agnew's amendments would create a duty for the Department to promote environmental protection, and the UUP's amendments would create a duty for it to protect the environment. The amendments therefore effectively seek to do the same thing.

We all agree that the Department must protect the environment. However, it is already the case that the Bill provides a duty for the Department to further sustainable development. That duty will encompass environmental protection, so there is no need for a separate duty to protect the environment. Indeed, if we create a separate objective of promoting environmental protection, what does that mean for the sustainable development objective? Is a sustainable development objective in any way meaningful if it is separate and different from environmental protection?

The Department assured us —

**Mr Agnew:** Will the Member give way?

**Mr Hamilton:** I suspect that I know what the Member is going to ask. I will give way, but I may answer him later. In the absence of the Chair doing this, I am reporting on behalf of the Committee. I will happily let him in now, and I will try to pick up on the point later, as long as he bears that in mind.

**Mr Agnew:** I appreciate the Deputy Chair giving way, with those conditions. Perhaps you will answer this in your own remarks later or in your role as Deputy Chair. Why was it felt that promoting economic development, which is part of sustainable development, needed to be explicit, yet explicitly putting in the protection of the environment or promoting environmental protection would somehow undermine sustainable development? That seems incongruous to me.

**Mr Hamilton:** I did know what the Member was going to say. It is as if we are telepathic in some way. I would rather come back to that and answer it in my personal capacity, if that is OK, rather than do so on behalf of the

Committee. If I forget and fail to do so, if the Member reminds me before I finish, I will come back to it. There is quite a lot to cover, as the Member, I know, appreciates. There may be a momentary lapse. It is not trying to avoid the issue. I will address it; if I fail to, remind me.

Let me see whether I can find my place again. I have plenty of time, anyway. We are not going anywhere, of course. The Department assured us that the single planning policy statement shall elaborate on the duty to further economic development and address the issue of protecting the environment. The Committee was content with that and therefore does not think that the amendments are necessary.

Amendment Nos 5, 12 and 18 from the Alliance Party seek to provide in the Bill a definition of "sustainable development". We asked the Department during Committee Stage to comment on the principle of doing that, and we gave it a specific amendment to consider. The Department told us that sustainable development has not previously been defined in planning or any other legislation in Northern Ireland. The Department went on to say that sustainable development is a concept the meaning of which has evolved and is likely to continue to evolve over time. The Department looked at the amendment and said that, although well-intentioned, it may have had the unintended consequence of limiting or reducing the scope of the concept that it wishes to promote. The Department considers it more appropriate, in line with other jurisdictions, to provide a fuller explanation of what sustainable development means in the planning context through policy and guidance. This approach allows greater flexibility to respond as the concept evolves. The Committee was content with this approach and therefore does not support amendment Nos 5, 12 and 18.

#### **12.45 pm**

Amendment Nos 6, 13 and 19, again from the Alliance Party, would require the Department to have regard to the desirability of promoting the shared use of the public realm between persons of different religious belief, political opinion or racial group. The Department told us that it was committed to proactively promoting shared, safer and welcoming spaces through the planning system. However, it suggested that this objective would be best dealt with through the forthcoming guidance on sustainable development, and the Committee had no objection to that. Therefore, the Committee does not support these amendments either.

Amendment No 7 provides for a review of clause 2 within three years of it coming into operation. I have already said this is an amendment that the Committee asked the Minister to bring forward; so, we thank him for doing that.

I now move on to Clause 6. Again the Committee gave very considerable and careful consideration to the issues raised with it on clause 6 and the Department's responses. The Committee also sought its own legal advice. The Committee concluded that it is appropriate that considerations relating to any economic advantages or disadvantages are included in the material considerations that the Department and councils must have regard to when determining a development application. In fact, this provision will simply provide a statutory basis for something that already happens in practice. It is right that this continues to take place.

Priority number one in the Executive's Programme for Government is to grow a sustainable economy and to invest in the future. It would be wrong if the planning system were to impede that objective by dismissing economic considerations when determining planning applications. However, that does not mean that economic considerations are the only considerations that need to be taken into account when applications are determined. If it were the case that clause 6 provided for economic considerations to outweigh other material considerations, the Committee would not be content. However, clause 6 does not do that. Providing a statutory basis for economic considerations to be material considerations in no way limits the other considerations that may be material, nor does it mean that economic considerations will be given greater weight than other material considerations. Clause 6 is clear that the inclusion of economic considerations within material considerations is without prejudice to the generality of the requirement of the Department or councils to have regard to the local development plan, so far as they are material to the application and to any other material considerations.

The Department will consult on and publish further policy and guidance on how it intends to take a balanced and proportionate approach on economic considerations; an approach that works in the public interest. Therefore, having given careful consideration to all the relevant facts, the Committee is satisfied that the concerns expressed to it about clause 6 are unsubstantiated. Nonetheless, the Committee believes that there would be value in undertaking a review of the impact of clause 6

within three years of its provisions coming into effect. The Committee, therefore, supports amendment No 22, in the name of the Minister, that would provide for such a review.

Amendment Nos 21 and 23, from the UUP, seek to provide that considerations relating to any environmental advantages or disadvantages are included in the material considerations that the Department and councils must have regard to when determining a development application. Undoubtedly, this is already something that planners do. Had these amendments been suggested or put to the Committee, we could have considered them and given a view on them to the House. However, that unfortunately did not happen.

Amendment No 27 from the Alliance Party requires the Department to have regard to the desirability of protecting the outstanding universal value of world heritage sites and preserving their character and appearance. The Committee did not give explicit consideration to this amendment, so I make no comment on it on the Committee's behalf.

Finally in what is just my introduction, I turn to amendment Nos 31 and 33, which relate to the commencement of the relevant sections of clauses 2 and 6. Amendment No 31 in the Minister's name provides for them to be commenced on Royal Assent and amendment No 33 from Mr McCallister provides for them to be commenced four months after that. When considering commencement issues, the Committee noted that the Department had signalled its intention to elaborate on key issues through the single strategic planning policy statement. The Department also said that it intends to consult widely on the planning policy statement before clauses 2 and 6 are commenced.

The Committee was concerned about the potential for a delay to the commencement of clauses 2 and 6. Despite the Department's stated intentions, it could not guarantee that the consultation on the single planning policy statement would occur by a specific date. Consequently, it could not guarantee that the commencement of clauses 2 and 6 would occur by a specific date. The Committee did not think that this was acceptable, and it asked the Department to bring forward an amendment to provide for the commencement of the relevant aspects of these clauses on Royal Assent. Amendment No 31 provides for that, and the Committee thanks the Minister for bringing it forward. In doing so, it is self-evident that we oppose amendment No 33. Mr Speaker, you will be glad to hear that that concludes my

comments as Deputy Chair of the Committee. I nearly said "Chair", but I would have been promoting myself.

I want to say a few things that pick up on the question that has already been asked of me by Mr Agnew. It is very clear — there is no point in hiding it or trying to brush it under the carpet — that the view adopted by me or my party colleagues will be very different from the approach adopted by Mr Agnew. We are old and mature enough to sensibly discuss and debate our differences.

I listened to Mr Agnew say, in his earlier remarks, that the last thing Northern Ireland needed was these clauses. I think that he was specifically talking about clause 6. When Mr Agnew used that phrase, it rang a bell. I remember reading a magazine article just last week in which Mr Agnew said that the last thing we needed was the G8 summit, which went down so well that he will forgive me for not taking his advice that this is the last thing that Northern Ireland needs. His judgement on what is the last thing Northern Ireland needs is somewhat in question.

I suspect that clauses 2 and 6 are perhaps a bit of a sideshow in the debate, but, during its consideration, the Committee concentrated its time on them. I support clauses 2 and 6, as does my party, because of what they do in highlighting and underscoring not something new or novel, but something that is already the case. I have heard various terms used to describe what some people believed clauses 2 and 6 will do in giving economic considerations additional, supreme or determinative weight. That was not the conclusion of every investigation that the Committee made, every response that it received from officials or every consideration of the Committee itself, and it is not a conclusion that I came to personally.

Economic considerations are already a material consideration in the planning system. Clause 2 puts that into the legislation, which, I suppose, begs the question from some as to why we want to do that. I support those clauses, as brought forward by the Minister, for two reasons. The first relates to what we, as a place, were trying to do last week during the G8 summit, which was, to repeat that oft-used phrase from last week, to emphasise to the world that Northern Ireland is open for business. It is fair to say that our planning system has not covered itself in glory down through the years. I appreciate that that is probably more — Mr Agnew mentioned this — to do with its efficiency and speed. There is a lot of work to do to make our planning system

much more efficient and swifter in dealing with all planning applications, but particularly those of economic consideration that have the potential to create a large number of jobs.

Although the Minister and I will disagree on some of the decisions that he has taken —

**Mr Attwood (The Minister of the Environment):** Only one.

**Mr Hamilton:** Just one? I really do not think that we have time to go into that. I do, at least, welcome the fact that, following his predecessors putting in place various mechanisms and starting to deal with article 31s in particular, the Minister has grasped the problem. I do not think that the way in which he has done it has necessarily solved the problem, because he has taken a very personal involvement in it, which does not mean that the system itself is as agile and swift as I think it should be. However, I think everybody would agree that that is where we should be going.

When we are selling Northern Ireland and saying that it is open to business, folk, including us, will talk about the people, the skills base that we have, our excellent telecommunication system, and the infrastructure that we have invested in. However, you will never hear anybody talk about the planning system in Northern Ireland. That is not one of the things that make it on to the list of positive points about Northern Ireland when we go to North America, the Far East and the Middle East to sell Northern Ireland. It should be, and I want to see it become something that we can sell to people.

These clauses and the amendments that we will debate have the potential to mean that the planning system in Northern Ireland is something that can respond, in certain circumstances, to economic considerations. For me, because it is already a material consideration, it is about highlighting and emphasising something that is already there, so that the world that is looking into Northern Ireland and perhaps wanting to invest in Northern Ireland, but has a choice of several places to invest, can see on the face of planning legislation that the Assembly and Executive mean what they say when they say that we want to promote the economy and put growing a sustainable economy as our number-one priority in Northern Ireland.

The second reason I think the clause is needed is that I am not persuaded — Mr Agnew opposed this, and you would expect him to — that in every case planners do give fair and

equal consideration to the economy. The presence of economic considerations on the face of the Bill is a reminder to planners and those within the planning system that that is something that they should consider. I appreciate that others will disagree with that, but I believe that there is an urgent need for clarity in respect of economic considerations within our law.

We heard extensive evidence in Committee and had an excellent morning at the stakeholders' event in the Long Gallery. There were quite a lot of views expressed, and I will refer to some of those later. One contributor from Queen's University said that there was no proof that planning is holding back economic development in Northern Ireland. I fundamentally disagree with that. I think that there is any number of examples. I appreciate that some of those examples may be more about a lack of speed and efficiency in the planning system, but I think that there are innumerable examples — and Members in the Chamber can point to examples in their own constituency — where the planning system has not assisted economic development but has in fact impeded it, and has cost Northern Ireland jobs at a time when Northern Ireland desperately needs jobs and when thousands of people from these shores are emigrating to everywhere and anywhere around the world to get employment. Our planning system is not working in a way that it should to ensure that those people and those communities are not ripped apart by the need for young people —

**Mr Frew:** I thank the Member for giving way. As Chairman of the Agriculture Committee, I know only too well the impasse that has been created in the rural development programme over planning and the fact that it has led to delays in spending that money that has come from Europe, which the rural community and the farming industry need so desperately. That is only one example of what the Member has said.

**Mr Hamilton:** I thank the Member.

**Mrs D Kelly:** I appreciate the Member giving way, but I think the Chair of the Agriculture and Rural Development Committee was being somewhat extravagant with some of his claims in relation to planning holding up rural development. I think that what has held up rural development is the failure and the constant changing of the criteria — I am sure the Member will acknowledge — by the Department of Agriculture and Rural Development and it perhaps giving people only



three weeks' notice if they need planning applications in situ before they can apply.

**Mr Hamilton:** I think I have enough on my plate dealing with the Planning Bill without getting involved in a spat on the rural development programme, although, of course, you would expect me to agree with my colleague. I think he is right, and I have seen evidence in my constituency of planning being a factor in not getting some of that money on the ground. Although, of course, Mrs Kelly is right too in that there have been other reasons why some of that money — which, of course, is our own money coming back to us from Europe — has not been able to be invested on the ground. There is any number of reasons. I think there is more than one culprit on that one, so I accept both Members' contributions, although I give supreme weight to Mr Frew's contribution.

The question is: if economic considerations are already a factor, and what is being done here is highlighting, underscoring and underlining what is already the case, then what is there to fear from having those clauses? Other criteria, including sustainable development, are already there. There is not a separate category for them; they are alongside. In fact, economic development is the third of the three included in clause 2.

Perhaps now is an opportune time to address Mr Agnew's point about what I was reporting back earlier on behalf of the Committee. My own view as to why what he was suggesting, and his amendment — and, indeed, the Ulster Unionist Party amendment — are unnecessary is because of the view that I take, which I am sure he will absolutely disagree with, that, at the present time, the sustainable development element of it is the one that is emphasised far too much in the planning system, and less so the economic development one. The Member is shaking his head, and I know that he will disagree with that view. There is no way that I will be able to persuade him nor he me. I think that the sustainable development aspect has been interpreted far too much towards environmental protection.

**1.00 pm**

**Mr Agnew:** Will the Member give way?

**Mr Hamilton:** I will give way in a second. I do not think that it needs to be emphasised in the same way as economic considerations.

**Mr Agnew:** I thank the Member for giving way. I am not going to try to convince him to change his analysis. I disagree with him that

sustainable development has been overemphasised, but he is right to say that we will not convince each other today.

I am just seeking clarification for all those who are concerned about clause 2. Is the inclusion of promoting economic development about, in the Member's words, highlighting, underscoring and emphasising what we already do, or is it seeking to change the balance, as he seems to be suggesting with that point?

**Mr Hamilton:** I thank the Member for his contribution. If anything that I have said infers that I wish to tip the balance in the other direction, I apologise. That is not my intention, and it is not what I want to see coming from this. I will not be implementing the Bill; that is the Minister of the Environment's job, and he can speak for himself.

I will make the point clearly now that it is not about adding extra weight, supreme weight or determinative weight to economic considerations; it is to highlight, underscore and emphasise the fact that proper weight should be given to economic considerations. It is not additional or special; it is about having the correct, right and proper amount of weight that should be given — and should have been given historically — to economic considerations in the terms of the planning system.

I appreciate that that is the Member's concern and that it is shared by many others, but that is not my reading of it. That is not the intention that I have in supporting the clause, nor do I think that that is the Minister's intention in putting it forward. He can speak for himself, and an assurance from him in that regard probably carries more weight than one from me. I am glad that the Member asked the question because it allows me to state my hope for the clause.

This has not come out of the blue. For some time, there has been a clear demand and requirement for economic considerations to be considered in the proper way in the planning system. An attempt was made through Planning Policy Statement (PPS) 24 which was, ultimately, unsuccessful, and there is already a presumption in the planning system for development. Given that and the fact that previous attempts have been made unsuccessfully, I am surprised that there are some people who are surprised that this clause is in the Bill at all.

It is fair to say that there has been widespread opposition from a few quarters to these clauses. That opposition has been voluminous in its

noise if not in its numbers. In closing, I want to touch on some of those.

I have heard various people opposing the Bill, and it is worth noting where that opposition is coming from. Those stakeholders who have opposed the inclusion of clauses 2 and 6, and who have persuaded some Members to put down amendments in this group that would remove key aspects of those clauses, have themselves been in the vanguard of opposing many major economic planning applications in Northern Ireland.

I have heard various reasons being put forward as to why these clauses should be opposed. At the stakeholder event that the Committee hosted in the Long Gallery, I heard one organisation say that clause 2 and, in particular, clause 6 will pit developer against developer and resident against resident. I have news for that organisation; that is what happens every day in planning in Northern Ireland. We have developer against developer and resident against resident, as well as resident against developer. That is the nature of planning; it has always been thus and will continue to be thus. It is an adversarial system. Sometimes, I wish that it were less so, but that is a fact of life. I do not think that we should be put off clause 2 or clause 6 because it will cause arguments over planning applications.

Some of the things that the Minister of the Environment has had to deal with in his term in office have been controversial and have hit the headlines, but there is nothing quite like an extension to a house for causing a bitter row between two neighbours. So, resident fighting resident and developer fighting developer is nothing new in the planning system.

**Ms Lo:** I thank the honourable Member for giving way. Does he agree that more than 6,000 people signed a petition and sent e-mails to MLAs? Surely, those people are not all from environmental organisations.

**Mr Hamilton:** I do not know. Maybe the Member has a better understanding of who is signing the petitions. If we are going to run this country on the basis of signing petitions, we are all going to put ourselves out of a job very quickly. I will not dwell on that too much, because it might be too popular a proposal.

**Mr Weir:** You could start a petition on that.

**Mr Hamilton:** Yes, there would probably be more than 6,000 signatures.

I am not going to cast any aspersions on the sincerity of the people who signed the petition. Equally, I am not going to bow to the fact that 6,000 or 60,000 people signed a petition. There was great similarity in the e-mails that I have received on the Bill; albeit, I have not received as many as Mr Agnew seems to have received. Maybe, I have been ignored.

I reject strongly Mr Agnew's summation of the debate. I agree that there is an unfortunate division when it comes to debates about the economy and the environment. I have engaged, and have tried to do so positively, with people from the environmental sector to see what could be done to change the tone of the debate, because it frustrates me that it invariably comes down to an us-and-them type of attitude. We are very used to us-and-them type debates in the Chamber, but this is a very unfortunate and unnecessary division and schism that happens in debates of this kind. People are characterised as being for the economy but against the environment or for the environment but against the economy. Those two silos are not fair or correct.

I recall a debate I brought forward earlier this year on how we could develop our historic environment to encourage and grow the economy. So, the two are interrelated. I do not want anything coming out of this Bill, through clauses we are discussing now or later amendments, to do any violence or damage to our wonderful environment in Northern Ireland. We have something that is incredibly special and is worth protecting and looking after. As we go out to the world and sell Northern Ireland as a place that is open for business, the fact that we have such a fantastic, rich and diverse environment is something that we are selling to people.

Unfortunately, the debate has gone down very traditional lines. Some of the comments about these clauses and other amendments have been ridiculous and pathetic. I listened at the stakeholder event to representatives of one environmental organisation discuss their understanding of the effect of clauses 2 and 6. They said that those clauses would result in car parks, abattoirs and bingo halls potentially being built at the front of Stormont. My party is not that supportive of bingo halls, so I will gloss over that. Having been on a council that spent an absolute fortune to close down an abattoir, at great expense to the local ratepayer, I would not be supportive of putting an abattoir out there. On sitting days on Mondays and Tuesdays, the idea of a car park might be one that has some appeal. That sort of hyperbole does not do any justice to a sensible debate.

We deserve to have a sensible and rational debate about the economy and the environment and where we stand on both of them, instead of coming out with comments like that, which are designed to scare and worry people.

I do not want to see anything coming out of this Bill or any piece of planning legislation that means that bingo halls are being built at Slieve Donard, that abattoirs are being built at Crawfordsburn Country Park or that car parks are being built in front of Carson's statue. That is just to scare people, and I will not be scared from supporting the proper weight being given to economic considerations.

I have worries and concerns about other comments that were made, not least those that were made during a Committee evidence session with representatives from the Council for Nature, Conservation and the Countryside, the role of which is to advise the Minister in his work. The representatives were pressed by Mr Elliott on whether there was a conflict between sustainable development and economic development in the Bill.

The response from people who advise our Minister on these and other issues worried me deeply. They said:

*"The risk of conflict is considerable. Sustainable development encompasses a lot more than just economic development and is based on the concept that we will not damage the prospects of future generations by what we do today. Economic development, I am afraid, does not have any of those considerations."*

This further comment was a wee bit more bombastic:

*"Economic development is selling the golden eggs for a while and then deciding that you want to kill the goose as well."*

We all want economic development in Northern Ireland. We desperately need economic development to rebalance and rebuild our economy. Those sorts of comments from people who advise our Minister of the Environment are not at all helpful, useful or constructive. I am happy to share the comments with the Minister, and I ask that he takes a look at them and addresses that issue. It is not a helpful contribution to the debate to say that everybody involved in economic development has no consideration for future generations or for the environment in which we

live and is out only for a fast buck. I do not think that those comments are at all helpful.

I will sum up, and Members will be glad to hear that I am summing up. Clauses 2 and 6, which have been the focus of much controversy, are not the big bad monsters that some people fear they are. I hope that some of what I have said has helped to alleviate some of those fears, although I doubt it. I hope that what the Minister says will do an even better job alleviating fears. It is about giving proper weight — not additional, extra, special or determinative weight — to economic considerations at a time when we need to consider the economy in everything that we do. I support the inclusion of clauses 2 and 6 and oppose Mr Agnew's amendments, as well as those of the Alliance Party and, indeed, the Ulster Unionist Party.

**Mr Boylan:** Go raibh maith agat, a Cheann Comhairle. Ba mhaith liom cúpla focal a rá. I would like to say a few words at this stage of the Bill. I will concentrate mostly on clauses 2 and 6, because those are the clauses that most of the debate will be about. I have heard people say that we did not properly consult on this and that and that amendments have been tabled on the Floor of the House and all that. I am speaking on a group of amendments as it is my turn in the sequence, but I will not have a chance to hear some of the amendments being proposed by Members. So, I am actually responding before I hear the debate and the arguments that will be put forward. That is no different to what people are saying to us about amendments coming to the Floor of the House and about a lack of proper consultation. I will be responding to the group of amendments that sits in front of me.

Before I start, I want some clarification from the Minister about some of the amendments relating to environmental protection. Is that not already covered in EU law and other policies that we have here? Is there a need to include it in this process if it is already there? I would like clarification on the environmental provisions that are being suggested.

I want to concentrate mostly on clauses 2 and 6. People believe that economic considerations will overtake all other elements and criteria in the assessment of an application. I do not believe that that is the way of it. We cannot sit in here arguing for the creation of jobs and the need to grow the economy while having a planning system that may not facilitate that. I will go on record and say, to be fair to the Minister, that there have been changes over the past number of months in what he has brought

forward and tried to do. It is good experience for anyone who has been a councillor to get to see exactly what planning is all about. In all the applications that I have challenged on behalf of constituents, no matter whether they are small-scale or large-scale, I have honestly never seen a decision swayed by economic weight or considerations. I certainly would not support something that will destroy the open countryside.

### 1.15 pm

I will comment on some of the amendments. Mr Agnew's amendment No 3 talks about "promoting environmental protection". We had a good debate on that at Committee Stage, and people had a good opportunity to participate. I genuinely think that the policies that we have at present facilitate the protection of the environment. The legislation does not pave the way for the introduction fracking. Other Members are entitled to their view on that.

Under clause 6, it is up to developers to prove the advantages and disadvantages of their application. I hope that, when they make their arguments, Members answer a question that I have asked of everybody. I have asked people to give examples of where economic considerations have given a greater weight to the approving of an application. Some Members see the two clauses as impacting on and destroying the whole of the North. The intervention from the Chair of the Committee for Agriculture and Rural Development was interesting. I have seen examples of applications that are waiting for funding and support — Dolores Kelly made an intervention about the process — and it was the planning process that caused the problem. We need to get all this right and address some of the concerns. Maybe the Minister will touch on the new planning policy statement that he proposes. There has been consultation on that, and there will be another opportunity for consultation. It will bring in a single policy, and it is a good opportunity.

There are some fears about the economic argument. Local authorities will now go through a process involving area plans, designations and zoning land. There will be an opportunity for people to do that. As it sits at the minute, some of the draft area plans are not fit for purpose. At present, applications are geared towards industrial development sites, but you still cannot have a recycling centre beside a food hall. In some cases, that has happened. We need to look at that.

Members still have to speak about their amendments, and I want to hear more from those who tabled them. However, I am mindful of the fact that we went through a good process in Committee. As the Deputy Chair outlined, we were against some of the amendments that have been proposed. Those amendments have come to the House, and people are entitled to table them. I will listen to Members speak to the amendments before I make a judgement, but I want to pick up on one or two. My first point concerns the three-year review. Two Members have put down an amendment about "protecting the environment". It is in the names of Mr Elliott and Mr Swann. Mr Elliott came up with a good idea on that. I thought it was a fairly reasonable amendment for the Minister to adopt for a three-year review of how the economics will be rolled out. I support that amendment. On the one hand, he is saying that it was his suggestion, but, on the other hand, he is talking about protecting the environment. That is counterproductive. Is he saying that, on the one hand, he supports the economic aspect and we will have a review and, if it is doing too much damage, that is grand; or, on the other hand, is he asking for further protection for the environment? That is the way that it reads to me. Maybe the Member will clarify that in his contribution.

Mr Agnew's opposes clause 6. Clause 6 was supported by the Committee, and I am of the view to support that. However, I am also of the view that we maybe need to look at putting in different measures. Maybe the Minister will talk about how he will qualify the economic advantages and disadvantages of a planning application. Maybe he will clarify his views on that.

I move to some of the fears of people who oppose the Bill. I think that I received 600 e-mails over the weekend on this, and there are genuine concerns from people. They sent me views on clauses 2 and 6 and others but did not make any suggestions on how we could enhance the Bill with some of those protections and assessments. Maybe, at a further stage, we could have a look at that. With that in my mind, I bring my remarks to a close. I look forward to the debate on some of the other amendments.

**Mrs D Kelly:** I welcome the opportunity to make a contribution to the debate. The Bill is, of course, designed to improve the planning system for everyone in the North of Ireland, not just those with a special interest in the economy nor indeed those with a special interest in the environment. I found it interesting that, thus far,

some of the other clauses to improve the planning system have not been touched on.

If I may, I will widen the debate. I endorse the comments of the Deputy Chair, speaking on behalf of the Committee. As a member of the Committee, I expressed concerns about clauses 2 and 6 and asked for particular legal advice to be given to the Committee. I was satisfied with that advice, and I believe that it allayed any concerns that I or my party might have had.

Clauses 7 and 8 are on the powers to decline subsequent or overlapping applications. These would be welcome to many individuals in the community who see vexatious use of the application system by some businesses that have not applied for planning approval at the start of their business and, when that comes to the attention of planning and enforcement teams, vexatiously resubmit applications to delay the enforcement of the action taken by them or, indeed, the courts. Certainly in my constituency, those clauses will be most welcome.

I also note amendment No 13, tabled by Anna Lo. It is on a shared future, and the SDLP is keen to hear more about how that will be worked out in practice.

I listened carefully to the two previous contributors, Mr Hamilton and Mr Boylan, on their support for clauses 2 and 6. They talked about Northern Ireland being open for business. However, it is a sad reality that there are many brownfield sites in existing development zones. There are numerous empty commercial and industrial premises and empty shops in town centres. Given those empty premises, it is questionable whether planning is the sole driver of economic development.

Events over the weekend and those of recent months relating to the flag protests did not do the Northern Ireland economy any favours. This is about resolving some of the reconciliation and shared future disagreements between our two main communities. I know that OFMDFM hopes to put together a working group later in the year. Those issues have as much to do with Northern Ireland being open for business as any planning legislation.

I ask that people consider this: if clauses 2 and 6 are not intended to give any added significance to the economy over sustainable development or well-being, the only rationale that I can think of for their insertion is a PR exercise. That how I see it.

Mr Boylan also talked about the environment. He is right to say that the environment is already substantially protected through the wild birds directive, areas of special scientific interest and areas of outstanding natural beauty. Wetlands areas and world heritage sites are also protected, and there is the habitats directive. We already have a substantial amount of legislation that has a basis in EU, national or local law. I do not think that we have to support any further amendments in relation to the environment.

I refute, of course, Mr Boylan's attempts to support his Minister in relation to the expenditure on the rural development programme. Some of it had been held up by planning — I fully accept that — but Mr Attwood's predecessor, Mr Poots, introduced a streamlining process for planning applications where there was significant economic consideration or a grant application. As I understand it, the Department of Agriculture and Rural Development and the Department of the Environment worked well together in adopting a sensible approach to such applications. However, I know that the rural development programme changed its criteria substantially during the course —

**Mr Speaker:** Order. Let us not get into a debate on the rural development programme. Let us deal with the Planning Bill before the House.

**Mrs D Kelly:** Thank you, Mr Speaker. You will appreciate that the two matters were linked by an earlier contributor, so I had to set the record straight.

I have made a number of points on the first group of amendments that, I hope, suggest to the House that there are amendments that we cannot accept at this stage. We are reasonably content that clauses 2 and 6 do not do harm to the environment or sustainable development.

**Mr Elliott:** I welcome and support the overall principles of the Planning Bill. Many in our society — developers, objectors and, indeed, the Planning Service itself — want to see a speedier planning process. At times, it has been very frustrating for all involved. The principle of the Bill is very welcome, in that it aims to improve that.

We in the Ulster Unionist Party have no difficulty in principle with the parts of clauses 2 and 6 that relate to economic development. We have made that clear at all stages. We believe that they are reasonable and acceptable. We

were told by the Minister, departmental officials and other MLAs that those clauses would not give additional or overbearing weight to matters of economic development, over and beyond other aspects. Therefore, I do not see how our amendment to put in "protecting the environment" could have any overbearing weight either. We are trying to put it on a par and include a level of equality and, I suppose, simplification in the process. They are quite simple amendments, and I feel that they could gain widespread support not only from Members but from the wider public and community.

### 1.30 pm

We hope that, by and large, people will want to see the environment protected in a practical and sustainable way, at the same time as ensuring that the promotion of the economy in Northern Ireland is to the forefront. So, we do not see any difficulty with the two aspects sitting side by side.

I know that there is a slight debate over the wording of Mr Agnew's amendment. His is "promoting environmental protection" and ours is just "protecting the environment". We feel that ours is simpler and much more straightforward. I dare say that Mr Agnew will disagree and say that he is trying to keep the promoting aspect on a similar basis to what it says in the other parts of the clause. I accept that, but I feel that ours is more straightforward.

Amendment No 5 is about the definition of sustainable development and has been tabled by the Alliance Party. I feel that there have been a number of attempts to define sustainable development. I do not see a general agreement around that definition. I would like to have a further debate on that. I do not see us being able to support the amendment at this stage, simply because there has not been enough discussion around it. I would like to hear from the Minister about whether there have been any further attempts to get a clearer and more definitive definition of sustainable development.

Mr Boylan referred to me on the issue of amendments being tabled by the Minister about having a review and a mechanism for reporting back to the Assembly on clauses 2 and 6. That is something that I proposed in Committee. It is very welcome, and I am pleased that the Minister and the Department agreed to take that issue on through an amendment. I fully support that, but I do not see what Mr Boylan's issue was with me tabling amendments that included protecting the environment. You can actually

review that, because it would be part of clauses 2 and 6. So, you would be reviewing that in the three years as well. I do not see what the problem with that aspect was. Again, I am at a loss about exactly where Mr Boylan was coming from on that aspect.

The review and reporting mechanism will be a very valuable tool in the Bill, particularly regarding these clauses. I hope that that system allows people to feed into it and allows developers, Assembly Members, any elected representative and, indeed, the wider public to explain exactly how they feel that the two clauses are progressing. I know that there has been an indication that a lot of damage could be done in three years, but I think that, by and large, particularly if our amendments are accepted, given that they allow for protecting the environment, the damage, if there is any at all, would be limited. Again, that reporting mechanism will be helpful to the overall process.

I look forward to the House supporting the Ulster Unionist Party amendments. We will be happy to support the Minister's amendments. I have concerns around the definition of sustainable development, but that is an aspect that can be worked on further and can come back for discussion later.

**Ms Lo:** I would have liked to say that I welcome the opportunity to speak on the Bill as the Alliance Member for South Belfast. However, in light of some of the amendments tabled at the last minute, I speak with a heavy heart. As I have stated previously, I do not think that the Minister should have moved the Consideration Stage today. That would have allowed everyone the opportunity to assess the amendments cooked up by Sinn Féin and the DUP working closely together behind closed doors.

**Lord Morrow:** I thank the Member for giving way. Now that she is in the early stages of her speech, maybe she will explain to the House why she decided to abdicate her responsibilities as Chair of the Committee, something that she is exceptionally well paid for. Today, she refuses to do her duty as Chair, which has been transferred to the Deputy Chair. It would be understandable if the Member were not here today, but she is here in full flight. Maybe she would like to take a few minutes to explain to the House why she has abdicated her responsibilities.

**Ms Lo:** I welcome the Member's intervention. I had thorough discussions with Paul Gill, who

acted as the Committee Clerk and worked with us on the Planning Bill. I wanted the Deputy Chair to speak on this because it seems that there is a conflict of interest. I strongly objected to clauses 2 and 6, and I made it clear during Committee Stage that I would not support them. Therefore, for me to say that the Committee supported it while I wanted to say, "But I did not" would have clouded the issue. For clarity, we thought that it would be better for Mr Hamilton to make the speech on behalf of the Committee.

**Mr Agnew:** I thank the Member for giving way. There is precedence for this. For example, I sit on the Standards and Privileges Committee. When it was recommending sanctions against Mr Wells for what was deemed by the Committee to be a breach of the code of conduct, the Chair, Alastair Ross, chose, with the Committee's agreement, not to present the Committee's report because he had a conflict of interest, as he did not support the Committee's recommendation. That is quite common practice where there is a conflict of interest — *[Interruption.]*

**Mr Speaker:** Order. I ask Members to return to the Planning Bill. Let us not get into the business of Committees, which is really no business of the House. Let us move back to the Planning Bill.

**Ms Lo:** Thank you, Mr Speaker. I hope that that clarifies the position.

The Alliance Party is fully supportive of the original intentions of the Bill. There is no argument from this corner of the House that our planning system in Northern Ireland could not or should not be modernised and strengthened to provide much faster decisions on applications. We did not, however, support some of the measures in the Bill, as we believe that they are counterproductive to those aims.

With regard to amendment Nos 2, 9 and 15, I ask the House to remember draft PPS 24, which was brought forward twice by Environment Ministers and overwhelmingly rejected by public opinion. In fact, 75% of respondents strongly opposed the draft policy. Clause 2, as it currently stands, is an attempt to bring it through once again, this time through the back door without full public consultation. That is not just my opinion. A brief overview of the consultation undertaken by the Committee showed just how widely rejected clause 2 was by the environment sector. The Committee received 112 submissions to its consultation, and, of those, eight were in favour of clause 2

as it is written, and the vast majority — 80 submissions — were not in favour of the clause or felt that it required more clarity on the definitions.

In fact, in its submission to the Committee, Friends of the Earth deemed the Planning Bill to be worse than PPS 24. PPS 24 related to major applications, but these clauses will apply to all clauses.

Alongside Friends of the Earth, many of those who are not in favour of clause 2, as it stands, are experts in the fields of planning and environmental protection. I ask the House this: what is the point of consulting people on the ground if we do not listen and take account of what they have to say and of the advice that they offer us? The opposition against this clause and clause 6 is not restricted to experts and the sector alone. We need only look at the hugely successful "Amend the Bill" campaign to see the strength of feeling among the public. At the last count, over 6,000 letters of support were sent, and over 100 were sent to my office alone.

Bringing greater definition and tightening to the clause is what the Alliance Party has sought to do with the amendments in my name. Removing the mention of economic considerations and defining sustainable development, using the definition from PPS 1, clearly shows that economic considerations are one of the three key pillars of sustainable development. Those are social development; environmental considerations; and economic development. I can see no reason, need or merit to give extra mention and weight to economic development as it is already considered as part of sustainable development. In fact, in September 2011, when the Minister was rejecting draft PPS 24, he said that:

*"economic considerations are already a factor in planning decisions and are already dealt with in a balanced way alongside other material considerations, including social and environmental factors."*

I would like to know what or who has changed the Minister's mind and why he now feels that economic considerations should be put on a statutory footing, not just in a planning policy statement. I am asking the Assembly to remove economic considerations from the clause not because I or my party believe that they are not important, but because they are already considered, as I have explained, as part of sustainable development, and, therefore, should not be given extra weight over social and environmental elements, both of which are

included in the definition of sustainable development.

I, along with many respondents to the Committee, believe that the additional mention of economic considerations may be counterproductive for a number of reasons. First, if economic considerations are allowed to trump other considerations, it could lead to a proliferation of speculative planning applications. That will do nothing to speed up our planning system, which is already under considerable stress.

Secondly, when introducing the notion of economic development, the Bill does so with ambiguity. It does not define economic development, possibly because there is no universally accepted definition of economic development. Economic development is not as simple as promoting growth through job creation. It requires a long-term perspective. For planners to be able to make decisions on the clause, extensive guidance will be necessary. That guidance will not be immediately available upon the enacting of the clause on Royal Assent if other amendments are successful, but I will come on to that later. Planners are trained to deal with issues relating to the use and development of land, but it should not be their role to promote economic development. It may also prove necessary for the Planning Service to hire economists, which is, I am sure, not within its current budget at this time of reduced public spending.

#### 1.45 pm

Thirdly, economic considerations that go beyond land use, such as job creation or economic growth claimed by the developer, cannot be adequately monitored or enforced after the granting of planning permission. You cannot go after them after you have granted planning permission.

I believe that the inclusion of economic development in this clause places the economy in competition against the environment. Both must be — and, indeed, are — integrated. You cannot consider one without the other. As the Northern Ireland Environment Link states:

*"the environment is the envelope in which the economy must exist".*

I urge the House to support my amendments. They bring clarity to the clause and define sustainable development, thereby proving that we do not need mention of economic

development, as it is already a clear part of that.

I believe that the amendments in the names of Mr Agnew and Mr Elliott also have merit. We have listened to the debate thus far and will continue to do so in reference to those amendments — I am not precious about my own amendments.

I will now speak on the amendments relating to shared use. Aside from its attempts to prioritise economic development, the Bill offers us the opportunity to think about how we design the space in which we live, work and socialise. Through the Bill, we in the Assembly can prove our commitment to create shared public spaces for everyone by placing the need to consider the shared use of the public realm on a statutory footing in planning decisions.

We heard grand talk from the Office of the First Minister and deputy First Minister (OFMDFM) in recent weeks after the launch of the strategy Together: Building a United Community. Here is the chance for them to show us through action that they are truly committed to building a united community by making the consideration of shared use of buildings a statutory obligation. Those amendments would ensure departmental focus on actions that would promote good relations and help to ensure that the rhetoric and vision of cohesion and sharing, about which we have heard for so long, become a reality. It is important to note that shared space does not mean neutral space. It is not the aim of the amendments or the Alliance Party to create sanitised territory. I believe that there can be a vibrant place for all ideas and identities where people can come together.

Research of the omnibus survey that was carried out as part of the public consultation on cohesion, sharing and integration highlighted a high degree of support — 91% — for the provision and expansion of safe and shared space. In the 2010 Life and Time survey, 82% showed a clear preference for living in mixed areas, and 87% of respondents believed that better relations will come about through more mixing. I agree with those 87% that this is not a matter over which we can afford to be complacent. I urge the House to give statutory weighting to the consideration of sharing in planning decisions by supporting amendment Nos 6, 13 and 19.

I considered tabling amendments on social well-being that were similar to amendment Nos 8 and 14. Well-being, in and of itself, is a broad concept, taking in many factors. The inclusion of the word "social" before "well-being" may



well be beneficial in focusing the minds of planners when making decisions on applications to consider the impact on mental health, and other similar factors. The Alliance Party will be supporting those amendments.

I will now speak to our amendment on world heritage sites. We are truly lucky in Northern Ireland to have a UNESCO world heritage site. Many other countries would love to have that. World heritage sites are recognised as the most special places on earth. They are chosen because they possess outstanding characteristics that make them valuable to all the people of the world, regardless of where they are located. I believe therefore that it is our duty as legislators to do all that we can in our power to protect our world heritage site. It is my opinion that we have not done that so far.

The proposal for a massive golf course development in Runkerry, right on the periphery of the Giant's Causeway, was approved without proper consultation with UNESCO. Indeed, in February, when I was visiting the Giant's Causeway, UNESCO recommended:

*"The State Party is advised to strengthen the position and recognition of World Heritage sites in national law, including in all regions of the State, so that developments that create negative impacts on Outstanding Universal Value are not permitted;"*

It makes sense that prestigious world heritage sites should be protected through a country's planning system. Therefore, the responsibility lies with us to legislate for the care of the site. As Members will be aware, there is not protection in law for world heritage sites in Northern Ireland. I do not believe that that is an acceptable state of affairs, and the amendment seeks to put that right. By putting in place legal protection for our world heritage site and any potential future sites, we are sending a strong message to the world about the importance of our heritage and the value that we place on it. Mr Speaker, let me be clear: it is my opinion, and that of the National Trust, that should the amendment not pass, and we do not protect our world heritage site in legislation, we will not get another one and may well lose the one that we have.

All Members would do well to bear in mind the economic gain —

**Mr Attwood:** Will the Member give way?

**Ms Lo:** Yes.

**Mr Attwood:** I choose not to ask Members to give way, but given the claim that has just been made, and the scale and severity of that claim, Mr Speaker, in which the Member said that should the amendment that she is proposing not be passed, we would not get any further designations of world heritage status and the current designation of the causeway would be at risk, I have intervened. Will she put into the Library, any correspondence or documentation that she or any third-party organisation has got that confirms and justifies that sort of remark?

**Ms Lo:** I welcome the Minister's intervention. That is a view that was given to us this morning by the National Trust. I believe that there was a conference last week. I will seek further clarification from the National Trust, and I will certainly speak to the Minister on the issue, perhaps tomorrow. However, that was certainly the view that was given to me this morning. I agree with the Minister that it sounds very severe. It is something to which we need to give very careful consideration.

All Members would do well to bear in mind the economic gain — I am sorry for repeating that — that we get from having a world-renowned brand such as a world heritage site in Northern Ireland. Let us be under no illusion: world-heritage-site status has been revoked before and it will happen again. When it happened in Dresden, it was termed "an embarrassment". If it happens here, it will be nothing short of humiliation. We have been well warned. We should absolutely heed those warnings.

Although it is easy to draw the inference that the amendment is solely about the Giant's Causeway, that is not the case. The amendment does not relate to individual development proposals, but, instead, is intended to show that we take our international obligations and reputation seriously. Indeed, we aspire for other special places in Northern Ireland, such as the historic walls of Derry, to, one day, be recognised around the globe as world heritage sites. I know that I caused a bit of controversy when I compared Derry's walls to the Great Wall of China, but, having visited both sites, I was really very genuine in doing so. As I said, if we would like other places, such as the walls of Derry and the beautiful Marble Arch Caves, to be considered, we need to establish protection for them in law.

Let me assure the House that protecting world heritage sites in law is not about constraining economic development. Instead, it ensures that the outstanding universal values — those characteristics that make a site so special — are maintained. In fact, world heritage sites

bring significant investment and draw tourists from all over the world. Since the opening of the new Giant's Causeway visitor centre this time last year, Northern Ireland Tourist Board figures show that there have been visitors from 160 different countries. I urge the House to support amendment No 27.

I will now speak on the intention of Steven Agnew, my party colleagues and I to oppose the question that clause 6 stands part of the Bill. Many stakeholders' submissions stated that clause 6 is worse than clause 2 and that, if enacted, it could render the planning system unworkable.

The fundamental principle of planning is the consideration of the use and development of land, which has been well established in case law over the past 40 years. Clause 6 now tells planners that they have to weigh economic advantages and disadvantages when they determine planning applications, which may, consequently, cause a great deal of uncertainty and delay through legal challenges. That could slow down the planning system, which is totally counterproductive to the aim of planning reform to speed up planning applications and decisions.

There are always two sides to a coin. When planners have to take into consideration the advantages and disadvantages of granting an application, that could be open to exploitation by applicants and objectors. It will also lead to more bureaucracy or costs for applicants and objectors in having to furnish convincing economic elements into their arguments. Will that provide a level playing field for the small community against a large developer who can afford to employ an economist to lay out their case?

Again, as I said earlier, there is no legal mechanism for planners to monitor or enforce claimed benefits following the granting of planning permission as such issues cannot be secured through planning conditions. As developers know that they cannot be held to account on their claims, is there not a danger that they may inflate the economic-development contributions on their applications? If this fails, we will support Mr Elliott's amendment. Perhaps I should not have said that. Obviously, I urge Members to support our call for clause 6 not to stand part of the Bill.

**2.00 pm**

I turn to the amendments on commencement. I have to say that I am deeply disappointed that members of the Environment Committee

requested that the Department bring forward an amendment to make clauses 2 and 6 operational upon Royal Assent, possibly in December this year, rather than by a commencement order when the Department is ready for them. It is totally disgraceful that, at Committee Stage, MLAs not only ignored the views of 88% of respondents to our consultation who said that the clauses should be amended or dropped, but actually pushed for them to be accelerated into action as soon as humanly possible.

Time and again during our stakeholder event, departmental officials assured Committee members and concerned individuals that clauses 2 and 6 would be clarified and guided by the new single strategic planning policy statement so that economic development would be interpreted as having the same bearing as the other two objectives of social development and environmental protection. They categorically stated that a draft SSPPS would receive a full public consultation, and that only when the finalised SSPPS was in place would those two clauses take effect through a commencement order.

If this amendment is agreed today, it will create a vacuum because, when determining planning applications, planners will have to rely on current planning policies without the revised and updated guidance on the definitions and boundaries of the two new clauses on the promotion of economic development and the assessment of economic advantages and disadvantages. That really is putting the cart before the horse.

Why is there such a hurry to speed up the function of promoting economic development at the risk of planners not being properly guided and trained to work within the new legal provisions? Northern Ireland has the highest planning approval rate in the UK. In the last quarter, 99.5% of planning applications in Fermanagh were approved. You can say, therefore —

**Mr Elliott:** Will the Member give way?

**Ms Lo:** Yes.

**Mr Elliott:** Does the Member accept that, although a high volume of applications were approved, a number were actually withdrawn before a decision was made, which escalated the approval rate?

**Ms Lo:** I understand that but, if you look at the figures, you see that only 0.5% were rejected.

**Mr Weir:** I thank the Member for giving way. I echo the point made by Mr Elliott. As somebody who serves on a local council and receives an amended planning schedule each month, I know that, if a planning application is clearly heading towards a rejection, the applicant will quite often withdraw the application before it gets to the stage of a final determination, because that gives them other opportunities. On that basis, although I do not doubt the accuracy of the figures that have been given to the Member, they can be entirely misleading and give the wrong impression.

**Ms Lo:** I think that Members would agree that, certainly, planning approval speed has improved. The Minister mentioned that yesterday morning on television. Therefore, we cannot really say that planning is currently creating barriers for economic growth. As Dolores said, planning is not the only reason for the downturn in economic growth.

I oppose the Minister's amendment, but support Mr McCallister's, which will hopefully give the Department more time to produce the necessary guidance for planners.

**Mr Anderson:** As a recently appointed member of the Environment Committee, I welcome the opportunity to take part in the debate and to make a few comments on the amendments in group 1. It has been an interesting debate so far. Listening to some of the points raised has been a steep learning curve, in the sense that some of the issues coming forward are not my thinking or how I would see it.

The amendments in group 1 are proposed mainly to clauses 2 and 6. Like many Members, I am sure, I have received numerous correspondence from people who have environmental issues in relation to those clauses. While understanding some of the reasoning that those people might have, and recognising the need to protect the environment, I believe that there has to be a sensible and balanced approach as we move forward. I have been completely convinced in my short time that clauses 2 and 6 as drafted allow for that balance and are in the best interests of all concerned. My party supported the Bill at Second Reading and Committee Stage. I support clauses 2 and 6 and do not see any need for most of the amendments in group 1.

I believe that the amendments go a long way towards stifling economic growth, at a time when we must grasp every opportunity to

recover from the prolonged economic downturn. My colleague the Deputy Chair has already stated the economic impact that planning can and does have on job promotion. Therefore, it is vital that economic factors are given the importance that they deserve when planning decisions are made. We cannot allow our hands to be tied behind our backs in this matter. Every effort must be made to promote economic growth, and the planning process is crucial to that promotion.

As an elected representative for council and at Assembly level, I, like others who have two jobs in the political sphere —

**Lord Morrow:** One non-paid.

**Mr Anderson:** As my colleague says, one non-paid.

We are very well aware of the importance of the planning process for many of our constituents and the impacts that it has on aspects of life. We could stand here all day and recount many, many incidents where the planning process has had a great effect on constituents. I know that many people have been frustrated with the planning process for too long. When people speak about the red tape and bureaucracy in our system, they will often cite the planning process as the top example, where delay seems to follow delay. Anything that helps to speed up this often lengthy and cumbersome system should be widely welcomed by everyone. It will be welcomed across the community, not least by the hard-pressed business sector.

I picked up on something Ms Lo said. She stated that the amendments in some way are not designed to stifle economic development. However, I question her reasoning. The more I look at the need to help the economy to move forward and the planning issues, the more I question some of the amendments and the reasoning behind them. It is clear to me that clauses 2 and 6 —

**Ms Lo:** I thank the Member for giving way. What we are saying is that economic development is not unimportant; it is very important. No one would dispute that, particularly now, when we are seeing so many young people unemployed, and we have a brain drain and all the rest. We are saying that, by saying "sustainable development", that already includes economic development, so you do not need to say it again. You add weight to it by saying it a second time.

**Mr Anderson:** That is the Member's view; it certainly is not the view of me or my party. I think we have to get economic development on some sort of a level playing field here, and we do not believe that that is happening at the moment. That is not to say that other issues are not important, but it is one's interpretation. I believe that clauses 2 and 6 help to level that out.

It is clear that clauses 2 and 6 are designed to help the planning process in a way that is equally favourable to those projects in economic development that are designed to develop our economy. The planning process, as it currently operates, can delay a perfectly good business project, not just for months but, in some cases, as I have seen for myself, for years. What sort of message does that send to potential local investors and inward investors from abroad? It is absolutely essential that we do not get so hung up with environmental concerns that we cannot see the wood for the trees. I am very disappointed when I look at the amendments in group 1. With a few exceptions, they will have the opposite impact to what we need. They will weaken the Bill and further frustrate economic growth.

The economy is at the heart of the Programme for Government and has been since May 2007. The proposed amendments to clauses 2 and 6 run contrary to that. If they are passed, they will send out the wrong signals and frustrate the chances of economic growth. As I have said before, I fully understand the need to protect the environment, and I accept that it is a difficult balancing act at times, but the Bill, as drafted, allows for that balance to be taken into account. It will give equal weight to planning applications that will stimulate and grow the economy. Surely we need to do everything in our power to speed up such planning applications? We all know of good local business incentives that have been killed off by the planning process. These vary from small, local initiatives to much bigger, international companies. We can argue about the threat to our environment from some of these applications, but too often we see good, sound business planning applications turned down on what seem to be very weak grounds. The chances to create jobs and to boost the local economy are therefore lost and jobs go elsewhere. Such planning decisions have a knock-on effect for other potential investors, who are then discouraged from putting in their own applications, and so more potential jobs are lost.

I also note that some members of the Environment Committee, including the Chair,

have indicated their intention to oppose clause 6 in its entirety. That is to be regretted.

It is imperative that we do all we can to promote and not stifle economic growth. I support clauses 2 and 6 and oppose the amendments proposed by the Alliance Party, the Ulster Unionist Party and Mr Agnew.

**Mr Flanagan:** Go raibh maith agat, a Cheann Comhairle. I am not an expert in planning policy, planning permission or any of that kind of stuff, but if you saw me on the site of a proposed development, you might think otherwise, like most other elected representatives.

I rise following my party colleague Cathal Boylan to articulate our view on this proposal and on the proposed amendments. Personally, I am a concerned citizen who is worried about the impact that liberalising planning laws in favour of developers at the potential expense of the environment, built heritage, the natural environment and public health would have. Therefore, I support the amendments to clause 2 tabled by Mr Agnew, which include a reference to social well-being and promoting environmental protection. I am glad that these amendments have been tabled, and that the strong lobby calling for protection of world heritage sites, for greater promotion of environmental protection and the inclusion of the promotion of social well-being is being heard.

I would like to know how sustainable development is assessed. We have seen one attempt by the Alliance Party to define "sustainable development". I do not think that that will receive consensus here today. I think that the consensus is that it is best to leave that to the Department and the planners to determine. Thankfully, this has been a fairly rational debate. We may see a debate later that centres around whether powers are being taken away from the Department of the Environment. I do not think that anybody is too keen at this stage to take away the Department's role in defining "sustainable development".

## 2.15 pm

The amendments to clauses 2 and 6, which we support, are sensible. They ensure that the required balance between environmental protection and economic development is struck. I am happy to support them. On that note, I commend all the citizens who have energised themselves and let their voices be heard. To

date, over 6,700 messages seeking these amendments to be made have been sent. I am happy to support them and to let those people know that their views have been heard.

It does not matter to me what form of communication people use to correspond with their elected representatives, whether it is a hard copy of a petition, an online copy of a petition or somebody simply copying and pasting an e-mail to articulate their views. Whether they drafted the thing themselves is irrelevant. If it is their view, it has a right to be heard. That is a very important point. We, as a democracy, need to remember that there are members of our community out there who have a particular interest in this area, and they should not simply be dismissed out of hand.

There are widely held, very genuine and well-founded fears in our community that enacting clauses 2 and 6 without the amendments would provide too much emphasis on any potential economic benefits, regardless of how unfounded those often ludicrous claims of economic development are.

One of the biggest fears from the outworkings of the proposed Bill is to provide greater rights to developers at the expense of the environment. It will be no surprise to anybody in the House that I am particularly concerned about the issue of fracking. There are widely held concerns out there. They may not have come to the fore about the development of nuclear power plants or the hotly contested overhead North/South interconnector, which is currently trying to get its way back into the planning system.

The amendment contains the proposal to weigh up economic and environmental advantage and disadvantage. Are we to expect the developer to commission that piece of work? Will we see an organisation such as Tamboran, which proposes to carry out hydraulic fracturing in half of Fermanagh, pay a consultancy firm to carry out that work? How can we be sure that that work will be a fair assessment and that it will not be weighted too heavily on the economic benefits side and talk down any potential environmental negative points? That is something that we often see with environmental impact assessments —

**Mrs D Kelly:** Will the Member give way?

**Mr Flanagan:** I will in a second.

That is often something that we see from environmental impact assessments that are carried out by consultants. We all know that

paper does not refuse ink, and we all know that whoever pays the piper calls the tune.

I am happy to give way.

**Mrs D Kelly:** I thank the Member for giving way. I want some clarification. Is the Member telling us that he, if not his party, will vote for the amendments in group 1? How does his argument sit with the OFMDFM amendment in group 2?

**Mr Flanagan:** I thank the Member for her intervention. I would not like to be ruled out of order by starting a debate on group 2. I have articulated that we are going to support some of the amendments in group 1. We will support Mr Agnew's amendments on clause 2, the UUP amendments on clause 6 and some of the Alliance amendments, particularly the ones on world heritage sites and greater sharing. I will come back to that in a minute. That is actually the next part of my speech, Dolores, so thanks for bringing me to that.

Amendment No 7 proposes a review that will be carried out in three years. That review will be welcome. I am happy to support it, but I am hopeful that it will be more than just a fig leaf to those who have concerns about the Bill. I have been as clear as one can be when talking about a political opponent that, in my view, the Minister is doing a good job. I fully support a number of decisions that he has taken. There are, obviously, some decisions that many people oppose, but I can think of a number of examples of very good decisions from the Minister. He is to be commended for that. It is funny, because one of the reasons that we are often given for why clauses 2 and 6 are needed is that they will speed up planning policy. However, the people who usually say that come from across the Benches and from the party that held the Environment portfolio during the entire previous mandate when most of these decisions remained unmade.

Although I am not personalising the issue, going back to the Minister, one of the first things that he did when he came into office was to carry out a review of PPS 21 and how it was being implemented. That was very welcome. However, that was two years ago, and that review has yet to be published.

Regardless of what his party does with its Minister, an election is scheduled for just under three years' time, so the Minister may not be in office then. Will the Minister give an assurance that the review of the Planning Bill, if enacted, will have some strength? We have been told that the review of PPS 21, which is hopefully

near completion, will not make any changes to that policy. All that it will do is look at how it is being implemented. As citizens, rather than legislators, are we expected to take some solace from the fact that a review of the Planning Bill will commence within three years? If the Bill is enacted, will the team carrying out that review have the power to make changes or, at the very least, outline truthfully the impact that this change in policy will have had? Is it the case that the review will be completed and published within three years, or will it just commence within three years?

What will happen if it transpires that, by the time the review commences or concludes, some disastrous decisions are made on the basis that the so-called economic benefits have been given preference over the negative environmental damage that has been caused? What will happen if, in three years' time, we are faced with a situation whereby fracking is taking place across Fermanagh, or even in Belfast city centre, as the Department of Enterprise, Trade and Investment (DETI) has now proposed, or a nuclear power station has been constructed across Belfast lough from Titanic Belfast, and every town and village in the North contains a waste incinerator of some sort? Will those developments be closed down, will efforts be made to repair the environmental damage or will we simply be told that it is too late, that it has already happened and that we can make changes in the future? Will new legislation have to be drafted to further change this Bill if it is enacted? That would, of course, be subject to a political veto from some in the House.

I want to give the public an assurance. The Bill, if amended properly, would not provide greater facilitation for things such as fracking. Fracking will not have a positive economic benefit on our community or our society. If the Bill is amended properly, fracking will be looked at in the round, including its economic disadvantages and its impact on the environment.

I agree with some consideration's being given to the potential economic benefits of proposed developments. However, that has to be balanced with social well-being and promoting environmental protection and sustainable development. As MLAs, many of us will have served as councillors, and as councillors and MLAs, all of us will have seen small-scale developments being turned down that should have been approved. Had their economic impact been taken into consideration, they possibly would have been approved. However, it is far harder to calculate that for much larger developments, because the long-term impact

on our environment and society is much harder to measure.

**Mr Eastwood:** Will the Member give way?

**Mr Flanagan:** Yes, surely.

**Mr Eastwood:** I take it that the Member will not argue for Fermanagh's becoming an economic zone if the later amendments that Sinn Féin and the DUP tabled are agreed.

**Mr Flanagan:** I thank the Member for his intervention. It is my understanding that no areas have yet been outlined as proposed zones. That needs to be dealt with. I am happy to contribute to and to participate in that debate when it comes up. We are coming up to Question Time, and I am finishing my contribution. I will deal with amendment No 20 later on.

As I said, we also support the Alliance Party amendment that would give greater recognition and protection to world heritage sites. I am told that we also support the Alliance Party amendment on greater sharing. I suppose that my gut tells me that, if we did not, it would appear to go against the notion of a shared future. I do not really know how you could oppose it and not be called some form of a bigot. However, I find it difficult to comprehend how that would apply in a planning context, particularly where an organisation, such as a Church or religious order, planned to develop a site. I would like the Alliance Party to clarify later what it means by the amendment.

John McCallister's amendment demonstrates the problem with grouping amendments for debate. I am speaking in my slot to a group of amendments, but, as Cathal outlined earlier, I really do not have a clue what the thinking is behind John McCallister's amendment. Therefore, I cannot really comment on it. I hope that he has some idea of what he is talking about. We will listen to what he has to say, because I have not yet heard any of his logic or rationale behind it. I spoke quickly to John about it, and I will not speak for him or steal his thunder, but the amendment sends out a clear message to the Minister that he needs to bring forward the required PPS as soon as possible, to ensure that there is no gap.

We all know that planning is not perfect here. Each of us could think of examples of where things could have been done differently or better. There is definite scope for reform in the planning system, but it depends on what kind of reform you want and what the outworkings will

be. Those are my comments on the first group of amendments.

**Mr Speaker:** I ask the House to take its ease as we move into Question Time at 2.30 pm. We will return to the Planning Bill after Question Time, when the next Member to be called will be Peter Weir.

*The debate stood suspended.*

**2.30 pm**

*(Mr Deputy Speaker [Mr Beggs] in the Chair)*

## Oral Answers to Questions

### Education

**Mr Deputy Speaker:** I advise Members that question 11 has been withdrawn and transferred to the Department for Regional Development, and the Member has been notified.

### Post-primary Schools: Craigavon

1. **Mr Moutray** asked the Minister of Education, given the support for retaining the Dickson plan, to give an assurance that he will choose option B if there is majority support for it in the responses to the public consultation on the Craigavon post-primary proposal. (AQO 4353/11-15)

**Mr O'Dowd (The Minister of Education):** I am aware that, following the public consultation on the draft post-primary area plan, the Southern Education and Library Board (SELB) issued an options paper to the boards of governors of all of the controlled post-primary schools in the Dickson Plan. The paper summarised the two main options arising from the area plan consultation and asked for boards of governors' views.

That consultation with the boards of governors is not a ballot with results deciding the outcome of the process. Rather, the returns will be taken into account by the SELB alongside all other evidence and data, including departmental policy, when deciding the way forward. For example, if we examine what is happening in Lurgan we can see that, despite the best efforts of the board of governors, senior management team and staff in Craigavon High School, Lurgan campus, they are not in a position to deliver the entitlement framework. The school is also facing a serious financial deficit. I cannot ignore those facts and neither can the managing authority. A solution must be found.

Area planning is about providing strong, vibrant schools, delivering high-quality education by using the limited resources available efficiently and effectively. In that context, it is my firm view that the Dickson plan is no longer fit for purpose. The Member will be aware that the Catholic education sector in Craigavon proposes moving away from the Dickson plan and academic selection. I believe that the best course of action for the controlled sector is to do likewise for the educational benefit of all the children and young people in that sector.

**Mr Deputy Speaker:** Members, there have been a number of conversations happening in the Chamber. I ask you to give due courtesy to the Minister and the Member asking the question.

**Mr Moutray:** I thank the Minister for his response, albeit somewhat predictable, following statements that he made last week. To date, there have been over 2,000 responses submitted to the SELB in favour of option B opposed to a handful in favour of option A. Is the Minister really intent on riding roughshod over the will of the people on the issue? Where is the parental choice he champions, if that is the case?

**Mr O'Dowd:** As I said in my answer, a consultation process on any issues carried out by my Department, or, indeed, any other Department, is not a ballot. It is not an election. We do not put proposals to the public and say, "Vote for them". However, if the Member wants to use results coming back, then five of the seven boards of governors in the Dickson plan within the controlled sector have said — *[Interruption.]* The Member is keen on majority rule. Five of the seven post-primary schools in the Dickson plan area have said that they prefer option A.

I have to decide, if and when the SELB sends me a firm proposal, whether it is option A or option B. Either of them is fit for purpose, but my decision will be based solely on this: will the proposal meet the needs of all young people in the Dickson plan area, not just those in the two schools that the Member opposite concentrates on? He only ever concentrates on Lurgan College and Portadown College. There are more than two schools in the Dickson plan area, and more than those pupils who attend those schools. All of those children need a voice and need looked after.

**Mrs D Kelly:** I thank the Minister for his response. Will he tell us a bit more about the meaning of "consultation"? How does he intend to take this decision forward?

**Mr O'Dowd:** The consultation on the draft area plans that has now concluded, as with all consultations carried out, is to ensure that the public are fully informed of the proposals in front of them, that they can respond to those proposals and that, if there are any issues within the original document that have not been foreseen by the proposers, the public or elected representatives can bring them forward. Nowhere in any piece of legislation regarding consultation does it say that it is a ballot

weighted for those in favour of an option or those against the option. If the Member can point me towards legislation where it says that, I am happy to follow those instructions, but none of the Ministers or Departments work on the basis that a consultation is a ballot.

**Mr Hazzard:** Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire. Will the Minister outline how those schools in the Dickson plan perform educational attainment-wise compared to the average across the North?

**Mr O'Dowd:** I thank the Member for his question. The schools in the Dickson plan area have many qualities. There are good schools in the Dickson plan area. However, my role as Minister and that of the Southern Education and Library Board is to ensure that the provision for all young people in that area is good or better.

Members on the opposite Benches would have us believe that, in comparison with the Northern average, the Dickson plan schools are leading; indeed, some of them have referred to those schools as world-class. I will quote the statistics, and Members and the public who are listening can decide whether they are world-leading or even leading across the North. The Dickson plan average for five or more GCSEs including English and maths is 56.7%, and the average in the North is 62%. The Dickson plan average for three or more A levels is 34.7%, and the average across the North is 36.4%.

Examinations are only one way to measure the success of any school or education system, but it is clear that we require change in the Dickson plan area. We require an education system that meets all the needs of all young people in that area, not just a minority who have very vocal support in this Chamber.

## Primary schools: Additional Places

2. **Lord Morrow** asked the Minister of Education to explain the rationale for the allocation of additional primary school places for September 2013, when the controlled primary sector has been allocated less than 20% of the additional places of the overall primary allocation. (AQO 4354/11-15)

**Mr O'Dowd:** The Department has the authority to grant additional places by way of a temporary variation, which is for one year only. This is a tightly controlled power, which is applied only in circumstances where children do not have a place available to them in a school in their preferred sector and within a reasonable



travelling distance from their home, or where exceptional circumstances pertain. Temporary variations are used to address short-term demographic pressures in an area and are not about meeting parental preference for a particular school because a child has failed to gain a place in the normal transfer process.

Although there have been more temporary variation requests this year from the maintained sector than the controlled sector, I can assure the Member that each request is considered uniformly, in line with existing policy, and that the rationale for either granting or refusing places remains the same, irrespective of the sector or the school.

There will, of course, always be schools that are more popular than others for a range of reasons that regularly seek temporary variations to increase their admission numbers. However, such schools can be allowed to grow only in the context of the overall area plan through the development proposal process, which addresses the impact that that may have on other schools in the surrounding area. It is simply not sensible or responsible to grant additional places to some schools while others in the area have empty places.

**Lord Morrow:** In a written reply to a question that I submitted on this issue, the Minister stated that there were 182 additional places in the Catholic maintained sector, 63 in the integrated sector and 38 in the Irish language sector. It strikes me that the controlled sector is at the poor end of the Minister's thinking. Does he accept that that is not a fair distribution of the additional places that were allocated this year?

**Mr O'Dowd:** I do not accept the allegation. I put it to the Member that he should present more stirring evidence on any allegation that I treat the controlled sector differently from any other sector. Each case of temporary variation is measured against the criteria and each one will be judged on its merits, not on which sector it comes from or anything else. The Member may make these wild allegations, but he has no substantive evidence to support them.

**Lord Morrow:** They are your figures.

**Mr O'Dowd:** With respect, the figures reflect decisions that were made on the evidence that was presented by the schools and the parents in each case, and nothing else.

**Lord Morrow:** Prejudice.

**Mr O'Dowd:** If the Member is accusing me of prejudice, that is an allegation that I take very seriously. There are mechanisms in this Chamber —

**Lord Morrow:** We will use them.

**Mr O'Dowd:** — and outside it for the Member to bring me to account, and I invite him to use either. *[Interruption.]*

**Mr Deputy Speaker:** Order. I ask Members not to make comments from a sedentary position.

**Mr Sheehan:** Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as a fhreagra. I thank the Minister for his answers thus far. How does he intend to balance his aim of allowing good schools to grow while maintaining a sustainable schools estate?

**Mr O'Dowd:** I intend to do that through area planning. We need to allow popular schools to grow, but not at the expense of other schools or by the survival of the fittest in that sense. Area planning is taking its course. The post-primary plans have been through the consultation process. We have brought the boards and the managing authorities together to advance that further. The primary-school consultation ends at the end of this month, and I invite anyone who has not responded to do so. Once that consultation information is gathered together, I will bring forward further proposals as to how we allow popular schools to grow in a planned and managed way.

**Mrs Overend:** Can the Minister give a commitment that undersubscribed Irish-language schools, and nursery schools for that matter, will not be awarded additional places at the cost of places that are needed in the controlled sector? That is a concern in my constituency of Mid Ulster.

**Mr O'Dowd:** I do not know why that is a concern, because it has absolutely no basis. It is a wee bit like what the previous Member to speak from the opposite Benches said: it has no basis whatsoever. Parents who wish to send their children to Irish-medium schools are perfectly entitled to do so, and parents who wish to send their children to an Irish-medium nursery are perfectly entitled to do so. It is not measured against the availability in the controlled sector or any other sector.

## Primary Schools: Mergers

3. **Mr I McCrea** asked the Minister of Education what measures he will take to ensure that local community identity is taken into consideration when merging primary schools. (AQO 4355/11-15)

**Mr O'Dowd:** My overarching priority, when faced with a proposal for any reshaping of education provision, is to ensure that all children have access to a high quality of education, whether that is through a school amalgamation or another area solution. I also want to make sure that any such changes are sustainable.

My Department's sustainable schools policy and the guidance for area planning support the need for schools to remain closely integrated with their local communities and for those communities to engage fully with the planning process. It is important that local communities continue to be proactive in supporting and engaging with the area planning process.

Throughout the consultations on the area plans, I have emphasised that local input is key to helping shape education provision in a given area. I value the input from local community representatives, and I have met many groups to listen to their views on proposals contained in the area plans and in relation to development proposals that have been published. Any reasonable proposal from a local community that provides for viable and sustainable provision that will deliver high-quality education will be considered in the area planning process.

**Mr I McCrea:** In his response, the Minister has given a positive commitment to ensuring that community identity is safeguarded. Does the Minister understand that there are concerns among parents who have sent their kids and other family members to different schools and fear that, as part of the merger, their identity will be lost? Can he give an assurance that the Department will safeguard that identity?

**Mr O'Dowd:** I guarantee the Member that each case will be looked at on its merits. It is difficult to know what the Member means by "identity". However, with regard to amalgamations of schools or where schools are to close, the needs and identity of a community have to be taken on board. The identity of a school may mean different things to different schools and different communities, and they will be able to give voice to that identity during the consultation process. I assure the Member that that will be taken on board before any decision is made.

**Ms Boyle:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his responses. What assurance will he give to small rural schools? Will local solutions be given full consideration where the Department wants to merge a small rural school with an urban school?

**Mr O'Dowd:** I thank the Member for her question. I have previously said in the House that we are not involved in a numbers game here. We are involved in a debate on the quality of education, whether it be rural schools or urban schools. I have given assurances to those schools in many ways. Last week in the House or the week before, I gave a practical assurance to small schools by not removing the small schools funding from the common funding formula proposal. That should give surety to schools on my intentions on the provision of rural education.

**2.45 pm**

I cannot be specific about the amalgamation of a rural and urban school. There may be a proposal, but it will depend on the locality, the distance between the two schools, the community, and responses to the consultation process, etc. It is worth noting that, in the sustainable schools policy, everything outside Derry City Council area and Belfast City Council area is classed as rural. So, the geographical area that we refer to as rural in our policy is quite expansive. Each proposal will be judged on its own merits.

**Mr A Maginness:** On a related matter, will the Minister explain his rationale for not giving additional places to maintained schools that have a history of oversubscription, such as St Francis' in Loughbrickland and Christ the Redeemer in Lagmore?

**Mr O'Dowd:** I am not sure how that is associated with this question — it is perhaps more associated with the previous question — but I am happy to respond to it. Mr Morrow just accused me of being prejudiced, but the Member gives two good examples. I turned down the school in Lagmore, in west Belfast, for an expansion, and I turned down a Catholic school in my own constituency for a temporary variation. I do not see how I can display fairness more than by being prepared to turn down a school in my own constituency.

**Mr A Maginness:** Why? What was the rationale?

**Mr O'Dowd:** Why? The sums did not stack up. If I were to give those schools greater numbers, schools around them would lose numbers. I invite the Member to send me a list of the schools that he would like me to take pupils out of, because that is effectively what you would be doing. When you give one school greater numbers, another school loses out. No Member ever comes to me and says, "I want you to take children out of these schools and put them into that school." Members always come to me and say, "We want more pupils for that school." However, they never tell me where we will get them from. That is why that decision was made. It was the right decision for the area and for the provision of education in the area.

### Further Education: Area Planning

4. **Mr Swann** asked the Minister of Education for his assessment of the potential benefits from education boards taking account of the opportunities and synergies arising from integrating further education in the area planning process. (AQO 4356/11-15)

**Mr O'Dowd:** Area planning aims to ensure that there is a network of sustainable schools capable of delivering the revised curriculum and the entitlement framework. Schools have close links with the further education sector in planning and delivering a curriculum that meets the needs of their pupils, particularly in the delivery of applied or vocational courses. That helps avoid duplication, maximises the impact of scarce resources and enriches the educational experience for pupils, teachers and schools.

I fully recognise the important role that further education (FE) provision has in planning for the future. I included in the terms of reference for area planning an objective to take full account of appropriate and relevant FE sector provision for 14- to 19-year-olds. I expect planners to take account of that to ensure the efficient use of resources and avoid duplication of provision. The post-primary plans provide the foundation on which to move forward. Those will be further developed to ensure that they comply fully with the terms of reference. That development will most likely require further investigation and discussion between the education and library boards, in their role as planning authorities, and the FE sector.

**Mr Swann:** I thank the Minister for his answer. Is it too late for boards to receive new ideas in the current phase of area planning? I know that

the Minister received a copy of 'A Better Way', which outlines proposals for education in Ballymena. However, there will be those in your Department and in boards who will see those proposals as a step too far and simply go for the easy option of closing schools. Will the Minister give me some reassurance that he will consider that document?

**Mr O'Dowd:** I can give the Member this reassurance: I make decisions in my Department. Someone in my Department may think that a step is too far, but I will decide whether it is a step too far. Is it too late for proposals to be brought forward? In relation to area plans, it is too late. However, it is not too late for proposals to come forward for individual schools or a group of schools. You would then enter a two-month consultation process. At that point, I would encourage every school that is affected by a development proposal, whether directly or indirectly, to bring forward any alternative proposal that they may have. I guarantee that I will give them a fair hearing before making any decision on that development proposal.

**Mr Flanagan:** Go raibh maith agat, a LeasCheann Comhairle. The Minister seems to be in right form today. What measures are in place to facilitate collaboration between schools and the further education sector, particularly in terms of meeting the criteria of the sustainable schools policy?

**Mr O'Dowd:** I thank the Member for his question and for his concern about my well-being. I continue to examine ways of making more formal the collaboration between the Department of Education (DE) and the Department for Employment and Learning (DEL) on further education colleges in area planning. Coincidentally, one of my deputy permanent secretaries has moved to become permanent secretary in DEL. That is my loss and DEL's gain. One of the first things that we did after he departed was send him a letter to say that we want to strengthen links between Education and DEL on area planning. I am continuing to explore ways to formalise that better. We are doing a good job, but I think that we can do even better through a more formal way around planning between the two sectors.

**Mr Lunn:** Does the Minister accept that the further education sector has not been given as full an opportunity to participate in the area planning process as it could have been and that there may be opportunities to increasingly use that sector to deliver the entitlement framework?

**Mr O'Dowd:** It is not up to me to speak on behalf of the further education sector. It is up to the Minister for Employment and Learning to respond to that question. I am up for further discussions and consultation with DEL and the further education sector, and I know that the sector is as well.

I have provided substantial funds to ensure that the entitlement framework continues to be funded properly and to ensure that the resources are available for schools to use further education colleges. However, my primary responsibility is to ensure that post-primary, primary and nursery education are funded before I move beyond that scope. I note that the Minister for Employment and Learning has entered the Chamber, and he may want to respond to you on those matters later. We continue to discuss those matters with DEL. In recent days, my permanent secretary sent a letter to the permanent secretary of DEL to see how we can formalise those links better, because there is clearly a wealth of resources in the FE colleges that we should be tapping into. Many schools and area learning communities are doing that, but if it can be improved upon, we will explore it and see what we can do better.

**Mr McDevitt:** Has the Minister met the Minister for Employment and Learning to discuss the issue? What guarantee can he give the House that the good practice emanating from local area partnerships is being disseminated across other partnerships?

**Mr O'Dowd:** I have had wide-ranging discussions with the Minister for Employment and Learning during our terms in office, and, yes, we have discussed the matter. I have also met representatives of the further education colleges and discussed the matter. I repeat that we recently corresponded with DEL on how we can improve our discussions on area planning and on the use of further education colleges.

The Member mentioned working relations between the area partnerships and other partnerships. I am not sure what point he is trying to cover.

**Mr McDevitt:** I am not allowed to clarify.

**Mr O'Dowd:** I know that. The area learning communities have good working relationships among themselves and with further education colleges. Can those be improved? I suspect

that they can, and we are working to improve them.

## **Delivering Social Change: Teachers**

5. **Ms McGahan** asked the Minister of Education for an update on the Delivering Social Change signature project to employ 230 recently qualified teachers. (AQO 4357/11-15)

**Mr O'Dowd:** The Office of the First Minister and deputy First Minister (OFMDFM)/DE Delivering Social Change project is progressing well. The principals of the selected schools have attended information sessions, and the first advert for recruitment of the teachers will be published during the week beginning 24 June. The 230 recent graduate teachers will be in post from September onwards. The project will ensure extra support for children in primary schools to achieve the expected levels in reading and maths at Key Stage 2. It will also provide tuition to pupils in post-primary schools who are not predicted to get at least a C grade in GCSE English and/or maths. A strategic oversight group led by the Western Education and Library Board was established with membership from the employing authorities, teaching unions and other educational stakeholders to develop and implement this important project. Detailed information about the scheme is available on the Western Board's website.

I am also pleased to announce that I am funding an expansion of the project and will be adding an extra 36 posts to bring more primary schools into the project and to ensure that every qualifying post-primary school has at least one full-time teacher, increasing from one to two teachers for larger schools.

**Ms McGahan:** Go raibh maith agat. How many schools have so far confirmed their participation in the scheme?

**Mr O'Dowd:** The recruitment advertisement for the scheme will be placed in the papers from the beginning of this week, and the first tranche of teachers will be in post in September. I understand that, to date, 213 schools have formally confirmed participation in the project. The majority of schools have indicated that they are seconding a member of staff to deliver literacy and numeracy schemes and recruiting a recent graduate teacher to backfill their post.

**Mr Dunne:** Thank you, Mr Deputy Speaker, and I thank the Minister for his answers to date. Can the Minister ensure equality of opportunity across the education sectors and that external

opportunities will exist for young graduates rather than just internal transfers from within the school systems?

**Mr O'Dowd:** I can certainly guarantee the Member that there will be equality of treatment across the board. The scheme has been agreed with OFMDFM and is quite a detailed proposal. A lot of preparatory work went into it, and there was some delay in the delivery of the project. However, I think that the preparatory work was vital.

Where the delivery of the scheme is concerned, a school has to agree a work plan with the Department and the board before any newly qualified teacher will be provided. It has been agreed that the best use of any newly qualified teacher is up to the school. In those circumstances, a number of schools have said that they want to release a more qualified teacher to do the detailed work on GCSEs, because they have the skills base. The newly qualified teacher will backfill, which is an unfortunate term but is one that is recognised in the education sector. They will be teaching in classrooms, which is beneficial not only to the young people who are in front of them but to the newly qualified teacher. That is because it will give them classroom experience and will allow them to put that on their curriculum vitae when they go to look for full-time posts.

**Mr Elliott:** Thank you, Mr Deputy Speaker, and I thank the Minister for that. Given that figures show that fewer than 20% of last year's teaching graduates received full-time work, what does the Minister plan as a longer-term strategy in and around this as opposed to a plan for the short term?

**Mr O'Dowd:** I would like to see this programme roll out into the future. It is not dissimilar to what is happening in Scotland, where newly qualified teachers are given a year's work placement. It has its benefits, most importantly not only to the pupils involved but to the newly qualified teachers. That is because it gives them school and classroom experience that they can put on their CVs. I have backed up this project with money from the Department, and I am putting an extra £2 million towards the project, which will allow an additional 38 teachers to come on board this year. I hope that I will be in the same position to do that next year as well. So, I would like to see this programme of work being mainstreamed in the future.

## **Schools: Boards of Governors**

**6. Mr Storey** asked the Minister of Education for an update on his plans to reconstitute boards of governors. (AQO 4358/11-15)

**Mr O'Dowd:** Most school boards of governors are due to be reconstituted during the 2013-14 school year. A working group, which includes staff from my Department, the five education and library boards and the Council for Catholic Maintained Schools, has been established to oversee the reconstitution process. We are fortunate to have a large number of people — over 10,000 — who willingly and freely give their time and talents to serve as school governors. I pay tribute to them and hope that many will want to continue to serve their communities in this important role. I want to see the reconstitution as an opportunity to encourage people from all walks of life to volunteer to serve as school governors. A governor recruitment campaign is planned for the autumn, and I hope that Members will join me at that stage in encouraging more people with the right skills and experience to volunteer, particularly people from groups that are currently under-represented on school boards of governors.

**Mr Storey:** In the light of the Minister's attempt today to convince the House that he is impartial in all the decisions that he makes and that he does not in any way give preference of treatment to any sector, what guarantee can he give the House that he will ensure that the controlled sector is not disadvantaged, particularly in the absence of a controlled sector body to oversee and assist in ensuring that the controlled sector is no longer treated as second class in our educational system?

**Mr O'Dowd:** The Member will be aware that, if the Education and Skills Authority (ESA) Bill and ESA were in place, the controlled sector would have a fully functioning body. That is the best way to ensure that the Member's concerns are allayed. However, I assure the Member that I have no wish or want to discriminate against the controlled sector. I put it up to any Member to show evidence to this House or to the public, the media or a court of when I have acted in any way adversely towards the controlled sector. I put it up to any Member to bring that forward, because they will not find the evidence for that.

The Member has a further guarantee. The reconstitution of boards of governors is tightly controlled under legislation, and I will ensure that that legislation is followed to the letter of the law.

3.00 pm

## Employment and Learning

### United Youth Programme

1. **Mr McGimpsey** asked the Minister for Employment and Learning for an update on the design of the United Youth programme announced by the Office of the First Minister and deputy First Minister on 9 May 2013. (AQO 4368/11-15)

**Dr Farry (The Minister for Employment and Learning):** Following the announcement of the programme, my officials met officials from the Office of the First Minister and deputy First Minister (OFMDFM) to contribute to the scope, detailed design and content of the United Youth programme. Further meetings will take place to take forward more detailed design. The programme may involve a range of measures including structured employment, work experience and volunteering and leisure opportunities, along with a dedicated scheme designed to foster good relations and a shared future. It is therefore much more than a work placement opportunity. I will, however, want to ensure that the final programme design complements the various initiatives that I have put in place under the Executive strategy Pathways to Success for people who are not in education, employment or training (NEET) plus other training and employability schemes that are in place and delivering results.

**Mr McGimpsey:** Bearing it in mind that we have one in five young people unemployed and that the programme has huge potential for that sector, when will we know the details and time frame for the roll-out of the programme and how much each successful applicant will receive as payment, stipend or wage?

**Dr Farry:** I thank the Member for his question and supplementary question. Let me clarify that we do not have one in five young people unemployed at present: that figure relates to those who are actively seeking work. It does not take into account those who are in full-time education. Obviously, the figure is still of considerable concern to us, but I want to put it into its proper context.

This is still very much a work in progress, and we are in the early days of discussions between Departments. I understand the eagerness of the Member and others that the details of this be released as soon as possible, but it is important that we get the programme right and

ensure that it delivers real results for young people and builds on the existing programmes that we have, rather than doing them damage. I am confident that we can work through this and ensure that we are able to deliver it. I share the aspirations that the Member has outlined: to expand significantly the work that my Department and the wider Executive do to interact with young people, give them a stake in society and ensure that they have a sustainable future in our economy.

**Mr F McCann:** Go raibh míle maith agat. I thank the Minister for his answers thus far. How will the outworkings of the proposal impact on the number of young people who are economically inactive?

**Dr Farry:** We need to see how it will work out in practice. We need to see how many people go through the various schemes during each year. However, the more we engage with our young people, the greater the impact that we will have in giving them meaningful activity and, most importantly, job opportunities.

I also highlight the importance of working through the education system and, rather than having a situation where people become NEET and we try to address that, we need to anticipate where there are vulnerabilities with young people and put in place sufficient support to engage with them, support them through education and support them in their transition to the world of work in due course.

**Mr Eastwood:** I thank the Minister for his answers so far. I welcome the fact that he has had discussions with OFMDFM officials since the announcement. Will he detail the discussions that he had with OFMDFM officials before the announcement?

**Dr Farry:** As the Member well knows, the scheme, alongside the other components of the package, is something that was not necessarily shared with other members of the Executive. It is fair to say that I am over the shock of that experience, and we move on from it. I certainly recognise the desire and the central importance of this aspect of the wider Together: Building a United Community proposals. I understand the ambition that lies behind them and see merit in our ability to increase significantly the impact that we have in dealing with young people. My focus now is to work with other Departments to ensure that we have a very good programme in place for Northern Ireland that delivers those results.

**Mr Allister:** Can the Minister yet give an assurance to the House that the funding of these matters, which are being imposed by OFMDFM, will not adversely impact whatsoever on any scheme currently funded by the Department for Employment and Learning (DEL)?

**Dr Farry:** Once again, we are working through the details on all of this, but I have been considerably reassured by the comments that my advisers and officials have reported from discussions that they have had with their counterparts that there is a desire to build on existing provision. There are commitments that additional funding will be made available to implement not just this scheme but other aspects of the wider proposals. Again, that has still to be formally confirmed.

I take the opportunity to highlight the fact that our Pathways to Success strategy is funded and resourced to the end of this comprehensive spending review period, which is March 2015, but we need to give consideration to what the landscape and funding will be beyond that. Obviously, this programme is not a short-term intervention; it is meant to be a long-term intervention over the coming years for the young people of Northern Ireland.

**Mr Deputy Speaker:** I again ask Members to respect the Chamber and the Minister or Member who has the Floor.

## IT Skills

2. **Mr Lunn** asked the Minister for Employment and Learning for an update on the provision of skills for the IT industry. (AQO 4369/11-15)

**Dr Farry:** Skills in science, technology, engineering and maths — STEM subjects — are becoming increasingly important to our economy. That being the case, I am providing an additional 1,200 STEM undergraduate places by 2015 and a 60% increase in publicly supported PhDs in economically relevant areas.

In recognition of the high growth potential of the ICT industry in particular, I have identified ICT as a priority sector for my Department. I chair an ICT working group, which includes representation from employers, colleges, universities and other Departments. In June 2012, I launched the related ICT action plan in order to address the specific skills issues within the sector. Progress since then has been significant. For example, Queen's University and the University of Ulster have over 100 students enrolled on the new MSc courses for

non-IT graduates, with many already securing employment in the sector. Undergraduate applications have also increased by over 24% at both universities. In addition, a new A level in software and systems development will be available in Northern Ireland from September 2013.

The Assured Skills programme continues to support the growth of the ICT industry. An example of that is the successful Software Testers Academy, on which a third cohort will commence training in September. That model is being adapted to meet the future needs of the ICT sector in the areas of cloud and data analytics.

Thirty-two apprentices have been employed in the local ICT sector through an apprenticeship pilot programme. A second cohort is now in train, and a higher-level apprenticeship in ICT is being piloted. Also, the wider review of apprenticeships will be of direct relevance to the ICT sector.

While these measures demonstrate our proactivity and the significant progress being made, we keep the action plan under review to ensure its responsiveness to the economic context.

**Mr Lunn:** I thank the Minister for his very full answer. What next steps does he envisage to build on the good progress that has been made in this sector?

**Dr Farry:** The Member is right to stress that this has to be something that we constantly seek to evolve; we cannot be in a standstill situation. It is worth highlighting some of the additional measures that we are now considering; indeed, there will be a meeting of the ICT working group on Wednesday to review progress and look at the new steps.

The current review of apprenticeships has major potential for the ICT sector in Northern Ireland. It will provide a form of on-the-job training in a much wider range of areas and skill levels. We are also in preliminary discussions with our universities to see whether we can encourage and increase capacity. Members will know that I have stressed that we have had a significant increase in applications for computer science at both universities, which is very much to be welcomed. However, there will come a point where capacity is reached, and we need to consider how we can move beyond that.

Also, perhaps most interestingly, we today announced the launch of the Deloitte Analytics

Training Academy, which has been developed in conjunction with Belfast Metropolitan College. Again, that will take non-ICT graduates and train them in a specific area that is of relevance to our ICT sector. I suspect that Members will hear a lot more about data analytics over the coming months. It is a major growth area in the ICT sector, and one that I believe Northern Ireland is well placed to have a real impact on regarding growth.

**Mr Newton:** How did the Minister determine the number and the categories of students for each of the areas that he mentioned? In order to halt any frustration there might be that young people may not get a job when they qualify, has he agreed the numbers with the sector skills council?

**Dr Farry:** I thank the Member for his question. We could put an unlimited number of people through these areas; sometimes budgets are constraints. The ICT sector in Northern Ireland is growing. It is a major area of indigenous growth and one in which we attract significant inward investment. We are poised for tens of thousands of new jobs to be created over the coming decade or longer, and that is in the current context where we do not have a lower level of corporation tax. In the event that we had the power to lower our corporation tax, the number of jobs that we could create in the sector would be hugely significant. Therefore, it is important to do all that we can to prepare our young people in that area. There are pressures for ICT skills across the world, and it is important that we are as proactive as possible in Northern Ireland. There is significant demand for ICT-skilled workers in Northern Ireland, and our challenge is to make sure that we keep up with that. At this stage, there is no risk of an oversupply of people trained in the ICT sector.

**Mr Flanagan:** Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as a fheagraí. In his responses, the Education Minister was at pains to say how close the working relationship was between both of you and what a good job you are both doing. You are definitely within the top two for me: the top two Alliance Ministers in the Executive, of course. Can the Minister outline what discussions are ongoing to increase the number of schools that offer computer science as a qualification instead of ICT?

**Dr Farry:** I thank the Member for his question. He is not too bad himself, most days. Obviously, there are good relations between my Department and the Department of Education;

indeed, I am due to meet the Minister next Monday to advance a number of issues of joint concern.

The new A level that will be offered in local schools from September is an important development. It is important that we make a distinction between an A level in computer science and an A level in ICT. It is the ability to programme that really makes the difference in people's employability further down the line, and that is what companies want to see from the skilled young people coming through. There have been initial attempts to advertise the new A level to schools, but we also need to see an increase in the number of teachers who are able to educate young people in the A level. We also need to move away from the situation — I appreciate that this is not the policy of the Department of Education — where people publish sometimes slightly misleading tables for A-level results because there is an inbuilt incentive for schools to go for certain qualifications that will boost them in artificial A-level league tables rather than focus on the qualifications that will make a real difference to a young person's progression in the world of work.

## Lisburn Training Centre

3. **Mr Craig** asked the Minister for Employment and Learning what plans his Department has for the future of Knockmore training centre, Lisburn. (AQO 4370/11-15)

**Dr Farry:** Following the construction of the new Lisburn campus of the South Eastern Regional College, the former Knockmore facility became surplus to requirements. The property was advertised through a public sector trawl, and the Northern Ireland Transport Holding Company expressed an interest in acquiring the site. The disposal procedure has progressed under the guidance of Land and Property Services. Contracts have been exchanged, and title searches are under way. The sale is expected to be completed by the end of July 2013.

All engineering classes and a limited number of motor vehicle and construction courses were relocated from Knockmore to the college's new Lisburn campus in April 2010. That campus now has bespoke provision for engineering, construction and motor vehicle repair courses. Industry standard equipment is available in the college, including lathes, computer numerical control machines, milling machines, woodwork equipment, a mortar mill, vehicle hoists and vehicle testing equipment that replicates an



MOT centre. The South Eastern Regional College's other main campuses are in Bangor, Newtownards, Downpatrick, Newcastle and Ballynahinch, with Downpatrick, Newcastle and Ballynahinch having recently built premises.

**Mr Craig:** I thank the Minister for his detailed answer. I regard the potential sale to the Translink holding company as a good move as it is, potentially, a new stop to service the new Balmoral/Maze site. Does the Minister agree that there are increasing pressures on the technical college in Lisburn due to its success in having huge numbers now coming into the college? Is there anywhere else that can be used to expand the capacity of that college in Lisburn?

**3.15 pm**

**Dr Farry:** I thank the Member for his comments. It is my understanding that we will see a park-and-ride facility emerge from the sale if it goes ahead. I will take on board his comments in relation to capacity at SERC. It is not something that has been raised directly with me, but I will undertake to ask the director if there are difficulties and, if so, how we can address those difficulties. I pay tribute to SERC for its successes. We will look to see how we can further consolidate the position of that college alongside the other colleges in Northern Ireland.

### **Armagh: Educational Village**

**4. Mr Irwin** asked the Minister for Employment and Learning for his assessment of the proposal to create an educational village in Armagh city incorporating the Southern Regional College, Armagh campus. (AQO 4371/11-15)

**Dr Farry:** While I have not seen any detailed proposals for an education village, I understand that the aim is to deliver a number of new schools on a site adjacent to the Southern Regional College's (SRC) College Hill site. The Southern Regional College provides an integrated education experience. The college will shortly present a business case regarding the building of a state-of-the-art facility aimed at providing young people with the skills needed by employers and the economy. That will likely indicate that redevelopment on the current College Hill site will be the preferred option. If the business case is satisfactory, it is likely that the scheme will progress in the very near future.

Proposals in relation to schools will be a matter primarily for the Department of Education, and I understand that no discussions have taken place at this early stage. The redevelopment of SRC can stand on its own merits and will not prejudice any other educational developments in the vicinity in the more distant future. Any school developments close to the SRC campus would further facilitate access to the entitlement framework. That opens a rich range of vocational education to help to prepare our young people for the world of work and entry into higher-level qualifications. I want young people to share experiences and not just to share physical facilities, whether that is in further education, the wider education system or society as a whole.

**Mr Irwin:** I thank the Minister for his reply. Has the Minister met any of the local groups, especially the Armagh Consensus for Post-Primary Education group?

**Dr Farry:** I have had discussions with the Southern Regional College, and I am aware that a public meeting is being held in Armagh on Wednesday evening. I look forward to having discussions with them in the near future, but I stress that my primary interest at this stage is in relation to the Southern Regional College. That development can go ahead and stand on its own merits. The wider implications for the education estate in Armagh will be for the Department of Education to take forward, rather than me.

**Mrs Dobson:** Can the Minister give the House an assurance that the Southern Regional College's plans for new campuses in Craigavon and Banbridge are on schedule? Can he give the House an update on progress?

**Dr Farry:** There already is a campus in Banbridge, and we do not anticipate any change in that regard. There may be a business case coming through for a newbuild for Craigavon that will be a replacement for the current campuses at Lurgan and Portadown. That is somewhat further off in the distance, as no site has yet been identified for that, but work is definitely under way in regard to having a better state-of-the-art facility for the Craigavon area.

**Mr Dallat:** Given that we are talking about campuses that are on shared sites, will the Minister take this opportunity to acknowledge the outstanding contribution that colleges of further education made during the darkest days of the Troubles? Does he agree that there is an opportunity now, given that there is a review of

further education, to seek out further examples where colleges of further education can be integrated with other schools?

**Dr Farry:** I concur with the broad thrust of what the Member has said: our FE system in Northern Ireland is world-class. We should celebrate it, but we should also seek to build on it.

The overarching governing policy document for the FE sector, 'FE Means Business', goes back to 2004. We are reviewing that with a view to having a new policy called 'FE 2020', which will be heavily shaped by our review of apprenticeships.

The FE sector is flexible and addresses a range of education needs and outreach with the economy. I see great potential for the sector to grow further in Northern Ireland. In turn, we have a duty to ensure that campuses and facilities are state-of-the-art and up to speed.

**Mr Lyttle:** What role will integrated training and education have in creating a more shared system?

**Dr Farry:** It is worth stressing that our further and higher education systems are integrated. They may not have the capital I before them but that is what they are about. People go into them from different backgrounds and are taught alongside each other. We should welcome that in Northern Ireland. Of course, FE campuses in different parts of Northern Ireland will tend to reflect the demographic make-up of their immediate areas. However they are open, equal facilities that cherish diversity and welcome everybody from whatever background.

## University of Ulster, Magee Campus

5. **Ms Maeve McLaughlin** asked the Minister for Employment and Learning for an update on the expansion of the University of Ulster Magee campus. (AQO 4372/11-15)

**Dr Farry:** The One Plan has an aspiration for a university with 9,400 full-time equivalent students by 2020, including 6,000 full-time undergraduates. There is an interim target of an increase of 1,000 undergraduate places by 2015 at the Magee campus of the University of Ulster. Since taking office, I have been able to allocate 572 additional full-time undergraduate places to the University of Ulster, which undertook to deploy those at Magee. That represents excellent progress towards the 2015 target.

I will continue to seek opportunities to secure additional higher education places in Northern Ireland, thus offering more choice to our young people who may otherwise seek to study elsewhere.

**Ms Maeve McLaughlin:** I thank the Minister for his response and his efforts in securing the additional places for Magee. What is his assessment of the outline case for the expansion of the university that is with his Department? Will he also clarify whether additional work is needed to develop the business case? Go raibh maith agat.

**Dr Farry:** At this stage, whether or not there is a revised business case from the University of Ulster, it will not make a huge difference to what we are doing. There are two routes by which the university at Magee can expand. One is through the university making internal reallocations of student numbers, and that is an issue for it as an autonomous body. Members are entitled to lobby on that, and I have no doubt that the Member and her colleagues will do that. They will note, however, that the university is making a major relocation from Jordanstown to Belfast.

The other route is through additional places that the Executive or my Department may fund and resource in relation to the expansion of the higher education system in Northern Ireland. Over the past two years, we have managed to make considerable incremental improvements, more than we anticipated when the Budget was set in 2011. We have made good progress towards the 1,000 target. I am not ruling out further expansions in the university sector over the coming months and years. No doubt the Member will push me hard on that regard.

**Mr P Ramsey:** As the Minister outlined, the expansion is part of the One Plan, which is a main economic driver, managed by Ilex but overseen by the Office of the First Minister and deputy First Minister. What discussions, formal or otherwise, has the Minister had with the First or deputy First Minister in relation to expansion at Magee?

**Dr Farry:** We had a number of discussions on that issue over the past number of years, in particular on the tuition fee settlement for Northern Ireland. It is worth stressing that there was no expected expansion of the university sector in Northern Ireland when the Budget was set in 2011. However, we made a number of bids that were successful and will continue to do that over the coming months. I certainly

recognise and respect the strength of feeling in the north-west towards Magee and how importantly it is viewed as being a driver in the economy. I know that some people would beg to differ, but I like to think that we have managed to make a significant dent in respect of the 2015 target, beyond that which, I think, people had a right to realistically expect back in 2011.

**Mr G Robinson:** Is the 2015 target realistic?

**Dr Farry:** I think that it is realistic. Of course, it is not one that I set, and neither was it set by the Executive. Bearing in mind that we are just over two years into the current comprehensive spending review period, the fact that we have allocated 572 places to Magee, out of a target of 1,000, is, I think, very good progress, and we will see how we go with regard to the target.

**Mr Cree:** The Minister will be aware of the importance of the Belfast campus and the advanced stage that it is at. Does he agree that that should not necessarily be at the expense of the expansion of the Magee campus? Can he give a commitment that that will not be the case?

**Dr Farry:** I thank the Member for his question. It would be wrong for me and, certainly, for Members to try to set Belfast against what is happening in the north-west, and I know that that has not been the case with regard to what the Member is getting at. The Belfast expansion is an important one, and it is one that I welcome. It has the effect of building up Belfast as a university city.

If Belfast, and indeed Northern Ireland, is to be internationally competitive, our higher education system will be a key driver in that regard, and the more that we can consolidate the position of the higher education sector in Northern Ireland, the better placed we are going to be. An expansion of higher education in Belfast is not mutually contradictory to an expansion in the north-west, and I am happy to work on both those angles and, indeed, on other parts of Northern Ireland.

## **STEM Careers: Female Participation**

6. **Mr McQuillan** asked the Minister for Employment and Learning what measures he has put in place to increase the number of females pursuing a career in science, technology, engineering or maths. (AQO 4373/11-15)

**Dr Farry:** From the statement I made to the Assembly on 4 June, the Member will know that I am particularly concerned about that issue. We need to encourage young women to consider studying science, technology and mathematics (STEM) in school and to consider careers in those areas. On leaving school, females tend to be better qualified than males. Females are also more likely to progress to higher education, with around 60% of our university enrolments being female. However, despite proportionately more females than males participating in higher education, females account for fewer than 30% of those graduating in STEM subjects, excluding medicine and health. Over 70% of students in ICT and over 75% of those studying engineering and technology are male.

As part of the STEM strategy, my Department is working in collaboration with organisations such as e-skills uk, Improve and Semta, which are actively promoting STEM careers to females. The wider Bring IT On campaign activities, many of which are funded by my Department, engaged with over 12,000 females in 2012-13. As part of that, more than 590 girls took part in computer clubs for girls, which are extra-curricular clubs aimed at inspiring girls to consider IT-related careers.

In association with the Equality Commission, the STEM business subgroup is running a seminar on Wednesday, entitled "Are you getting the balance right?" The seminar will identify additional steps that businesses can take to make careers in STEM attractive to women. I will follow the outcomes of that seminar and the work of the subgroup with great interest.

**Mr McQuillan:** I thank the Minister for his answer. Does the Minister agree that it is vital that we get the gender balance right so that we can encourage more females into the STEM projects and encourage them to go into careers in the STEM projects?

**Dr Farry:** I thank the Member for his question and supplementary question and fully concur with what he has said. To begin with, I will go back to ICT, where we have a major imbalance in participation between the two genders. If, for example, we had equal participation from females and males in that sector, we would not only address any particular skills pressures that we have but would place Northern Ireland in an extremely competitive position internationally. That shows the potential of getting this right and ensuring that we attract people into those careers.

There are cultural myths built up around these, and there are certain stigmas building up around certain careers. They need to be broken down to ensure that people from all backgrounds and from both genders have a productive career in some of the high-growth sectors in which our economy is set to grow over the coming years.

## **Executive Committee Business**

### **Planning Bill: Consideration Stage**

#### ***Clause 2 (General functions of the Department and the planning appeals commission)***

*Debate resumed on amendment Nos 1 to 19, 21 to 23, 27, 31 and 33, which amendments were:*

No 1: In page 1, line 15, after "improving" insert "social".— *[Mr Agnew.]*

No 2: In page 1, line 16, leave out sub-paragraph (c).— *[Ms Lo.]*

No 3: In page 1, line 16, at end insert "(d) promoting environmental protection".— *[Mr Agnew.]*

No 4: In page 1, line 16, at end insert "(d) protecting the environment".— *[Mr Elliott.]*

No 5: In page 1, line 16, at end insert

*"(1A) For the purposes of this Order "sustainable development" means development that seeks to deliver the objective of achieving economic development to secure higher living standards while protecting and enhancing the environment."— [Ms Lo.]*

No 6: In page 1, line 19, leave out from "achieving" to the end of the line and insert

"—

*(a) achieving good design; and*

*(b) promoting shared use of the public realm between persons of different religious belief, political opinion or racial group."— [Ms Lo.]*

No 7: In page 2, line 5, at end insert

*"(3) The Department must, not later than 3 years after the coming into operation of section 2(1) of the Planning Act (Northern Ireland) 2013, review and publish a report on the implementation of this Article.*

*(4) The Department must make regulations setting out the terms of the review."— [Mr Attwood (The Minister of the Environment).]*

No 8: In page 2, line 11, after "improving" insert "social".— [Mr Agnew.]

No 9: In page 2, line 12, leave out subparagraph (iii).— [Ms Lo.]

No 10: In page 2, line 12, at end insert "(iv) promoting environmental protection".— [Mr Agnew.]

No 11: In page 2, line 12, at end insert "(iv) protecting the environment".— [Mr Elliott.]

No 12: In page 2, line 13, at end insert

*"(2A) For the purposes of this Act "sustainable development" means development that seeks to deliver the objective of achieving economic development to secure higher living standards while protecting and enhancing the environment."— [Ms Lo.]*

No 13: In page 2, line 15, leave out from "achieving" to the end of the line and insert  
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*(a) achieving good design; and*

*(b) promoting shared use of the public realm between persons of different religious belief, political opinion or racial group."— [Ms Lo.]*

No 14: In page 2, line 20, after "improving" insert "social".— [Mr Agnew.]

No 15: In page 2, line 21, leave out paragraph (c).— [Ms Lo.]

No 16: In page 2, line 21, at end insert "(d) promoting environmental protection".— [Mr Agnew.]

No 17: In page 2, line 21, at end insert "(d) protecting the environment".— [Mr Elliott.]

No 18: In page 2, line 21, at end insert

*"(aa) after subsection (1), insert -*

*"(1A) For the purposes of this Act "sustainable development" means development that seeks to deliver the objective of achieving economic development to secure higher living standards while protecting and enhancing the environment."— [Ms Lo.]*

No 19: In page 2, line 23, at end insert

*"promoting shared use of the public realm between persons of different religious belief, political opinion or racial group; and"— [Ms Lo.]*

No 21: In clause 6, page 5, line 23, after "economic" insert "and environmental".— [Mr Elliott.]

No 22: In clause 6, page 5, line 25, at end insert

*"(1A) In that Article after paragraph (3) add—*

*"(4) The Department must, not later than 3 years after the coming into operation of section 6(1) of the Planning Act (Northern Ireland) Act 2013, review and publish a report on the implementation of this Article.*

*(5) The Department must make regulations setting out the terms of the review."— [Mr Attwood (The Minister of the Environment).]*

No 23: In clause 6, page 5, line 30, after "economic" insert "and environmental".— [Mr Elliott.]

No 27: After clause 16 insert

### **"World Heritage Sites**

**16A.**—(1) Before Article 50 of the 1991 Order (Conservation areas) insert—

### **"World Heritage Sites**

*49A(1) In exercising any powers under this Order in respect of a World Heritage Site or its buffer zone, the Department or the Planning Appeals Commission shall have regard to the desirability of—*

*(a) protecting the Outstanding Universal Value for which the World Heritage Site was inscribed on the UNESCO World Heritage List; and*

*(b) Preserving the character and appearance of the World Heritage Site or its buffer zone.*

*(2) In this Article—*

*"Buffer Zone" has the meaning set out in the 'Operational Guidelines for the Implementation of the World Heritage Convention';*

*"Outstanding Universal Value" has the meaning set out in the 'Operational Guidelines for the*

*Implementation of the World Heritage Convention*;

*"World Heritage Site" is a place that is inscribed on the UNESCO World Heritage List."*

*(2) Before section 104 of the 2011 Act (Conservation areas) insert—*

### ***"World Heritage Sites***

*103A.—(1) In exercising any powers under this Act in respect of a World Heritage Site or its buffer zone, the Department or the Planning Appeals Commission shall have regard to the desirability of—*

*(a) Protecting the Outstanding Universal Value for which the World Heritage Site was inscribed on the UNESCO World Heritage List; and*

*(b) Preserving the character and appearance of the World Heritage Site or its buffer zone.*

*(2) In this Section—*

*"Buffer Zone" has the meaning set out in the 'Operational Guidelines for the Implementation of the World Heritage Convention';*

*"Outstanding Universal Value" has the meaning set out in the 'Operational Guidelines for the Implementation of the World Heritage Convention';*

*"World Heritage Site" is a place that is inscribed on the UNESCO World Heritage List."*— [Ms Lo.]

No 31: In clause 27, page 16, line 31, after "1" insert "2(1), 6(1),"— [Mr Attwood (*The Minister of the Environment*).]

No 33: In clause 27, page 16, line 33, at end insert

*"(1A) Sections 2(1) and 6(1) come into operation 4 months after the day on which this Act receives Royal Assent."*— [Mr McCallister.]

**3.30 pm**

**Mr Weir:** I rise to speak to the first group of amendments. I will try to keep my remarks reasonably brief. I believe that we could well be in for quite a long day, so I do not want to add to that.

The group 1 amendments largely break down into five separate categories, and I will touch on each of them. First, a number of amendments from the Alliance Party touch on shared space and a range of related issues. I can see where the Alliance Party is coming from. However, I have a little difficulty in my own mind in working out how those issues could be fed directly into a planning decision regime. I am not quite sure of the compatibility. I understand and have sympathy at least with the direction that the Members are coming from. Although I would not be in a position to support them today, I understand that those issues may be subject to debate at Further Consideration Stage. Indeed, I suspect and understand that the Minister may make noises later about looking at them and that there may be the prospect of giving them further consideration. Therefore, I do not want to touch on them too deeply.

As with a number of the amendments, including ones that I tabled and that we will come to later, the shared spaces amendments and, indeed, a number of others, have rightly been tabled at Consideration Stage. The Committee has not has an opportunity to consult on them. However, I think that that is the nature of Consideration Stage; it is the opportunity to table such amendments.

Secondly, the amendments to clauses 2 and 6, largely speaking, fall into two categories. A number of amendments — in fact, probably the bulk of those in the group — might be described as simply providing additional language to clauses 2 and 6. That refers in particular to those from the Ulster Unionist Party and to some from Steven Agnew and the Alliance Party. Again, I would question some of those amendments. I suspect that the Minister will deal with them later. I know that other Members have questioned this particular aspect of them, and I also question the extent to which they add any particular value to what is there. I believe that they pretty much cover a range of areas that are already covered either in current planning law or, indeed, in the requirements in European legislation that are already in place. I do not think that simply to bring those requirements in again adds a great deal to the Bill or, indeed, to the current situation. Obviously, the Minister will deal with them later.

A number of amendments — specifically, the Alliance Party's amendment Nos 2, 9 and 15, as well as the proposal to oppose that clause 6 stand part of the Bill — might be described, effectively, as wrecking amendments. Let me make it clear: we have looked at clauses 2 and 6 with a high level of detail. I do not find favour with those amendments.

When we are looking at trying to enhance society in Northern Ireland, I believe that the economy will be a vital component. It is important that we follow through with the Executive's principal objective, which is to promote economic development. To that extent, we have simply got to look beyond our ivory towers at times and to the problems that exist, for example, with job creation and youth unemployment. In particular, when we look at all sides of the community, we see the number of young people who have had to leave these shores to find work elsewhere.

Clauses 2 and 6 are, largely, a clarification of the current legal position. In many ways, they put economic development very much at centre stage. However, they do not alter the fundamental position of planning law in connection with economic development. I think that it is helpful to have that degree of clarification. So, on that front, I back the Bill as it is currently drafted.

Clause 6 has been mentioned. For the Member who spoke previously, the issue with clause 6 was whether the economic advantages and disadvantages would in some way be sent out by the applicant to some sort of lobbyist to produce figures. That is not the way in which it is designed to work. Clause 6 is designed to allow economic advantages and disadvantages to be taken into account. Therefore, it is a matter for assessment by the Planning Service, and I do not believe that we have a great deal to fear. One of the spurious claims is that that will lead to a degree of conflict. I know that the Deputy Chair raised that concern earlier. As someone who has been involved in planning cases for many years, I have to say that that happens on the ground at any stage at present.

Those who are portraying the issue of economic development as a major problem for, for instance, residents have to realise that weighing up economic advantages and disadvantages can be a double-edged sword. As someone who has tried to suggest more often that a planning application is inappropriate rather than appropriate and who has, on occasion, represented residents in cases involving the Planning Appeals Commission, I know that one of the arguments, or attempted arguments, used is that it would not be of economic advantage, only to be told that that is not a material consideration. Therefore, it can be used as a device for both applicants and objectors. When you look at the net position of economic advantage and disadvantage, you see that it cuts both ways.

There is the fairly obvious direct opposition to clause 6. As I said, there are also the three wrecking amendments — amendment Nos 2, 9 and 15 — which try to remove the references to economic consideration. The feeling that economic development is the love that dare not speak its name in planning and that the words cannot appear anywhere in the Bill is somewhat perverse. It has to be balanced against the other provisions.

I thank the Minister for amendment Nos 7, 22 and 31. I suspect that those amendments may be one of the few areas on which we find common ground today. The issues came through the Committee, and I think that the Department has taken our concern on board by tabling the amendments. A review was suggested, and, in many ways, the timescale of that review has been fast-tracked into a three-year period following the determination in 2013. Amendment Nos 7 and 22 provide for that review, which is a sensible way in which to assess how the legislation is working in practice, and I think that that is to be welcomed.

Similarly, it was the mind of the Committee to suggest amendment No 31, which provides for clauses 2(1) and 6(1) to become operational on Royal Assent. The point was made that Royal Assent will not be instantaneous. I have every confidence that the Department will be able to produce in time the guidance and, indeed, the additional planning guidance that is needed. The Department clearly agreed with and adopted the Committee's position. At times, we have seen legislation put in place but a lack of incentive on the part of various Departments to implement it. Putting in place a strict timetable after Royal Assent is in line with what is in the Bill.

I want to touch briefly on amendment No 27, which proposes a new clause. Again, although criticism has been levelled in a different direction, I will not criticise others for the fact that there has been no consultation on the proposed new clause. The Alliance Party is entirely within its rights, as is any individual, to propose such a clause, so I do not criticise on those grounds. However, I believe that the —

**Ms Lo:** Will the Member give way?

**Mr Weir:** Yes.

**Ms Lo:** It should not have come as a surprise to you, Peter, because it was in the Community Relations Council (CRC) submission, and we discussed it in Committee.

**Mr Weir:** With respect, I do not remember any proposal of that nature coming forward, but I am saying that I have no problem with it. I just find it a little bit contradictory, given that others were criticised for tabling such amendments at this stage.

The intention of the amendment has not been overly cleverly disguised, because it is quite clear that it is a direct challenge the Runkerry decision. It is clearly its intention to add weight to the opposition to that decision. I have to say that I believe that the Department, in reaching its assessment —

**Ms Lo:** Will the Member give way?

**Mr Weir:** I will give way.

**Ms Lo:** I am sorry, I misheard you. You are talking about the world heritage one. I was not looking at the Marshall List. I referred earlier to the one about the CRC and shared use. It is my mistake.

**Mr Weir:** I accept the remarks of the Chair. I am saying that this was not something that was brought forward at Committee. Having said that, I believe that it is the perfect right of any Member to bring forward whatever amendments they want. Whether there was an attempt to disguise this as a general clause, it seems to me that it is a very direct attack on the Runkerry decision. There will be issues on which the Minister and I differ. However, I believe that he approached the Runkerry decision with a high level of prudence and evaluated all the factors in front of him when reaching that decision. This relatively blatant attempt to undermine the decision taken by the Minister and the Executive is, I think, a naked attempt to simply get additional legislation that could, presumably, at some point, be used in some level of legal challenge. I think that that is relatively unworthy. Therefore, I am opposed to amendment No 27.

With those remarks, I look forward to the rest of the debate.

**Mr McCallister:** Like other colleagues, I wish to see a greatly improved planning system. I would like to see one that can react speedily to the demands on it. Representing a constituency such as South Down, which is split between two planning offices, I would like to see a planning system that is consistent and does not determine results depending on what side of a boundary you fall.

I will speak predominantly on my own amendment. There seems to be some disagreement about the reasoning behind it. I will try to explain. I suppose that the main point for Mr Flanagan is that, when it comes to fracking, he is going to have to get off the fence and say what he really thinks. Anna Lo, when talking about my amendment during her contribution, talked about the dangers of having a policy vacuum before the strategic planning policy is unveiled. My amendment is an attempt to try to close the gap between when the Bill presumably receives Royal Assent and the time when the planning policy is ready. The idea of withholding enactment for an additional four months is to try to close that gap, so that the vacuum that Ms Lo talked about would be as narrow as possible. That is the reasoning behind it.

I think that I detected concern from other Members who spoke in the debate. The two clauses in question seem to go to the very heart of the debate. There is some debate as to whether we are just putting into legislation what is already in certain policies or whether we are giving it a new level; hence, we come to the other amendments, tabled by Mr Agnew, Mr Elliott and Ms Lo. To me, that means that amendment No 33, in my name, makes perfect sense, because it does help to narrow that gap. It would not mean that we would withhold the Bill from passing. It does not stipulate that. It stipulates that the Minister has an additional four months to get his planning policy statement properly nailed down and put before us, so that we do not have the vacuum that Ms Lo talked about. I think that that is an important point to make and would be a useful inclusion in the Bill. I hope that Members will think about that when we vote on the amendments, because I think it adds to the Bill and strengthens the opportunity for the Minister to bring forward the strategic planning policy. That is an important point.

**3.45 pm**

It is important that we protect the environment, as Mr Elliott said, and give it necessary weight by including it in the Bill. I will support some of the amendments that have been proposed by Mr Elliott, and I would like to see the House support them because there is a consensus in some parts that you cannot ignore the environmental implications of planning decisions. It would be wrong to do so. Although there is general agreement that we want to see the economy improve and speedier planning decisions, we want the right decisions to be made and to see the reasons for those decisions in a much more transparent manner. We cannot ignore the environmental



considerations in those decisions. That is why I am supporting those amendments.

The Giant's Causeway is our one site with UNESCO world heritage status. It is important that we reflect on the fact that we have a site of that standing in Northern Ireland. It is right and proper that it has that status. The Bill will change the way in which planning may be looked at up there; it will give it extra protection and lift the standing of a highly regarded site on the world stage. We should be encouraging that.

We have two more rounds of debate to come, and this has been billed as probably the least contentious of the three. I am surprised that Mr Wells may not support the UNESCO status issue, but he may be persuaded by the power of other arguments. I encourage Members to look at amendment No 33 as a useful addition to the Bill that will narrow the possible policy vacuum caused by not having a strategic planning policy in place.

**Mr Attwood (The Minister of the Environment):** I thank everybody for their contributions. There are some broad matters that I have to touch upon in responding to the debate generally, and I will then turn to specific matters. Some of those broad matters I will touch on in the debates on the subsequent groupings of amendments, because I think those comments will be better made at that time.

We are elected and employed, and we will not and should not be re-employed unless we demonstrate that we measure up to the opportunities and the ambition of being a legislative Assembly. This is the third piece of legislation that has come through this House from my Department in my time as Minister: the Marine Bill, the second Carrier Bags Bill and the Planning Bill. It is a matter of regret to me that the two other pieces of legislation that I hoped would have had their First and Second Stages before the summer, namely the road traffic Bill and the local government Bill, which would have made five pieces of legislation, are still with the Executive, although I continue to travel in the expectation, or merely only the hope, that they will get through the Executive this Thursday.

It would have been my ambition to have five pieces of substantial legislation at various stages of the process by now. Why? Because we have to define ourselves more and more by law and good law and more law, when required. That is the task that I, as Minister, set myself. I will come back to it later in response to Anna Lo

on the second group of amendments, but that is one of the reasons why I could have taken the casual option and not moved the Bill this morning. However, to have this Chamber and government in good repute and to try to create good law on behalf of the people whom we represent, it was my judgement that it was a better course of action to bring the legislation to the House this morning and give the House the opportunity to interrogate what the Committee had come up with and what the amendments tabled today represented. Hopefully, on the far side of today and the Further Consideration Stage, you will have good law on behalf of the people whom we represent. Others will argue that I should not have moved it. In my view, that was good authority, good politics and good practice. We should try at all times to judge ourselves against those standards, if we are to measure up to the requirement of being a legislative Assembly.

It is probably inevitable that a Consideration Stage of a Bill looks primarily at the amendments. However, the amendments touch on one or two clauses in a Bill that has 28 clauses. Tom Elliott and Dolores Kelly touched on the point that the purpose of the Planning Bill in its initial drafting is nothing to do with some of the amendments that have now been tabled. We should not lose sight of the wood for the trees: the purpose of the Planning Bill — at times, I received contrary advice from officials in this regard — was to bring into the life of planning now, particularly in advance of RPA in 700 days, the structural and architectural changes that will make planning more and more fit for purpose. Look through some of the clauses in the Bill. What does it try to create? A statement of community involvement; pre-application community consultation; who might conduct public inquiries; matters that might be raised at a planning appeal; what should be the shape of planning agreements; what we do about tree preservation orders; and what the power should be of the Planning Appeals Commission to award costs. In those five or six examples was an attempt to put into the life of planning now the structural changes that will make planning more fit for purpose now and, in particular, more fit for purpose when planning is devolved to local councils in 700 days.

Why did I make that political judgement, which, I think, remains the right one? I made it because devolving planning to local councils in May or June 2015 is an enormous challenge and a great opportunity. The more we can get it right now and in the next two years, the more it will be right for the councils and all those who live in the new council areas. That is the

primary purpose of the Bill. Whatever the debates today might be around the amendments, we should not lose sight of the fact that that is the primary purpose of the Bill. There has been a relative lack of comment from Members today about what the Bill is really about as opposed to what some people think it is about or what others may want it to be about. We should not lose sight of all that.

Mr Boylan raised an interesting point. It was interesting because of what it revealed — that is not a criticism of Mr Boylan; I live with planning every day. It is in my face and in other people's faces, if that is not too rude a comment. There are things going on that I and others know about, but they might not be widely known about, even though they reflect well on the planning system. The example that I will give, before I give a series of examples, came from Mr Boylan's contribution. He said that you could have a situation where pharmaceutical or life science industries were located on industrial sites and could have their business opportunities and potential growth compromised by the fact that an applicant — Mrs Kelly knows about this; she knows what I am going to talk about — especially one from, let us say, a waste background, attempts to build a waste facility next to them. Mr Boylan said that the planning system needed to deal with that and give certainty to life science businesses that their future ambitions would not be compromised by having a dirty plant nearby, as they need a clean environment, clean air and all the rest.

In October 2011, there was a planning appeals decision in respect of an applicant who had been denied planning permission. What for? A waste facility. Where? Next to Almac in Craigavon. On the far side of that planning appeals decision, we went away and changed planning guidance to ensure that, in the future, if an applicant came along to create something that was not compatible with, for example, existing pharmaceutical or life science businesses on an industrial estate, the guidance would be that that should not happen. What did that do? It gave confidence to the likes of Almac to invest, and out of that confidence — a confidence that was contributed to in many other ways, including by DETI and INI — came the announcement two weeks ago of new jobs in Almac.

The point of that story is that, when there is a problem in planning that is hostile to or an impediment to economic opportunity — surely jobs in the life science and pharmaceutical industries are added-value employment opportunities in this part of the world — you

have to go at it hard and try to solve it. You can solve it, as that example demonstrates

Complementary to that were the comments by Simon Hamilton, who said that I had a personal involvement in article 31 decisions. In my view, planning Ministers, whoever they are, should have a personal involvement in article 31 applications. Why? Because they are decided by the Minister, they have significant economic opportunity and they are particularly challenging because there could be consequences for our heritage and environment. I do not think that having a role in article 31s is personal to me; it is a role that all planning Ministers should interrogate. So, just as the Almac example demonstrates that a problem identified in the planning system can be resolved and worked through in a way that enables further development and economic opportunity, similarly, when it comes to article 31s, the Minister, whoever that Minister is — I am sure that the Ministers before me should have been and would have wanted to be judged against the same standard — should personally be involved. If necessary, he or she should micromanage consistent with good evidence and good process. The consequence of that is that a decision has been made on 75% of the 60-odd article 31s that I inherited in May 2011. Yes, some of them are going to planning appeal, but a decision has been made on about 75% of them.

The point is that, whatever about people tabling amendments — people are entitled to table amendments, and I welcome the debate, because the more we get to the essence of what is required around planning, the better we are, even if, as I will say in a minute, I do not like some of the amendments — there are ways and means in the planning system, in a complementary way to the Planning Bill, to do that which is necessary to achieve a planning system that is most fit for purpose.

Two Fridays ago, on the way back from London, I had a meeting in the City Airport. Who with? Tony O'Neill from Moy Park. Why? Because, given the crisis we have had with our meat, Moy Park has an ambition to potentially build or to help people to build 400 chicken houses over the next period. Why? Because, on the far side of that, there will be 2,200 jobs. What is the benefit of that? Beyond the fact that there will be work for people, it will build up the profile of agrifood in the North when the consumer and even the big retailers have big issues around the agrifood chain. So, that is another example of how — whatever about the Bill and whatever some in other Departments think they can do when it comes to the planning

system — unless you actively manage the planning system, you will not be able to change it. If you actively manage it and have a series of interventions around planning, working with the law as it may or may not be passed by the Assembly, you can get to a far better place.

#### 4.00 pm

I am not in denial about there being issues around the planning system, but nobody should be in denial that many of those corners have been turned over the past while and there are still corners to turn. I met one of the trade organisations recently. It wrote to me that there had been some changes and improvements but really the thing had not changed much. Yet, after hearing the narrative around where planning is and the ambition to change it further in the future, they left that room with the conclusion that planning was to be different. People in the Chamber today have been, in my view, somewhat casually saying what the weaknesses are in the planning system, rather than talking about the scale of what has and has not happened.

I will give some further examples. The planning system has seen decisions on new article 31 applications for Windsor Park, Narrow Water bridge, the police college and others all in or around six months or less. Windsor Park was decided in 11 weeks. When it comes to renewable energy applications — I have figures here, and I will lodge them in the Library — over the last year, more than 600 individual wind turbines applications have been issued. When it comes to the issue of renewables — in my view, Ireland's biggest economic opportunity — the problem is not planning; the issue will be whether those who got the approvals can pay the cost of taking them forward and whether they will get grid connection in any case. So, a look at the Department's actions in changing planning guidance around life sciences, the article 31s, the renewable energy applications, permitted development rights, the timelines generally for minor, intermediate and major applications and so on and so forth demonstrates more and more the good authority of the planning system, which must more and more demonstrate that good authority in the future. That is the narrative that has to be told, rather than the casual approach of some who think that the planning system has not changed that much and needs more fundamental review.

Mr Hamilton commented on what was said to the Committee in respect of the Planning Bill by the statutory adviser to the Department, the CNCC. I was not aware of those comments. I

have had differences of opinion with the CNCC or its members heretofore, but, whatever that person did or did not say — people are wise enough to draw conclusions about what that person is purported to have said and whether it is or is not valid — people have the right to dissent. My view is that there is much to dissent from. Our society is the better because people demanded the right to dissent, and there was much from to dissent from over many decades. If people do not dissent, what is the point in many things? Whatever about that individual's comments about the Planning Bill, I will be very precious about protecting that person's right to express those views. If they are not the prevailing wisdom around things, so be it.

Mr Deputy Speaker, I am sure that you are glad to hear that I will deal now with the amendments that have been tabled. I intend to go through them, because I am not somebody who thinks that there should be a one-size-fits-all approach to amendments and that we are for all of them or against all of them. Although I have a view on the character of the amendments that have been tabled today — I advised my Executive colleagues this morning of my view of them — I want to explain in some detail what there may be an opportunity to move forward positively, what we should just oppose and what I am prepared to accept the will of the House on, where one or two particular amendments are concerned, although I am not willing to support them.

Before doing so and having been prompted by the Deputy Chair of the Committee, I will just confirm a number of matters that, I think, are important, because the Committee asked for this reassurance. First, before doing so, however, I again acknowledge the Committee's co-operation and hard work during the process. As the Deputy Chair indicated, this moved very promptly on the far side of the Committee Stage, unlike — he did not name it — the Marine Bill, which did not move so promptly.

**Mr Hamilton:** They balance each other out.

**Mr Attwood:** It does balance things out, although there was maybe a lesson in the Marine Bill. We took time to get it right. Maybe, on this occasion, others have not taken time to get things right. I am sure that we will come back to that when discussing the second group of amendments shortly.

Given that the Committee asked about this and I want to advise the Assembly of it, I also confirm that the Department will publish the single strategic planning policy statement at the

earliest possible opportunity. I intend to do that with the aim of publishing it for public consultation later this year. The Chair of the Committee is noting that as I speak.

I will explain why we are going down the road of a single strategic planning policy statement. It is my view that there are too many words on planning in the North and not enough clarity on the meaning and outcome of all those words. Borrowing from the Scottish Government's experience — they are reviewing their single planning policy statement, and they gathered it all in one place in a single statement and collapsed the number of words down but did not change the fundamentals of the values, law or policies that should inform planning going forward — I think that that is the right approach here. So, as part of the most radical reform of planning in a generation in this part of the world, capturing in a single planning policy statement the purpose and principles of planning and planning policy statements in a way that provides a pathway to all those who want to understand and navigate the planning system, be they developer, community or third party, is, I think, the right approach.

Consultants were recently appointed, and they are already in conversation with external organisations about the shape of all that. The intention is that, by the end of this year, there will be a consultation on the single strategic planning policy statement. There is also the further ambition thereafter that, in time for the devolution of planning functions to local government, we will have a single strategic planning policy statement to help everybody but particularly the councils as they undertake the heavy responsibilities of planning going forward.

The Deputy Chair invited me to confirm this, so I will also advise that the statement will elaborate on planning policy in relation to the threefold policy requirements in clause 2, which might be broadened before the end of the day: furthering sustainable development, promoting or improving well-being and promoting economic development. As Members have rightly pointed out, those principles and words need to be shaped so that those who are engaging with or are responsible for the planning system have greater certainty about what they all mean.

Without getting into some of the more controversial words, I will give you an example. It is my understanding that the clause promoting or improving well-being was a consequence of a late discussion at the Committee Stage of the Planning Bill that

became the Planning Act 2011. As I understand it, there had not been much conversation about what promoting or improving well-being might be. There might have been some intention that the word "well-being" was being borrowed from the wider concept of the power of well-being, which at that time was being discussed in the Local Government Bill as part of the character of local government reform on the far side of RPA.

Therefore, the concept of promoting or improving well-being needs further definition, and it will be further defined through the single strategic planning policy statement. I will come back to that in a moment.

The Committee for the Environment asked me, a request that was repeated by the Deputy Chairperson, to confirm to the Assembly that the words "promoting", "furthering" and "improving" can be treated as meaning the same thing. The sections in the Planning Act 2011 that relate to sustainable development and well-being have different words: one has "furthering" while another one has "promoting" and "improving". Now we have an amendment that deals with promoting economic development, and, subject to the will of the Assembly, there may even be, under clause 2, a new sub-paragraph (iv) inserted in section 1(2)(b) of the 2011 Act to deal with environmental protection.

It seems that there are multiple words that mean the same thing, or might mean the same thing. Having taken advice at the request of the Committee, I cannot confirm to the Assembly that the words "promoting", "furthering" and "improving" can be treated as meaning the same thing. Consequently, I intend to table an amendment at Further Consideration Stage that will provide consistency of approach for the three, or perhaps four, statutory requirements that relate to the concepts of sustainable development, well-being and economic development. I will do so in order to ensure that, rather than have multiple words that might not mean the same thing, we try to have the same words that mean the same thing around those concepts.

I now turn to the amendments. First, I will deal with amendment Nos 1, 8 and 14, standing in the name of Mr Agnew. He said that he wanted to insert the word "social" but then went slightly further. I will check the Hansard report, but I believe that he said that, when he used the word "social", he meant public health. That only confirmed my concern about what was intended. I accept that the amendments are well-intentioned, but I also have to conclude

that the narrowing of the word "well-being" to "social well-being" and the further narrowing of the word "social" to mean public health is not the way to go forward.

For example, there was an initial proposal in the local government Bill that councils should have a power of well-being. It may well be that when the legislation comes to the Assembly, it will be a different power — the power of general competence. There is a view among many parties that the power of general competence is a better power to give to councils if it is used wisely and properly and does not allow for the expansion of local authorities' responsibility beyond that which it is proper for them to do.

If we are going to have in law a concept of promoting or improving well-being, which is to be defined by a single strategic planning policy statement, it is better to use the word "well-being" rather than narrow it immediately to "social well-being" and then narrow it further, employing the words used by Mr Agnew. If it was originally the intention to borrow that concept from the wider power of well-being in the local government Bill, I do not think that our councils will have been very impressed that "well-being" was to be narrowed to mean social well-being, and potentially narrowed again thereafter.

For the purposes of the Bill, to be consistent with the 2011 Act that was endorsed by the parties in the Assembly, and to ensure that well-being is not narrowly defined — it should not be conceptually narrowly defined but should be more broadly defined under the single strategic planning policy statement — it is better to retain the word "well-being" in the Bill rather than the more narrow concept of "social well-being". I invite Mr Agnew to reflect on that. That is why I said that there cannot be a one-size-fits-all solution. This is an example of where the better and wiser approach is the one that gives the planning process the capacity to shape that solution.

#### **4.15 pm**

Remember that the single strategic planning policy statement will be subject to Executive approval. It will not be a unilateral act by a Minister: it will go to the Executive, as all planning policy statements have to. We witnessed one last week, namely PPS 16 on tourism. That had to go to the Executive, and it was then interrogated by the Assembly. It is better to keep that concept wide. Without putting words into the Member's mouth, my sense is that most people will want the concept to be broader rather than narrower. The

Member might wish to reflect on that. If the amendment is moved, I will urge Members to not support it for the reasons that I have outlined.

There is a series of amendments on environmental protection, namely amendment Nos 3, 4, 10, 11, 16 and 17, which require the Department to carry out its functions under part 2 of the 1991 order with the further objective of promoting environmental protection. As I will outline in some detail, issues around the environment are already promoted, when it comes to their protection, legislated for and, in practice and policy, accommodated in the planning system. I will explain that in some more detail when it comes to the amendments in respect of UNESCO world heritage sites. Although I have given the Executive the advice that these amendments should not be backed, in this case, unlike with the previous amendment, the will of the Assembly can prevail. When it comes to this issue of the environment, if the will of the Assembly is that, in one way or another, the view is to be reflected on the face of the Bill, so be it. I understand why the Assembly might want to go in that direction.

The advice I have given to the Executive is to oppose these amendments because there is an issue around process when it comes to some of them. It is not the best of process — and you can end up, as a consequence, not having the best of law — to have amendments of substance coming in at late stage in the absence of consultation, even though tabling such amendments is the entitlement of Members. It may be that the great legal authority in this place would give the advice that, as long as there has been an Assembly process, the threshold of consultation has been achieved. That may be the case, and it may ultimately be the view of the High Court in the event of any challenge, but I do think that —

**Mr Flanagan:** Will the Minister give way?

**Mr Attwood:** I will in a second.

I do think that when it comes to substantial amendments, there is a better approach, even if the approach of substantial amendments coming in at the Consideration Stage is not a fatal one when it comes to legislative authority.

**Mr Flanagan:** I thank the Minister for giving way. He said that the amendments on environmental protection or promoting environmental protection have not been out for public consultation. Does he not agree that the

substantial number of pieces of correspondence that we have all received calling for those measures to be introduced is a form of consultation? It may not have been proactively started by his Department or by the Committee, but that is the overwhelming view of the majority of the people who have contacted MLAs.

**Mr Attwood:** I do not discount or diminish in any way the campaign that has been conducted over the past number of weeks. Does that legally qualify as consultation? Does that meet the higher threshold of participation? Does that attain the various requirements in respect of consultation under our legislation, never mind wider policy? No, it does not. The reason I make that argument is that, last week, Stephen Hammond, a Minister in the Department for Transport, wrote me a curious letter in which he accepted the need for a new consultation on what the options might be in respect of the future of the Driver and Vehicle Agency (DVA) office in Coleraine and the 300 or more jobs up there and around the North. Why did he make that argument? It was because I made an argument to him and to his predecessor over the past two years that there are requirements generally and specifically in respect of consultation in Northern Ireland, that the threshold of consultation had not been fulfilled in respect of the DVA jobs, and that, in any case, there had not been a proper assessment of the impact of closure.

We have legally preferred mechanisms for consultation, never mind the higher requirement of participation. Amendments that come at this stage do not qualify. Nobody should pretend that they do qualify, whatever about 6,000 pieces of correspondence from whomever those might have come, as important as those are and as important as it is that we take heed of them.

That is my concern about these amendments. That said, given that, in my view, some of these amendments are not fundamentally deficient and there are other amendments that we will come to later this afternoon that, in my view, are deficient fundamentally, politically and in policy, governmental and legal terms, if the will of the Assembly is to pass one or other of these, that is for the Assembly to determine. However, I have made the argument to my Executive colleagues that I do not think that this is an amendment that should be accepted on environmental or process grounds. I will comment on it further after I give way.

**Mr Elliott:** I thank the Minister for giving way. I appreciate what he is saying. Obviously, I think

that the Ulster Unionist Party amendment would give the environment more protection. Does the Minister accept Mr Anderson's argument that the amendments proposed to clause 2 would stifle economic growth?

**Mr Attwood:** No. I will come to that when we deal with the amendments relating to the concerns about economic development, but I do not accept that argument. I suppressed a planning policy statement 18 months ago. Why? In my view, it was a legal minefield and it gave too great a priority to economic issues. What is different about the clause as drafted, and what might be different if the clause were amended, is that it does not give any greater weight to economic considerations. It restates some material considerations in the planning system but does not elevate any of those considerations to a point where they are greater than others. All considerations, those in the Bill and others that might not be, and all the planning policy statements and all the policy and practice generally will inform the outcome of a planning application. I would not table clause 2 as currently drafted if I were not reassured in that regard. I will come back to that point shortly.

On amendment Nos 3, 4, 10, 11, 16 and 17, I will say that the environmental protection agenda is catered for through a wealth of European, national and local legislation, policy and practice. The Department is already bound by statute, such as the EU habitats directive, to protect the environment. In addition, the Department is bound by regulations such as the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 and the Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004. The 1991 order contains provision for the protection of listed buildings, conservation areas and trees that are subject to tree preservation orders.

Furthermore, the Department has well-established policies for environmental protection such as PPS 2, PPS 6, PPS 11 and PPS 15. Consequently, I argue that the Department is statutorily bound to protect the environment in the exercise of its functions, that it is fulfilling that role, and that this amendment is, therefore, not required. Members have heard what I have said. They have heard the advice that I have given to the Executive. If the will of the Assembly is different, that is for the Assembly to determine.

**Mr Wells:** Will the Minister give way?

**Mr Attwood:** I will give way.

**Mr Wells:** I am interested in what the Member is saying. Most of the directives that he has quoted are aimed at the protection of natural habitats — SPAs, SACs, ASSIs, etc. I had a problem in my constituency about five years ago with the mass demolition and replacement of old houses in places such as Newcastle. In one case, one house went down and an application came in for 35 apartments. That met massive opposition from the local community. The building was not listed, there was no TPO, and there certainly were no natural history issues such as any plants or animals of importance. Could it be argued under the new clause 2 that the construction of those apartments would have created 15 temporary jobs and one full-time job looking after the apartments? In that situation, how would the existing protections override the economic benefits?

**Mr Attwood:** It will come down to the words that are used, and the courts will adjudicate on that. If there are words that give elevated status to any material consideration, be it about the heritage, the environment, tourism or economic development — if there are words that, on the far side of this law or a single planning policy statement or within the current planning policy statement policy or practice, and that, after proper interrogation and assessment by the relevant authorities, including the Executive and the Assembly, give some enhanced and elevated status in the way that Mr Wells might be hinting at, you would be worried. However, that is not what is on the face of the Bill and is not a consequence of it. That is not happening in the planning system at present. I had concerns about PPS 24, and I suppressed it because, in my view, it carried the risk that issues of economic priority could have an enhanced status in a way that was damaging to the wider material considerations. I suppressed that approach, but I am satisfied with this approach. Anna Lo is not here at the moment, but I will come back to the reasons for that approach subsequently.

I am satisfied that clause 2 as it is, or even clause 2 as it might be amended, subject to the amendment that I will move at Further Consideration Stage next week, does no violence to the material considerations in the planning system. Yes, it certainly restates one in the Bill, but in restating those words in the Bill, it will, while putting them in law, not have any material impact on enhanced status for that matter when it comes to planning applications. It is curious that the advice given independently to the Environment Committee — I have not

seen that advice, but it is referred to in its report and was commented upon at some length by Mr Hamilton this morning — and the advice that I have received from lawyers all confirms the view that although there may be something written into law, if the words in the law do not give something greater status, enhanced status or greater priority, then, on the far side of a planning application, it cannot be treated in that differential way when it comes to economic development.

**Mr Flanagan:** I thank the Minister for giving way and for providing a wee bit of clarity. If this will not give any greater weighting to the economic materials, what is the purpose of the Bill and the two clauses?

**4.30 pm**

**Mr Attwood:** That is a fair question. It might even be a question that you might want to put to your colleagues in the Executive. It is a question that might be put to other members of the Executive. I did not go out of my way to seek in the Bill anything further than what was in the Act when it came to clause 2. However, others thought that it was important, and I understand why they thought it important to send out the message that the planning system in Northern Ireland is welcoming but will not compromise, as I see it, on all the material considerations that gather together in advance of a planning decision being made. I thought that it was interesting that Mr Hamilton outlined at some length and repeatedly that, whatever the words are in the Bill, they do not add in any way, shape or form to economic development having any enhanced status in the planning system. I took a note of his words, and they will be in the Hansard report. Mr Hamilton will confirm that he said that. I did not seek these words, but I did seek getting planning legislation onto the Floor of the Chamber because, in my view, you can never do enough to reform planning to make it more fit for purpose. In particular, the run down to RPA meant that we had a responsibility as legislators to try as best as possible to create a planning system that is as fit as possible for our colleagues and the management of councils and the officials in the planning system who will transfer across to councils. In my view, we had a responsibility to try to make that as good as it could be to ensure that they could make decisions as good as they could in the interests of the ratepayers, citizens and communities that they will represent on the far side of May or June 2015. In accepting that that was a requirement to release something from the Executive, I made sure that, as Mr Hamilton has confirmed and

my legal advice and my own judgement confirms, there is nothing in those words or in any of those words that does violence to the wider material considerations and to the proper process when it comes to clause 2 and its impact on planning decisions.

*(Mr Deputy Speaker [Mr Dallat] in the Chair)*

Mr Boylan asked an important question on clauses 2 and 6. He asked about clarifying what economic advantages and disadvantages might be taken account of, and Anna Lo also referred to this matter. How would the assessment be made? Would planning officials have the capacity to make these economic assessments? Would you not have to end up employing all these economic consultants to help the planning system make judgements? Given that economic development is already a material consideration and has been for as long as I know, it is already part of the narrative around planning decisions. Some may argue — I do not — that somehow or other these words in the Bill enhance that requirement. I do not agree, but, in any case, economic considerations have been part of the planning system forever and a day, I assume. That certainly goes back a long time, and rightly so because the planning system is, clearly, an economic driver. Economic drivers result in economic development and economic opportunity for our people. Therefore, around some of the suite of planning policy statements is the issue of economic opportunity.

**Ms Lo:** Will the Minister give way?

**Mr Attwood:** I will in a second.

This day last week or certainly within the past two weeks, I outlined to the Assembly the consequence of PPS 16 on tourist development. We said that when it came to tourist development outside settlements in the rural countryside, there will be three opportunities for self-catering accommodation in the countryside around existing amenities, existing hotels and a third example that has gone put of my head as I speak. The point is that PPS 16 shapes the rural and settlement tourism strategy in a way that, on the one hand, creates sustainable and high quality accommodation and which, on the other hand, enables economic development to happen. I will give way to the Member.

**Ms Lo:** I thank the Minister for giving way. Does the Minister agree that although economic development has always been considered as a material element, that was only in policy? You

are now putting economic development into the statute book, and it is on a legal footing.

**Mr Attwood:** I put this to the Member: do the amendments proposed by the Alliance Party and others — in fact, three parties — to advance environmental protection or the environment generally all of a sudden create some priority around the environment, compared with the other elements in clause 2? No, they do not. If those amendments are passed, or if the Bill as drafted is passed, it creates or expresses in law issues that are already, in practice, considered as material considerations. It does no more and no less than that. The advice given to your Committee and to me, and my own judgement, is that that is the situation. If there were words of greater extravagance — whether on well-being, sustainable development, economic development or the environment or environmental protection — or words that added something more, your fears would be justified, and the worst fears of many of those who wrote in might be justified. However, that is not what is in the Bill. People should draw their conclusions from what is in the Bill. To do that, they have to read what is in the Bill; and what is in the Bill, in respect of economic development, is what is in policy as well. It is no more and no less.

Let me go back to Mr Boylan's question about clarifying economic advantages and disadvantages in respect of the amendments to clauses 2 and 6. That work is still ongoing; I indicated that earlier. However, in order to be helpful, and as the SPPS guidance might be a toolkit for planners and planning authorities, including the councils in the future, I can tell you that assessment of economic advantages and disadvantages is likely to focus on three key areas. The first is a proportionate approach, depending on the scale, size and location of the proposal; secondly, the long-term sustainable economic advantages or disadvantages; and thirdly — this will be of interest to people who see in this some worst fear — economic advantages and disadvantages in the public, as opposed to the private, interest. So, when it comes to the strategic advice that might be given on the far side of this law being passed, if that is what happens, there will not just be an assessment of what is in the private interest; there will be an assessment of the economic development that is in the public interest.

The clause as was drafted was accepted in order to move the Bill into the Assembly and to get planning more fit for purpose generally in the rundown to RPA, and although some have read their worst fears into it and others have



genuine anxieties, I differentiate between the two. Those who create worst fears around any aspect of public policy in the North should be treated, in my view, with some caution. However, I am sure that many of the people who wrote in have expressed their genuine concerns. In all those ways, and I say this cautiously, there is a triple lock. The triple lock is this: the words in the law are no different from the material consideration words; the guidance will be in the image that I have outlined; and, in any case, if you begin to stray beyond that, there will be ways to hold you to account, including through the courts.

**Mr Wells:** Will the Minister give way?

**Mr Attwood:** Yes, Mr Wells.

**Mr Wells:** I have received probably more correspondence about this issue than anything else, apart from same-sex marriages. It is important that we deal with one of the reasons for opposition that was given to me. The Minister has now outlined the three factors that constitute economic public gain. Someone asked me whether that is not an economist's dream. Already out there, consultancies will be being established all over Northern Ireland, not only to represent applicants who have to meet that criteria and draw up a very comprehensive statement of the economic benefits of their proposed developments, but for opponents, who will also be forced to go out and hire economists to draw up arguments in opposition. I am not expressing a view either way, but it is important that we establish whether this will require applicants and opponents to engage the services of highly-paid, expensive consultants to argue both sides?

**Mr Attwood:** I thank the Member for his question. In one way, it brings me back to the contents page of the Planning Bill. The first thing is that, if you go to some of the planning seminars these days, Mr Deputy Speaker, with all due respect to them — I have a lot of respect for them — you will find firms, legal and otherwise, looking for new streams of work. If there is any place that they are looking for those new streams, it is around European obligations, the wild birds directive and the habitats directive, in particular. If there is to be a legal challenge or if developers or applicants are going to look for opportunities to impede work or maximise their opportunity out of this Bill, I am sure that there will be plenty of professionals who will be giving them advice so to do. Without anticipating the next stage of the Bill, that is why I told the First Minister (FM) and deputy First Minister (DFM) that their proposals

about economically significant zones run counter not just to the Northern Ireland Act but to the European Convention and European obligations. Why do I say that? Because, as we learnt around the A5, such obligations can be very challenging, without getting into the rights and wrongs of that particular judgement. The requirements around the habitats and wild birds directives can be very challenging, and you cannot short-circuit them. You cannot go round them. You cannot go through them. You have to honour and be seen to honour them, but the FM and DFM, or their parties, are proposing amendments that, in my view, try to short-circuit them.

When it comes to Mr Wells's point about whether there are people out there who will look at the Bill and think, "happy days", I think that there are people out there who are looking for opportunities to give best advice to their clients, be it companies or communities, about the demands and challenges of the planning process, not least because of the habitats and wild birds directives and other European obligations. As long as they are giving best advice, and as long as the community, the applicant and government comply with best process, I do not have any problem with it. I will come back to that point.

One of the frustrations about this debate, which has been highlighted by that question, is that, if the Planning Bill is passed, and this was one of the ambitions of bringing the Bill forward earlier than might have been the case, there is going to be, through clause 5, pre-application community consultation. Why? It is so that you create equality of arms as best you can between those who have a development proposal and those who might be affected by that proposal. It is so that you build into and embed within the planning process and outcomes the interests of the citizens and the communities. That is why clause 5 requires, when it comes to significant economic applications, a pre-application community consultation. Not only would they have to conduct that, but the developer or the agent acting on behalf of the developer would have to submit a report to the planning system, which I hope will be the Department of the Environment (DOE), not the FM and DFM. They would have to submit a planning application that reports on how that community consultation might happen.

On the one hand, there may be people out there who, for self-serving reasons — a number of developers in particular, in my view, have self-serving reasons around the planning system in the North as well as genuine reasons regarding their approach to the planning system

— will look for opportunities to maybe manage this Planning Bill, especially if it is amended as people are suggesting, for their own interests. But, as long as they comply with best advice and best law, and as long as there is more equality of arms between citizens, the community and those with development proposals, the fear that Mr Wells outlined can be mitigated. I will give way.

**Mr Wells:** The Minister has been his usual articulate self, I must say, and he has certainly been dealing with the points from his perspective very well. To some extent, he has helped explain things to Members. I have a final point. He says that those consultants are out there, and I accept that, but does the very fact that he has now outlined the three criteria which must be assessed for public benefit not compel developers to put that in as part of the planning application? That is something which, perhaps, they may not have had to do before. Is that not going to be costly?

**4.45 pm**

**Mr Attwood:** I try to be a Minister who accounts and tries to disclose. That is why I indicated the likely content of the single planning policy statement, after the process is exhausted and after the Executive have or have not agreed to it, when it comes to issues around clauses 2 and 6 and the economic advantages and disadvantages. I gave you an insight into what the thinking might be. It might be that that will be adjusted because of the process of consultation, never mind when the Executive, or more particularly, some Ministers in the Executive, get their hands on it, and Mr Wells might have some sympathy with that view.

I tried to be helpful, but I would not draw conclusions today on the basis of what I said about what might happen in 18 months. We will see what the process leads to; we will see what the single strategic planning policy statement ends up with, and we will see what the words in the guidance might be in respect of all those issues in these clauses, including the one around economic development.

I would not rush in and draw conclusions, but I give the reassurance that, in drafting the single strategic planning policy statement, it will not be a developers' charter nor a developers' free for all: it will be the balanced outcome that I think has been demonstrated over the past couple of years. It was not easy to tell Moy Park the outcome of the Rose Energy proposal, because it is one of our biggest employers in the North. Agrifood is one of our greatest opportunities in

the North, and there is opportunity to grow it disproportionately over the next number of years. That is why, before Mr Wells came in, I was talking about the conversation that I had with Mr O'Neill from Moy Park. However, in those circumstances, the environmental imperative had to prevail, just as, in exceptional circumstances, I had to recognise the economic opportunity in respect of the Runkerry hotel and golf club proposal.

**Mr Wells:** I thank the Member for giving way. I have to ask this question, because it has been put to me scores of times. To be fair to the Minister, he has taken points that have been raised by the public and answered them very well, so I have no complaints. Scores of people have talked to me about fracking, and there are very diverse views on fracking: some think that it is the ultimate panacea to our energy problems and others, mostly in Fermanagh and south Tyrone, are bitterly opposed to it.

We know enough about fracking to know that an economic assessment of fracking would show that the economic benefits to Northern Ireland would be profound. Only a fool would not realise that a cheap source of energy available in Northern Ireland that does not have to be imported and is readily accessible would bring profound economic benefits to Northern Ireland. The other side of the argument is that it would have profound environmental consequences. Given the model that the Minister has outlined, I would have thought that the economists would win hands down. The economics are so pronounced in favour of the Northern Ireland economy that the economists would win the argument hands down. Does that not put those who are opposed — the local communities — in a very difficult position?

**Mr Attwood:** I heard that argument being made in respect of the Moy Park proposal for a chicken litter facility on the banks of Lough Neagh. I have to be careful because the applicant has lodged a notice of appeal and the papers are being prepared. However, I have heard the argument that, given the scale of the chicken litter issue in the North, given the risk of infraction from Europe, and given that it was only around that time that the competition for alternative mechanisms to deal with chicken waste were commenced by Invest Northern Ireland (INI) and the Department of Enterprise, Trade and Investment (DETI), the economic imperative has to prevail. People were saying that this is one of our biggest employers with the opportunity for big growth and, in a situation where people are looking for food security, how can you say no? In my judgement, the call should have been made earlier than I made it,

and even I should have made the call earlier than I made it. However, in my view, the environmental and heritage imperative prevailed.

I had a look at the site privately, because I try to do that with article 31s. Irrespective and independent of the issues around roads, transport, the residential amenity and going into and out of small villages, it was literally on top of a lough.

On the far side of the Planning Bill, based on the factors that I took into consideration at that time, if any Minister were to look at it in the same way as I do, they would make the same decision in respect of that sort of application because the law and the words in the law are not materially changed. If they were materially changed, there would be enhanced consideration of economic development, but they are not. Consequently, if I had to make a decision on the far side of the Bill, as clause 2 is drafted, I would have no basis in law, policy or practice to give any enhanced standing to the issue of economic development when it came to that proposal. That is where I draw the reassurance. I would not have allowed — I need to be careful — I would have resisted that clause at the Executive if I had thought that the decision in respect of a Moy Park/Rose Energy application would, as a consequence of that clause, have led me or a future Minister to make a different judgement. I will give way to the Member.

**Mrs D Kelly:** I thank the Minister for giving way. I fully accept that he is dealing with his response to Mr Wells in relation to clause 2, but the argument that Mr Wells made in relation to clause 20, which is in the next set of amendments, would not have much hold: Fermanagh could be declared an economically significant zone and fracking could be allowed.

**Mr Deputy Speaker:** Order, please. Perhaps this is a convenient time to remind Members to avoid going into the next set of amendments.

**Mr Attwood:** I will not get into the next set of amendments, but, in response to Mr Wells's comment about fracking, my view is that there should be an enhanced precautionary approach. It is only on the far side of all the science that a considered judgement can be made in respect of fracking. All the science that is emerging from America, from the island of Ireland because of the exercise being conducted by the Northern Ireland Government and the Republic Government, as well as the research and science in Britain and the working

group on unconventional fossil fuels as part of the European Union, will create a narrative around the science and research in respect of fracking.

In my conversations with the American EPA over the past two St Patrick's Days, my sense is that they are more cautious about fracking in America because they have less information than they might otherwise want around what is being carried out in respect of fracking, not least in the relevant shale fields in Pennsylvania. There should be an enhanced precautionary approach. For the reasons that I outlined in respect of the Rose Energy application, the law in respect of the Bill does not give any enhanced economic reason to say yes or no to any energy application than might otherwise be the case. That is and remains my view.

I want to address a point that was made by the Chair of the Environment Committee, who is not present at the moment. He said that our planning system is not working as it should, and he referred to applications by farmers where there are grant requirements. All I can say to the Member, in his absence, is that the Agriculture Minister wrote to me some months ago and asked me about a timeline issue in respect of about 22 applications where farmers had the opportunity to draw down a grant as part of the diversification or development of their farming interest. We interrogated all those applications. Most were at a very advanced stage, if not already approved, and those that had not been approved were managed in such a way as to make sure that grant requirements were fulfilled. There were one or two cases where there were more fundamental issues around the application for planning permission in terms of agricultural development, but in 90% to 97% of cases the planning system had already been advancing those applications in a timely fashion because they recognised that there was an opportunity for development on one hand and there were timeline restrictions on the other. I will provide that information in the Assembly Library if people are minded to read it. Those cases that needed to be encouraged along, were encouraged along. Again, that is an example of the planning system demonstrating itself to be more fit for purpose.

**Mr Deputy Speaker:** Minister, just for the record, did you mean the Chairperson of the Agriculture Committee rather than the Environment Committee?

**Mr Attwood:** I did, sorry. I apologise to Mr Hamilton.

The next amendments that I want to touch on are Nos 5, 12 and 18 in respect of sustainable development. In amendment No 5, my sympathy is with Mr Agnew, who said that he was cautious about putting into law a definition of "sustainable development". I say to the proposers of that amendment that that is wise advice.

If you were to look at what is viewed as the best authority when it comes to the concept and definition of "sustainable development", you would look to a UN report of 1987, known as the Brundtland Commission. I think she was a former Norwegian Environment Minister, and as I understand it, subject to correction, she was tasked by the UN to chair a group that produced 'Report of the World Commission on Environment and Development: Our Common Future'. It sounds quite dated now because much of its language and concepts is now part of the growing daily narrative, here and in other jurisdictions.

That report tried to capture what sustainable development might be. But, sustainable development today is conceptually different from what it was when Brundtland reported to the UN, because whilst that commission saw sustainable development around the concepts of environment, economy and social impact, it is now increasingly recognised that sustainable development broadens into issues of resources and the management of resources. Therefore, the point that Mr Agnew may have been getting at is that sustainable development is a changing concept. What it was in 1987 is different from what it is now.

Consequently, whilst it is right to have the words in the Bill, which is why in one of the better times in the Assembly the Chair of the Committee was able to win the argument — or at least to win the vote — when it came to "sustainable development" being in the Marine Bill, the words "sustainable development" are right to be in the Bill subject to amendment at Further Consideration Stage. However, to go beyond the words in the Bill is to limit the capacity of our planning system and government to shape sustainable development going forward.

I very much accept the principle and agree with the words, but urge that we do not go beyond the words for the purposes of the Bill. Leave it to the single strategic planning policy statement to define that, and to define it in the shape of things to come, because our understanding of these issues will have to be upgraded over the next short space of time.

I had a conversation with somebody this morning, I cannot remember who, about the fact that unless Northern Ireland appreciates and grasps the niche marketing opportunities as well as the sustainable opportunities for being a low-carbon economy, we will suffer the consequences of that in the years to come. The issue of sustainable development is part of the wider argument about low carbon and low carbon footprint and being a world leader in carbon reduction and low emissions. It was understandable why Mr Agnew differentiated this particular amendment from his sympathy with many others. I urge the Chamber to adopt that approach in respect of that amendment.

### 5.00 pm

Amendment No 6 deals with the issue of shared use. I want to read into the record something on where the Department is in respect of shared use. I had a conversation with Anna Lo earlier today. I think that this amendment is, in many ways, a stand-alone amendment from the other amendments on the Marshalled List today. Why do I say that? I had the same conversation with Mr Weir, and I think that that is probably why Mr Weir said what he said in his contribution. In many ways, the planning system shapes a range of material considerations. So, regardless of whether it is economic development, sustainability or issues around the environment or tourism, the planning system has, within itself, a body of policy and practice, values and principles, if you like, as well as the law, to guide itself and others through the planning process leading to planning decisions. However, when you step back from it, it says very little, and is close to silent around the concepts, values and principles that we need to address and embed within the life of our society generally.

I, therefore, said to the Chair of the Committee, in her personal capacity as an MLA for South Belfast, that, regardless of whether the Chamber was minded to support amendment No 6 tonight, it might be useful to have a further conversation between now and the Further Consideration Stage to see whether the words are right or if there should be better words to give expression to the concept and value that Anna Lo rightly articulates in respect of her approach to shared space and public realm.

I differentiate amendment No 6 from others, because, unlike one or two others, it is, in my view, not fundamentally flawed; there is silence within the planning system around this concept and value; and it is something, which, at a political level, the Assembly needs to shape

more and more, and if an opportunity to shape it more and more arises through the Planning Bill, maybe the right thing to do is to adopt the amendment or to look to an adjusted amendment at Further Consideration Stage that lives up to the intention of what is on the Marshalled List. Consequently, regardless of whether the amendment is moved or voted on — and I have to be careful, because I do not want to lose the opportunity — I would like to see something in the Bill, one way or the other, and see if we can work the amendment or adjust it in order to see something when it comes to the Further Consideration Stage, without prejudice to what the Committee might do today.

May I briefly —

**Ms Lo:** Will the Minister give way?

**Mr Attwood:** Yes.

**Ms Lo:** Minister, can you elaborate? Give me some views on how it can be improved?

**Mr Attwood:** The words might be the right words. I am taking legal advice to see whether they give proper expression to the agreed sentiment or intention behind the Member's amendment. I will get the lawyers to look at it; I have not got advice, as I speak. That is why the Chamber might be minded to accept the amendment and see if there can be further adjustment, if necessary, between now and Further Consideration Stage, or, if it is not moved, try to get the right words for Further Consideration Stage, so that there could be an agreed position that would capture this.

Whatever my misgivings about the limitations of what FM and DFM produced recently in respect of our divided community, I do not think there is any difference in the Chamber around finding more and more ways in law, policy and practice of giving shape and definition to the sentiment that the Member has outlined with regard to public realm and shared space. I do not think anybody is going to differ with that ambition. When I wrote to Executive colleagues about this amendment this morning, I said that I would like to think that, at Further Consideration Stage, we would find further words on the face of the Bill, if further words were required. I gave that political and ministerial commitment. It may be that the Chamber will say that the words, which I know to have been interrogated in the Building, are sufficient. I am just saying that I cannot stand over the words as they are until I have got legal and policy advice. It may be that the words are fine. It may be that they

require adjustment at Further Consideration Stage.

Very briefly, beyond that, the Department is looking, as part of community planning and the training programme in the run down to the transfer of planning functions, at what we will do to embed in the life of councils understanding and ambition with regard to the shared future generally and shared spaces in particular. We cannot have a situation in which we devolve planning functions, including the statutory function of community planning, and not, as part of the story, look at ways in which councils might be able to work through the issue of shared space in the run down to the review of public administration (RPA) and thereafter. We will look at that.

I also acknowledge that, as part of that amendment, there is a proposal in respect of good design. The Department, working with Queen's University in particular, has been working through issues of good design. Recently, I circulated to relevant Ministers a new design guide, 'Living Spaces: Urban Stewardship and Design Manual for Northern Ireland', which is meant to ensure that, when it comes to urban centres and inner-city neighbourhoods, the opportunity for shared space or "neutral urban space", to put it in a different way, is part of how we try to design urban areas going forward. I hope that that will be published in the near future.

I want to spend a little time — I will not delay much longer — on the proposal on world heritage sites in amendment 27. Before I make any particular comment on the current situation, I want to make it very clear that our existing planning system provides a high level of protection for the world heritage site through regional policy PPS 6 and the emerging draft northern area development plan, which contains restrictive policies with regard to proposed development in and around the site. A similar policy response — I want to stress this because the comments that have been made by UNESCO have, in part, been made from a highly uninformed place — as opposed to a legislative one is adopted in Scotland, England and Wales for the protection of other world heritage sites. That approach is in accordance with article 5 of the world heritage convention, which requires member states:

*"To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory"*

and to:

*"endeavor, in so far as possible, and as appropriate for each country:*

*1. to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes".*

What we are doing is what England, Scotland and Wales have been doing. I rebut any argument that what we have been doing has, somehow, been running a coach and horses through protections and policies that we have in place when it comes to the Giant's Causeway. To emphasise that point; the relevant policies that are contained, both in PPS 6 and the draft northern area plan, are very clear. PPS 6 policy BH 5 states that:

*"The Department will operate a presumption in favour of the preservation of World Heritage Sites. Development which would adversely affect such sites or the integrity of their settings will not be permitted unless there are exceptional circumstances."*

One cannot be any clearer than that: it will not be permitted unless there are exceptional circumstances. Again, I rebut those who claim that the Runkerry decision somehow opens the door for development in that area. I will come back to that point in a second.

Secondly, policy COU 10 of the draft northern area plan on the Giant's Causeway world heritage site states unmistakably that:

*"No development will be approved within the World Heritage Site unless there are very exceptional circumstances directly related to the provision of essential facilities for visitors and which would not be detrimental to the landscape or scientific interest of the Site."*

Relate that across and apply those standards to the Runkerry decision. In my view, those who step back from that issue and look at it fully and properly will see the application of proper policy on one hand and a proper outcome on the other.

Thirdly, DNAP policy COU 12, which deals with the distinctive landscape setting of the Giant's Causeway heritage site, states:

*"No development within the Distinctive Landscape Setting outside of settlement development limits will be approved except"*

in a small and defined number of instances. Again, that is the standard against which the Runkerry application has been and should be judged. Finally, DNAP policy COU 14, which deals with the supportive landscape setting of the Giant's Causeway world heritage site, states:

*"Development proposals outside of settlement development limits that comprise modest scale, non-residential tourist facilities that are essential for serving the requirements of visitors to the World Heritage Site only, will exceptionally be permitted in the Supportive Landscape Setting to the World Heritage Site."*

When you take all that together, you see that those are some of the most, if not the most, restrictive planning policies in the Northern Ireland system and possibly the British system as well. However, even the strictest planning policies can be outweighed by other considerations in exceptional circumstances, and that is what happened with the Runkerry decision.

A comment in this afternoon's debate gave rise to my concerns. Anna Lo said that, should the amendment on the world heritage site not be agreed, we would not get any more world heritage sites designated — I will come back to that in a second — and we might be putting the world heritage site designation for the Giant's Causeway in jeopardy. When the Member was questioned about that, she said that that advice had been given to her by the National Trust, arising from the meeting of the UNESCO world heritage committee at Phnom Penh in Cambodia over the past two weeks, which is what, I presume, she was referring to. The message that the National Trust conveyed through a Member to the House this afternoon was that, should the amendment not be passed, we will not get any further world heritage site designations and the existing one might be in jeopardy.

I would like to ask those who gave that advice to reconcile it, if they can, with the comments, many of which I do not agree with, of an individual called Mr Tim Badman. Mr Tim Badman is a senior official in an organisation called the International Union for Conservation of Nature (IUCN). The IUCN gives advice to the UNESCO world heritage committee on world heritage sites. This is what Mr Badman, whom I will come back to shortly, said in an interview with Seamus McKee of the BBC last week. Mr McKee asked:

*"How close does it [the Giant's Causeway] come to being put on the danger list by UNESCO?"*

Mr Badman, who is the senior adviser to the UNESCO world heritage committee and was, I believe, speaking from Phnom Penh, where, I presume, he was for the purposes of the world heritage committee meeting, said:

*"That is not a discussion that we have had."*

Mr McKee further interrogated Mr Badman:

*"If nothing is done following this UNESCO report, does it put at risk the world heritage status of the Giant's Causeway site?"*

Mr Badman replied:

*"I think that it is not the discussion we are having at this stage."*

Those were Mr Badman's words live on radio within the past 10 days. I presume that he was speaking from Phnom Penh further to whatever decision UNESCO made following the advice it had been given on world heritage sites. So, in respect of the danger list, he said:

*"That is not a discussion that we have had"*

and

*"it is not the discussion we are having at this stage."*

Yet, somebody advised a Member of the House, apparently this morning, that, should the amendment on the world heritage site not be passed, no more properties in Northern Ireland would get a world heritage site designation and, indeed, that the existing world heritage site might be in jeopardy. I would like an explanation of that. If Mr Badman, who, I would suggest, is far closer to UNESCO than some other people, said that on the record, how is it that some other people advised the House, through the Member for South Belfast, as she outlined this afternoon. We deserve some answers.

**5.15 pm**

Further than that, as I come to the end of my contribution, I want to make two things clear in respect of whether or not UNESCO was informed about what was happening in respect of the planning application for the Runkerry golf and hotel resort. In 2010, as often happens in respect of world heritage sites, UNESCO asked

for a state of conservation report. That state of conservation report was provided to UNESCO. In August 2010, the Government of Northern Ireland, through the UK Government, our intermediary for the purposes of managing the relationship with UNESCO, asked UNESCO whether it had any issues in respect of the state of conservation report. UNESCO said that, if it had any serious concerns, it would get in contact: radio silence. In April 2011, the National Trust contacted UNESCO in relation to issues around the planning application at the world heritage site: radio silence until January 2012, in the eye of the decision being made in respect of the Runkerry planning application. So, here we have an organisation that has great authority and deserves and has earned a lot of respect. Yet, when it is asked by this Government whether it has concerns about the planning application at Runkerry or the state of conservation report, which includes reference to the planning application at Runkerry, there is radio silence. Even when the National Trust contacted UNESCO, there was radio silence for over seven or eight months. Yet we are now being asked, given the scale of protections that already exist for the world heritage site at the Giant's Causeway — I read only some of them into the record this afternoon — to put into domestic law further protections in the terms of the amendment. In my view, the policies and protections to date are substantial. In my view, UNESCO has questions to answer in respect of how it did or did not respond around the planning application and state of conservation report. In my view, to do anything further whilst we work through all that is not the right approach. As a consequence, I urge people to resist the amendments and ask people outside the Chamber to answer some of the questions that I have put on the public record.

In any case —

**Ms Lo:** Will the Minister give way?

**Mr Attwood:** I will, in a second.

In any case, last June, I asked UNESCO to send a person to visit the world heritage site: it did so in February. Since February, on three occasions my permanent secretary has asked that the adviser to UNESCO provide a copy of the report submitted by that individual arising from his visit in February. On every occasion, we have been stonewalled. So, on the one hand, we are being asked to put into domestic law further requirements in respect of the world heritage site, but, on the other hand, the advisers to UNESCO stonewalled me, the Government in Northern Ireland and the Government of the United Kingdom in London

in respect of information that I and this Assembly are entitled to see. Why should that be so?

**Ms Lo:** I thank the Minister for giving way. The Minister said that we have a raft of policies to protect the world heritage site, and yet a decision has been made that is now causing some concerns for UNESCO. Surely UNESCO has come back and expressed a lot of concern on this. Is that not an indication that we should have stronger protection such as it is recommended we put in domestic law?

**Mr Attwood:** What I find curious is that there is already a hotel on the grounds of the world heritage site, yet a proposal for a hotel development outside the world heritage site on adjoining lands and much further away from the stones is somehow to be resisted. I find it curious that there is development within the world heritage site, and rightly so: the visitors' centre. Yet, development outside the world heritage site much further away from the stones is to be resisted. If there are questions to be asked, there are questions to be asked of everybody about why a hotel development closer to the stones is acceptable but one outside the world heritage site is not. Why is it that a development proposal for a visitors' centre, which I support, is acceptable, yet a development proposal outside the site is not acceptable? There is a tension in that regard, and, if UNESCO, through its advisers, is not prepared to share with me after repeated requests information that it should have shared with me arising from the visit of its specialist in February 2013, I will have questions to ask about what is or is not happening. I want to work with all those who want to protect the scale, wonder and beauty of our heritage in Northern Ireland, but if I am prepared to work with them, they must show better form when it comes to working with me.

**Ms Lo:** I thank the Minister for giving way. As I understand it, the hotel has always been there. It was built there before the designation of the world heritage site, so it has been standing there all along. It is also a listed building. The visitors' centre was built on a brownfield site and there had always been a visitors' centre there. In fact, DETI went out and had a competition and accepted a plan to build a visitors' centre. That fell through, and the National Trust took over to build the centre. That is my understanding.

**Mr Attwood:** However, the outcome is the same. There is a hotel on the world heritage site, and there is significant development on the

world heritage site. I do not have any issue with either. Some people have an issue with the other development on the world heritage site, namely the big car park with the big car parking costs: I do not have any big issue with any of that. What I have an issue with is why, where there is an exceptional circumstance, where there is an opportunity to create infrastructure in arguably our biggest heritage assets, namely the north coast and where there is an opportunity to create tourist jobs, tourist spend and tourist opportunity, development within the site is allowed yet development outside the site with a hotel very close to Bushmills is being resisted.

If I am to be held accountable through the courts and through here for the decisions that I and the Department make — I have no difficulty about that — then UNESCO and its advisers should also be held to account, so that, just as people are satisfied that I am doing things right or not so right, everybody can be satisfied about whether UNESCO and its advisers or those who advise UNESCO are doing everything right and are seen to be doing everything right. That is a fair way to proceed. As regards this amendment, my view is that the protections that we have at the moment in policy and practice are exhaustive and extensive. On those grounds, I recommend to people, as I did to the Executive this morning, that we resist the amendment when it comes to world heritage sites.

Finally, I will deal with amendment No 33, which deals with the commencement clause. The amendment proposes that clauses 2 and 6 are commenced within four months of Royal Assent. As people know, I have tabled amendment No 31, which seeks to commence clauses 2 and 6 on Royal Assent. I agreed to table the amendment on behalf of the Environment Committee, the majority of whom are keen to see clauses 2 and 6 in place as soon as possible. In those circumstances, I do not see any reason to delay their commencement, and, given that the planning system becomes more and more fit for purpose, the work that has to be done before Royal Assent will, I think, be done. I therefore urge Members not to accept amendment No 33 and to support amendment No 31 commencing clauses 2 and 6 on Royal Assent.

**Mr Agnew:** I will try not to delay the House for too long. The Minister has fairly comprehensively commented on each of the clauses. I do not wish to go on for too long.

One thing has emerged from the debate. There have been concerns from some in the House



about clauses 2 and 6 promoting economic development over and above other aspects of planning considerations. Those who have sought to defend clauses 2 and 6 effectively said, "They do not do anything, so do not worry". That brings us back to the question of why they are there. Mr Hamilton reiterated — I want to get his words right — that they are there to highlight, underscore and emphasise the role of economic considerations in planning law. Essentially — it has been alluded to — we are seeking investment in Northern Ireland. We want to send a signal to investors that this is a place open for business. What concerns me is that, as was highlighted by Mr Flanagan and others, 6,700-odd of our constituents have said to us that environmental protection is important to them, yet some in the House would send no signal or comfort to them. They say, "Environmental protection is a consideration, just like economic development is a consideration already in planning, but we want to send a signal on economic development. As far as you are concerned, your calls for environmental protection will be unheard and unheeded. We do not want to send a signal to you, because you do not come with bags of cash". That is a summation of some of today's debate. Indeed, the Minister pointed to the example of the Lough Neagh incinerator. He said that he would not have taken a different decision had the Bill been passed. Such controversy, such time in the House, such debate and all the trouble of amendments for something that effectively will do nothing: I find that odd. I stand by my assertion that clause 6 will do harm. We will see how that plays out should it be passed unamended.

Ms Lo made the point that she felt that the Minister should not have moved this stage. The Minister responded that he believed that it was to the good repute of the Assembly to progress the Bill. However, I think that Ms Lo's point was that consideration needs to be given to some of the new amendments. That ties in with something that the Minister said about process and consultation on a certain amendment. We have to look at how we better consult. There is a problem. The deadline for amendments, through no fault of any of us in the Chamber, was Thursday. We are debating the Bill today, so that does not give a lot of time for consultation. As a Member who is not on the Environment Committee but has a lot of interest in what comes out of the Planning Bill, I have little opportunity to influence the Bill other than through tabling amendments at Consideration Stage and Further Consideration Stage. It is right that Members take that opportunity to table amendments, that we debate them on their merits and that we do not dismiss them due to

the imperfect process that we have in front of us.

I will briefly go through the amendments. Amendment Nos 1, 8 and 14 are tabled in my name on behalf of the Green Party on the issue of social well-being. I welcome the support that was expressed by the Alliance Party and Mr Flanagan, who said that his party would support the amendments. I come back to some of the Minister's comments on the amendment. He talked about seeking to narrow the definition of well-being to social well-being and to further narrow social well-being to public health. He said, "subject to Hansard", and I suppose that I will make the same caveat. My argument is that social well-being should include public health but not be narrowed to a definition of public health. However, I would equally argue that public health has a wide definition. It is not simply about health or illness in the medical sense but wider public health, wider well-being and wider mental health. The advice that I have been given is that public health is a very broad concept that would not hamstring councils when they receive planning powers but provide a broad concept. I sought to ensure that well-being was not interpreted simply as another economic measure — financial well-being — and that, equally, well-being was not applied to individual well-being but to public well-being and general well-being. We live in a materialistic society, and well-being is too often narrowly defined by the pounds in our pocket. There is a wider public social well-being, and that is what I sought to reflect in the amendment. That is certainly its intention and, I would hope, its outworking, should it be passed.

### 5.30 pm

Two similar amendments were tabled by the Green Party and the Ulster Unionist Party concerning the promotion of environmental protection and the protection of the environment. To some extent, I will speak on them together. When speaking on those amendments, Mr Hamilton suggested that sustainable development was already too strong a consideration in planning and expressed concern at putting in a further environmental protection. I do not know if Mr Hamilton is saying that he is in favour of unsustainable development and we should have a bit more unsustainable development because we have too much focus on sustainable development. Was he perhaps repeating a common misconception about sustainable development that it is somehow more about environmental protection than promoting economic development and seeking

a balance between economic development, social well-being and environmental protection?

At times, it may appear that environmental policies have somehow been given a greater weight, but that is simply because they were given no weight for so long. It is like anything new. We notice environmental protection because, with sustainable development coming into planning policy, environmental protections were introduced where there were few or little before. Before the concept of sustainable development was taken on board, we effectively had an unfettered planning system. This is very much my interpretation, but I do not feel that environmental protection or sustainable development have been given too much weight. I find it hard to understand why anyone would argue for unsustainable development. I do not see what good that would do. It concerns me that we may be getting back to economic short-termism in our decisions: we have events and we are in economically difficult times, so anything economic must be good, even if, when we look at it on the whole, it can be more damaging than good, particularly in the medium- to long-term.

I commend the "promoting environmental protection" amendment to the House and, as the Green Party amendment comes first, I urge the Ulster Unionist Party to show the same generosity of spirit. I have said that I will support its amendment No 4, should amendment No 3 fail, and its amendment to clause 6, which I think will improve the Bill. I ask the Ulster Unionist Party to support amendment No 3. That will show solidarity between two parties that are seeking to advance a similar cause.

The thing that I am unclear about from those who oppose, and I am looking at my notes in case I have missed something, is that I have not heard from a single Member — with the exception perhaps of Mr Hamilton — about how inserting environmental protection or its promotion into the clause would do harm in the system. I do not believe that I heard it from the Minister. He certainly alluded to the fact that we have much environmental protection under EU laws. However, it is important, as I said at the start of our debate on the Bill, that we send a signal that Northern Ireland values environmental protection, not because the EU says that we must, but because Northern Ireland values environmental protection. We have the opportunity to send that signal by supporting amendment No 3 and subsequent amendments or by supporting amendment No 4, should amendment No 3 fail. We have to be

clear that the Assembly supports environmental protection, rather than saying that this Assembly will accept that it is required of us under EU law.

Amendment Nos 2, 9 and 15, spoken to by Ms Lo and tabled by the Alliance Party, aim to leave out the promotion of economic development. I have some sympathy with that because it seeks to achieve what the Green Party sought to achieve with promoting environmental protection amendments, which is to ensure that there is balance and that economic development is not given undue weight. I absolutely accept, as I am sure that Ms Lo would, that promotion of economic development is, rightly, a material consideration in our planning system. As pointed out by the Minister and by others who oppose it being withdrawn and those who promote the inclusion of economic development, it is in planning legislation already. It is part of sustainable development, so the only rationale that I can find for its specific inclusion is that we want to send a signal. Well, let us send the signal, actually, that we are still committed to sustainable development, whether by leaving "economic" out and "sustainable development" to stand by itself, or by including "environmental protection", so that we explicitly have sustainable development spelt out in the Bill.

Peter Weir described the Alliance amendment as a wrecking amendment. He, again, referred to our current economic situation, job creation and youth unemployment. I certainly do not see it as a wrecking amendment, particularly if we accept that it adds no new material consideration by taking it away or leaving it in. If we accept the argument that the promotion of economic development does nothing to any planning decision, I do not see how you can wreck something that does nothing.

Amendment Nos 5, 12 and 18 were, again, spoken to by Ms Lo and tabled by the Alliance Party. They seek to define sustainable development, and we have had some discussion on that, so I will not rehash what has been said. In my opening remarks, I raised my concerns about defining sustainable development and doing so in this way, and we have heard from others. I think that it was Phil Flanagan who raised concerns to that effect that the Department had voiced to the Committee. Indeed, the Minister said that he concurs with some of the concerns raised. The amendments are well intentioned. The Green Party looked at and considered tabling such an amendment, but we could not find a definition that we were content would protect sustainable development in a way that truly reflects the

broad understanding of what "sustainable development" means. For that reason, I still have concerns with amendment No 5 and do not intend to support it.

Amendment Nos 21 and 23 from the UUP aim to insert "environmental" into "considerations" of "economic advantages or disadvantages" in clause 6. I think, again, it is seeking to do what many of us have sought throughout the Bill and what all those who lobbied us through email have sought. It is about ensuring that balance remains. For that reason, as I said, I still cannot get beyond the fact that clause 6 will do damage.

It was a long time ago now, but I have to come back to Mr Hamilton's assertion that my judgement should perhaps not be trusted because I said both that this was the worst thing that could happen to planning and that the G8 was the worst thing that could happen to Northern Ireland at this time. I am not sure that the final judgement has come back on the G8 because, with a bill of £60,000, and we still have not been told how much we are footing —

**Some Members:** Sixty thousand?

**Mr McCallister:** Sixty million.

**Mr Agnew:** Sixty million pounds, sorry. I thank Members for the correction. We are yet to find out what percentage of the bill for the G8 that Northern Ireland will foot, but, at Gleneagles, the Scottish Government footed two thirds of the security bill. If we were to foot that we would be looking at a bill of something like £40 million, and I definitely think there would be a debate about whether we got £40 million worth of value out of the G8. I will also add very briefly, without going too far off the Planning Bill, that it is thanks to those protesters who went out and protested peacefully and to the unions for marshalling that parade that the rally against the G8 went off so peacefully and successfully and was an advert for peaceful protest more than anything else.

Anna Lo raised the point that 88% of respondents to the Environment Committee sought to withdraw the proposed amendment to clause 6. Much has been made about sending out a signal and sending a message. I think we have to send out a signal that we are listening, and that when a Committee consults, it does so in a genuine way and listens to the concerns raised. Mr Hamilton and Mr Weir both alluded to the fact that, in planning, there is already conflict between developer and developer, neighbour and neighbour and resident and

developer. I think that clause 6, in putting in legislation that planning must consider economic advantage and disadvantage, can only widen the scope for legal disagreement. I think that is the concern. It is not that there will be those for and against — of course that will always be the case — but that we will give a wider scope for legal challenge and reduce the efficiency of our planning system when we are seeking to increase its efficiency.

Amendment Nos 7 and 22, tabled by the Minister, have been broadly welcomed across the House. Mr Elliott mentioned that he proposed them at Committee Stage, and Peter Weir welcomed the fact that the Minister had followed the Committee's recommendation. It appears, from my reading of the House, that those amendments should go through without controversy.

There is some debate over amendment Nos 31 and 33 in the timing of the enactment of clauses 2 and 6. Mr McCallister laid out that his amendment was an answer to the concerns, which Ms Lo highlighted, that between the enactment of the Bill and the production of the single planning policy we could have a gap, and that a four-month delay would give the Minister adequate time to bring forward the single planning policy statement and give more time for consideration of that. There was some debate about whether the four-month delay was the right way, or whether that was the Minister's amendment to leave the enactment with the Department. Mr Hamilton, speaking as Deputy Chair of the Committee, indicated that the Committee's position was closer to the position of the Minister.

#### 5.45 pm

Amendment No 27, tabled by Ms Lo, deals with legal protection for world heritage sites. It caused some considerable debate and there was much argument that it was driven by the decision on Runkerry. There is no doubt that that decision has, perhaps, highlighted, for those who feel there is a need for it, the need for this legislation.

The argument was made that putting protection for world heritage sites into legislation could influence whether future designations are made. The Minister made a challenge for evidence of that and, I would argue, rightly so; but Ms Lo was highlighting the significance of the site. Again, this is where there has been, perhaps, some inconsistency in the arguments. We are being told that protections already exist for the site, so we do not need this amendment. However, I come back to the argument that the

promotion of economic development is a material consideration in planning. Either we need to put material considerations into law or we do not; but if we do, let us be consistent about it.

On that basis, I follow the argument that I made in respect of clause 2, which is that if we are going to put material considerations into law, let us do so consistently and across the board. Let us give legal protection to the world heritage site in domestic planning law and make it clear that we value the site and will give it maximum protection.

The point was made about the hotel that is currently on the site. Ms Lo rightly pointed out that it was built before the designation. The other thing to note is that it was built by a private developer, although it is now managed by the National Trust. There was a private development on the site before it became a world heritage site, so to say that there was a development on the world heritage site is factually inaccurate. There is a development on a site that is now designated as a world heritage site. It was not designated as such at that time and, therefore, the protections were not in place. Therefore, it is arguable whether that hotel would ever have been built if we had this law. Had the site been granted world heritage status at that time, I am not sure that the same planning decision would have been made. The National Trust took on that building — as a listed building — in order to preserve something that already existed. It is important that we put the Bushmills Hotel into its proper context and do not mislead people.

**Mr Wells:** Will the Member give way? As someone who was a manager up there, I know that the Member is not referring to the Bushmills Hotel but to the Causeway Hotel. The Bushmills Hotel is down in the village.

**Mr Agnew:** I thank the Member for the correction; it is, of course, the Causeway Hotel. It has been a long day and it is going to get much longer.

I want to put that on record because there is confusion around that issue, some of which is genuine and some of which has been deliberately created in order to damage the reputation and the authority of the National Trust.

I have left amendment Nos 6 and 19, the Alliance Party amendments on supporting shared use, to the end of my winding-up speech because, as the Minister said, they are, to some extent, standalone amendments that

introduce a new element into the Planning Bill. There seems to be broad support for these amendments, and the Green Party supports their principles, which I welcome. A number of Members sought clarity on their outworkings. We have heard from the Minister that we have got the principle right; there seems to be agreement on the principle. There is some question about whether the wording is right, and I will leave it to the proposers of those amendments to decide how to take that forward. They might invite amendments at Further Consideration Stage or hold back the amendments and work on a cross-party basis to improve them for the next stage.

It is a fundamental principle that we include shared use in the Planning Bill to signal an intent, as Ms Lo said, to put the OFMDFM policy of building better communities into practice. It is easy to talk about these things, but it is much harder to do them. Putting that in legislation would only be a start. There would then be a challenge for the planning process, in whatever form it takes at the end of this Bill's passage, and once powers are transferred to councils, to implement that. As part of a wider raft of Executive proposals, it would help us to move towards a genuinely shared future, in which we share our built and natural heritage.

There has been much debate on this group of amendments about the balance between economic and environmental factors and social well-being. The debate has been balanced and largely courteous. I anticipate that the tone and the balance of the debate on the next group of amendments might be different.

I thank the House for its consideration of my party's amendments and the other amendments and I look forward to the outcomes of the votes.

*Question put, That amendment No 1 be made.*

*The Assembly divided:*

*Ayes 33; Noes 58.*

## **AYES**

*Mr Agnew, Mr Boylan, Ms Boyle, Mr Brady, Mrs Cochrane, Mr Dickson, Ms Fearon, Mr Flanagan, Mr Ford, Mr Hazzard, Mr G Kelly, Ms Lo, Mr Lunn, Mr Lynch, Mr Lyttle, Mr McAleer, Mr F McCann, Mr McCarthy, Mr McCartney, Ms McCorley, Mr McElduff, Ms McGahan, Mr M McGuinness, Mr McKay, Ms Maeve McLaughlin, Mr McMullan, Mr Maskey, Mr Milne, Mr Ó hOisín, Mr O'Dowd, Ms S Ramsey, Ms Ruane, Mr Sheehan.*

*Tellers for the Ayes: Mr Agnew and Mr Boylan*

## **NOES**

*Mr Allister, Mr Anderson, Mr Attwood, Ms P Bradley, Ms Brown, Mr Buchanan, Mr Byrne, Mr Clarke, Mr Copeland, Mr Craig, Mr Cree, Mrs Dobson, Mr Douglas, Mr Dunne, Mr Durkan, Mr Easton, Mr Eastwood, Mr Elliott, Mrs Foster, Mr Frew, Mr Girvan, Mr Givan, Mrs Hale, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Hussey, Mr Irwin, Mrs D Kelly, Mr Kinahan, Mr McCallister, Mr McCausland, Mr B McCrea, Mr I McCrea, Mr McDevitt, Mr McGimpsey, Mr McGlone, Mr D McIlveen, Miss M McIlveen, Mrs McKevitt, Mr McQuillan, Mr A Maginness, Lord Morrow, Mr Moutray, Mr Nesbitt, Mr Newton, Mrs Overend, Mr Poots, Mr P Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Swann, Mr Weir, Mr Wells, Mr Wilson.*

*Tellers for the Noes: Mr Eastwood and Mrs McKevitt*

*Question accordingly negated.*

*Amendment No 2 not moved.*

**Mr Deputy Speaker:** Amendment No 3 is mutually exclusive with amendment No 4.  
*Amendment No 3 proposed: In page 1, line 16, at end insert "(d) promoting environmental protection".— [Mr Agnew.]*

**Mr Deputy Speaker:** I have been advised by the party Whips that, in accordance with Standing Order 27(1)(a) and 27(1)(b), there is agreement that we can dispense with the three minutes and move straight to the Division.

*Question put, That amendment No 3 be made.*

*The Assembly divided:*

*Ayes 33; Noes 57.*

## **AYES**

*Mr Agnew, Mr Boylan, Ms Boyle, Mr Brady, Mrs Cochrane, Mr Dickson, Ms Fearon, Mr Flanagan, Mr Ford, Mr Hazzard, Mr G Kelly, Ms Lo, Mr Lunn, Mr Lynch, Mr Lyttle, Mr McAleer, Mr F McCann, Mr McCarthy, Mr McCartney, Ms McCorley, Mr McElduff, Ms McGahan, Mr M McGuinness, Mr McKay, Ms Maeve McLaughlin, Mr McMullan, Mr Maskey, Mr Milne, Mr Ó hOisín, Mr O'Dowd, Ms S Ramsey, Ms Ruane, Mr Sheehan.*

*Tellers for the Ayes: Mr Agnew and Ms Lo*

## **NOES**

*Mr Allister, Mr Anderson, Mr Attwood, Ms P Bradley, Ms Brown, Mr Buchanan, Mr Byrne, Mr Clarke, Mr Copeland, Mr Craig, Mr Cree, Mrs Dobson, Mr Douglas, Mr Dunne, Mr Durkan, Mr Easton, Mr Eastwood, Mr Elliott, Mrs Foster, Mr Frew, Mr Girvan, Mr Givan, Mrs Hale, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Hussey, Mr Irwin, Mrs D Kelly, Mr Kinahan, Mr McCallister, Mr McCausland, Mr B McCrea, Mr I McCrea, Mr McDevitt, Mr McGimpsey, Mr McGlone, Mr D McIlveen, Miss M McIlveen, Mrs McKevitt, Mr McQuillan, Mr A Maginness, Lord Morrow, Mr Moutray, Mr Nesbitt, Mr Newton, Mrs Overend, Mr Poots, Mr P Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Swann, Mr Weir, Mr Wilson.*

*Tellers for the Noes: Mr Eastwood and Mrs McKevitt*

*Question accordingly negated.*

*Amendment No 4 proposed: In page 1, line 16, at end insert "(d) protecting the environment".— [Mr Elliott.]*

*Question put, That amendment No 4 be made.*

*The Assembly divided:*

*Ayes 31; Noes 61.*

## **AYES**

*Mr Agnew, Mr Allister, Mr Byrne, Mrs Cochrane, Mr Copeland, Mr Cree, Mr Dickson, Mrs Dobson, Mr Durkan, Mr Eastwood, Mr Elliott, Dr Farry, Mr Ford, Mr Hussey, Mrs D Kelly, Mr Kinahan, Ms Lo, Mr Lunn, Mr Lyttle, Mr McCallister, Mr McCarthy, Mr B McCrea, Mr McDevitt, Mr McGimpsey, Mr McGlone, Mrs McKevitt, Mr A Maginness, Mr Nesbitt, Mrs Overend, Mr P Ramsey, Mr Swann.*

*Tellers for the Ayes: Mr Elliott and Mr Swann*

## **NOES**

*Mr Anderson, Mr Attwood, Mr Boylan, Ms Boyle, Ms P Bradley, Mr Brady, Ms Brown, Mr Buchanan, Mr Clarke, Mr Craig, Mr Douglas, Mr Dunne, Mr Easton, Ms Fearon, Mr Flanagan, Mrs Foster, Mr Frew, Mr Girvan, Mr Givan, Mrs Hale, Mr Hamilton, Mr Hazzard, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr G Kelly, Mr Lynch, Mr McAleer, Mr F McCann, Mr McCartney, Mr McCausland, Ms McCorley, Mr I McCrea, Mr McElduff, Ms McGahan, Mr M McGuinness, Mr*

*D McIlveen, Miss M McIlveen, Mr McKay, Ms Maeve McLaughlin, Mr McMullan, Mr McQuillan, Mr Maskey, Mr Milne, Lord Morrow, Mr Moutray, Mr Newton, Mr Ó hOisín, Mr O'Dowd, Mr Poots, Ms S Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Sheehan, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr Wilson.*

*Tellers for the Noes: Mr Boylan and Mr Clarke*

*Question accordingly negated.*

*Amendment No 5 not moved.*

*Amendment No 6 not moved.*

*Amendment No 7 proposed: In page 2, line 5, at end insert*

*"(3) The Department must, not later than 3 years after the coming into operation of section 2(1) of the Planning Act (Northern Ireland) 2013, review and publish a report on the implementation of this Article.*

*(4) The Department must make regulations setting out the terms of the review.".— [Mr Attwood (The Minister of the Environment).]*

*Question, That amendment No 7 be made, put and agreed to.*

*Amendment No 8 not moved.*

*Amendment No 9 not moved.*

*Amendment No 10 not moved.*

*Amendment No 11 not moved.*

*Amendment No 12 not moved.*

*Amendment No 13 not moved.*

*Amendment No 14 not moved.*

*Amendment No 15 not moved.*

**Mr Deputy Speaker:** Amendment No 16 is mutually exclusive with amendment No 17.

*Amendment No 16 not moved.*

*Amendment No 17 not moved.*

*Amendment No 18 not moved.*

*Amendment No 19 not moved.*

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

*Clause 3 ordered to stand part of the Bill.*

### **New Clause**

**Mr Deputy Speaker:** We now come to the second group of amendments for debate. There is only one amendment in this group, amendment No 20, which makes provision for economically significant planning zone schemes.

**Mr Boylan:** I beg to move amendment No 20: After clause 3 insert

### **"Economically significant planning zone schemes**

*3A.—(1) In paragraph (2) of Article 2 of the 1991 Order (interpretation) after the definition of "development order" insert the following definitions—*

*"economically significant planning zone" and*

*"economically significant planning zone scheme" shall be construed in accordance with Article 13A;"*

*(2) In paragraph (2) of Article 9 of the 1991 Order (development plans) after sub-paragraph (d) insert—*

*"(dd) an economically significant planning zone scheme;"*

*(3) After Article 13 of the 1991 Order insert—*

*"Economically significant planning zone schemes*

### **Economically significant planning zones**

*13A.—(1) An economically significant planning zone is an area in respect of which an economically significant planning zone scheme is in force.*

*(2) The adoption of an economically significant planning zone scheme has effect to grant in relation to the zone, or any part of it specified in the scheme, planning permission for development specified in the scheme or for development of any class so specified.*

(3) *Planning permission under an economically significant planning zone scheme may be unconditional or subject to such conditions, limitations or exceptions as may be specified in the scheme.*

(4) *An economically significant planning zone scheme shall consist of a map and a written statement, and such diagrams, illustrations and descriptive matter as OFMDFM thinks appropriate for explaining or illustrating the provisions of the scheme, and must specify—*

*(a) the development or classes of development permitted by the scheme;*

*(b) the land in relation to which permission is granted; and*

*(c) any conditions, limitations or exceptions subject to which it is granted;*

*and shall contain such other matters as may be prescribed by regulations made by OFMDFM.*

(5) *OFMDFM may at any time make an economically significant planning zone scheme in respect of any area or alter a scheme adopted by it in respect of any area.*

(6) *Articles 5, 6, 7 and 8(1) shall, subject to paragraphs (7) and (8) and with any other necessary modifications, apply to the making or alteration of an economically significant planning zone scheme by OFMDFM as they apply to the making or alteration of a development plan by the Department.*

(7) *Without prejudice to the generality of paragraph (6), "prescribed" in Articles 5 and 6, in relation to the making or alteration of an economically significant planning zone scheme by OFMDFM, means prescribed by regulations made by OFMDFM.*

(8) *Paragraph (1) of Article 8 shall apply to the making or alteration of an economically significant planning zone scheme by OFMDFM as if, for the words from "the Department" to the end of that paragraph, there were substituted "OFMDFM may adopt the scheme or the alteration of the scheme—*

*(a) by order made with the consent of the Department of the Environment; or*

*(b) by order, a draft of which has been laid before, and approved by resolution of, the Assembly."*

(9) *OFMDFM must not make an economically significant planning zone scheme in respect of any area in relation to which a simplified planning zone scheme is in force.*

(10) *Without prejudice to paragraph (6), OFMDFM may make regulations with respect to—*

*(a) the form and content of economically significant planning zone schemes; and*

*(b) the procedure to be followed in connection with the making or alteration of such schemes.*

(11) *In this Article, and in Articles 13B to 13F, "OFMDFM" means the Office of the First Minister and deputy First Minister.*

### ***Economically significant planning zone schemes: conditions and limitations on planning permission***

13B.—(1) *The conditions and limitations on planning permission which may be specified in an economically significant planning zone scheme may include—*

*(a) conditions or limitations in respect of all development permitted by the scheme or in respect of particular descriptions of development so permitted; and*

*(b) conditions or limitations requiring the consent, agreement or approval of OFMDFM in relation to particular descriptions of permitted development;*

*and different conditions or limitations may be specified for different cases or classes of case.*

(2) *Nothing in an economically significant planning zone scheme shall affect the right of any person—*

*(a) to do anything not amounting to development; or*

*(b) to carry out development for which planning permission is not required or for which permission has been granted otherwise than by the scheme;*

*and no limitation or restriction subject to which permission has been granted otherwise than under the scheme shall affect the right of any person to carry out development for which permission has been granted under the scheme.*

**Duration of economically significant planning zone scheme**

13C.—(1) *An economically significant planning zone scheme shall take effect on the date of its adoption and shall cease to have effect at the end of the period of 10 years beginning with that date.*

(2) *Upon the scheme's ceasing to have effect planning permission under the scheme shall also cease to have effect except in a case where the development authorised by it has been begun.*

(3) *The provisions of Article 37(2) to (6) apply to planning permission under an economically significant planning zone scheme where development has been begun but not completed by the time the area ceases to be an economically significant planning zone.*

(4) *The provisions of Article 36(1) apply in determining for the purposes of this Article when development shall be taken to be begun.*

**Alteration of economically significant planning zone scheme**

13D.—(1) *The adoption of alterations to an economically significant planning zone scheme has effect as follows.*

(2) *The adoption of alterations providing for the inclusion of land in the economically significant planning zone has effect to grant in relation to that land or such part of it as is specified in the scheme planning permission for development so specified or of any class so specified.*

(3) *The adoption of alterations providing for the grant of planning permission has effect to grant such permission in relation to the economically significant planning zone, or such part of it as is specified in the scheme, for development so specified or development of any class so specified.*

(4) *The adoption of alterations providing for the withdrawal or relaxation of conditions, limitations or restrictions to which planning permission under the scheme is subject has effect to withdraw or relax the conditions, limitations or restrictions forthwith.*

(5) *The adoption of alterations providing for—*

*(a) the exclusion of land from the economically significant planning zone;*

*(b) the withdrawal of planning permission; or*

*(c) the imposition of new or more stringent conditions, limitations or restrictions to which planning permission under the scheme is subject,*

*has effect to withdraw permission, or to impose the conditions, limitations or restrictions, with effect from the end of the period of 12 months beginning with the date of the adoption.*

(6) *The adoption of alterations to a scheme does not affect planning permission under the scheme in any case where the development authorised by it has been begun before the adoption of alterations has effect, and the provisions of Article 36(1) apply in determining for the purposes of this paragraph when development shall be taken to be begun.*

**Provision of assistance by Department to OFMDFM**

13E. *The Department must provide such administrative and other assistance for OFMDFM as may be necessary to enable OFMDFM to carry out its functions under Articles 13A to 13D.*

**Modifications of references to planning permission granted by the Department, etc.**

13F. *In this Order, or in any provision made under this Order—*

*(a) any reference to planning permission granted by the Department, except where prescribed by regulations made by OFMDFM, includes a reference to planning permission granted under an economically significant planning zone scheme;*

*(b) any reference to a condition, limitation or exception subject to which planning permission is granted, except where prescribed by regulations made by OFMDFM, includes a reference to a condition, limitation or exception subject to which planning permission is granted under an economically significant planning zone scheme."*

(4) *In Article 34 of the 1991 Order (duration of planning permission), in paragraph (3), after sub-paragraph (d) insert—*

*"(dd) to any planning permission granted by an economically significant planning zone scheme;"*



(5) In Article 121 of the 1991 Order (rights of entry), in paragraph (1)(a), after head (i) insert—

"(ia) the making or altering of a economically significant planning zone scheme relating to the land;".

(6) In Article 124 of the 1991 Order (planning register), in paragraph (1), after sub-paragraph (g) insert—

"(gg) economically significant planning zones;".

(7) In section 19 of the 2011 Act (exclusion of certain representations), in subsection (1), after paragraph (e) insert—

"(ee) an economically significant planning zone scheme;".

(8) After section 38 of the 2011 Act insert—

"Economically significant planning zone schemes

#### **Economically significant planning zones**

38A.—(1) An economically significant planning zone is an area in respect of which an economically significant planning zone scheme is in force.

(2) The adoption of an economically significant planning zone scheme has effect to grant in relation to the zone, or any part of it specified in the scheme, planning permission for development specified in the scheme or for development of any class so specified.

(3) Planning permission under an economically significant planning zone scheme may be unconditional or subject to such conditions, limitations or exceptions as may be specified in the scheme.

(4) An economically significant planning zone scheme shall consist of a map and a written statement, and such diagrams, illustrations and descriptive matter as OFMDFM thinks appropriate for explaining or illustrating the provisions of the scheme, and must specify—

(a) the development or classes of development permitted by the scheme;

(b) the land in relation to which permission is granted; and

(c) any conditions, limitations or exceptions subject to which it is granted;

and must contain such other matters as may be prescribed by regulations made by OFMDFM.

#### **Making and alteration of economically significant planning zone schemes**

38B.—(1) Subject to the following provisions of this section, OFMDFM may at any time make an economically significant planning zone scheme in respect of any area or alter a scheme adopted by it in respect of any area.

(2) OFMDFM must not make an economically significant planning zone scheme in respect of any area in relation to which a simplified planning zone scheme is in force.

(3) Schedule 1A has effect with respect to the making and alteration of economically significant planning zone schemes and other related matters.

#### **Economically significant planning zone schemes: conditions and limitations on planning permission**

38C.—(1) The conditions and limitations on planning permission which may be specified in an economically significant planning zone scheme may include—

(a) conditions or limitations in respect of all development permitted by the scheme or in respect of particular descriptions of development so permitted; and

(b) conditions or limitations requiring the consent, agreement or approval of OFMDFM in relation to particular descriptions of permitted development;

and different conditions or limitations may be specified for different cases or classes of case.

(2) Nothing in an economically significant planning zone scheme shall affect the right of any person—

(a) to do anything not amounting to development; or

(b) to carry out development for which planning permission is not required or for which permission has been granted otherwise than by the scheme;

and no limitation or restriction subject to which permission has been granted otherwise than under the scheme shall affect the right of any person to carry out development for which permission has been granted under the scheme.

#### **Duration of economically significant planning zone scheme**

38D.—(1) An economically significant planning zone scheme shall take effect on the date of its adoption and shall cease to have effect at the end of the period of 10 years beginning with that date.

(2) Upon the scheme's ceasing to have effect, planning permission under the scheme shall also cease to have effect except in a case where the development authorised by it has been begun.

(3) The provisions of section 64(2) to (6) and sections 65 and 66 apply to planning permission under an economically significant planning zone scheme where development has been begun but not completed by the time the area ceases to be an economically significant planning zone.

(4) The provisions of section 63(2) apply in determining for the purposes of this section when development shall be taken to be begun.

#### **Alteration of economically significant planning zone scheme**

38E.—(1) The adoption of alterations to an economically significant planning zone scheme has effect as follows.

(2) The adoption of alterations providing for the inclusion of land in the economically significant planning zone has effect to grant in relation to that land or such part of it as is specified in the scheme planning permission for development so specified or of any class so specified.

(3) The adoption of alterations providing for the grant of planning permission has effect to grant such permission in relation to the economically significant planning zone, or such part of it as is specified in the scheme, for development so specified or development of any class so specified.

(4) The adoption of alterations providing for the withdrawal or relaxation of conditions, limitations or restrictions to which planning permission under the scheme is subject has

effect to withdraw or relax the conditions, limitations or restrictions forthwith.

(5) The adoption of alterations providing for—

(a) the exclusion of land from an economically significant planning zone;

(b) the withdrawal of planning permission; or

(c) the imposition of new or more stringent conditions, limitations or restrictions to which planning permission under the scheme is subject.

has effect to withdraw permission, or to impose the conditions, limitations or restrictions, with effect from the end of the period of 12 months beginning with the date of the adoption.

(6) The adoption of alterations to a scheme does not affect planning permission under the scheme in any case where the development authorised by it has been begun before the adoption of alterations has effect; and the provisions of section 63(2) apply in determining for the purposes of this subsection when development shall be taken to be begun.

#### **Provision of assistance by Department to OFMDFM**

38F. The Department must provide such administrative and other assistance for OFMDFM as may be necessary to enable OFMDFM to carry out its functions under sections 38A to 38E.

#### **Modifications of references to planning permission, etc., granted by the Department or councils**

38G. In this Act, or in any provision made under this Act—

(a) any reference to planning permission granted by the Department or a council except where prescribed by regulations made by OFMDFM, includes a reference to planning permission granted under an economically significant planning zone scheme;

(b) any reference to a condition, limitation or exception subject to which planning permission is granted, except where prescribed by regulations made by OFMDFM, includes a reference to a condition, limitation or exception subject to which planning permission is granted under an economically significant planning zone scheme.

(9) In section 61 of the 2011 Act (duration of planning permission), in subsection (3) after paragraph (e) insert—

"(ee) to any planning permission granted by an economically significant planning zone scheme;"

(10) In section 236 of the 2011 Act (rights of entry), in subsection (1)(a), after head (ii) insert—

"(iia) the making or altering of an economically significant planning zone scheme relating to the land;"

(11) In section 242 of the 2011 Act (planning register), in subsection (1), after paragraph (i) insert—

"(ij) economically significant planning zones;"

(12) In section 250 of the 2011 Act (interpretation), in subsection (1), after the definition of "development order" insert the following definitions—

"economically significant planning zone" and

"economically significant planning zone scheme" shall be construed in accordance with Section 38A;"

(13) After Schedule 1 to the 2011 Act insert—

"SCHEDULE 1A

#### ECONOMICALLY SIGNIFICANT PLANNING ZONES

1.—(1) Where OFMDFM proposes to make or alter an economically significant planning zone scheme it must, before determining the content of its proposals, comply with this paragraph.

(2) OFMDFM must consult the council for the area or any part of the area to which the proposed economically significant planning zone scheme relates.

(3) OFMDFM must take such steps as it thinks fit to publicise—

(a) the fact that OFMDFM proposes to make or alter an economically significant planning zone scheme, and

(b) the matters which it is considering including in the proposals.

(4) OFMDFM must consider any representations that are made within the prescribed period.

2. Where OFMDFM has prepared a proposed economically significant planning zone scheme, or proposed alterations to an economically significant planning zone scheme, it must—

(a) make copies of the proposed scheme or alterations available for inspection at such places as may be prescribed,

(b) take such steps as may be prescribed for the purpose of advertising the fact that the proposed scheme or alterations are so available and the places at which, and times during which, they may be inspected,

(c) take such steps as may be prescribed for inviting objections to be made within such period as may be prescribed, and

(d) send a copy of the proposed scheme or alterations to such persons as may be prescribed.

3.—(1) Where objections to the proposed scheme or alterations are made, OFMDFM may—

(a) for the purpose of considering the objections, cause an independent examination to be carried out by—

(i) the planning appeals commission; or

(ii) a person appointed by OFMDFM: or

(b) require the objections to be considered by a person appointed by OFMDFM.

(2) Regulations made by OFMDFM may make provision with respect to the appointment, and qualifications for appointment, of persons for the purposes of this paragraph.

(3) Any person who makes objections to a proposed economically significant planning zone scheme or proposed alterations to an economically significant planning zone scheme must, if that person so requests, be given the opportunity to appear before and be heard by—

(a) the planning appeals commission; or

(b) the person appointed by OFMDFM under sub-paragraph (1)(a)(ii).

4.—(1) After the expiry of the period for making objections or, if objections have been made in accordance with the regulations, after considering those objections and the views of the planning appeals commission or any other person holding an independent examination or considering those objections under paragraph 3, OFMDFM may, subject to the following provisions of this paragraph, adopt the proposed scheme or the proposed alteration—

(a) by order made with the consent of the Department of the Environment; or

(b) by order, a draft of which has been laid before, and approved by resolution of, the Assembly.

(2) OFMDFM may adopt the proposals as originally prepared or as modified so as to take account of—

(a) any such objections as are mentioned in sub-paragraph (1) or any other objections to the proposals, or

(b) any other considerations which appear to OFMDFM to be material.

5.—(1) Without prejudice to the previous provisions of this Schedule, OFMDFM may make regulations with respect—

(a) to the form and content of economically significant planning zone schemes, and

(b) to the procedure to be followed in connection with their preparation, adoption or alteration.

(2) Any such regulations may in particular—

(a) provide for the notice to be given of, or the publicity to be given to—

(i) matters included or proposed to be included in an economically significant planning zone scheme, and

(ii) the adoption of such a scheme, or of any alteration of it, or any other prescribed procedural step,

and for publicity to be given to the procedure to be followed in these respects;

(b) make provision with respect to the making and consideration of representations as to

matters to be included in, or objections to, any such scheme or proposals for its alteration;

(c) make provision with respect to the circumstances in which representations with respect to the matters to be included in such a scheme or proposals for its alteration are to be treated, for the purposes of this Schedule, as being objections made in accordance with regulations;

(d) without prejudice to head (a), provide for notice to be given to particular persons of the adoption of an economically significant planning zone scheme, or an alteration to such a scheme, if they have objected to the proposals and have notified OFMDFM of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge;

(e) provide for the publication and inspection of an economically significant planning zone scheme which has been adopted, or any document adopted altering such a scheme, and for copies of any such scheme or document to be made available on sale.

(3) In this Schedule, "prescribed" means prescribed by regulations made by OFMDFM."

**Mr Boylan:** Go raibh maith agat, a LeasCheann Comhairle. I welcome the opportunity to speak on the second group of amendments and to clarify why we want to —

**Mr Deputy Speaker:** Order. I ask Members to leave quietly please. Continue.

**Mr Boylan:** Thank you, Mr Deputy Speaker. I will clarify why I want to move amendment No 20. You can see that the amendment is eight pages long, so I do not propose to go into every single detail of it. I will try to condense the amendment down to exactly what it tries to do.

This point was brought up earlier, but this is not paving the way for fracking. The amendment will create opportunities for economically significant planning applications. In that, we are trying to create certain zones for economically beneficial planning applications. It is probably the same principle as simplified planning zones. I will outline the reasons behind it. This amendment is not about OFMDFM taking over this role, and article 13A(8) talks about working in conjunction with the Minister of the Environment. Over the past number of months, we have debated economics in the Chamber, and we have talked about growing the

economy. That is one of the main principles for and priorities of the Executive. It is about creating —

**Mr Allister:** Will the Member give way?

**Mr Boylan:** Yes.

**Mr Allister:** The Member pretends to the House that this clause anticipates working with the Department of the Environment, and he referred to article 13A(8). Is it not quite clear that paragraph 8 includes a very strong alternative that, if the Department of the Environment does not co-operate, "by order" a draft can be laid and approved by resolution of the Assembly, which is another way of saying that the ruling DUP/Sinn Féin cabal can override the Department and force its will? Is it not rather disingenuous to pretend that this is anything but a takeover? If it is about co-operation, would that be the same sort of co-operation that the Minister for Employment and Learning had in the announcement of the schemes by the First Minister in which there was no consultation whatsoever and that affected his Department ?

**Mr Boylan:** I thank the Member for his intervention. Clearly it states that at article 13A(8)(b). The Minister is here, and he will get the opportunity to say whether he wants to work with the Office of the First and deputy First Minister.

I will go back to the point that I was trying to make about why we tabled the amendment. We need to look at creating opportunities and jobs in our constituencies throughout the North to try to keep our young people here. Our young people are leaving, but if there were jobs here, they would not leave. Therefore, we want to promote and create opportunities to try to develop employment in some sectors so that we can keep our young people here.

I want to make a point that is similar to part of the argument that I made earlier on clauses 2 and 6. I said to the Minister about area plans. The area plans as they sit are not fit for purpose, but the Minister highlighted one thing, and I thank him for that. He did a bit of homework for me on Almac and what he said about a pharmaceutical company earlier. Minister, I do not believe that that is how we should go about our planning. I know that you created an opportunity to do that in that one instance, which is fine, but surely we should look at certain zones for growing the economy. In the absence of proper plans and draft plans, there is an opportunity to bring forward those

types of zones so that we can create employment and grow the economy.

You mentioned pharmaceuticals. Will the Minister outline where we have an area for clean technologies to encourage clean industry throughout the North, or wherever, in any of the area plans that exist now? There are complaints and slights being made in the media about OFMDFM visits across the world to try to promote the North and attract investment. That is what we as an Assembly are trying to do. Every Minister gets up and fights his own corner for moneys and to develop and promote his Department, and here is an opportunity to go across the world to try to invite and attract investment, and the message clearly coming out is that this is not a place to do business.

The Minister is on the Executive, so he will be more aware of those arguments than I am. That is why we want to try to bring this forward. It is about tackling deprivation, it is about tackling disadvantage, it is about creating jobs and it is about attracting investment. The Minister's Department has all the knowledge and all the facts and figures. It has done all that for area plans, and it knows what areas could be zoned. It is about moving the process along. I have to say that the Minister has done some good work on some of the planning applications in recent times, and I want to put that on record, but I will use this as an example, and the Minister will be able to respond —

**Mr B McCrea:** Will the Member give way?

**Mr Boylan:** Yes.

**Mr B McCrea:** It is very nice of you to say what a wonderful job the Minister has been doing. It is very generous indeed, but the effect of the amendment that you are proposing seems to make his position rather redundant. You may well say that it is a good idea that we are trying to develop jobs and all those initiatives, but presumably the next Department that you will be looking to bring similar powers to will be the Department of Enterprise, Trade and Investment. We do not really need it either, because we can do it all from OFMDFM. The objective may be laudable, but, under the Belfast Agreement, we set up a mandatory coalition in which people were given executive powers in a different way, and this particular amendment appears to cut right across that. Any party signing up to that really needs to consider its position in the Executive.

**6.45 pm**

**Mr Boylan:** I thank the Member for the intervention, but I refer him back to new clause 13A(8)(b). I am glad that you mentioned DETI because the issue of significant applications goes right across Departments, and they all have a role to play. I said at the start, however, that it is in conjunction with the Minister of the Environment. The Minister can get involved in the process, and he will speak for himself in relation to this matter.

In praising the Minister for some things that have happened, I want to use one example. Dmac Engineering, a company in County Tyrone that the Minister is well aware of, has an opportunity to create 80 jobs and retain 150 jobs. I will stand corrected on the numbers, but it is certainly to create 80 jobs. An application process has been going on certainly for at least the past two and a half years and originally for maybe six years. It is sitting there and no decision has been made. I visited the company the other day, and it has an opportunity over the next short while to attract £10 million worth of investment. We are still in a situation where those decisions are not being made. The Minister can respond to that.

**Mr Wells:** That is an issue of great concern. However, my understanding is that Arlene Foster when Minister of the Environment announced a process whereby any application of that nature, which clearly has a significant economic benefit, could be referred to the strategic planning division, in Millennium House, Belfast. Provided that all the i's were dotted and t's crossed, they promised that they would turn applications around within six months. I have had several such applications in south Down. For instance, Down High School, the new school in Downpatrick, was turned around in even less time than that. So, I am intrigued why that application, which is clearly important to the people of County Tyrone, was not referred to that division and turned around far more quickly.

**Mr Boylan:** I thank the Member for his intervention. Obviously, the Minister will have to answer that for you. I went to visit the place, and it is an application on what I would class as a brownfield site. I do not know why it has not been approved. The Minister may argue that it is an old sand quarry. I think that it would be good use of an old place and should be considered a brownfield site. Yet here we are sitting two years and four months or two years and six months after the application was made.

So, we are still dealing with that sort of issue in the Planning Service, and obviously the Minister will respond in relation to that. I cannot

understand it. Why would you turn that application down? Why has that process not moved forward? The Member mentioned moving it to the strategic planning division. Only the Minister can answer in relation to that.

*(Mr Speaker in the Chair)*

**Mrs D Kelly:** I am grateful to the Member for giving way. He spoke about how OFMDFM will make decisions, and probably quicker than any other Minister or Department. Yet we are into the third year of the social investment fund and the money has not been spent. That fund was set up to tackle deprivation and to support our young people, yet Mr Boylan would try to promote OFMDFM. Mind you, some staff in OFMDFM now refer to working in North Korea. Is that the sort of Government that Mr Boylan wishes to promote for the people of the North?

**Mr Boylan:** I thank the Member for her intervention. We will go back to discussing the Planning Bill. If any other Department wants to bring any other legislation, you can debate it another day, but we will talk about this issue.

As I said, it is about creating jobs and attracting investment. Minister, the amendment gives you an opportunity to work with OFMDFM to zone certain areas and encourage and attract investment.

The Minister can clarify the point in terms of area plans, draft area plans and what is available. I go back to the point that I made at the start: our young people are leaving. We are educating people, and they are going out of the country to America and Australia. We are not doing enough, and we need to look at some process.

This is only a process, by the way, for the Minister to get involved in to try to bring forward zones to attract investment of economic significance and to try to promote jobs.

I will leave it at that. Go raibh míle maith agat.

**Ms Lo (The Chairperson of the Committee for the Environment):** I rise on behalf of the Committee for the Environment.

**Some Members:** Hurrah.

**Ms Lo:** However, I can offer no comment from the Committee on the substance of amendment No 20 because we have not had the opportunity to come to a position on it.

**Some Members:** Shame.

**Ms Lo:** The first that we knew of the amendment was at the end of last week. Therefore, not only does the Committee not have a position on it, we do not even know the Department's position on it. It is disappointing, particularly given the significance of the amendment, that the Assembly has to consider it today without the benefit of its having been scrutinised by the Committee.

If I may, Mr Speaker, I will now speak on amendment No 20 in a personal capacity. To say that I was shocked when I saw the amendment would be an understatement. To submit such a substantial amendment, with such far-reaching consequences, right at the deadline for submission is, in my opinion, unacceptable, even though, procedurally, as Peter may jump up and tell me, Members have the right to do so.

**Mr Wells:** On a point of order, Mr Speaker.

**Ms Lo:** I am sorry: as Mr Weir would tell me. Peter and I are on first-name terms all of the time.

At Committee, I worked closely with my colleagues, including Mr Weir and Mr Boylan. They were aware of the likely amendments that I would seek. To not extend similar courtesy to Committee colleagues shows that this is Sinn Féin and the DUP riding roughshod over the Assembly and, indeed, the environment sector, which has not been consulted on this at all and is deeply unhappy with it.

**Mr Weir:** I thank the Member for giving way. She talks about giving prior notice. However, there was no notification to the Committee of the amendments on the world heritage site and shared space. As I have indicated previously, I have absolutely no problem with that; it is the role of MLAs to put forward amendments in connection with those matters. As I indicated, although I can see where those Members are coming from, there was no prior notification of their amendments. I perfectly accept the Member's right to put forward whatever amendments she wants. However, with respect to her, she should not then be critical of others putting forward amendments when she has been guilty of exactly the same offence.

**Ms Lo:** I thank the Member for his comment, but if he had read all the written submissions, he would have seen the suggestions from the CRC and the National Trust.

**Mrs D Kelly:** Will the Member give way?

**Ms Lo:** Yes.

**Mrs D Kelly:** I am sure that the Member will agree that there is quite a fundamental change and difference between this amendment and the amendments to clauses 2 and 6, which other Members tabled last week, and which Sinn Féin opposed at Committee and of which it now supports some, but not all, this afternoon. We are a bit confused about Sinn Féin. I note that Mr Boylan has only one representative with him. Perhaps, Sinn Féin will not support OFMDFM's clauses. I live in hope that they might catch themselves on, rather than be led by the nose through the lobbies with the DUP on the matter. The clauses that are now being debated in the second group of amendments are fundamentally different. They deal with the creation of a third planning authority. Clauses 2 and 6 pale into insignificance.

**Ms Lo:** Absolutely. I could not agree more with the Member.

**Mr B McCrea:** Well said.

**Ms Lo:** Absolutely: yes.

Those Members know that they have the numbers behind them, thanks to Whips, to pass the amendment irrespective of the consequences or strength of feeling against it. We have seen a huge campaign being mounted against clauses 2 and 6. My office received massive amounts of correspondence on that. I am sure that others did, too. I cannot imagine the amount that we would have received had the amendment been on the table from the outset. I am sure that it is obvious from my comments that the Alliance Party will oppose this DUP/Sinn Féin power grab — it is a power grab. If we allow OFMDFM to have power over planning decisions, where will it stop?

**Mr McCarthy:** I am grateful to the Member for giving way. Given the track record of OFMDFM on many other things, does the Member agree that if this were to go ahead, the Planning Service would be plunged into further despair, with more waiting, etc, and that it would be of no benefit to people who want to make progress?

**Ms Lo:** Absolutely. It would be counterproductive to aim of the Bill, which is for people to benefit from a more streamlined and speedier planning system. The next time we have a Bill from DRD, will OFMDFM steal the right to make road infrastructure decisions?

Will it attempt to take control of prisons from DOJ? The amendment has the potential to set an incredibly dangerous precedent, and I urge all Members to think carefully about its potential effects before voting, despite what the Whips might say.

The amendment could give OFMDFM the green light to approve fracking in Fermanagh — a corner of this country that we were so proud to show off to world leaders just last week. At first glance, the amendment seems to give a very free hand with respect to development. There is a case for relaxing the criteria, but giving blank cheques is wrong. We could see a repeat of the desecration of Drumclay crannog, where a road was built through the 2,000-year-old site. Who knows what could happen at our only world heritage site, where we have already allowed a golf course development right on its boundaries?

If the amendment is made, I truly believe that nowhere in Northern Ireland is safe, especially if we cannot protect the examples that make Northern Ireland such a special destination to visit, such as the ones I just laid out. Indeed, Friends of the Earth said:

*"the new economic clauses 2 and 6 will result in planning chaos where nothing is special and nowhere is safe."*

The overwhelming opinion of the sector is that this new clause is much, much worse than clauses 2 and 6. In fact, as Dolores said, clauses 2 and 6 pale into insignificance by comparison.

**Mr Weir:** Will the Member give way?

**Ms Lo:** Yes.

**Mr Weir:** We have been told that there has been absolutely no public consultation or opportunity to express views on this. How, then, can the sector express a view that this is a lot worse than clauses 2 and 6. Surely there is a contradiction there.

**Ms Lo:** I have been getting responses from the sector since Friday, and I met some of them this morning as well. A lot of them are in the Lobby and outside the Building today. I am sorry that you have not gone out to see them. Some of them have put tape across their mouth to show that they object to the amendment.

I believe that this amendment is not only undemocratic but hugely arrogant. For two parties to decide that one Department should

hijack power from another and then get administrative support from the original Department truly left me lost for words.

**Mr Weir:** Obviously not.

**Ms Lo:** I shall continue. I want to firmly place on the record that my party's opposition to the amendment is not opposition to the concept of enterprise zones. Opposing the amendment will not and does not have to block the introduction of enterprise zones. Alliance is supportive of such zones and further acknowledges that there needs to be a co-ordinated and strategic approach to identifying the zones, including special planning zones. However, this is not the process that should be gone through to do this. In fact, I am incredibly surprised at Sinn Féin supporting the amendment. Only very recently, it strongly opposed the last-minute introduction of an amendment to the Justice Bill on the basis that it was an abuse of process. Here it is now doing that exact thing. Mr Speaker, the Alliance Party will be firmly opposing the amendment.

**7.00 pm**

**Mr Hamilton:** I am in favour of the amendment to create economically significant planning zones. Before I get into the reasons why, I want to address some of the reasons that have been put forward as to why the amendment should not pass this evening and should be opposed. I reiterate the point that Mr Weir made in response to the Chair of the Environment Committee in respect of the complaints that there have been about the process. It seems wrong and hypocritical for some to even argue that the amendment has not gone through some sort of due process. By the way, we are democratically elected by the people of Northern Ireland. That is our job; we are here to do that. We are, therefore, exercising that right by doing this. I defend the right of anybody to bring forward an amendment at Consideration Stage or Further Consideration Stage of this Bill, or indeed Consideration or Further Consideration Stage of any Bill. That is our right. That is what we are here for. That is the process of the House; we have the right to do that. The complaint that some sort of process has not been properly applied in this case is inaccurate. We would not be debating the amendment this evening if it was inaccurate or wrong. To do that at the same time as putting forward amendments themselves — unfortunately the Chair seems to have departed as I am addressing her remarks — the Alliance Party, the Green Party and the Ulster Unionist Party have put forward



amendments that were not brought forward explicitly for a ye or nay vote in Committee. Aspects and concepts may have been discussed, but no amendment was put forward. No notice was put forward to any Member of the House until the amendments appeared on the notice of amendments last week and subsequently on the Marshalled List. So, I believe that it is wrong for someone to argue that, on the one hand, this is wrong and the process has not been properly followed in this case, yet, on the other hand, do themselves what they accuse others of. It seems to be that if it suits them, it is okay and fine, but if it does not suit them, it is wrong, it is a travesty and it is a problem of process.

I am sick of the criticism that is levelled at the DUP and Sinn Féin, the two biggest parties in the Executive. We hear the criticism, time and time again — Mrs Kelly is very good at it, as are others, including Mr McCrea, who was here earlier — that OFMDFM and the two biggest parties never do anything, never take any decisions and never get anything done. Here is an example of a decision being taken that will, I believe, have a significantly beneficial impact on the economy in Northern Ireland. At a time when we desperately need decisions to be taken that have a significant, important and beneficial impact on the economy in Northern Ireland, at a time when jobs are scarce and we are fighting a global battle to get jobs to come to Northern Ireland, this is another arrow in the economic quiver of Northern Ireland that will attract investment to Northern Ireland. Instead of losing investments, as is sometimes the case, I think that we can use this as an opportunity. Look at our neighbouring jurisdiction in the Irish Republic. It is not just corporation tax that they use to attract people in. They have the opportunity of quicker planning approvals, and have used that down through the years. So, on the one hand, they are using their lower tax regime to attract people and get their interest in the first instance, and, on the other hand, they are offering quick planning approvals in pre-designated areas. That is something that we should be doing. Those are the sorts of examples that I appreciate and am prepared to learn from on a North/South basis. That is the tenor of the amendment —

**Mr Allister:** Will the Member give way?

**Mr Hamilton:** I will give way.

**Mr Allister:** If I follow the Member's argument, he is saying that the introduction of economic zones can speed up the process, with certain

presumptions about planning permission, etc. That might be so. However, if one were persuaded that there should be these economic planning zones, how does it follow that they should be run by OFMDFM and not by DOE?

Where is the necessity to extract it from the proper planning Department to put it into the dysfunctional office of OFMDFM? Where is the logic, other than the desire to engage in a power grab?

**Mr Hamilton:** I was going to come to that point later, but I will come to it now, given that the Member has raised it. Although this is not an enterprise zone, it is not dissimilar in some of its characteristics to an enterprise zone. It is my understanding that most parties here have at least been, if not fully supportive of that, supportive of the concept and of exploring the possibility of enterprise zones for Northern Ireland. I know that Mr Durkan, the MP for Foyle, has called for one in the north-west. The Alliance Party supported that in its submission to the independent review of economic policy in Northern Ireland a few years ago, and I believe that Mr Nesbitt's party has, at times, explored the possibility of doing it. The fact that we will now explore enterprise zones for Northern Ireland was included in the economic pack announced just over a week ago by the Prime Minister, the First Minister and the deputy First Minister.

Although this is not an enterprise zone, one of the key characteristics of such zones, as the Member will know, is relaxed or different planning regimes within them. A zone, by its very definition, is a line that is marked on a map and inside that, in the English, Welsh and Scottish examples, there is a different, more relaxed, quicker planning regime than would prevail outside of the lines. There are similarities between what is being proposed here and what is being proposed as an enterprise zone, which is something that I think we should actively explore for Northern Ireland.

I have not answered the Member's question yet, but it should go to OFMDFM and not to the Department of the Environment because of the clear cross-cutting nature of something significantly large and economic such as an enterprise zone. If you are bringing in something that has an element of planning, rates, telecommunications and tax powers, which we are yet to have devolved in respect of capital allowances, you cannot have the Environment Minister alone acting to draw that line. It is a cross-cutting issue. It mirrors very clearly the key priority within the Programme for Government, which is growing our economy.

That priority is in the ownership of the First and deputy First Ministers on behalf of the whole Executive. That is why I think it is appropriate that it be there, that they take that decision and work alongside the Minister of the Environment and his officials to ensure that what goes into it meets with whatever restrictions are placed within the economically significant planning zone.

I have also heard criticisms that this is somehow revolutionary and that we have never had this sort of thing in Northern Ireland before. If Members would care to take a look at the wording of what is before them today and compare it to wording that they passed and improved in the 2011 Planning Act in respect of simplified planning zones, they will see that there is a great similarity between the wording of section 33 (3) in the 2011 Act about simplified planning zones and what is contained at the suggested new article 13A (3) in the amendment.

**Mr Wells:** As the Member knows, this amendment has been a very recent addition. Many Members who have received a lot of correspondence about clauses 2 and 6 have only had one or two comments made about this particular significant development, but one comment that I received asked why simplified planning zones have not been used. We recall that these were passed in the 2011 Act; they seem to provide a very flexible process to enable quick decisions.

Secondly, could the Member answer the point I raised with Mr Boylan: why have we not been using the strategic planning unit model, which I have used? He will be aware of the Down High School situation, where, by referring it to that strategic unit — that is a hard word to say at this time of the night — and getting all of the authorities around the table at Millennium House, we were able to get a very quick decision on what was a very significant planning application for south Down. Of course, for reasons he is aware of, there were delays, but that was not because of planning. I have also had some experience of referring cases in Kilkeel to that unit. We have had two models that would seem to deal with some of the issues that he has raised, neither of which seem to have been particularly effective in his opinion.

**Mr Hamilton:** I thank the Member for his intervention. I would divorce the two slightly. I do not know why there have been no simplified planning zones; I am not the Minister of the Environment. That question is probably better directed at the Minister. I agree with the

Member that it is a device that would potentially have been very useful. It would have done some of this work, but it has not been used. The Member will know that that power will transfer to local government after RPA and the reorganisation of local government. However, what is proposed in the amendment is a power that regional government will retain.

I think that strategic projects are somewhat different. I will rely on the Minister, but perhaps more so his officials to give him some figures that he might use at a later stage of the debate, but I understand that the experience to date has been very good. Another project, which the Member will be aware of, that went through in rapid time was the new Downe Hospital site. Quite a lot of public sector projects have gone through in under or around six months. That is a significant improvement on what had previously been the case, and I very much welcome that. I remember welcoming that in the House way back about five or six years ago in the first Programme for Government that we produced as a new Assembly. So, that issue is talking about time as opposed to zoning a particular area. However, the Member made good points. I do not know why simplified planning zones have not been put in place. That is an issue for the Minister. Perhaps we will see more of them when local government gets control of planning. I would welcome their use in certain cases.

The point has been made that this is some sort of revolutionary step that is being taken. I will make the point again that, in 2011, the House approved something called a simplified planning zone. That was not radically different in its complexion, nature and construction from the economically significant planning zones that are before us. If Members look at the clauses in that legislation on those zones, they will see that they are almost word for word the same. This is not something completely new, revolutionary and out of this world. Only two years ago, the House approved almost entirely the same thing.

**Mr Allister:** Will the Member give way?

**Mr Hamilton:** Yes.

**Mr Allister:** Forgive my ignorance; I was not in the House when that legislation went through. He said that there is a parallel. Did simplified planning give those functions to OFMDFM?

**Mr Hamilton:** No, it did not. Like any good barrister, the Member knows the answer to the question before it is asked. It did not. In the

future, as I said to Mr Wells, that power will transfer to local government and will not be retained by regional government. That is the key distinction. Ms Lo made the argument that this is something completely outrageous, new and different and that we have never seen it before. I accept the Member's point, and that is a key distinction. However, it is not radically different in complexion from what was approved through simplified planning zones two years ago.

There have been a lot of criticisms of this amendment. I think that a lot of scaremongering has gone on about what its effect will be — we are going to have some sort of planning free-for-all across Northern Ireland, as though entire counties, several counties or council areas will be zoned and anything and everything can happen in them. I do not think that this device will be used in a great number of cases. I do not think that it will be used half as much, or even one tenth as much, as people seem to suggest. However, of course, it suits some people's arguments to scare the lives out of people and to say that, all of a sudden, you will wake up in the morning and everywhere in the countryside will be concreted and there will be fracking platforms all over County Fermanagh and so forth.

As I said when I was talking about clauses 2 and 6, we are fighting hard around the world to try to get investment into Northern Ireland. I have not heard anybody disagree with the thesis that our planning system is not as good as it should be in dealing with major economic planning applications. We have so many advantages as a country — great people, great skills, great infrastructure and great telecommunications — but we do not have a great planning system. Here is something that we can hang on the door of Northern Ireland. We can say to people that not only are we open for business but we can afford them the opportunity to get planning for the investment that they want to make. That is an investment that, in a very fluid global market, they could quite easily take to the Republic of Ireland, Scotland, Wales or the Far East, but this will allow us to say to them that that they should bring it to Northern Ireland and that we, as a Government, will do things to help them get there as quickly as they can so that we create the jobs that bolster our communities and give people opportunities. It will mean that folk who have, as Mr Boylan said, been educated and trained in our excellent education system in Northern Ireland do not have to leave Northern Ireland to get the sorts of opportunities that we want to see them get.

## 7.15 pm

The amendment is not revolutionary, and it will not lead to some sort of planning free-for-all. It is not only competent and in order but will potentially be of great benefit to Northern Ireland and our economy.

**Mr Wells:** Will the Member give way?

**Mr Hamilton:** The Member has been here long enough. He knows that I was building to a crescendo. I was trying to finish off. I will give way to him because he is my friend.

**Mr Wells:** There would not have been much sense in me asking you to give way if you had built to a crescendo and taken the standing ovation. I could not then have intervened.

The Member reassured the House about the nature of the projects that would be involved. Some of the comments that I have received ask what there would be to stop OFMDFM designating Fermanagh as a strategic planning zone to facilitate fracking.

There is no question about it: the one thing that everyone is agreed on is that fracking could be of the most enormous economic benefit to Northern Ireland. Regardless of where you stand on the environmental issues, there is no doubt that a source of cheap, reliable, non-imported fuel would have huge benefits for Northern Ireland. It may be that a large company will say that it could develop most of Fermanagh for fracking. Is the Member reassuring us that that could not happen?

Will he give some indication of the size of the projects that we are talking about here? Are we talking about 50-acre sites or 100-acre sites? Are we talking about shopping centre complexes or Belfast harbour? I am just intrigued as to what would constitute one of these special zones.

**Mr Hamilton:** I thank the Member. He is going to delay us even further now, as I am going to have to respond to all those points.

I suppose that I do not know. I do not know precisely what will happen, and that is where assessments will have to be made of each case or each particular area that the Department would consider.

The Member mentioned the size, scale and acreage of land, and I think that you could conceivably have very small zones and quite large zones. However, I would be extremely

surprised if any single county or council area were zoned in totality as an economically significant planning zone.

On the particular issue of fracking, even if a line were drawn around an entire county with that particular consideration, other aspects would have to go through, not least the various licences that would have to be granted by the Minister's Department and that of the Minister of Enterprise, Trade and Investment. Fracking will not happen in the morning just by drawing a line around County Fermanagh. There are other stages that would have to be gone through, which I think would be fairly significant and high hurdles.

I passed the Member a report earlier that I noticed over the weekend in 'The Economist'. It discussed the oil and gas boom in North America. I do not know whether he has had the chance to read it yet, but it makes —

**Mr Eastwood:** Will the Member give way?

**Mr Hamilton:** Yes, I will.

**Mr Eastwood:** Would those licences that you talked about be seen as cross-cutting and need to go to OFMDFM for a decision?

**Mr Hamilton:** I do not think that there are any plans to make it so —

**Mrs D Kelly:** There is still time.

**Mr Hamilton:** It is still early yet. There is still Further Consideration Stage to go. No, I am only joking. That would not be competent.

The Member is inviting me to rehearse issues and delay the House even further. The reasons that OFMDFM would take a role in this is because of the cross-cutting nature of economically significant planning applications for our number one priority, which, I hope we all agree, is growing, rebalancing and rebuilding our economy.

As I said, I think that what we have here is something that has the potential to give us an advantage in an area in which we have heretofore not had an advantage when we have been selling Northern Ireland: planning. When you look at the likes of the strategic projects unit that the Member for South Down talked about, and other reforms and changes that the Minister is bringing forward, I think that this is a useful tool to have in our toolbox as we go out into the world and try to attract investment to Northern Ireland. I think that, in a quieter

moment, the Minister would perhaps admit that this is not a bad thing to do. I suspect that he is not in favour of the methodology; in fact, I know that to be so by his comments. However, I think that he and most of us would agree with the ability to act swiftly and promptly, to win investment instead of losing it, by marking out a zone on a map and saying, "There is a more relaxed planning regime here, in certain circumstances, than there would be outside of that line", taking into account the sensitivities of the environment of that area. I think that that is a good thing that most people would agree with.

So, I support the amendment because it is not revolutionary, will not result in some sort of free-for-all, and because it is proper to do so.

**Mr Allister:** Will the Member give way?

**Mr Hamilton:** Nop; I am going to finish. I cannot have three build-ups to a finish. This is not revolutionary. This is not a free-for-all. It is completely competent. It is the proper way to do it, and it is consistent with the way that other people have brought this forward. I urge the House to support it.

**Mrs D Kelly:** It is timely that Mr Hamilton should finish on the issue of revolution, because, in preparing for the debate, I looked at some of Sinn Féin's policies. One policy that seems to transcend the border is its cynical manipulation of the Irish people. Only yesterday, at the Wolfe Tone commemoration in Bodinstown, Pearse Doherty quoted Wolfe Tone when he said:

*"If the men of property will not support us, they must fall. Our strength shall come from that great and respectable class — the men of no property."*

Then, Mr —

**Mr Speaker:** Order. I have given the Member some latitude. I am interested to see how she may weave what she is saying into being about the Planning Bill. I think that doing that will take a wee bit of expertise, but I am happy enough to listen to the Member.

**Mrs D Kelly:** It is coming right now, Mr Speaker; because Mr Doherty then went on to say:

*"Today's 'men of property' — the bankers and the speculators and their friends in high places — have brought huge hardship to Irish families."*

He went on to talk about people losing their jobs; the very points that Mr Boylan made as he introduced the amendment containing this clause. Mr Doherty said:

*"Bondholders, bank executives and financiers still live affluent lifestyles, receiving huge salaries and bonuses",*

and he said that others who have had "no hand" — I paraphrase — "in the financial catastrophe" — hardworking families — pay for their greed.

Yet, we have the Bill this evening. I looked at Sinn Féin's economic policy on its website, and there is no mention there of planning as a tool to promote the economy. No mention whatsoever. However, in its introduction to its economic policy for the island of Ireland, Sinn Féin lays much of the blame for the South's woes, in particular, on corrupt government, "greedy developers" and speculators. That is the context of Sinn Féin's economic policy. This evening, its members are promoting a planning clause that is half-baked and came at the eleventh hour, as Ms Anna Lo said.

The DUP and Sinn Féin came up with this proposal for economically significant planning zones where, if a developer meets certain criteria in a designated area, there will be a presumption of planning consent. Although the DUP and Sinn Féin have been working on this for weeks if not months, including actively consulting with the Executive's principal legal adviser, the Attorney General, they have not seen fit to share their proposals with DOE or other government colleagues until the last moment. Why is that?

As a result, the proposal is half-baked and, according to advice from senior counsel, not competent. Had they worked with the Environment Minister, he might not have agreed with them but they would at least have had a competent amendment. So, why did they not involve the Department responsible for planning? Why did they table this significant amendment only minutes before the deadline for submission? It is yet another indication of how this DUP/Sinn Féin junta does business. After all the soft words on a shared future, and after Cameron, Obama and the G8, we get back to the reality of how OFMDFM does its business. Despite the honeyed words, they do not want a collegiate approach. This amendment proves that they do not want to work in partnership. They not only want to have their way without any consultation with others, they want to grab legal powers from DOE and take them into OFMDFM. As others have said,

yet another power grab, hot on the heels of trying to take over the Belfast metropolitan area plan, and it is all contrary to the Good Friday Agreement.

They even hide behind a couple of Back-Benchers, when we know that this comes from Peter Robinson and Martin McGuinness. Why is the amendment so urgent now? During this phase of devolution, we have had three DUP planning Ministers before the current Minister. Why did they not do it when they ran the DOE? They had plenty of time to do it properly, consult, take advice, get the legal requirements right etc, but now they want to rush it through with unseemly haste.

**Mr Wells:** Will the Member give way?

**Mrs D Kelly:** I will.

**Mr Wells:** The difficulty I have with some of the Member's argument is that the Minister had the powers of simplified planning zones, which could have dealt with some of the issues that have been raised, yet they were not used. When the Minister comes to speak, he has to explain to the House why, when there was a tool that could have sped up economic development in Northern Ireland, which was approved by the Assembly and controlled by his Department, he did not use it. Secondly, I would be grateful if he would say why, given the fact that so much effort was put into creating the strategic planning unit, there were still great difficulties in delivering important economic cases. I am not saying what I particularly feel about it, but there are certainly questions that the Department has to answer.

**Mrs D Kelly:** I do not think that any of us will stand over all the planning decisions that the Department will make. As Mr Wells knows, there are a number of legal objections to some strategic planning that have to go through due process. This amendment and the clauses being proposed this evening will not allow for due process in relation to any of these economically advantaged planning zones. I am sure that the Minister will answer more fully, but Mr Wells said that in representing his own constituents he required the strategic planning unit to invoke those powers, so it is not just open to the Minister but to other elected representatives to invoke and ask others to invoke the powers available to them.

Sinn Féin and the DUP do not seem to recognise that the turnaround of strategic planning applications has improved vastly under the current Minister. Do they not realise

that he has made great headway on clearing the backlog of major planning cases that had accumulated under the last three DUP Ministers? Do they not recognise that there has been a record-breaking planning performance on major economic projects? The six-month turnaround target is being met, and there are cases of exceptional performance: the Windsor Park stadium proposal was turned around in 11 weeks. So, the argument that the amendment is needed to facilitate inward investment is nonsense. The present system is capable of delivering rapid turnaround for major inward investment.

So, why has the DUP, after doing no planning reform for years, decided to seek radical change over the past few years? I think that this question has to be asked: who is really behind the amendment, or what is the DUP and Sinn Féin's motivation for it? It is quite clear that the DUP is driving the amendment. Most likely, Sinn Féin has been bought off by the promise of a designated zone in some Sinn Féin constituency. Perhaps Mr Boylan or another Sinn Féin Member would like to reveal where they intend to designate the zones. Is the real reason behind this to remove, at one fell swoop, all opposition to DUP plans for fracking? The current planning Minister has taken a strongly precautionary approach on fracking. Is the amendment a device to get around Alex Attwood's opposition?

As we speak, Westminster is debating the Northern Ireland Bill, which, among other things, will deny any real progress on transparency around political donations. We should never pass a DUP-inspired measure such as this until such times as there is transparency about political donations. The amendment stinks to the heavens. It is a DUP-led amendment, and Sinn Féin is being led by the nose. That is why it has flip-flopped on many of the other amendments on the Order Paper today. They are trying to take the bad look off their support for the DUP development free-for-all, but they will have to answer for their deeds. Phil Flanagan will have to explain why the fracking he claims to oppose could be easily facilitated by OFMDFM if the amendment passes. Cathal Boylan, who is leading the proposal for Sinn Féin, will have to explain why interconnectors, power lines and even power stations could run through the heart of Armagh if this is passed. Peter Robinson's supporters in East Belfast will have to ask him why the City Airport has been given a longer runway to land more, bigger and noisier planes booming across the suburbs of Belfast.

There is already a reasonable balance in planning between facilitating economic development and protecting the environment. This proposal, done on the back of an envelope to please God knows who, destroys that value. It is a power grab by OFMDFM, and it affords a ridiculous amount of discretion to politicians who persistently refuse to come clean about the developers who fill their party coffers.

**7.30 pm**

**Mr Kinahan:** I welcome the Bill and anything that makes planning more speedy, improves the economy and betters the environment, but I, like many others, was shocked and horrified when I saw the amendment. The Ulster Unionist Party does not support amendment No 20.

It is over a year since I left the Committee for the Environment. Then, we had just hurried through a Bill with 242 clauses. We needed to get it through so that we could have a better planning system. If I remember correctly, it required 16 other bits of legislation. Why on earth have we got to this point today, when all those DUP Ministers and others in the past could have improved things themselves? Like Mrs Kelly, I question the motives behind the amendment. If we look back to the beginning of this Assembly mandate, why on earth did the DUP not take this Ministry? It says that it can now change the system because the election system allows it to, but the DUP would have been allowed to take the Ministry had it chosen to at the beginning.

Look at what the DUP has allowed to happen to education, where one Minister is running the system to the point of almost cataclysmic destruction. We can see what is happening, but the DUP does not challenge it. Here, we have a Minister who is especially good at defending the environment, but they are trying to take his powers away.

Let us look back at the whole basis for the institution in this Building. It was meant to work through consensus, but, today, we see the opposite. We see a way of taking power away and not working together, yet all we ever hear from the Executive and others is that there is no agreement and that nothing is happening. OFMDFM is completely the wrong Department to give this sort of power to. In my two brief periods on the OFMDFM Committee, the Department would not provide information or documentation, and we never had anything to scrutinise. It was quite the worst of all Departments for a Committee to work with.

Therefore, we cannot, surely, consider giving it the extra powers that are being proposed today.

Let us look at the two parties that are in OFMDFM. One has traditionally shown that it is not for the environment and the other has, from time to time, shown that it has no idea how to run an economy, the two absolute keys to what we are doing today. There has to be more behind this; there has to be more hiding.

Over the past few months, we have seen what is now known as the "So what?" style of government, where the rest of us do not matter and other Ministers are not spoken to or listened to. Today, as we have heard from the Chair of the Committee, the amendment has not even been run by the Committee, yet it sounds as if it has been worked on over the past two months with the Attorney General and others. Now, we are all being steamrolled. It stinks.

When I came into politics here, I heard stories of control freakery. I was amused and did not really believe that it happened, but we now see it almost daily. Someone said to me the other day that it is not just control freakery; it is not power sharing but — we have heard this before — power snaring. It is all designed to get more power to the two major parties. No wonder the rest of us are cynical.

If the two main parties can create these zones, they can do anything they like with them. They can put them nicely in place before the next election to make sure that they get more votes. Lots of money is sitting unused in the strategic investment fund, and they can do the same with that. If we put those two things together, we have not just control freakery but the buying of votes on the grandest scale. We have to put that in front of the electorate and show them how badly things are going.

When I was involved in the Bill, I was pleased to see that it would give powers to councils and was going to talk to the community. When I asked the then Minister what he meant by "community", he said those who live there, those who work there and those who pass through. By the end, it meant everybody was going to be included in the planning system. Today, we seem to be going in a different direction: the only people who will be included will be OFMDFM.

Looking at amendment No 20 in more detail and all the powers that are in it is rather like looking at the Education Bill. Within it is a mass of little powers that can be passed onwards, such as the power to make orders and the

power to decide how long the period can be. We have just heard that the areas could be any size, so the powers could take over any place, any type and anything. That is what we have to warn the public against.

**Mr Boylan:** I thank the Member for giving way. He mentioned the public and the community. Is he not aware that the community is crying out for employment and jobs? That is one point that I want to make, because that is what is happening in my constituency. The other point I want to make is this: does he recognise that the current area plans are not fit for purpose and are not there to help attract, develop and create jobs?

**Mr Kinahan:** We all want to see jobs created by everything, but we want to see jobs created fairly, and we want to see a system used that everyone can be part of. That is democracy.

**Mrs D Kelly:** I thank the Member for giving way. This is nonsense: Mr Boylan is just trying to cloud the issue. The fact is that there are already a huge number of empty commercial premises, industrial sites and retail town centres. If there is an opportunity for economic development, is he saying that OFMDFM has failed, alongside DETI, to bring in foreign direct investment? Is he criticising their failure to create jobs and the rising level of unemployment?

**Mr Kinahan:** Thank you. I agree very much with that. The failure that we are seeing is the failure in how this Assembly works: it is not joined-up government. Instead of going for joined-up government and trying to work together, they are trying to take all the powers to the centre and leave everyone out. That is absolutely blatant in what we are seeing today.

Moving on to enterprise zones, I will read out what the First Minister said last June:

*"I have some concerns about the issue of enterprise zone status. If the whole of Northern Ireland was being considered as an enterprise zone, I would be very much in favour of it. One difficulty that I have found with previous enterprise zone exercises is that they are often the cause of displacement. You are not really adding jobs to our economy. You can boost an individual area but very often at the expense of adjoining areas because companies move into the enterprise zone. We have considered the issue, and if, in the wider context, it was thought suitable for the whole of Northern Ireland, we would welcome that."*

*However, I retain the concerns that we may not bring in new jobs but simply move the jobs from one area to another." — [Official Report, Vol 86, No 1, p27, col 1].*

I would love to know what has changed since he made that comment. What they are trying to start today is exactly the same thing. How will they deal with the displacement as we move things around Northern Ireland instead of creating the jobs that have been spoken about?

I have spoken for long enough. The Ulster Unionists oppose the amendment. We see it as OFMDFM wanting control of planning, avoiding the democratic process and trying to take more control: as I said, power snaring.

**Lord Morrow:** It is difficult to know where to start in this debate. Listening to some of the Members who have spoken, you would think that war had been declared today and the Department of the Environment was going to be stood down and was no longer going to exist. One Member was quick to point out that Sinn Féin is being led by the nose by the DUP and has succumbed to the great devious plans of the DUP. Other Members think that it is the DUP. I have no doubt that, when they speak, it will be the DUP's turn to get it and they will say that Sinn Féin is leading the DUP by the nose. On and on it goes, but, of course, none of it is true. I listened to Mr Kinahan and thought that Corporal Jones would have a field day in here. He would be crying out that we are all doomed. The world is probably going to end tomorrow. There will be no more planning or anything else. We will all wake up some morning and Northern Ireland will just be one big area of concrete, probably painted green, according to some. Of course, that will not happen.

*(Mr Deputy Speaker [Mr Beggs] in the Chair)*

One of the significant criticisms of planning in Northern Ireland is the time that it takes to turn around economically significant planning applications. My comments are not directed at the present Minister, although he is not completely free of any criticism. Much of it is not attributable to him, despite his comings and goings on the the John Lewis planning application and the fact that we still do not know where we are on that one. I suspect that, in years to come, a decision on that planning application will eventually be arrived at.

Northern Ireland has a reputation, rightly or wrongly — I think it is right in this particular instance — as one of the slowest areas in which to obtain planning permission,

notwithstanding the fact that the Minister has recently taken some important decisions and put a degree of speed and urgency into some of these issues. Some might say that it is a little too late. The criticism may be unfair, but, despite the recent progress, the perception remains. Therefore, it is important that the Executive send out a signal that we are in a position to grant planning permission quickly for economically significant applications and use that as a tool to attract investment as opposed to deterring it, as at present. The purpose of the amendment is to provide an alternative approach that could lead to a much faster planning process.

I would also like to make a few points in relation to the clause. In many respects, this provision is similar to simplified planning zones — the point has already been made, but it is worth making again — which are already provided for in statute but, to the best of my knowledge, have never been used. That begs the question "Why?". There should be no issue about the effectiveness of the provision.

OFMDFM will have a key role in such applications, given the significance of economic growth to the Programme for Government and its statutory role in relation to cross-cutting issues. However, there remains a key role for the Department of the Environment. Responsibility for carrying out the day-to-day work will remain with Department of the Environment planning officials who have the relevant expertise. That is way it is, and that is the way it will remain. In addition, schemes will require the consent of DOE or the affirmative resolution of the Assembly. That will increase the democratic legitimacy of such decisions, which Mr Kinahan said was going the opposite way. Post the 2011 Planning Act coming into force, that will provide a role for the regional Administration to create zones. The 2011 Act merely envisaged a role for local government.

This provision provides a further option to help speed up the planning process. If it proves unnecessary, nothing will be lost by having it on the statute book. Conversely, if we do not create it, the option will not be open to us. This provision is not intended to create enterprise zones but to provide a faster process for obtaining planning permission through zones drawn for the purpose of attracting investment. Furthermore, it will be an important selling point internationally and will allow local companies to react more quickly to emerging opportunities. When the Executive published their Programme for Government, they put the economy at the centre of all their thinking. I could be wrong, but I do not recall a single MLA, never mind a party,



getting up in the House and saying that that was the wrong way to go. That can only be complemented with a Planning Bill that is fit for purpose, so I ask Members to stop and think about that.

**7.45 pm**

I am long enough about local government to recall that, in 1973, we had what was known as the old east Tyrone area plan. It covered the time from 1973 to 1993, which was a long period. Alas, we did not get a new area plan until, I think, about 2003, so that plan was 30 years in existence. Does anybody but anybody think for a solitary second that that was good forward planning and the type of planning that we need? I can speak with some authority, because, in our borough council, our planning strategy is out of date again. We have been told, "We will not bother with it now, given that local government is about to be reformed. We will just let it sit there, and we will work on the old one". We are always working behind the times, and we do not seem to have an up-to-date plan. Those things need to be taken into account.

I know that we are talking about zoned areas, and Mr Hamilton outlined graphically what is envisaged for such areas. I say to the MLAs who are trying to whip up a bit of emotion and to push the panic buttons that they should stop and think of what we are trying to achieve for Northern Ireland. Everybody around the Chamber says, "Let us stimulate the economy". Nobody is opposed to that, but let us put in place the infrastructure, mechanism and the necessary Planning Bill to complement that rather than having to wait and wait while those who might come here to invest move on elsewhere.

I will take the John Lewis example. John Lewis has made it clear that, if it is not at Sprucefield, it will consider going to Dublin. We have been told that umpteen times. The Minister will have an opportunity to correct this when he gets to his feet, and he undoubtedly will, but I suspect that his priority for a place such as that is to have it in the centre of Belfast or somewhere. However, John Lewis said that it will not go there. The Minister said, "You have to come here, and, if you do not, we will combat you in such a way that will make you ineffective wherever you are". That does not sound like good planning. As I said to the Minister in Committee recently, we had a situation up in Londonderry that took the Department six years to make a move on. That was not the Minister's fault, and I have said that. However, it is symptomatic of the thinking on planning, which

is to say, "Let us take our time". Yes, let us do things right, but, if you do not get it right in six years, you will not get it right. Therefore, we have this situation.

I am glad that Anna Lo has found her voice again, and I must congratulate her on that. She said at one stage that she was lost for words. At one point, she was not prepared to speak as Chair of the Committee. Now she has found her words and her strength and is back speaking as Chair of the Committee. I laud her for that. It is good to see that she has got her courage back and is back on her feet. I look forward to seeing her again in the Chair on Thursday at the Committee. She said that she was amazed that Sinn Féin had gone for this. Let me say to the Committee Chair that I do not know what she has been doing over the past 40 years. Those of us who have watched Sinn Féin do the things that it has done are not a bit amazed at anything that it does. It will twist and turn and babble about in whatever direction the wind might take it.

Therefore, you need not be one bit surprised by what it will do. It cannot be, on the one hand, Sinn Féin leading the DUP by the nose and, on the other hand, be the other way around. Mr Kinahan said that this was the big power parties grabbing all the power and bringing it to themselves. Well, some of us, perhaps not him, are long enough in the Assembly to remember when two other parties — namely, the Ulster Unionists and the SDLP — were in power. We know very well how they treated the rest of us.

**Mr Wells:** Will the Member give way?

**Lord Morrow:** Yes.

**Mr Wells:** Does the Member remember standing outside Hillsborough Castle at 2.00 am with a group of other DUP MLAs, as we were totally excluded from yet another round of important constitutional talks, which were dominated by the SDLP and the Ulster Unionist Party? Basically, anyone who was not part of that cabal —

**Mr Deputy Speaker:** Order. It is nice to learn of the history, but can we come back to the Bill, please?

**Mr Wells:** Mr Deputy Speaker, I was simply referring to the point made by the Member. Does he recall those many nights?

**Lord Morrow:** Yes, I remember the nights and the days of isolation in here when we were

treated like something that sticks to your shoe. I remember it very vividly, and I will never forget the memory.

**Mr B McCrea:** Will the Member give way?

**Lord Morrow:** Yes, I will. Come on ahead.

**Mr B McCrea:** Following up on that point, would the Member say that things have changed and that this is now an open, inclusive and tolerant Assembly, where everyone's opinion and voice is heard? Does he think that we have made progress since his party became the dominant party?

**Lord Morrow:** I suspect that it is a bit like beauty, in that it is the eye of beholder. Some of us do feel that things are much better than they were. I certainly am one of them, because at least I now have a voice, which I did not have before when I was not listened to.

There are those who are either putting it up or who are, as I suspect, trying to whip up emotion in the House that this an attempt to take away power from the Minister of the Environment. No, this is attempt to get our economy going and to put in place a Planning Act that will have some relevance to the modern-day world that we are all trying to live in and take this Northern Ireland that we all claim to love so much out of its economic depression and into something new.

Dolores Kelly said that she thinks that this is a whole revolution in planning. I see nothing revolutionary about it. I think that it is simple, straightforward common sense, and let us as an Assembly adopt the amendment. The Minister, when he reconsiders, will probably see the wisdom of it. I suspect that, when he is speaking, he might even say that he has, in fact, thought it over and will give it his full support.

Mr Deputy Speaker, I will stop there, for I suspect that there are others who want to say something.

**Mr Elliott:** Although Mr Boylan is not in his place, I say that, for once, I felt a sense of sorrow for him when he was proposing the amendment. It is not often that I have a sense of sorrow for Mr Boylan, particularly in the political field, but I had some sympathy with him because I got the distinct feeling and impression from him that he was very unenthusiastic about the amendment. He certainly did not seem to show much vigour for it. He did not seem even to be totally across

the amendment or, indeed, know what it was about. Again, I suspect that he probably did not have much more notice of the amendment than the rest of the Members in the House who did not see it until it came on to the Marshalled List on Friday. Therefore, I suspect that he was almost speaking to it against his will, but obviously that is a choice that Mr Boylan made for himself, as others did, if that is how they were treated over this matter.

I believe that the amendment is a power grab. I listened to Lord Morrow and Mr Wells, and I recall Mr Wells standing and objecting to many things. Most of his objections were to things that Sinn Féin was about. He even went to Dublin to object to Sinn Féin and, indeed, Republic of Ireland interference. However, what we now see is a power grab by Mr Wells's party and Sinn Féin. I do not know, for the life of me, why you would want to put the level of power that is in this amendment into the control of the First Minister and deputy First Minister. We have witnessed how slow they have been to react and take decisions on many other issues. I chaired the Committee for the Office of the First Minister and deputy First Minister for a period, and we could not even get some correspondence from them. We could not even get updates from them, let alone decisions. How this will speed up the processing of significant planning applications, I have no idea. All that I foresee is much more procrastination, delays for applications that do not fit their bill and, obviously, the speeding up of applications that do.

That is why I have significant concern about why they want to take these powers or for us to give them those powers.

**Mr Eastwood:** Will Member give away?

**Mr Elliott:** I am happy to give way.

**Mr Eastwood:** Given the Member's expertise as a former Chairman of the Committee for the Office of the First Minister and deputy First Minister, is he confident that that Committee sees lots of fast-flowing information from the Department? Do things get held up for year upon year, like the childcare strategy, the social investment fund (SIF) or all the other things that we have been waiting to come down the line from the Department? Is he confident, as a former Chair of that Committee, that that Department is capable of handling even more responsibility?

**Mr Elliott:** I thank the Member for that. As well as asking me, he should perhaps ask those

who are looking forward to the childcare strategy. He should ask those people and groups who have made applications to the social investment fund how they feel that it is working. No, I do not believe or have confidence that we will have quicker or better decision-making. I believe that if you asked many of those organisations in our society that have had to deal with the Office of the First Minister and deputy First Minister, including many victims' groups, you would find that they would be extremely sceptical about the level of competence in that office.

I do not believe that passing this amendment would be good for the Assembly, the public of Northern Ireland or wider communities in society. A number of amendments have been tabled, many in extremely simple terms, as compared with this particular amendment, which is very detailed. Why were we not discussing this amendment in much more detail at an earlier stage? We should have had the opportunity to do so, particularly with such a comprehensive amendment. If the Attorney General has an opinion on this amendment, I would like to hear that before we take a decision on it. I am extremely disappointed at the mechanism that has been introduced and by the fact that those two parties feel the need to make such a power grab from the Planning Service and the Department of the Environment. It will not be valuable to wider society. I notice that they even have the audacity to indicate in the amendment that they want Department of the Environment staff to provide the administrative support for it, so that they do not have to do that. They want the Department to provide administrative support, but OFMDFM will take the decisions.

We should not approve this amendment, and I call on Members of the Assembly to draw back from it. No one can say that I am not a fair person in that respect. I have supported the economic parts of clauses 2 and 6, which, I believe, will be helpful to wider society; but I do not support this amendment.

**8.00 pm**

**Mr B McCrea:** I have a certain amount of amazement, which might be the right word; astonishment; just incredulity —

**A Member:** Incredulity?

**Mr B McCrea:** Thank you. When people say, "words leave me", it is not often —

**Mr Wells:** On a point of order, Mr Deputy Speaker. Is it in order for the honourable Member for Lagan Valley to use a word that is not known in the English language?

**Mr Deputy Speaker:** The Member has the Floor and the ability to use a word, provided that he provides some sort of translation so that Members can appreciate and understand it.

**Mr B McCrea:** I am grateful to the Members opposite for their assistance in this matter. Obviously, they have had some time to consider the implications of this amendment. I have to say that I have never seen the like of it. It is spectacular in its ambition. It is just astonishing in its scale and scope. They are, at a single stroke, going to do away with the Department of the Environment.

Lord Morrow started his contribution with many points that I can agree with. I hope that I do not misquote him. If I do, he will, no doubt, correct me. He started by saying that you would think to hear people talking here that war has been declared. Yes, that is exactly what I think: war has been declared on this Assembly. He said that you would think that the DOE was to be stood down, never to be heard of again; that it would be gone and it would be lost. That is exactly what is going to happen: the Department will be no more. It will be redundant. It will be absolutely without purpose. *[Interruption.]* If Lord Morrow wishes to make an intervention, I will take it.

**Lord Morrow:** When the Member started, he said that, if he misquoted me, I would no doubt put him right. So, I propose to do that. There is no attempt, no plan, no proposal or no intention. Is there any part of that you do not understand? There is no intention whatsoever to do away with the Department of the Environment. The Minister is even relaxed about that; I can see it on his face.

**Mr B McCrea:** I can only take the Member's assurances on that. Having read the amendment — and I can base this only on what is in front of me — it seems to me to take huge powers away from the Department of the Environment. It seems to me to make the position of the Minister of the Environment absolutely and totally redundant. It is not necessary. It can take every single power it needs to and go and do things. I heard the Member extol the virtues of this amendment.

**Mr McGlone:** I thank the Member for giving way. As I listened to the debate and read some of the proposals contained in the amendment, I

thought that it is not even that they are stripping the Department of powers, which is one thing. When I sat through the consideration of the Planning Bill, I heard that one of the ideas was to give the power of simplified planning zones and the like over to the new councils under RPA. In fact, the whole of thrust of RPA, and some of the key responsibilities associated with it, are being stripped before they can be RPA-ed. That is the craziness of this.

**Mr B McCrea:** I thank the Member for his intervention. Usefully, he pointed out something that even I had not seen regarding the entire scope of this audacious plan. It is not just the Minister or the Department of the Environment. It is RPA. It is the councils. It is the whole democratic process. Frankly, this is brilliance. This is fantastic. What will the next amendment be from the DUP? Will it be that we do not actually need the Assembly, and that they will just have a meeting between the two of them?

**Mr Allister:** We need the salaries.

**Mr B McCrea:** We need the salaries. It may well be that there is some modest role for some of us round here. I am not sure, at this late stage, whether anybody outside the Chamber is listening. The media may well have got their package and put it to bed. They do not see this. This is so big and brilliant. If you are going to try to slip something past, make it big and so audacious that nobody will even look at it.

I have to say that, when I heard the arguments put forward about why we should agree to this amendment, I might have had a certain amount of sympathy about its objectives. It might be, as was suggested, that we do need to do something about our planning process and have some way of dealing with these things. There is no doubt that Northern Ireland is somewhat slow in comparison with other jurisdictions and that we need to find ways to fix that. However, if you are going to do that, why take powers away from the Minister? Why not give him the powers to let him move forward on this? He will probably not thank me for this, but I have to say, grudgingly, that he is one of the better performing Ministers. He is actually trying to do things; he is moving things forward. I may not agree with every single thing that he does, but he is at least competent, on top of his brief and trying to make a difference, and you are trying to take the power away from him. I really do not understand why, when you find somebody doing something good, you tell them that you do not want them to do it any more.

**Lord Morrow:** Will the Member give way?

**Mr B McCrea:** I will give way in just a moment. The challenge is out there. I have to say this to Members present: understand what we are doing here. The whole of our Executive, our Assembly, and our democratic and constitutional position was built around the Belfast/Good Friday Agreement. The whole idea was that, because of the special circumstances that existed in Northern Ireland, we would have to have an Executive, with executive powers. The clue is in the words — executive powers — which are vested in the Minister.

We have a very specific process — d'Hondt or whatever system is adopted — to try to make sure that there is a division of powers. It is not the same as in other places where, perhaps, the Assembly would take every single decision, because, at the time, people complained about majoritarianism. This amendment is a fundamental attack on that process. Let us not pretend that this is just some minor piece of work and that we are just slipping it through for the good of Northern Ireland, "Move along. There is nothing happening here." This is a fundamental strategic attack on the democratic procedures in this place. I will say — I note that Mr Weir is agitated in his seat. Normally what happens — *[Interruption.]*

**Mr Deputy Speaker:** Order. It is clear that the Member does not wish to give way.

**Mr B McCrea:** Thank you, Mr Deputy Speaker. Of course, some people can make little witticisms and comments about language and all of those things. It is all grist to the mill. It is all about saying, "This is not really serious and you people over there are only taking up time. It doesn't really matter because the decision is already made."

I put out a challenge to some of the people who are present, because I have made my position quite clear, and my colleague Mr McAllister, I am quite sure, will say the same thing. It may well be that Members have some cunning plan, that they are not actually being led by the nose by anybody and that this is something that the two major parties have worked out amongst themselves and said, "Do you know what? We will just dispense with the others. Let's move on." I have to ask this question to other Members who will speak against the amendment: what are you still doing in the Executive? Why are you staying in a position where, day after day, week after week, they rub

your nose in it? They take the powers and they let you have a Skoda. I think that is the limit of what you are getting. The way things are going, pretty soon they will ask you to drive the Skoda, and they will be in the back.

I listened to the Chair of the Committee when she said — I think that I have got this correct — that she truly believes that, if this amendment is passed, nowhere in Northern Ireland will be safe. She also said that it was undemocratic. She mentioned, and I agree with her, that this is not to say that you are against the concept of enterprise zones or trying to encourage some way of moving our economy forward. However, this is not the right process. This is a disgrace. I know that Members from the Alliance Party feel strongly about this. However, they really have to consider how they are going to carry on in the Executive if they are going to be treated like this repeatedly.

I come to the UUP's position. I heard that some people were talking about raising a petition of concern, but did not get support from the parties that had the voting strength to make it happen. Mr Kinahan came up with words such as "it stinks" and he said that the amendment was a power grab and that the two main parties were acting together, and they should not even be trusted with it. Does anybody actually read those speeches? Does anybody actually listen to what Mr Kinahan says? Then he says, "how do you vote? What do you do next?"

Everybody who is not in the DUP or Sinn Féin should understand that they are being marginalised. You are being made even more redundant than you already are, and if you had any self-respect, you would look at this and say "if it is the Minister of the Environment today, it will be the Minister for Regional Development next and the Minister of Justice after that." This is not just a land grab; this is a power grab. This is really serious. This is a fundamental attack on these institutions.

I then get to the stage of saying "what is the SDLP going to do about it?" There are issues, and I am waiting to hear from the Minister. I would like to hear what he has to say. As I have said before — and, no doubt, he will deal with me appropriately for daring to say — he is doing a good job, but this is something where I expect him to come forward, put on the armour and come up fighting. I know that the SDLP is the guardian of the Good Friday Agreement — the Belfast Agreement — and it cannot see any change, but this was never the way it was meant to be. This was not what was supposed to happen. We were supposed to get around collectively and do what is best for Northern

Ireland, trying to work out how we could all move it forward, getting the expertise that is in all parties working together, and that is fundamentally not happening.

If the rumours of a move for this Minister are true, I think that will not be helpful for Northern Ireland. What we need now is somebody who knows what they are doing and is able to resolve the planning situation that we are in. It requires expertise, and it requires somebody who is on top of their brief. It does not need OFMDFM wandering around saying, "We are going to do this. We are going to do that. We are going to take your money. We are going to take your resources. We are going to take all these things." That is not government; that is bully-boy tactics. That is anti-democratic — the people in this House in the DUP and Sinn Féin. I heard Lord Morrow talk — with some eloquence, I might add — about how, in previous days, he was excluded, he was left out, he was not listened to —

**Mr McCallister:** He kept resigning.

**Mr B McCrea:** He did. He kept resigning because of it. When he was doing all those things, I kept thinking that he was about to say, "And now it is all going to be different", but is it really? If you felt so aggrieved by what went on in the past, you should be ashamed of yourself trying to bring this particular point forward. You should reflect on the things that went wrong in the past and try and make it better. I have to say to you —

**Mr McGlone:** Thanks very much for allowing me to make an intervention. During all this, a key element appears not to have even been looked at, which is what sort of equality impact assessment has been done on this. We hear time and time again of OFMDFM, on the face of it, putting equality at the heart of the agenda here. Let us hear what it has done about this and what equality assessment has been done in regard to this one.

**Mr B McCrea:** That is an excellent point well made. What assessment on equality or anything else has been done? This is somebody who has come along and said, "Right, I tell you what. Let us not to worry too much about the detail. Let us just take all the power to ourselves. Let us put in every single caveat we can get and say that we are in charge. We are going to go and do this. Let us ride roughshod over the Assembly. Let us ride roughshod over people who have a democratic mandate. Let us go on and do what we think is best."

Understand this, folks: the real challenge for Northern Ireland is how we work collectively for the benefit of all the people of Northern Ireland. This procedure is not it. I will say quite emphatically, in case you have misunderstood my sentiments in this, the Northern Ireland 21 party will be voting absolutely against this, and we will challenge all those people who will join us in the No Lobbies to consider the position as far as the Executive goes.

**Mr Flanagan:** Go raibh maith agat, a LeasCheann Comhairle. I thought that someone else was down to speak before me, but I am raring to go following 21st-century-politics man here. I am glad to see that he has dropped the rhetoric of 20th-century politics.

### 8.15 pm

This is the political part of the debate. Most of the debate so far centred around the environment or economics. This is a debate on largely a single issue to do with politics and how our system of government is structured and arranged, and how decisions are made.

Personally, I share many people's concerns about some of the potential outworkings of this amendment. It could have been handled better. In the manner of trying to get buy-in from across the Chamber, people could have been given much more than a couple of pages of text from a legislative document on a Thursday. However, that is what we have, what we have to deal with and what we have to put at the heart of this: not how the thing was made even though there have been fairly reasonable criticisms of that process.

We all share the acknowledgement that planning reform is required. That is what we have been debating for most of the day. We are largely agreed that decisions often take too long, and too many are challenged in the courts on insubstantial grounds, further delaying potential investments and impacting negatively on the potential for job creation.

**Mr McGlone:** Will the Member give way?

**Mr Flanagan:** Go on ahead.

**Mr McGlone:** I am glad that you took us into the heart of the court. A fundamental principle in a democratic society, that of the right of the citizen or community to have their case heard in court, is about to be removed as a result of this amendment. That is a major issue, which is fundamentally anti-democratic and anti-citizen.

**Mr Flanagan:** It is hard to argue with Patsy. Fortunately, I have a technicality: that is a matter for the group 3 amendments, so I get out of it on those technical grounds.

**Mr Eastwood:** Perhaps I will ask you a question because I asked you one earlier and was ruled out of order, and rightly so, because it was a question more about this group of amendments. As someone who has been very vocal and very good in the campaign against fracking, will you or will you not now be arguing for County Fermanagh to become an economic zone under this legislation?

**Mr Flanagan:** I thank the Member for his intervention. Arguing whether County Fermanagh should or should not become an economic zone is hard because, once again, all we have is the text of this document. What is quite clear is that many areas around this region are completely underdeveloped.

A recent leaflet published by the DUP boasted that £1 billion of investment was leveraged into east Belfast. Areas such as your own in Derry and my own in County Fermanagh could only cry out for that sort of investment. This will not solve many of those problems. There needs to be a sea change in how government deals with people and encourages inward investment to those areas. I will come to your point about County Fermanagh, Colum, and if you are not satisfied with my response, I will let you back in.

There is political disagreement in the House on how we bring in planning reform, and that is wholly legitimate. It is not one of the easiest arguments that ever had to be made to get your head around the detail of this. Some claimed that this amendment will pave the way for fracking. That is a possible outworking of the Bill, but, thankfully, I can state that that will not happen. That will not be an outworking of this Bill.

On the contrary, —

**Mr Wells:** Will the Member give way?

**Mr Flanagan:** I will in a minute, Jim. On the contrary, this amendment will transfer any decision on whether fracking goes ahead from a single Minister to a group of three Ministers, including the First and the deputy First Minister. I have been supportive of all the Environment Minister's comments on fracking, apart from the one on the BBC when he was misquoted. He has not said one thing about fracking that I would disagree with, so I was always hopeful

that if a proposal for fracking came before the current Environment Minister to weigh up, he would take the right decision and not allow it to go ahead.

However, there is always the reality that that Minister will not be in that office for ever and that the SDLP will not always hold that portfolio. It is fairly well known around this place that the DUP regrets letting the environment portfolio go. They did not realise how much power they had in that Department.

**Mr B McCrea:** *[Inaudible.]*

**Mr Flanagan:** Technicalities, Basil.

I do not know whether the amendment actually removes somebody's right to challenge this in court. If the amendment stands up, is approved and successfully becomes law, what will actually happen is that responsibility for —

**Mr Wells:** Will the Member give way?

**Mr Flanagan:** I am sorry, Jim. I forgot that you wanted to intervene.

**Mr Wells:** I am intrigued and interested because, as the Member is aware and as I mentioned, several of those who had the time to contact me about the Bill indicated their concern that it could lead to fracking. I am not expressing a view one way or the other on fracking. The Member seems to indicate that he knows that that definitely will not be the case. Obviously, he has been briefed by his side of OFMDFM on the specific projects that the Bill will cover through the proposed amendment. I would be very interested if he could give us an insight into the nature of those projects, because I think that that would allay many people's fears.

**A Member:** You have not been briefed.

**Mr Wells:** I have not. I am not on the Committee for the Office of the First Minister and deputy First Minister.

Such an insight might allay fears. If we are talking, for instance, about taking a derelict part of the shipyard and designating it as one of those zones, which would enable it to be regenerated and rejuvenated quickly, I do not think that anybody could object to that. The Sirocco Works in east Belfast has been lying in a totally derelict condition for several years. If the Bill enabled the quick regeneration of that site, I do not think that people would have problems.

However, some of the people who contacted me asked what would stop somebody from designating Fermanagh as a zone to enable the huge economic benefits that fracking would bring to accrue for Northern Ireland. That does not mean that you are in favour of fracking: it is an economic fact that fracking would bring millions, if not billions, of pounds to Northern Ireland. Fermanagh would be designated as a zone and away we would go. The Member has obviously had assurance that that will not happen, and I would like to know where he got that assurance and how he can be so specific.

**Mr Flanagan:** I thank the Member for his intervention. I will deal with his actual question in a second. I have not heard anybody here argue against the principle of economically significant zones. I think that the problem that those who are not in the Office of the First Minister and deputy First Minister are arguing about is that power is being taken away from the Minister of the Environment. That is their concern, not the actual zoning process. However, I stand to be corrected on that.

If a proposal for fracking in Fermanagh or any other substantial process comes forward, in the absence of consensus between the First Minister, the deputy First Minister and the Minister of the Environment, the decision will transfer to the House to allow MLAs of all parties and of none to have a proper debate on the issue and to give each one of us a vote on whether it happens.

*(Mr Speaker in the Chair)*

I reassure people that Sinn Féin's position on fracking is crystal clear. It has passed motions at successive Sinn Féin ard-fheiseanna outlining its opposition to fracking. That is how Sinn Féin policies are made: they are debated and decided on at our annual ard-fheis. At the past two years' ard-fheiseanna, motions have been passed that outline our firm opposition to fracking. I can say firmly that if a proposal for fracking were to come forward, and there were no consensus between the First Minister, deputy First Minister and whoever the Environment Minister was, and it came to the House, Sinn Féin's 29 MLAs, in line with that policy, would use a petition of concern — it would seek another MLA — to stop that proposal from going ahead. That is our position on fracking. That is how clear it is. We are opposed to fracking, and we will use whatever legislative mechanisms are open to us to stop it from going ahead.

**Mr Swann:** Will the Member give way?

**Mr Flanagan:** Go ahead, Robin.

**Mr Swann:** Can the Member give the same reassurances about lignite in north Antrim?

**Mr Flanagan:** Unfortunately, Robin, I do not have a list of Sinn Féin motions from successive ard-fheiseanna. However, if Sinn Féin's position is that it is firmly opposed to lignite in that area, and it comes to the House for a vote, we would vote against it and stop those things happening. That is how our party policy works. It is debated and decided by our membership. It is not debated by our parliamentary party here. It is not decided in Connolly House or any other place. It is decided at our ard-fheis, where every member of Sinn Féin goes to debate and decide on our policies. We will stick to that.

At present, we have only 29 MLAs. If we were going to introduce a valid petition of concern, we would need the support of at least one other MLA. I am hopeful that we could find an MLA somewhere in the House to support the proposal.

**Mr B McCrea:** Here.

**Mr Flanagan:** Is there somebody shouting in the corner? Basil?

Therefore, I would be fairly relaxed —

**Mr McGlone:** Thanks very much for giving way, Mr Flanagan. We have heard about two very contentious and sensitive issues in different parts of the North — fracking in the part of the country that you are from and lignite mining in north Antrim. What about the right of an individual or a community that is under threat or feeling vulnerable to take a judicial review on those issues? That right and democratic entitlement is being diminished and denuded. Under the proposals, we are moving almost to a totalitarian planning system. It is the fundamental right of citizens to challenge such matters through the due process of law.

**Mr Flanagan:** Once again the technicality that gets me out of that at this stage is that that is a group 3 amendment, and we are still only on group 2. The Assembly will vote on amendment No 20, which is in group 2. We will then debate the group 3 amendments, which include what you are talking about. That is a separate issue, and I do not want to be ruled out of order, but I will contribute to that debate later on.

A Cheann Comhairle, that is all that I have to say on the amendment. I am not overly exercised about this. Many people are genuinely concerned that it will lead to fracking, but I can say that that will not be the outworking of the amendment.

**Mr Speaker:** Before I call Mr McCallister, I wish to advise the House — Members will know this — that a valid petition of concern has been tabled to amendment Nos 21 and 23. Of course, the impact of the petition is that, after the Question has been put on amendment No 20, proceedings will stop. The Questions on amendment Nos 21 to 23, and so on, will be put tomorrow. As we will not have reached amendment No 24 tonight, the debate on group 3 will also take place tomorrow. The Business Committee will agree the arrangements for the rescheduling of the Bill's Consideration Stage when it meets, hopefully, tomorrow morning.

**Mr Weir:** On a point of order, Mr Speaker. I obviously appreciate those arrangements, but for the benefit of the House, will you clarify that the remainder of business outside the Planning Bill will be debated tonight?

**Mr Speaker:** That is what I was coming on to. We will, of course, proceed with the remaining items in the Order Paper tonight. I think that Members need to understand that when a petition of concern is put into the Business Office on the evening or day on which the issue is being discussed, the vote cannot then be taken until the following day. That is the impact of a petition of concern. I wanted to alert the House early to the situation at the minute. Hopefully, the Business Committee will meet tomorrow at 9.30 am, when we will try to accommodate the Minister and Members and reschedule the Bill's Consideration Stage for debate.

**Mr McCallister:** Like many others in the House, I am concerned and dismayed by the amendment. We are told by Sinn Féin and the DUP that this is about economic regeneration. I do not think that anyone in the House is against creating jobs. Goodness knows, given our youth unemployment rates and general unemployment rates, we need to create jobs and do much more and much better than we have been doing. However, it is a little drastic to think that our planning system entirely grew our economy and then caused it to flatten out.

**8.30 pm**



Mr Hamilton, in response to an intervention from Mr Allister, said that the reason why they needed to seize that power from the Department of the Environment is that it is a cross-cutting measure. Therefore, they would presumably need the power to move the rates in the economic zones and change other such things. However, what Department would not be included in that if it is so cross-cutting? We have no idea where the zones will be.

Will some of them be in rural areas? Would we need the Department of Agriculture and Rural Development, or is DETI going to be involved through Invest NI in trying to stimulate that? Will that be more power that OFMDFM needs to secure for itself, or is this effectively a warning to Ministers from other, smaller parties to bring legislation at their peril because DUP and Sinn Féin will try to stick something into that legislation?

I will give way to Mr McGlone.

**Mr McGlone:** Thank you, Mr McCallister. We have heard about the void that exists around equality proofing for this very significant move today in the Assembly, but might it also be useful to hear whether there has been any stab whatsoever at rural proofing, which moves into another Department and the much vaunted aims of the rural development strategies and the likes, in regard to this proposal that we have before us today?

**Mr McCallister:** Rural proofing has proved more to be something to put in a press release; there is very little evidence of it ever taking place. The Member represents a fairly large rural constituency, as do I, and could certainly confirm that we have not seen much evidence of it in any shape or form right across a range of government policies. You would need those cross-cutting decisions if you were doing that, so it makes an interesting point as to why, even if you accepted the argument about this amendment, and on the very intervention that Mr Allister made, would you not keep the power with DOE? Why would you take it back to the centre? If this was seriously about a collective, cross-cutting, reasonable approach by the Northern Ireland Executive, all Ministers would have their shoulder to the wheel to try to regenerate our economy, to stimulate where possible, and to speed up the planning process. As I said in the debate on the first group of amendments, there is no one in this House who would not like to see a faster, more responsive planning system. There is probably no one who does not get frustrated when, sometimes, issues in planning that should be very straight

forward seem to take an inordinate amount of time to resolve. That is something that we all want to see addressed.

However, to go back to my point, why take the power back to OFMDFM? Let us go through some of these issues. Mr Flanagan has tried to convince us that, whatever happens, he and Sinn Féin will protect the people from Fermanagh whatever their view on fracking. He says that they will not allow that to happen and that they almost have enough signatures for a petition of concern, but does anyone really think that this will keep coming back to the Assembly for debate on every single planning issue?

I will give way to Mr Kinahan.

**Mr Kinahan:** Thank you very much. Has the Member considered what will happen in the future when different parties are in OFMDFM? You might not be able to guarantee that there will be no fracking because we will have different parties making different decisions. No one can give a guarantee.

**Mr McCallister:** I am sure that Mr Kinahan was not suggesting that NI21 would be there just so soon — *[Laughter.]* — but, at some point, there will be different parties in OFMDFM, and there will be different parties looking after these issues. I hope that, when parties are doing that, they work to form a proper Programme for Government and work through it, instead of cobbling huge amendments onto a piece of legislation at the last minute.

I will give way to Mr Wells.

**Mr Wells:** My understanding is that the Member is incorrect; that, under clause 8, if agreement is not reached between OFMDFM and DOE, any proposal to designate one of those zones automatically comes to the Floor of this House for agreement and could be subject to a petition of concern or whatever. In the absence of any of the individuals who drafted it, I do not have total assurance on that, but my understanding is that if he reads it carefully, he will see that if Mr Attwood as Minister of the Environment says no to the designating of one of these zones, that proposal must then be approved by the Assembly.

**Mr McCallister:** Considering the way in which we are bringing in this amendment at the moment, I am sure that that reassurance is fairly cold comfort to many Members on these Benches and, I imagine, the Minister. Maybe OFMDFM will take away that power with an amendment at Further Consideration Stage; I

think that they will probably try to grab that one as well.

If we move part of planning into OFMDFM, and if it is also in charge of the planning appeals system, is there a conflict of interest? It would be useful if the Minister would comment on whether he has had any legal advice on the issue. Is it reasonable to let OFMDFM continue in the role of appointing and working with the Planning Appeals Commission, or do we need to look at that system if the amendment is made tonight? There is a very direct conflict of interest that must be challenged. OFMDFM would be making decisions on economically significant planning zones. As Mr Hamilton mentioned earlier, planning tends to be adversarial. Not everyone jumps for joy when every decision is made. Therefore, it is very unwise to have the Planning Appeals Commission with OFMDFM if OFMDFM becomes an extension of our planning system. That is entirely wrong. It should not be allowed to happen. It is a very strong argument for why we should reject the amendment outright.

I see that Lord Morrow is not in his place. He will not be disappointed to hear that I agree entirely with my colleague Basil McCrea. If you look at a series of decisions that have been taken lately, you have to ask why some parties stay in the Executive. Only last week, we discussed and debated what might happen to the A5 moneys. Again, Sinn Féin and the DUP took it upon themselves to decide that they would be best placed to look after those moneys. Look at this decision. We have a Minister of the Environment from one of the smaller parties in the Assembly, and powers are being taken away from him.

Although I do not agree with every decision that Minister Attwood has made; at least he has made decisions. One of the things that you find out sometimes when dealing with some business leaders is that people like decisions to be made. The Minister has proven that he is not afraid to do that. However, this attempt to take power from a Minister goes to the very heart of what our agreement has been about over the past 15 years. It is no great secret that I would like to see us moving to a model of government and opposition. If ever the Assembly needed an example of why we should have a government and opposition, this amendment is it. We have a Minister who is having powers removed from him through the amendment, and he can do nothing about it. He can speak passionately about it and maybe give some background to some of the legal advice that he has been given; but can he stop it? No. That is fundamentally wrong. If you

look at other systems of government that have any sense of collective responsibility on the Executive, that could not happen, but that is what is happening now, and we should not have that system in place.

As my colleague Mr McCrea said, there have been two examples inside a week of Ministers from smaller parties having their policies ridden over roughshod. Those parties and Ministers should seriously think about the way forward and whether they want to continue in an Executive that disregards their views and the policy agendas they are setting out, and uses a planning Bill to insert a huge amendment — it could almost be a Bill on its own — that completely changes the Bill and has such a dramatic effect on the functions of a Department and the way that our Executive will function.

Like many colleagues on these Benches, I will certainly be firmly voting no and will continue to speak out against something that we believe so strongly about. This amendment is wrong, and it should not be passed tonight.

**Mr Allister:** The position that we have arrived at is a most illuminating commentary on the system of government in Northern Ireland. We appoint, by a specific means, Ministers to various portfolios. We appoint an Environment Minister, and planning is a large part of his portfolio. That Minister is then ambushed by an eight-page amendment to a Bill that he, in good faith, has brought to the House, and that has been through the relevant Committee of the House, without a whisper of that ambush. The amendment was presented to the House a few hours, in working terms, before the Bill was due to have its Consideration Stage. Not just the House but, most particularly, the specifically appointed planning Minister has been ambushed. That is, I suggest, a most illuminating commentary on how government works or does not work in this House. It is also an illuminating insight into the political motivation and intent of the ambushers, and the respect or disrespect in which they hold their Executive colleagues.

It is one thing to take a certain attitude to those of us who are outside the Executive in this corner of the House. However, to take that same overbearing, pull-a-fast-one attitude to Ministers in the Executive is quite staggering. This has to be the most audacious power grab that the House has seen for a very long time. Indeed, it is such a power grab that it would do any totalitarian regime proud. Totalitarianism may be no stranger to Sinn Féin, but you would have thought that those who call themselves

the Democratic Unionist Party might have some hesitation about it. Clearly not. Totalitarianism rules supreme in this amendment. This amendment is about garnering all power to themselves. It is clear that the DUP has learned a lot from Sinn Féin and that it is now "ourselves alone".

**8.45 pm**

It is about garnering all that power of a strategic nature on planning to themselves and, in the doing of that, humiliating the planning Minister in the House in such a calculated and deliberate fashion that it can only be intended to humiliate him. No consultation whatsoever. No pulling him aside after an Executive meeting and saying, "We were thinking about this. What would you think?". No. They hit him with the detailed, considered, eight-page amendment, about which he knew nothing — no more than any of the rest of us, outside those two parties, knew anything about it — while, all the time, going through the motions of debating the Committee Stage of the Bill, knowing all that time what was intended and what was going to happen. That is, I think, even by the standards of this House, quite, quite shocking.

Some people, of course, will be delighted by this direction of travel. The development donors to the Democratic Unionist Party will be delighted by this direction of travel. I am sure that some of them are rubbing their hands with glee, thinking that investments made are going to make a good return. When they think that things are now safely in the hands of the First Minister, who knows about a good £5 land deal, I am sure that they are much comforted about where things are going strategically on planning in this House.

**Mr B McCrea:** Will the Member give way?

**Mr Allister:** Yes.

**Mr B McCrea:** Given the well-founded accusations that he has just made, does the Member not express surprise that the once talkative DUP have not thought to stand up from their Benches and say, "That is not the case. That is not what is happening". Why is it that the DUP, on this particular issue, remains silent against the charges that you have made? Would you, Mr Allister, take an intervention from any DUP Member who would like to challenge your assertion?

**Mr Allister:** I will certainly take any intervention from anybody who wants to tell me about the

Fraser donations, the Sweeney donations, the Campbell donations —

**Mr Speaker:** Order. I just warn the Member of the allegations that he is making in the House. Members will know that I allow them quite a bit of latitude when it comes to Bills in this House and amendments to them, because I understand that, when it comes to amendments, there are sometimes wider issues. However, I warn the Member not to go down the road that I think he might want to go down.

**Mr Allister:** I do not think that I made any allegations that are not public knowledge.

So the proposition is that a Department, OFMDFM, with no planning officers in its ranks — yes, it has 400 staff, but none of them works as a planner, and it may have special advisers by the legion, but none is a planning specialist — should become the strategic planning Department for economic zones in Northern Ireland. The Department that cannot even answer questions in the House in a timely manner and cannot address strategies that are its responsibility in a timely manner; the most failing, dysfunctional Department of all the failing, dysfunctional Departments that there have ever been; that Department, because we need economic regeneration, will take upon itself the strategic planning function. Even it must know that it has neither the capacity nor the ability to do the job, yet it has an irresistible urge to power-grab on the issue, knowing full well that the losers will be the people of Northern Ireland, who want a functioning, working, good planning system but who are to trade in what they have for the standard dysfunctionality of OFMDFM. No matter what way you look at that proposition, it is utterly indefensible.

Even if we take the proposition that there is a need for a co-ordinated approach to economic zones and that you need to have economic zone planning — let us all accept that argument for a moment — why would you ever want to remove those economic zones from their natural home and hinterland, the Department of the Environment, where the rest of planning resides? Even if we need economic zones, that is no justification whatsoever for extracting them and delivering them to OFMDFM. The fact that they are going there is confirmation in itself that this is just about power and the grabbing of power.

There is much in the eight pages of amendments that goes unanswered. We must have had the most hapless, uninformative

speech from the proposer of an amendment that the House has ever heard from Mr Boylan, who patently knew and understood nothing about the detail of those eight pages. Someone said that his heart did not seem to be in it. That may be so. I do not know what the deal was whereby Sinn Féin agreed to the DUP driving force on that power grab, but I know that it was a deal. I do not know what the trade-off was — whether it was the Maze or something else — but it patently was a trade-off. It is obvious to the House that the driving force for the amendment comes from the DUP Benches and that Sinn Féin Members are largely passengers, though willing passengers. Mr Boylan's speech was a classic example.

The only Member in the House — of course, he is ever eager to please, no more so than now, when he can see the limousine beckoning —

**Mr Hamilton:** It is only a Skoda.

**Mr Allister:** It is only a Skoda. Well I am sure that Mr Hamilton aspires to much more than a Skoda. *[Laughter.]* The ever-eager-to-please Mr Hamilton seemed to be the only one who had any grasp of what anything in those eight pages might actually mean. I did try to intervene with him latterly to ask for some illumination, because we are in the bizarre position where the Minister will not be able to answer the questions because he has not seen the draft for any longer than the rest of us have, and it would have been patently cruel to ask the proposer the question. *[Laughter.]* So one is left with no one to ask. Let me ask one question, and let me go no further than the first of the eight pages of the amendment, where it says, in the proposed article 13A(2):

*"The adoption of an economically significant planning zone scheme has effect to grant in relation to the zone, or any part of it ... planning permission for development specified in the scheme or for development of any class so specified."*

Let me re-read that, leaving out some of the superfluous words, so that I can make the point that I want to make:

*"The adoption of an economically significant planning zone scheme has effect to grant in relation to the zone ... development of any class so specified."*

Is that class as specified by the use classes order? Answer comes there none. Or, is it as specified in some other way? If it is class as specified in the use classes order, does that

mean that, by creating an economically significant planning zone, we grant, at a stroke, planning permission to anything that is in a particular class of development? If you grant planning for mining, offices or anything else in the use classes order, you are gifted, without any further questions from any upcoming user, that area for mining, offices, manufacturing or anything that is in the use classes order. You are gifted planning permission without even having to ask.

Where does that stand with the long-established fundamental principles in planning that say that, when you come to make your application, you have to address the basic issues of location, siting and design?

**Mr Hamilton:** Will the Member give way?

**Mr Allister:** I will when I have finished.

Where does that stand if you are gifted a global right to have a particular class of development in a zone and you never, it seems, have to address in that zone the questions of location or siting and you certainly never seem to have to address the question of design?

I will give way to the Member.

**Mr Hamilton:** I thank the Member for giving way. The aspect of the amendment that the Member is railing against so strongly is, verbatim, the same as section 33(2) of the Planning Act (Northern Ireland) 2011, which allows for the creation of simplified planning zones in Northern Ireland. He is very angry — a lot of people were nodding their heads around him as he railed against this aspect of the amendment — about a piece of legislation and a principle that the House agreed when it passed the 2011 Act.

**Mr Allister:** That sounds a bit like the Nuremberg defence to me. I was not here when the 2011 Act was passed; if I had been, I would like to think that I would have asked that same question. I am sorry that no one else did, but the question still needs to be answered. *[Interruption.]* Are we now just giving a carte blanche in these economic zones to anyone —

**Mr Hamilton:** We already have.

**Mr Speaker:** Order. The Member has the Floor.

**Mr Allister:** Are we just giving a carte blanche in these zones to anyone who comes up with any scheme, no matter how hare-brained,

provided that it is in the class that is being used?

**Mr Hamilton:** It is exactly the same —

**Mr Speaker:** Order. Let us not have a debate across the Chamber. The Member has the Floor.

**Mr Allister:** Whether it is the same as something else is neither here nor there, because here we are talking about potentially huge, unspecified, unlimited economic planning areas, and you are just going to say that you have carte blanche to do what you like. You do not have to worry about design or anything else. Is that really what the proponents of this amendment, whoever they may be, want?

**9.00 pm**

**Mr McGlone:** I thank the Member for giving way. I did sit through the passage of the previous Planning Bill. I mentioned this earlier, but for Mr Hamilton's ears' benefit, I repeat: the simplified planning zones were to be handed down for consideration, after the implementation of RPA, to local councils. Therefore, I go back to my original point: they are taking the powers that were supposed to be handed over to local councils and putting them at the centre. That is not democracy in my book.

**Mr Allister:** I tend to agree.

The situation is this: there is supposed to be devolution of some planning powers to the new councils. What is going to be left for the planning Minister? The strategic planning that touches on the economy through the zonings, with no limitation on their extent, will be removed from him. The Minister stood at the Dispatch Box earlier and said that he was here to put forward good law. He said that it was his aspiration, as Minister, to bring to the House good law. Although there is a challenge for those who peddle this amendment, there is also a challenge for the Minister. Does he think that this amendment is good law? If he thinks that it is bad law, will he return to the House at Further Consideration Stage and say, "Approve this bad law." That is the challenge that the Minister will have to wrestle with.

Is he prepared to be overborne by the DUP/Sinn Féin cabal in the House and be brought to the point at which something that he brought forward in good faith as good law can be overwhelmed by what he thinks is bad law and yet still bring it back to the House? Or will

the Minister find the courage to say, "I will move no further stage of this Bill if it is made into bad law by the passing of this amendment."?

As Mr McCrea suggested to him, will he go one step better and say, "There is a limit to which I will be humiliated. There is a limit to which the rights that the SDLP has in this Executive will be trampled on."? When you get to the point of denuding a Department of key, fundamental powers, the time has come to go. If anything good is to come out of this amendment, it could be that. At last, those who have been trampled on and used as doormats might act, whether it was forcing them to announce an A5 project that they did not even believe in and then, when it began to fall, humiliating them by saying, "We will decide where the money will be spent", or saying to the planning Minister, "Any planning powers that matter, we are taking them from you."

There surely has to come a point at which the parties in the House who are treated in that way by those whom they prop up in the House reach the point of saying, "There is a line. It has been crossed, and we must go because we can do no other." That would be the dignified and honourable thing to do. I trust that even yet some will find the courage to do that. Government in this House will be the better for it, because at least then you will force the issue of opposition in this House.

The situation with the planning Minister is scandalous. I do not agree with all his decisions: I most certainly did not agree with his John Lewis decision or his Rose Energy decision, but he is the Minister. He is the man who has been given the authority. I say in his defence that it is wrong that, for the political expediency of the ruling cabal, he should now be humiliated in this way and robbed of such powers as he has. For what it is worth, I will most certainly vote against this amendment.

**Mr Agnew:** I welcome the opportunity to speak on the amendment tabled by the developers' union party and its colleagues Sinn Féin. This amendment has nothing to do with good governance and everything to do with centralised power and control. We had hours of talk about the balance provided by sustainable development, the balance between environmental priorities, social needs and economic priorities. That all goes out the window with this amendment.

In the debate on the first group of amendments, there was talk of a wrecking amendment. This is the wrecking amendment. This is the amendment that wrecks the Planning Bill and,

indeed, that will wreck our planning system if it is allowed to go through. It will allow for complete deregulation of planning at the whim of the First and deputy First Minister where they so decide. Balance, fairness and community planning will all go out the window in areas where OFMDFM decides. In the debate on the first group of amendments, I spoke of the loaded dice. This amendment loads the dice very much in favour of developers and against communities.

The DUP, the developers union party, had four years in the environment Ministry —

**Mr Speaker:** Order. The Member will know of the ruling that I made some time ago that Members should call parties and other Members by their proper names.

**Mr Agnew:** I thank the Speaker for his guidance. The DUP had four years in the environment Ministry to create better regulation of our planning system; it promised that. The DUP failed in that regard, so it has gone from better regulation to deregulation and is being supported in that by Sinn Féin.

**Mr Weir:** I thank the Member for giving way. He talks about regulation while the DUP was in charge of the DOE. We brought forward the 2011 Planning Bill, which, in terms of the number of clauses, is probably one of the largest Bills ever to come in front of the House. Apart from anything else, that legislation created simplified planning zones. This is effectively the model for economically significant planning zones. Very major steps forward were taken. I appreciate that the Member's hands, and those of the Member who spoke before him, are clean in that they were not here at that time. However, a very lengthy and substantial piece of legislation was brought forward in the last Assembly.

**Mr Agnew:** I thank the Member for his intervention because it allows me to make the point that just because I was not an elected representative during the passage of the last Planning Bill does not mean that I have not looked at its provisions. This is not simply about simplified planning zones. As has been pointed out, those already exist in legislation so there would be no need to provide for them again. As has also been pointed out, the simplified planning zones were for councils with between 40 and 60 members to designate. Those are based in their local community, make decisions on their local community and are accountable to their local community. These are zones designated by OFMDFM —

**Mr Wells:** Will the Member give way?

**Mr Agnew:** I will finish the point and then give way.

These zones are designated by OFMDFM with much less accountability and much less debate and dialogue, as it is an office of two. The other difference is that there are exemptions in respect of where you could have the simplified planning zones; for example, areas of conservation. There are various protections in that legislation that do not exist in this amendment. That is why it is not simply a case of that legislation being reinstated. If it were, we would not need the amendment. It centralises what was supposed to be devolved to communities and councils, but it also goes further than current legislation does. I will give way to Mr Wells.

**Mr Wells:** I understand the Member's concerns and see where he is coming from. However, is he being entirely fair? The proposed article 13A(8) states that the zones will be designated with the consent of the Department of the Environment. If that happens —

**A Member:** Or.

**Mr Wells:** I am coming to the "or".

If that happens, there is no problem because, presumably, the Minister of the Environment will be perfectly happy with the designation and the process or it will be approved by resolution of the Assembly. It is not simply a question of OFMDFM taking the power unto itself. The first lock is that the DOE has to approve it, and if that is not the case, my understanding, unless I am totally wrong, is that any designation then has to come before the House, which is a democratic Chamber for all of Northern Ireland, for approval. Is the Member being entirely fair in his criticism?

**Mr Agnew:** I thank the Member for his intervention. I talked a lot about the short-term nature of some amendments to the Planning Bill. In the short term, OFMDFM made the calculation that its two parties have the deciding votes in the House; so, passing something through the Assembly Chamber would not be a great obstacle. I take the Member's point about the Environment Minister, but for all I know, it is his party's intention to take that Ministry back in the next mandate. Indeed, it might decide to do a reshuffle in this mandate if it feels that the Environment Minister is being a blockage. So, I am not reassured about that.

**Mr Boylan:** I thank the Member for giving way. I listened to Mr Allister say that I had not read the amendment. I did read it. He picked up on the point about proposed article 13A(8)(b). Would you not encourage the Minister, under proposed article 13A(8)(a), to work with OFMDFM? He has the opportunity to do that now, and he also had an option to bring forward simplified planning zones through the 2011 Act anyway.

**Mr Agnew:** The Minister can work with his OFMDFM colleagues, but they clearly did not work with him on this amendment. My understanding is that simplified planning zones are to be devolved to councils. Maybe the Minister wanted the power to lie there. I will let him answer that. When the DUP held the Environment Ministry, it had the power over economic planning zones, and three subsequent Ministers did not use that power. It is unclear why the need has arisen.

There was some debate on fracking, where the planning zones would be, and whether there would be one in Fermanagh. I will put in the caveat that I, like other Members, heard about this amendment only on Thursday evening and if I am wrong, I stand to be corrected; but my understanding is that there is nothing in the amendment that prevents Northern Ireland being designated as an economically significant planning zone. It was said previously in the debate that nowhere is safe, and that is absolutely the case. If Northern Ireland becomes an economically significant planning zone, we absolutely will see the free-for-all that Members on opposite Benches have said that we will not see. They may not choose to go down that road, but we have no guarantees that they will not do so, and I contend that no sane Parliament would give such powers away so easily. Indeed, only a insane asylum would grant such powers to an office such as the Office of the First and deputy First Minister.

We have seen the outcomes when the First Minister gets involved in planning decisions, and I reference Knock golf course as just one example. Parties in this House, with the exception of the Green Party, do not declare who donates to the party. So we do not know. Whoever takes on OFMDFM, and the point —

**Mr Dickson:** Will the Member give way?

**Mr Agnew:** Yes.

**Mr Dickson:** On a point of information, Mr Speaker, the Alliance Party, along with the

Green Party, publishes the donations to our party. They are very clear on our website, and it would be interesting if other parties in this House did the same.

**Mr McCallister:** We have not had any yet.  
*[Laughter.]*

**Mr Agnew:** I thank the Member for his intervention. I will give way again if I am wrong but, the last I looked, the Alliance Party had not received any donations over the limit set at which it will declare donations. The Green Party deliberately set the limit lower than the £7,500 that is designated. Unfortunately, we do not get donations over £7,500, so we declare every donation over £500 to ensure transparency.

What we do not have is transparency in our planning system, so, potentially, developers are giving money to political parties. Those same political parties will be given even more control over planning decisions if this amendment passes. There is already suspicion of corruption in the Planning Service. To be fair, politicians, with the exception of the Environment Minister, do not have a great deal of say in planning decisions. If we give politicians, namely OFMDFM, even more power, particularly over significant economic planning decisions, the suspicion of corruption will only increase. I challenge any party in this House that wants to see public confidence in the planning system to publish their donations, whether or not they are required to do so by law.

Planning was supposed to go to communities. A big element of the Planning Act (Northern Ireland) 2011 was to put communities at the heart of planning and to devolve planning to councils to make it more accountable. This amendment flies in the face of that and, indeed, takes things in the opposite direction. It puts the power into OFMDFM, with one of the supposed objectives being to speed things up. I will not have been the first person to have had a chuckle at the suggestion that OFMDFM will speed things up.

Let us look at OFMDFM's record on delivery; I will try not to take as long as OFMDFM does. We saw delay on the social investment fund. On the childcare strategy — hardly the most controversial of political hot potatoes — we have seen delay. We have seen delay on the shared future strategy. Every time the ethnic minority development comes up, it sees delay. The sexual orientation strategy? I have not seen it yet; it has been delayed. As Mr Allister pointed out, we even see delays in a

departmental function as simple and basic as responses to written questions from Members. If you want something done quickly, do not send it to OFMDFM, because you might not see it again.

**Mrs D Kelly:** In due course.

**Mr Agnew:** In due course, as the Member says. As Stephen Nolan would say, they are working towards it. He is working towards 15 stone, but he has not got there yet.

This amendment is two fingers to everything that is good planning. It is two fingers to balance, it is two fingers to fairness and it is two fingers to community engagement. It has been purported that Northern Ireland must show itself open for business, but, time and again, this Executive seem to want to show that Northern Ireland is wide open for business to exploit our natural environment and, indeed, to exploit and drive development despite opposition from our communities. My colleague John Barry often says that the poor sell cheap, and we will certainly have sold out Northern Ireland if we pass this amendment. We will not know for some time what the true costs will be, but I fear that they may be catastrophic.

Finally, as has been made clear in the debate, the position at the Executive table on this issue is far from unanimity. Indeed, it seems that there is rarely unanimity at the Executive table. One thing that I can say is that there is unanimity in opposition from those of us in the back corner.

If ever there was a piece of evidence that suggested that the smaller parties should come out of the Executive, it is this amendment. It has been pointed out that Danny Kennedy was given his portfolio and his budget, and a chunk was assigned to the A5. The A5 was the disaster that some of us predicted it would be, and the money was taken back.

The Alliance Party was told, "We do not like you having two Ministries. We are going to take one off you." To be fair, maybe it is stuck with OFMDFM, but that has not happened yet. DEL is still here, so they must have OFMDFM working on it. They were told, "We are taking a Ministry off you because we are not happy with that." Now, the Environment Minister has the audacity to make planning decisions on article 31 applications which the First and deputy First Minister do not like, so they are going to take powers from him as well.

I think that we can agree that, if you are not in the Sinn Féin/DUP cabal, you are not really in

power. I know that the Minister talks about the difference between being in power and being in government, and I would say he is increasingly in government but decreasingly in power.

**Mr Attwood:** I will respond to that last comment later.

I thank Mr Boylan, Mr Hamilton and Mr McCrea, and Mr Allister nearly got round to it — acknowledging whatever contribution I have made as Minister. I hope that my party colleagues were listening very closely to that. *[Laughter.]* Thanks to all of them.

I will even acknowledge it myself, in that I did not take the advice of Members to my left, yesterday and this morning, who said that I should not move this Bill. That was the advice I was being given: not to move the Bill. So some of those Members who have spoken with raised voices and greatest eloquence are the people who, this morning, said to me, "Do you really want to do this?" The debate on the first set of amendments and that on the second prove the point, in all its dimensions, about why this Bill needed to be debated, in terms of good and bad law, governance and politics. That is what we have now begun to touch on.

It seems to me that you could filter through all the comments that have been made in respect of this amendment. You could replay this sometime tomorrow. The third group of amendments, and in particular that one that tries to frustrate citizens who go to the courts to challenge public policy through judicial review. When you filter through all that — and this has been picked up by a number of Members — you will see that this has been the most one-sided debate about significant law that I can remember in my lifetime in this Assembly, and, arguably, in my lifetime in politics, and that has been quite a long time. It has been relentlessly one-way traffic, as to where the good and bad arguments lay.

Mr Elliott began, followed by Mr Allister and one or two others who spotted, very quickly, that the person who moved this amendment had nothing to say and displayed no conviction about what he had to say. It fell to his party colleague, Mr Flanagan, to hint, in a manner that you never hear in the ranks of the republican movement, of a sense of dissent and difference within that particular organisation. To be fair to him, Mr Hamilton put a brave face on it. At least, unlike Mr Boylan, he valiantly tried to defend the Bill, and Mr Allister referred to that as well. For reasons that I will explain, he will feel somewhat embarrassed very soon, in some of the language that he used in



defence of this Bill, particularly in the way he sourced its contents in the Planning Act 2011.

I will put that aside. The word "humiliated" has been used about me. You could use a lot of words to describe some of what has been happening over the past while, and I will go back to the narrative around these amendments, because I think, in that, there is something to tell. However, it comes down to whether the whim of the DUP, at the behest — let us be clear about this — of the British Government, is going to again prevail over Sinn Féin. That is what is at the heart of this debate.

Although Mr Allister said that there was not a whisper about all this — I will explain the narrative in a second — there was a whisper about all this. It was a whisper that was published on 14 June. It was in a document that was written and endorsed by four people: the Rt Hon David Cameron, MP; the Rt Hon Theresa Villiers, MP; the Rt Hon Peter Robinson, MLA; and Martin McGuinness, MLA. It was the so-called economic pact 'Building a Prosperous and United Community'. What did those four individuals say? In an act that was, in my view, potentially hostile to the democratic and devolution interest, the four of them said that they were committed to:

*"Creating a planning system that supports economic growth".*

They also said:

*"The Executive will establish a new process for economically significant planning applications, and make new arrangements in relation to applications for Judicial Review of planning decisions."*

So, whatever the narrative may have been over the past number of days regarding these amendments, there was a narrative before recent days. It was a narrative that was, in part, driven by the British Government, with the assistance of the Democratic Unionist Party and with God knows what when it comes to Sinn Féin. It was their agenda, not simply the DUP agenda. Sinn Féin has to ask itself this question: did we struggle for so long to have devolution in this part of the world, control of our own law and our own destiny, only now to see that responsibility of power pass to a British Government who, on the basis of the Budget negotiations, demand of this Assembly new law when it comes to economic zones and impediments to judicial review? That is the question that Sinn Féin has to ask.

It is a question about where political authority resides. Does it reside in the democratic will of these institutions and in the democratic will that is expressed through Ministers in these institutions? Or, are we going into reverse and back to the days when London calls the tune, pays the piper and can use Northern Ireland as a place to sample and test new law when it comes to significant planning applications and judicial reviews (JRs)? Is that where we have got to after all these years of democratic struggle to achieve democratic institutions? Four people, without reference to the Executive in the North, without reference to the Committee for OFMDFM, decide that this is the character of law in the future. What does Sinn Féin have to say about all that?

I know, because one or two people in the DUP ranks opposite have spoken to me. I know that, within the DUP, there is anxiety about this proposal, the economic zones and judicial reviews. I do not think that the DUP is devoid of wisdom in this regard. I know, because its Members come in to speak to me about individual planning matters, law and policy. I know that they have an insight, one, two or more of them, into what is in the interests of the community and the citizens in the North.

### 9.30 pm

Given the rather embarrassed way that the DUP Members have conducted themselves on the Floor this evening, they have to ask themselves and their party whether they are going to allow bad law and bad politics to become prevalent through a Bill that is all about good planning and good law. Over the next short space of time, they have to decide whether they are going to review their position.

I want to deal with Simon Hamilton's comments. As another Member said, Mr Hamilton at least put his head above the parapet. At least he was prepared to take the thing on the chin, and at least he was prepared to put some argument into what is bad law and bad politics. Consequently, I think that he is entitled to a response, or even to responses, that, in my view, he will not enjoy in one or two regards.

*(Mr Deputy Speaker [Mr Beggs] in the Chair)*

His first point was to berate Anna Lo for tabling significant amendments at Consideration Stage, which is a late stage in the Assembly process. As I indicated, I wrote to Executive colleagues earlier today and tried to adopt a very consistent approach to all the amendments, even to those that my party will have voted for

tonight. I went into the Noes Lobby on that amendment, because it was my view that the integrity of being a Minister, having given advice to other Ministers, was to hold that position, even though my party went to a different place.

In the paper that I gave to Executive colleagues, I contained my recommendations. I can tell you that a lot of Executive Ministers did not follow my advice. My advice was that, save for Anna Lo's amendment on a shared space and public realm, for a number of reasons that I outlined earlier in the debate, they should not agree to these amendments. However, part of it was because there are issues around consultation, if not in law, certainly in practice, and there are issues around good politics and good practice to see, visited upon the Chamber very late on in the debate, very substantial amendments. I held that position. So I say to Mr Hamilton in his criticism of amendments coming in very late to the Chamber, that that standard applies to everybody and to all parties. Although there will be a time and place where there should be some discussion about late amendments, I think that, whatever the detail of each amendment and taken in the round, the approach to the Bill at this stage has not been satisfactory in legislative terms or in the authority of the Assembly processes.

However, in making his argument in defence of the amendment that he spoke to, Mr Hamilton repeatedly relied on simplified planning zones in the Planning Act 2011. He made the argument that what was being proposed in the DUP/Sinn Féin amendment on economic zones was precisely the same, exactly the same and no different —

**Mr Hamilton:** No, no, I did not: that is a misrepresentation. I never said that.

**Mr Attwood:** Let us go back to the Hansard report — *[Interruption.]*

**Mr Deputy Speaker:** Order.

**Mr Attwood:** Let us go back to the Hansard report. I suspect that Mr Hamilton has just had his card marked in the point that I am about to make. It is the case that, in bringing forward their proposal for economic zones, the DUP and Sinn Féin have borrowed heavily from article 33 and subsequent in the Planning Act 2011 on simplified zones. However, it is article 38, which refers to simplified zones, that has somehow disappeared from the DUP/Sinn Féin amendment. It has been utterly redacted, deleted, gone, ignored and sidelined. If we look

at the practice of simplified planning zones in sections 33, 34, 35, 36, 37 and 38 of the Northern Ireland Planning Act 2011, the title of section 38 is:

*"Exclusion of certain descriptions of land or development"*

I am a bit surprised that Mr Allister did not pick up on the point, but I am sure that he will pick up on it now. Even if the economic zones proposed by the DUP and Sinn Féin are in the image of simplified planning zones, why is it that a key element of the legislation on simplified planning zones in the 2011 Act is gone from this proposal? And there is silence.

Section 38(1) states:

*"The following descriptions of land may not be included in a simplified planning zone—*  
*(a) land in a conservation area;*  
*(b) land in an area which is—*  
*(i) designated as a National Park ...*  
*(ii) designated as an area of outstanding natural beauty ...*  
*(iii) declared to be an area of special scientific interest",*

and so on and so forth.

Here we have legislation proposed by the DUP and Sinn Féin in which they say that they rely on the model in the 2011 Act, but it is not the model in the 2011 Act. It looks like the model in the 2011 Act, but it is not, because the model in the 2011 Act, expressed through section 38, excludes certain descriptions of land or development. What is that land? It is some of the most precious heritage land that we have in the North of Ireland.

What surprises me more around the point is simply this: I took legal advice last Wednesday, following the sharing of the amendments with me by the DUP and Sinn Féin, through their SpAds, on Tuesday afternoon. Twice on Wednesday evening, I spoke with our counsel, who is widely recognised as one of the best environmental barristers on these islands, and who has given good advice not just to my Department but to other Departments historically and recently.

In order to try to see wisdom prevail in the FM and the dFM over these amendments, I shared that legal advice with them this morning. I have yet to see their legal advice, whoever might have produced it and whatever it might say about the amendment. Whatever about their failure to disclose — if that is the case, and if, during the debate, that has been disclosed to

me, I welcome that — I took the bull by the horns and shared my legal advice with the FM and the dFM earlier today. Therefore, having shared that legal advice, I am a little surprised that that legal advice has not percolated through the Building to the Benches opposite so that they could at least anticipate the point that the FM, the dFM, their SpAds and other people have anticipated. What does that legal advice tell me? I am going to read some of it into the record so that people will know and can go forward with their eyes wide open when it comes to this model of zone that the DUP and Sinn Féin — the FM and the dFM — are trying to impose on the Assembly. The legal advice states:

*"There are problems with the European obligation in that the proposals"*

— that is, the FM and dFM proposals —

*"envisage that planning permission will be granted by the designation of an ESPZ for whatever is specified in the scheme."*

In connection with the lack of exclusion of designated areas, the legal advice states:

*"There is no exception made for sites designated pursuant to the wild birds directive, special protection areas or habitats directive."*

What did we spend last week discussing in the Chamber? What will we spend Thursday discussing at the Executive meeting? We will discuss what happens with the A5 moneys. What was the problem with the A5 moneys? I might not necessarily agree with the court, but it decided that there had been some breach or otherwise of the habitats directive. Therefore, we have been warned by the courts about the conduct of government when it comes to assessments to do with the habitats directive and the wild birds directive. But what do the FM and dFM decide? They decide to bring forward an amendment that excludes the relevant clause from simplified planning zones. The consequence of that, as my legal opinion states, is that no exception is made for sites in their proposal designated pursuant to the wild birds directive or habitats directive, which have the protection of articles 6(3) and 6(4) of the habitats directive.

Those matters, my legal opinion advises, were recently emphasised by what? By the Alternative A5 Alliance case 2013 and the decision of the Court of Justice of the European

Union in *Peter Sweetman and Others v An Bord Pleanála*, which states:

*"since those provisions prohibit the grant of consent unless there are no likely significant effects caused to the designated site by the development or, following an appropriate assessment, it is found that there will be no adverse effect on the integrity of the site. Article 13A(2) would be in breach of the directive since it could grant consent for a Natura 2000 site without any of the protections required, and thus grant consent in breach of article 6(3)."*

The legal opinion adds that that would expose DOE to challenge to the legality of the provision and expose the UK to infraction proceedings by the Commission. It continues:

*"In our view, the proposals would fail the legislative competence requirements of section 6 of the Northern Ireland Act since section 6(2)(d) would apply as the draft currently stands."*

I could read more because it goes on more about how that amendment tabled by the DUP and Sinn Féin is, as it stands, in breach of European requirements and Convention requirements, and of our own domestic law in the Northern Ireland Act 1998.

**Mrs D Kelly:** Would the Minister be surprised to learn that some are already referring to this Planning Bill as a special powers Act?

**Mr Attwood:** I do not know what people are referring to it as, because I have been in the Chamber all day. However, if the political point being made is that at a certain time in our history another Government in this part of the world took onto itself disproportionate powers that were hostile to public policy and the public interest, given the history of this part of the world in respect of special powers legislation, that seems to me to be at least arguably accurate.

Mr Hamilton made his defence of that particular piece of legislation. He did not state or did not know that parts of the 2011 legislation were not included and that I shared legal advice with FM and dFM and all Executive Ministers in a paper circulated before the debate today. As things stand, that is the advice that I rely on. It may be that others got legal advice; I cannot imagine that they did not get any legal advice. However, I would like to test the advice of others against the advice that I have, and we will see where all that ends up.

Mr Wells made a series of thoughtful and decisive interventions. They are worth reading if people did not hear them because they challenged the amendment and the opposition to it. That was a balanced approach because, given his background, I can understand why he would want to assess these matters.

**Mr Wells:** Will the Member give way?

**Mr Attwood:** I will in a second. He made a point that deserves an answer: if the law has simplified planning zones, why do we not avail ourselves of them? That is a fair point. It so happens that we have had simplified planning zones in one shape or another for 20 years and have not availed ourselves of them. Whatever my accountability for the past couple of years — and I will give accountability for the past couple of years — they existed in legislation before the 2011 Act, and they were not taken forward.

There may be many reasons for that. If you look at the experience in Britain of taking forward simplified planning zones or their equivalent legislative vehicle over there, you see that they do not take them forward very much either. If there is a place where they have been taken forward with a bit more enthusiasm, it is, as Mr Hamilton pointed out, in Dublin, for example with the Dublin Docklands Development Authority. Therefore, it is, certainly, a fair question to ask why simplified planning zones should or should not be taken forward, as long as people are fair in saying that we had them before and nobody used them, or did not use them very much, even though they were part of the "legislative armoury", which is the language that Mr Hamilton used, of this part of the world for the past 20 years. I do not resist using legislative mechanisms that we have and that might not have been used before.

#### 9.45 pm

A developer on the north coast had a completion order process served upon him. A third-party financial interest came in to clear up the site, or, at least, most of it. We had been in contact with the agent for the third-party financial interest to say that there was still 20% to be done and to get round to it. Urgent works notices were not deployed in this part of the world for nearly 40 years. There have been more deployed and more threats of their being deployed in the past two years than in the previous 40 years. In the past couple of weeks, we demonstrated that, in actions that have

been taken in respect of a waste company in the north-west and mechanisms that were not used previously regarding enforcement policy and practice against environmental vandals. In my view, and subject to what the courts might or might not discover in due course if the matter goes to court, we demonstrated that.

Recently, I had a seminar with building control staff from all the councils, saying that they have mechanisms in use, through pollution control orders and improvement Acts, to enforce against those who let sites go to ruin or where there are health and safety risks in each council area. I do not dispute that there are mechanisms that could be used, and used more. They might even be simplified planning zones, even though the ambition is that those will go to councils. However, as I indicated in the debate on the previous group of amendments, given the scale of what we are trying to drive forward with planning reform and change, the devolution of planning and all the rest of it, we have concentrated our efforts in other places. Perhaps, we should concentrate our efforts on this. If we are concentrating our efforts on simplified planning zones, let us do it correctly under European and domestic law. Let us not do it wrongly, as proposed in this particular amendment and the politics behind it, which I intend to deal with shortly.

I will give way to Mr Wells.

**Mr Wells:** First, the reason why I have raised so many questions is that, as I said earlier, apart from the Marriage (Same Sex Couples) Bill, this particular piece of legislation has attracted more e-mails, letters and phone calls than any other subject. That was before many people knew about the more dramatic changes that were introduced by OFMDFM. Therefore, I felt duty bound to reflect the concerns that I have heard. I have to say that some of those concerns were answered very well. Some have not been answered as clearly.

The Minister's argument would be stronger if there were a clear track record of using simplified planning zones in Northern Ireland to produce real results. What he has told us is that, in fact, that legislation has been on the books for 40 years and has never been used. On top of that, there is also the concern that the strategic planning section of DOE's Planning Service, as it was, was meant to be the panacea to deal with that. Mr Hamilton and I quoted two very concrete examples — Downe Hospital and Down High School — where the system worked really well to produce a brand new hospital and permission for a school in record time. However, clearly, the impetus for

amendment No 20 is that there is still concern that there are far too many projects out there that were never given the benefit of a simplified planning zone or were never properly handled by the strategic planning unit and are still sitting, festering away, with no decision. Exasperation with the performance of his Department has led to the situation.

**Mr Attwood:** To be fair to FM and dFM, I did not pick up any exasperation with the Department's performance in the past couple of years. There may have been historical exasperation. There may still be a need to deal with the causes of exasperation. However, I think that the narrative of the past couple of years suggests, as I indicated earlier, that corners have been turned.

Strategic planning, Mr Wells, is responsible for article 31 applications. If there is any family of applications that might indicate and give opportunities for Members of the House, including Ministers, to tell the development world about where the nature of planning is now, article 31 applications and the strategic planning teams who are responsible for them demonstrate that. How? Decisions have been issued for 75% of the article 31 applications that I inherited.

Why? Because the new article 31 applications that have come in over the past two years — there are fewer of them because of the economic circumstances — are, by and large, being handled in six months or less. That is why there have been decisions in respect of Narrow Water, Windsor Park, the movement of the Balmoral show to Maze/Long Kesh, the Maze/Long Kesh proposal itself, and the police college. So, if people want evidence of where the planning system is and of where strategic planning is, there is good evidence that you can rely on and advocate. Does that mean that strategic planning has got everything right? No.

As I have indicated on a number of occasions, although there is now good authority in the Department around decisions in respect of individual wind turbines, we need to show more authority around decisions in respect of individual wind farms, for which there are over 30 applications still in the system. I have some frustrations about how those are being managed, and I think that there are opportunities to take them forward, while recognising that community opposition, resistance and concern about wind farms is growing. So, if you want evidence, there is evidence beyond the examples that Mr Wells talked about and the one that Mr Boylan talked about, DMAC, which I will come back to shortly.

I now turn to the issues raised by Mr Boylan. As I said, he was not as valiant in his efforts to defend the legislation as his colleague in the DUP. I would like to make some points in response to the issues that he raised. The first point was that I should work with the FM and DFM. I could probably work better with a lot of people, including those around me, but I will put that aside for a moment. This goes back to Mr Allister's comments about whispers. The first time I got any sense at any time that there was anything happening was when I was invited to join a conversation with the FM and DFM about four or five weeks ago. That conversation, for which Mr McDevitt was present for part of, dealt with dealing with the past and the potential chair. They then asked to speak to me about planning; that is what I was told. In that conversation — I hope that I am not breaching some ministerial code on ministerial conversations —

**Mr McDevitt:** I was present; it is OK.

**Mr Attwood:** No; you were present for that bit, but you were not present for this. I might be in breach. If I am, I apologise. Given that the point has been raised, I think that I should confirm the situation.

We had a conversation primarily about judicial reviews. I said to them — I believe this to be the case — that the issue is not that there are many applications for JRs. In tomorrow's debate, I will confirm the number of JR applications, which have been presented as a huge impediment and as sending out a bad message about the planning system in the North. There were 13,000 planning decisions made last year, and there were four or five judicial reviews. Most of those were not taken by the development community; they were taken by me in challenging the Planning Appeals Commission and by the National Trust in challenging me on the Runkerry decision. There were four or five cases where ordinary citizens went to court and said that they did not think that public policy was conducted properly when it came to the planning process. We had a big conversation about that and about how it could be improved.

In my view, without trying to interfere with judicial independence, I think that there are issues with how judicial reviews are handled on the far side of leave being granted. That is not a legislative matter, and it is not the Executive's function to address it. The Lord Chief Justice and the senior bench have the rightful authority to do that. We had that conversation, and, in

passing, we touched on other planning matters. That was the height of our conversation.

The next time I became aware of anything developing was on Tuesday, when my Department was contacted, and a conversation arose between SpAds. Following that, I saw a draft. I then met the FM and DFM at lunchtime on Wednesday and explained, as I have today but probably in less detail, my view on these clauses. I have been asked to work with the FM and DFM, but that is how they have worked with DOE on a significant piece of planning legislation. I do not think that John O'Dowd, as Minister of Education, would be too happy with that approach. Without getting into too much detail, because it is his responsibility, I have seen examples, be it at the Executive table or in other places, where other Ministers have indicated that they are not happy with how some things have been handled around the Executive table. I think there should be some sympathy — and that is not, in my view, being humiliated. You might think that is being humiliated; I think that is bad politics and bad government by others when there is an opportunity for good politics and good government by us all. I do not think that is very satisfactory.

Mr Boylan made a strange comment about area plans not being fit for purpose, as if the problem with planning is area plans not being in place. There is a problem, but the answer to the issue of area plans is not to give this function to OFMDFM. The answer to dealing with area plans is to make sure that we get devolution of the development plan function to councils in 700 days and, in the meantime, contrary to what somebody might have said earlier, to prepare the councils so that they hit the ground running, so that they take forward the development plan function and so that, as quickly as possible thereafter, councils are endorsing development plans, because plan-led development is the best development that we can have. That is the answer. The answer is not to give some sort of development plan — that is not actually what is being spoken about — function to OFMDFM.

Mr Boylan dismissed the intervention that has seen the protection of pharmaceutical and life science plant when it comes to other developments in industrial zones. He said that he does not believe that is the way to go about changing planning. Too right it is the way to go about changing planning. It is to say that there are added-value jobs when it comes to pharmaceuticals and life science, and that if there is a problem, and there has been a historical problem, you get it sorted. Once you

get it sorted, you get more investment. Do not tell me that is not the way to go about things when it is clearly one of multiple means to go about demonstrating that planning is getting more and more fit for purpose.

I realise that I am going on, and I will now conclude. There are just two comments I want to make in concluding. The first is that the only case that has been raised in this entire debate about a failure of planning beyond the perceptions about failure of planning — and I could give you a lot more examples of failure of planning than have come out in this particular debate — but the only hard example, purportedly, has been DMAC.

**Mr Wells:** And John Lewis.

**Mr Attwood:** And John Lewis. I am delighted to deal with John Lewis. Briefly, I will not get into the issues about DMAC, as that is an ongoing matter that has historically been before enforcement and has been to planning appeals. I suggest that if you want to interrogate the file — I have, and I am not exaggerating when I say that those files are six feet high. What are the issues? Should you allow an industrial zone to be developed outside the settlement limit in Coalisland, adjacent to residential homes? That is a matter of policy and a matter of principle that will have consequence if you do not get it right.

Secondly, should you allow development there when there are alternative commercial sites not very far away, because land has been zoned and developed by INI for commercial development in that part of the world? But there is a company that thinks that is not good enough for it, that it has some reasons of commercial confidence why it cannot move to those sites rather than to the site on which it has, and this is the third point, built without planning permission. Let us not portray a particular issue about DMAC in this simple for/against development argument; it is more complex. It is a fair point, I think, and it is a point made against me, that that matter should be decided, but let us not pretend that it is simply, "Let us have development or let us be opposed to development".

I want to conclude —

**Mr Wells:** John Lewis.

**Mr Attwood:** Let me deal with John Lewis and give you the advice I gave to a planning inquiry. I did not collapse the planning inquiry. Who collapsed the planning inquiry? It was one of

the parties to the planning inquiry. If they were so sure and certain about the commercial viability of their project and about the rightness of their argument about that site in terms of planning development, then they should have exhausted that planning process. That planning process was being conducted outwith government by an independent body called the Planning Appeals Commission. If they believed in that project, and if their clients believed in that project, then they should have exhausted that process, and then we would have seen what would have happened on the far side of that.

**Mr Byrne:** Will the Minister give way?

**10.00 pm**

**Mr Attwood:** I will in a second, Joe.

The second thing is that I lodged in the Assembly Library the planning advice that I gave. Nobody has said to me that that planning information was wrong. What was that planning information? It was a deep interrogation and assessment of the impact of not only John Lewis but the 19 other stores that would have been built out at Sprucefield. What was the information? It was that the impact on every town and city within 60 minutes' travel time of Sprucefield would have been significant, if not catastrophic. Nobody, be it the developers of Sprucefield, John Lewis, anybody in the Chamber, any retail organisation or any chamber of commerce in any part of that travel zone, has said that that information was flawed or false. If that was the information, my obligation was to follow the existing planning policy when it comes to retail and comply with the RDS 2035, which says that you favour in-town and edge-of-town development over out-of-town development. In the fullness of time — I hope that it is sooner rather than later — the wisdom, for what it is worth, of that advice will be demonstrably proven to be correct. If we do not fight the battle of in-town/out-of-town development and just leave everything to go to the edge of town, which is hostile to the business model of many people, even perhaps to that of John Lewis, we will live with the consequences for a long time to come.

I give way to Mr Byrne.

**Mr Byrne:** I thank the Minister for giving way. Does he agree that only four or five major developers seem to resort to JR quite often, including on the issue of a secondary school planning application in Carrickmore?

**Mr Attwood:** As I indicated, I will read into the record tomorrow the number of JRs that we have had in Northern Ireland in each of the past three years. Although the threshold on occasions can be low for the granting of JR on planning issues, let us not exaggerate the scale of JRs around planning.

**Mr Wells:** Will the Member give way?

**Mr Attwood:** I will.

Let us protect the principle of JR. It has been a mechanism to interrogate public policy — I will finish here, because I know that I am straying — for 40 or 50 years in this jurisdiction. The citizens and communities of this jurisdiction have had the benefit of that. Let us be very measured and wise when we start interfering with JRs, not necessarily on the planning side, because the consequence is elsewhere.

I have outlined that I have concerns about the legislative competence of this law. I know that the minds of people not very far away will be whirling. They will ask how, in advance of Further Consideration Stage, they can rectify all of that. When people, in the way in which this has been handled, have shown their hand, the credibility of these amendments has run out of steam nearly before the ink was dry. Parties in the Chamber need to recognise that they overreached. It is beyond legal competence. Even if they try to rehabilitate the legal competence of those amendments, this is not where people want things to go.

Beyond the issue of bad law and bad politics, which I explained previously, there is an issue of good government. That has been touched on by a number of Members. It is about whether OFMDFM should assume a further significant operational responsibility. I say unambiguously that that is not good government. Why do I say that? I will give only three or four examples. Others have been touched on. There has been a review of North/South. If people want economic opportunity on this island, we should grasp the North/South economic opportunities on this island. New jobs potentially could arise by taking forward the 2006 British and Irish Governments' proposals on an all-Ireland economy and taking forward the good work that the relevant Health Ministers North and South have been doing, and so on and so forth. That is low-hanging fruit when it comes to job opportunities. It is about marketing this island more and more as an island in the global market to compete properly. Where are we with the North/South review? It was meant to start in 2007. It is now more than six years

later. It may be that the next North/South Ministerial Council (NSMC) meeting in early July might tell us something more.

The DUP has been allowed to strangle the North/South review, which was a condition of the re-establishment of devolution in 2007. That review has been slowed down, it has been strangled and it has no output. The consequence of that —

**A Member:** Hear, hear.

**Mr Attwood:** Yes, you may well say "Hear, hear", but what message does that send to all those who are out of work and who might have the opportunity of more work on this island if there were more North/South opportunities?

Where have they gone with the social investment fund? In 2011, £80 million was put in the budget line for that initiative. Now, well into 2013, hardly a penny of it has been spent, so much so that, in my view, when it comes to spending that money in the next period of time, there is a danger that it could be spent on pet projects or on any projects just to get it spent. The case is similar with a shared future.

What is the lesson of the amendment? It is that you do not give responsibility to those who do not have the operational capacity to take it, and you do not give responsibility to those who have not been too good with their own responsibilities or to those who have tabled legislation that is outwith the Assembly's competence and hostile to European requirements. Instead, you recognise the challenge to the planning system and work within it to make it better and more fit for purpose. That is the experience of the past two years, and that is what we should build on. The House should reject the amendment.

**Mr Weir:** Often, when I follow the Minister of the Environment, I am reminded of the batsman waiting in the pavilion after a very long partnership who has had the pads on for a very long time. I should perhaps at least be thankful that, in the second group, the Minister kept his remarks, by his standards, to the very epitome of brevity. If you like, he moved not so much from test-match Alex Attwood to not quite Twenty20 Alex Attwood but, perhaps, at least to limited overs Alex Attwood. I think that the House should at least be grateful for that.

A very wide range of issues have been covered in the debate. Perhaps unsurprisingly, given some of the people who contributed, a lot of it seems to have centred not on the amendment

itself but on a wide-ranging attack on the evils of OFMDFM. Sometimes that was driven down to the evils of the parties in OFMDFM. It veered, at various stages, towards being quite snide towards some of the individuals who are there, and some came close to making very scurrilous accusations. Unsurprisingly, some of the parties devolved the debate down to something that was not simply critical of the Bill; they used it as a device to say that three of the parties in the Executive should fall on their swords — I think that a number of people in the back row would be quite keen to push them on to those swords — and leave the Executive. That is clearly entirely a matter for the three parties concerned.

In the wide range of matters that were pushed through this debate, even the Minister had a little jaunt toward the North/South Ministerial Council. We heard the razzle-dazzle of Basil McCrea, who found this utterly amazing. Although, to be honest, I suppose that, if you are in NI21 and you come across a policy, you would find that amazing; the surprise would be stultifying for you. Occasionally, the debate even touched on the contents of the Bill. As one of my colleague was saying, perhaps if I were to express that in Irish, NI21 would understand it a lot better. *[Interruption.]*

**Mr Deputy Speaker:** Order.

**Mr Weir:** A range of issues have been discussed. We even had one Member who seemed to be completely confused about community planning and seemed to equate this proposal to community planning without realising that the two are completely separate.

Let us take a look at some of the issues and at the facts of what is in the proposition and not the fears or the hype that have been expressed. We have gone from potentially concreting all of Fermanagh to designating the whole of Northern Ireland as an economically significant zone. None of that has any basis in fact or reality. We have been told that this is a power grab and that it will create a new planning authority for Northern Ireland, yet OFMDFM will not have the power to take a single decision to grant a single piece of planning permission. That power is not contained in the amendment, but that fact is not convenient for some of those who criticise it.

Similarly, we are told that it is a power grab off the DOE, yet not a single power that is currently exercised by the DOE that is affected by this proposal is taken from the Environment Minister. Article 31 determinations were mentioned. There is no interference



whatsoever with article 31 determinations. Mention has been made of simplified planning zones. There is no interference with simplified planning zones. Indeed, the legislation specifically indicates that an economic planning zone cannot be on a simplified planning zone. The two are kept completely separate.

Although I appreciate the point that was being made, my colleague Mr Hamilton was misquoted to a degree about the simplified planning zones. The point is that the principle of being able to grant permission on a zone on a wide and indeed relatively unfettered basis — there are opportunities in the legislation to make it conditional — is granted by the 2011 Act. The amendment is drawn, at least in part, word for word from the simplified planning zone provision. It seems a rather contrived logic that says that we are perfectly happy for a council to give utterly unconditional approval in a particular area but the regional government cannot. That seems to me to be perverse.

As indicated, this is not a replica of simplified planning zones or enterprise zones, although facets of both are within the amendment. It is an opportunity for regional government to intervene to secure international investment and economic opportunity post 2015, when simplified planning zones will be a matter purely for local authorities. Similarly, Members have asked, "Where does democracy reside?". It is clear where it resides. Not a single decision to grant planning permission can be taken by OFMDFM. Where does it reside? As indicated, it lies with approval by the DOE or of the House — all 108 Members giving their view. How much more democratic could you get?

Fracking has also been mentioned, and I know that some people are concerned about it. The reality is that the amendment gives a more democratic opportunity to obtain planning permission than exists at present. It is also clear that fracking is an issue that goes well beyond planning powers. For it to be approved requires a lot more than that. In the future, it will be something that may or may not be looked at.

The Minister mentioned the legal advice that he got, specifically about the power to grant assent in an area subject to, for example, the habitats directive. The reality is that the amendment does not give the power to grant a single planning application. Therefore, I do not disagree that it would clearly be legally wrong to grant permission in such circumstances, but that is not something that this planning amendment permits. Any planning application for any significant zone would have to come to either the DOE or the Assembly as a whole.

Any direct application of that nature would fall foul of European law. Therefore, although the Minister may well have got an answer to a particular question, he was not asking the question that arose from the legislation.

As for people complaining about a lack of detail, I have to say that the one thing that you cannot say about the amendment is that it lacks detail. We have eight pages of detail in it. If any of that detail needs tweaking between now and Further Consideration Stage, Mr Boylan and I will be open to doing that.

Fundamentally, this is about providing an additional economic tool for Northern Ireland. It has been mentioned that there have been discussions with the Government, but our interest, above all, is in doing the best for the people of Northern Ireland. For instance, an economic conference is due to take place in October. None of this impacts on the current planning system, because, as indicated, none of the normal article 31 development control and DOE powers is affected whatsoever. However, it gives an extra economic tool to the Northern Ireland Executive. At the end of the day, the Assembly and Executive have placed economic development at the heart of the Programme for Government — economic development in very tough times and in the face of a worldwide recession. We have seen young people from across the community having to migrate because they have not had that economic opportunity.

#### 10.15 pm

We can all climb into ivory towers, as some people seem to want to do in spiteful party political attacks on the representatives of OFMDFM, and say that economic development is essentially a bad thing, which is the message that I have got from some people, or we can, as an Assembly, step up to the job and actually support economic development. There seem to be some parties and individuals in here who are very supportive of economic development, right up to the point of taking any decision or any vote that actually supports economic development. This is a tool that can be used by the Executive to further Northern Ireland, to make us more competitive and to ensure that we are fit for purpose in terms of investment. This is a clear test.

**Mr McDevitt:** *[Interruption.]*

**Mr Weir:** I see a Member who has been absent for most of the debate heckling from a sedentary position. Talk is fine, but action is

what is needed. By passing the amendment, we will show commitment to our young people, commitment to investment, commitment to jobs and commitment to economic development. That is the key test for parties in the Chamber tonight. Therefore, I have not just great pleasure but great honour to say that we as an Assembly and those of us who will support the amendment have ambition for our community for the future. I urge anyone who has that similar ambition for economic investment and jobs for our young people to show their mettle tonight and vote in favour of the amendment.

*Question put, That amendment No 20 be made.*

*The Assembly divided:*

*Ayes 60; Noes 32.*

#### **AYES**

*Mr Anderson, Mr Boylan, Ms Boyle, Ms P Bradley, Mr Brady, Ms Brown, Mr Buchanan, Mr Clarke, Mr Craig, Mr Douglas, Mr Dunne, Mr Easton, Ms Fearon, Mr Flanagan, Mrs Foster, Mr Frew, Mr Girvan, Mr Givan, Mrs Hale, Mr Hamilton, Mr Hazzard, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr G Kelly, Mr Lynch, Mr McAleer, Mr F McCann, Mr McCartney, Mr McCausland, Ms McCorley, Mr I McCreagh, Mr McElduff, Ms McGahan, Mr M McGuinness, Mr D McIlveen, Miss M McIlveen, Mr McKay, Ms Maeve McLaughlin, Mr McMullan, Mr McQuillan, Mr Maskey, Mr Milne, Lord Morrow, Mr Moutray, Mr Newton, Mr Ó hOisín, Mr O'Dowd, Mr Poots, Ms S Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Sheehan, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr Wilson.*

*Tellers for the Ayes: Mr Anderson and Mr Boylan*

#### **NOES**

*Mr Agnew, Mr Allister, Mr Attwood, Mr Byrne, Mr Copeland, Mr Cree, Mr Dickson, Mrs Dobson, Mr Durkan, Mr Eastwood, Mr Elliott, Dr Farry, Mr Ford, Mr Hussey, Mrs D Kelly, Mr Kinahan, Ms Lo, Mr Lunn, Mr Lyttle, Mr McCallister, Mr McCarthy, Mr B McCreagh, Mr McDevitt, Mr McGimpsey, Mr McGlone, Mrs McKeivitt, Mr A Maginness, Mr Nesbitt, Mrs Overend, Mr P Ramsey, Mr Rogers, Mr Swann.*

*Tellers for the Noes: Mr Byrne and Mr Rogers*

*Question accordingly agreed to.*

*New clause ordered to stand part of the Bill.*

#### **10.30 pm**

**Mr Deputy Speaker:** In accordance with the Speaker's ruling earlier this evening following the receipt of a valid petition of concern in relation to amendment Nos 21 and 23, no further consideration of the Bill will take place today. The Business Committee will agree the arrangements for the rescheduled Consideration Stage when it meets tomorrow. I ask Members to take their ease for a few moments as we move to the next item of business.

*(Mr Deputy Speaker [Mr Dallat] in the Chair)*

#### **Budget (No. 2) Bill: Final Stage**

**Mr Wilson (The Minister of Finance and Personnel):** I beg to move

*That the Budget (No. 2) Bill [NIA 21/11-15] do now pass.*

Members will be pleased to know that I will be brief on this, and I hope that my brevity will be matched by their brevity.

The passing of the Final Stage of the Budget Bill by the House will enable Departments to continue to use resources and spend cash on public services for the remainder of the financial year. As I have said on many occasions, the Budget position is continually moving. Monitoring rounds, including the June monitoring round that will be announced next week, will amend the opening position reflected in the Bill. Looking forward, the outcome of the UK spending round, which is to be announced on Wednesday, will also have an impact on the block position. As is customary, I will bring updated legislation to the House in February 2014 to authorise the final position for this financial year.

The public expenditure issues and, indeed, many other issues around this Bill have been debated fully over the past two weeks. I do not propose to repeat them in my opening remarks tonight. I will leave that repetition, which I hope will not be too tedious, to Members. It is important to state that the provision in the Bill represents the third year of Budget 2011-15, as agreed by the previous Assembly in March 2011. Members will be aware that there have been a number of changes to the position since then and that those have been agreed by the Executive and brought before the Finance and Personnel Committee for scrutiny in advance of

this debate. The Committee has agreed accelerated passage, for which I am grateful to it. Indeed, I welcome not only the accelerated passage provided for by the Committee but the scrutiny that the Committee undertakes. I expect that my officials will continue to provide financial information to the Committee in as timely a manner as possible so that it can exercise that role.

Transparency in public finances and the financial processes that underpin them is to be welcomed, and I encourage other departmental Committees to exercise a similar level of scrutiny over departmental Estimates information.

A number of Members have expressed frustration at the Bill's technical nature and its lack of transparency on the Budget position. I agree. My officials can provide summary tables that help to reconcile the Estimates and Budget figures, but the process remains opaque. That is a nuance of the current financial and legislative practices, and the review of the financial processes is an opportunity — I keep repeating this point — for the Assembly to reform those practices, which I agree are technical and difficult to grasp. I hope that we can make progress in the near future.

I will turn my attention to the remainder of this financial year and the challenges that lie ahead. We can safely say, even at this stage in the year, and indeed at most stages throughout the year, that there is demand for additional resources, and those demands are wide-ranging and worthwhile in their own right. However, we do not hold an infinite supply of money, and despite what some Members suggested in previous debates, there is no hidden pot of cash in the Department of Finance and Personnel (DFP). We are able to supplement our Treasury allocation with additional receipts, regional rates and reinvestment and reform initiative (RRI) borrowing, but we must exercise careful management. We will have to make decisions going forward on what is a prudent level of borrowing, because that has a financial impact on resource departmental expenditure limit (DEL). Indeed, I will raise that point with Executive colleagues when we begin to think about 2015-16. In the meantime, we need to ensure that our budgets are well managed and utilised to the maximum benefit of our society. The Budget Bill shows the upper limits of spend for each Department, and those limits highlight the need for each and every Minister and public body to prudently manage the resources available to them throughout the remainder of the year.

As an Assembly, we must ensure that every penny spent on the provision of public services is spent wisely and on high-priority services. With that appeal, I will bring my remarks to a close. I hope that, as I said, the brevity of my opening speech will be matched by the brevity in speeches around the Chamber at this late hour, because I am sure that we all want to get home.

**Mr McKay (The Chairperson of the Committee for Finance and Personnel):** Go raibh maith agat, a LeasCheann Comhairle. I will be as brief as possible. As previously outlined by the Minister, the Bill makes provision for the balance of cash and resources required to reflect the departmental spending plans in the 2013-14 Main Estimates. As I indicated during the previous debate, the Committee agreed to grant accelerated passage to the Budget Bill on the basis of having been consulted appropriately on the expenditure provisions in the Bill. It is imperative that the Department meets the requirement for appropriate consultation, given the importance of the Bill progressing through the Assembly before the summer recess.

I reiterate that proactive scrutiny by statutory Committees of departmental financial forecasting and out-turn data will enable them to identify issues in real time and obtain assurances that any necessary preventative or corrective action will be taken in year. That will help to ensure that no moneys are returned to Treasury as a result of underspends beyond the thresholds agreed in the Budget exchange scheme and that retrospective action is not needed to regularise any excess spend. To facilitate that additional scrutiny, the Finance Committee is sharing with the other statutory Committees the monthly forecast out-turn data, which is co-ordinated by DFP. In addition, prior-year forecast out-turn figures for each Department will be circulated to the other Committees in sufficient time in advance of the Main Estimates, subject to those figures being provided by the Department on a timely basis. Each Committee is also encouraged to pre-schedule briefings on their Department's draft Estimates before those are collated and published by DFP centrally. That additional information and scrutiny should add value to the plenary debates on the Estimates and Budget Bills going forward.

I also explained during the Supply resolution and Second Stage debates that the Committee is taking forward work, in collaboration with the Department, to develop a memorandum of understanding on the Budget process. That

should, in conjunction with other measures, help to improve the Budget and financial processes and related parliamentary scrutiny and accountability. I indeed welcome the Minister's support for the work that is being undertaken to bring forward the memorandum of understanding. As the Assembly and DFP officials continue to develop the draft document for both parties' consideration and approval, I am confident that, in addition to providing for a regularised Budget process and more effective Assembly input, it will set out arrangements that are sufficiently balanced and flexible to enable the Executive's budgetary timetables to be met.

This development offers the potential for ensuring that the Assembly and its Committees can add more value to the Budget process and that they are afforded the time and information to enable them to undertake constructive scrutiny and to exercise influence at the most appropriate stages in the process. In undertaking more effective oversight of the Executive's Budget and expenditure, the Assembly can play an important part in helping to ensure efficient and effective delivery of the Executive's strategic priorities, including the objectives in the Programme for Government, the economic strategy and the investment strategy. I look forward to the proposals coming to the Committee and to the wider Assembly in due course.

Finally, in terms of the Committee's forward planning, it would be helpful if the Minister could provide an update on the expected areas of focus for the Whitehall spending review 2013 and the implications that those might have for the Executive's Budget in 2015-16. Moreover, perhaps the Minister could also indicate what the likely time frame is for any local Budget process in that regard and, indeed, whether any consideration is being given at this stage to reviewing departmental budgets for 2014-15. Although that would inform our planning going forward, in the meantime, in terms of the business before us today, on behalf of the Committee, I support the motion.

**Mr Girvan:** I will speak in favour of the motion on the Final Stage of the Budget Bill. The Minister alluded to some points, and he asked for no repetition. There used to be programme on TV called 'Just a Minute', where hesitation, repetition and deviation were not allowed. So, I think that we need to be very careful that we do not do any of that.

I support the Bill. I appreciate that the Committee has gone through quite a few meetings on this matter. In doing so, it came out that some Departments are not necessarily

giving us a full breakdown of their total spend. I understand that that creates some difficulties at some stages. However, it is important to move ahead here this evening and to allow Departments to make their spends for the rest of the financial year. In doing so, I appreciate that we are working with a Budget that is decreasing through the cuts that the Westminster Government have made to the block grant.

The Departments here have had to manage with a reducing Budget over the past number of years and have managed to do that very well. I will put on record that there are Departments that have managed to make their full spend and did not have to hand back excess amounts of money late in the day. I appreciate that we will have our spending reviews coming forward in June, and, at that stage, it will be possible to see where we stand with all the moneys that are allocated. Should we need to make adjustments, doing so early in the financial year is very important.

So, we support the Bill. We will keep it brief, which I think is helpful. Members have had an opportunity to debate most of this at the earlier stages, and I appreciate that we are just going back over what has already been agreed.

**Mr Byrne:** Mr Bradley cannot be here this evening, so I am entrusted with deliberating on his behalf. Although I am conscious of the overall budgetary constraints that face the Executive, we on this side of the House have always called for a more imaginative deployment of the economic and financial resources that are at our disposal. This is more than just demanding more money for certain existing programmes; it is about identifying and then investing in the areas of the economy where government intervention can yield the highest returns.

Although we have a small regional economy and do not have the power to alter the prevailing economic forces in the global economy, we do have the ability to build on our own inherent strengths and to leverage those areas that are substantially under our own control.

This is what makes public expenditure such a vital economic lever in the North. Last week, the Minister referred to the contribution that public capital expenditure is making to the construction industry. I think that we all recognise that and very much appreciate it.

**10.45 pm**

That is why we should invest more heavily in the success of our agrifood sector and in tourism. Those are two sectors in which there is very good potential, and it is substantially in our own hands as to how good our product offerings are and how competitive they can be. The Agri-Food Strategy Board is seeking £250 million for farm business improvement over the next three years. Hopefully that can be realised, if there is the right focus on it in the Department.

In particular, I want to commend to the Minister and the House the whole area of heritage-led investment. Heritage, built and natural, is a critical aspect of our tourism offering. It features strongly in our priority tourism signature projects and is a big part of what makes the North of Ireland an interesting, absorbing and unique place to visit. The Ulster American Folk Park in my constituency is a vital tourist attraction in my part of the world, and I hope that it gets capital investment to develop further.

We have a tremendous array of heritage assets, although many have not been developed or presented optimally, while others have been neglected and fallen into dereliction. We risk losing them all together, yet those assets can be of economic benefit in the development of our economy. I want to mention in particular Herdmans' Mill in Sion Mills, which could act as a very good industrial heritage centre.

Those matters were recognised by Arlene Foster when she had ministerial responsibility for our main heritage assets. In 2009, she established the Historic Environment Strategic Forum (HESF) to address some of those issues. Subsequently, her successor in that office, my colleague Alex Attwood, commissioned a study into the economic value of heritage through the HESF. Last year, the consultants reported, in their 'Study of the Economic Value of Northern Ireland's Historic Environment', that the sector contributed an estimated £532 million to our economy and sustained around 10,000 jobs. Importantly, the study concluded that although the historic environment contributed significantly to the economy, there is scope for that to increase considerably.

As a proportion of value added per capita, analysis shows that Northern Ireland has some catching-up to do when compared with Scotland, Wales and the Republic of Ireland. The consultants also found that every £1 of public expenditure on heritage generated

between £3 and £4 of private investment, which is a very solid multiplier. Although in that case the multiplier is an estimate, Northern Ireland Environment Agency (NIEA) research, based on data from the Department's listed-building grant scheme, found that every £1 of Department of the Environment (DOE) money invested produced £7·60 in private investment. Not surprisingly, the experts' study recommended that the Executive drive a proactive strategy for the economic development of the historic built environment.

None of this is soft and sentimental. It is hard economics and finance. That is why no less a hard-nosed financier than the Minister's own Assembly Private Secretary, Simon Hamilton, once in possession of that research, brought it straight to the Chamber and got Assembly support for a motion calling for greater priority for heritage-led development. If, as is suggested, the Minister finds himself doing fewer jobs in the future and is succeeded by Mr Hamilton, we should have genuine support for heritage-led development from those who hold the Executive's purse strings.

The Minister knows well the potential of our built heritage in the Carrickfergus area, where de Courcy's castle requires a new roof. He will also be aware of the enormous scope for Northern Ireland to leverage the heritage offerings around St Patrick. It would be remiss of me not to mention Armagh city, the ecclesiastical capital of Ireland, where there is huge scope for heritage-led development and where assistance for the major regeneration of the old prison on the historic Mall would be hugely beneficial.

I could go on, but it is late at night. All that I will say is that there are opportunities for stronger investment potential from some of our capital expenditure.

**Mr Cree:** This Bill will authorise £8·271 billion from the Northern Ireland Consolidated Fund and a further £8·558 billion for use by the Departments and other bodies. At Second Stage, the Minister made the point that it can be hard to translate the figures into real-world public services, though it is essential that the legislation is passed so that money may be expended. Indeed, he repeated that this evening, and he is right. That is why we did so much work on the review of the financial process: to make things easier to understand; provide direct read-across; and be more accountable to scrutiny by Committees and the public at large. After all, it is public money.

Despite being approved by the Committee for Finance and Personnel, the Minister and this House, final clearance has not been given by the Executive. We understand that the Minister of Education has withheld his agreement and, therefore, has a veto in progress. The Minister told us earlier this month that he discussed the matter with his recalcitrant colleague, but without success. Enough is enough. When will the Executive act to improve this clumsy system that we are all still labouring with and that is a barrier to effective parliamentary scrutiny?

The Ulster Unionist Party will not attempt to block the Bill's progress today, but there are still areas of concern that need clarity. First, we were told by the chair of the Maze/Long Kesh Development Corporation that some £20 million has been agreed to construct two major roads linking the new Balmoral show site to the motorway network. Can the Minister confirm that the Budget figure of £8.75 million includes those road costs?

With respect to the historical institutional abuse inquiry, does the Budget have an allocation for 2013-14? There is potentially a substantial outlay in that area, and again, we must have clarity.

We are also aware that the Welfare Reform Act is imminent, but I have not yet identified any provision for costs to the Northern Ireland Assembly in the Budget figures. Again, I would appreciate the Minister's advice in this regard.

I also note that, in the financial year 2012-13, there was an overcommitment. Will the Minister advise what the actual out-turn position was and the amounts carried forward under the Budget exchange scheme?

The First and deputy First Minister recently announced the Together: Building a United Community strategy. Although there has been much talk about its likely cost, no moneys have been included in the Budget. I raised the matter at the Main Estimates stage but was not favoured with a reply on that occasion.

That brings me to the economic pact as announced recently by the First and deputy First Minister and the Prime Minister. It gives the Executive an additional £100 million in capital borrowing powers to, I assume, take forward some of the projects contained in the Together: Building a United Community strategy. Perhaps the Finance Minister could be more prescriptive about the nature of those extra borrowing powers.

That economic pact also made a number of other rather vague promises of action in other areas, and I will mention just a few. First is access for Northern Ireland to the infrastructure guarantee scheme. Perhaps the Minister could confirm what the eligibility for our businesses are at present to that scheme and how that criteria will change in light of the announcement.

Secondly, there is to be a substantial programme of work to examine the unlocking of the financial potential of Belfast port. I am sure that Members would appreciate information on what that programme of work will entail and, indeed, whether that will have any effect on the Budget for next year.

Lastly, in the pact, there is a commitment to examine the potential for devolving additional fiscal powers to Northern Ireland. Given that, at times, the Finance Minister appeared less than enthusiastic about the devolution of corporation tax, I am interested in what his ambitions are for this particular commitment and in how he feels that it may impact on future Budgets.

I look forward to the Minister's response in due course.

**Mrs Cochrane:** I, too, welcome the opportunity to speak at Final Stage. I will keep my comments short. Most points have been covered. We live in a very challenging financial climate, and it is vital that every pound that we spend is spent efficiently. Collaboration between Departments is imperative, and we must continue to focus on early intervention and prevention to produce savings. However, we must not focus on our public sector spending only; we should also focus on the importance of supporting our private sector, given that it is the wealth-creating and job-creating element of our society. We must also strive to have measures in place to assist its growth.

Most importantly, we need to tackle division in our society, not just for social reasons but for sound financial and economic reasons. As I said before in the Chamber, I welcome the fact that other parties have finally come round to the Alliance Party's way of thinking. Some might even say that we have been leading change. The 'Together: Building a United Community' document is a step in the right direction, but shared-future sound bites are worth nothing unless serious and achievable targets are in place. There are financial implications related to the document and, although we have been told that detailed costing are being worked out, I remain concerned that they have not been fully thought through and may place further

demands on our Budget without actually producing adequate results, but that remains to be seen.

I welcome the fact that future-proofing for all shared future policy and spending commitments has been recognised, and that will assist in effective budgeting and spending in Northern Ireland. That, along with improvements in the financial process, should help us as Members to better scrutinise our public spending as we go forward and ensure that it is not wasted on maintaining division. I support the Bill.

**Mr McGlone (The Chairperson of the Committee for Enterprise, Trade and Investment):** Go raibh maith agat, a LeasCheann Comhairle. I speak initially as Chair of the Committee for Enterprise, Trade and Investment. When I spoke in the debate on the Main Estimates on 11 June, I said that the Committee for Enterprise, Trade and Investment always tried to ensure that Invest NI was adequately resourced to meet future demands as we work to rebalance and rebuild the economy. It is encouraging to see a considerable upturn in Invest NI's activity, which is reflected in the resource bid in the June monitoring round to cover expected pressures from the increased selective financial assistance, and I hope that the Minister will be able to support that. Some of those funds have been very useful in supporting the growth of small business in the North and projects for research and development.

Although the Minister of Finance informed the Committee in the past that appropriate funding will be made to Invest NI to cover new inward investment, it is essential that Invest NI can proceed with certainty when pursuing and negotiating competitive and sometimes sensitive foreign direct investment (FDI) opportunities. I hope that the Minister can provide assurances to the House that the Budget allocation to Invest NI is such that the organisation can proceed with a high level of certainty that funding will be available to cover existing commitments, the potential for growth, and cater for any form of optimistic new levels of investment.

I will now speak as a constituency MLA and as the SDLP's spokesperson for the economy. This process offers us an opportunity to determine the direction of an economy, even one as small and as regional as our own. The question is this: what economic pathway is being pursued by the Executive? We face a future framed by recession and beset with cuts disguised as austerity measures. However, in

the midst of all that, there are opportunities, and I have outlined some of them.

I speak as an MLA and as Chair of the all-party Assembly working group on construction. Indeed, there has been discussion of late on the readiness of various construction projects to avail of funding. Even though projects are shovel ready, other issues come into play, as is the case with the provision of the policing and emergency services college at Desertcreat. I had a short chat today about the necessity to ensure that the construction industry is best protected. All major projects can be protected by a simple measure — not by investment — through the introduction of project bank accounts. Given some of the nervousness expressed already around the project, that would be vital for such a major project to ensure that it goes ahead and gives optimism and confidence to the community and, at the same time, protect the interests of those small businesses, suppliers and services that need protection at this time, as many of them are vulnerable and susceptible to be preyed on by some people who use them, frankly, as a supplementary bank.

The point must be made that the construction industry is crying out for those shovel-ready projects on roads or other things. The diversion of funding from the consequence of the delay on the A5 project, if that is what it is, gives rise to the potential for other new roads projects. Some Executive Ministers may prefer the likes of newbuild schools or health estate projects.

#### 11.00 pm

At this point, I have to mention the long-awaited Magherafelt bypass, which has been sidelined in the Executive. The glimmer of light that emerged during the recent Assembly debate on the reallocation of the A5 funding appears to have been snuffed out through the vote in this Chamber when some Members who spoke out of the corner of their mouths to assert support for it did quite the opposite. Nevertheless, questions remain about whether deliberations around adjustments in finances will now lead to something tangible happening on the site at Desertcreat and on the likes of the Magherafelt bypass. That would do a lot to consolidate the position of many small firms and suppliers right across the North. Likewise, it would give some of our young people a bit of hope.

On the subject of the construction industry, last time around, some £15 million was handed back from the social housing budget. Social housing is a proven great investment. Not only does it provide the necessary element, which is

a roof over people's heads — in the difficult circumstances resulting from the recession, many people are now in a position where they need such housing — but it provides tangible employment in our community.

There is a similar opportunity in retrofitting homes in the public and private sectors. I have to emphasise again — the Minister has heard this before, but it is helpful to hear it again — the requirements in the green new deal. That project was thrown out without the good elements being worked on to ensure that, in essence, we were saving fuel for people in fuel poverty, we were creating jobs and we were helping the environment. Believe it or not, that was an investment to save. It was helping to prevent people, particularly those suffering from fuel poverty related illnesses, from being admitted to hospital. Those are very significant and substantial bills.

On a final point on the green issue, tremendous potential may arise from the new green investment bank for construction projects. With some support and a little nudge from the respective Departments, we could see coming to the fore a variety of projects that could give a huge injection to employment, hope to our young people, and, through the likes of the green new deal and the green investment bank, help for our environment. That is one of those circumstances where you can actually spend to save.

The Minister and the rest of the Executive should seize those opportunities as they present themselves to maximise the potential of a variety of schemes and help to set out a path for the rest of our economy. Go raibh míle maith agat as do chuid ama, agus gabhaim buíochas leis an Aire chomh maith.

**Mr Wilson:** I thank Members for their contributions to what has been a fairly short debate, thankfully, at this Final Stage of the Budget Bill. Of course, it is not the case that there has not been significant discussion on the Budget. As the Chairman pointed out, there was a lot of debate at Committee level, and officials were brought along to explain the detail of the Estimates. We had two substantial debates in the Chamber on the Bill, when many of the points that have been raised by Members tonight were discussed. Nevertheless, I think that it is important that Members have the opportunity to make some points.

A number of Members, including the Chairman of the Committee, Mr Girvan and Mr Cree, talked about the importance of the scrutiny of the Budget. I have said time and again that I

have absolutely no difficulty with Budgets being scrutinised. If our aim and objective is to ensure that funds that are made available to Departments are used most effectively, that requires scrutiny. That can be the scrutiny that the Chairman spoke about whereby Committees, at an early stage, on a month-to-month basis, look at the monthly forecast data that is available to them before the Estimates come to the Finance Committee, which then publishes them; or scrutiny at Finance Committee level or here in the Assembly. All of that is important. Of course, the more transparent the process, the better. I share Mr Cree's frustration on this. He expresses it every time he speaks on the issue, and he is quite right. I do not even mind that repetition, because if it finally gets through to those who are holding back the financial processes legislation that we have to bring through the Assembly, that will be a good job well done.

I have said on many occasions that we have sought to reach accommodation with the Minister for Regional Development and the Minister of Education, who were opposed to this. However, the one thing that I will resist and on which there can be no compromise is what seems to be a sticking point with the Education Minister, namely that where there are reduced requirements, the Minister should make up his mind what happens to those. If money that the Assembly voted to be spent in a certain way is not going to be spent in that way, it should be returned for the Assembly and Executive to decide on what direction it should go, otherwise you have financial anarchy.

The Chairman and Mr Cree also raised the issue of the review of public spending — the spending round outcome — which will be announced on Wednesday. I know that I have good relations with the Chief Secretary to the Treasury, but even he does not share in advance with me that kind of information. We will be made aware of it on Wednesday. What we do know, and all the indications are, is that there will be further tightening of resource money and loosening of the money that is available for capital spending.

We will not know the exact implications for Northern Ireland until Wednesday. However, I will write to Executive colleagues and the Committee to inform them of the outcome as soon as it is known. Once the Executive then agree a timetable for the local Budget process, that will be communicated to the Committee. So, I cannot give either of the two Members any further information on that.



I am glad that Mr Byrne replaced Mr Bradley, who is not in the Chamber, because his speech was considerably shorter than Mr Bradley's speeches usually are. So, we can at least be happy that, for whatever reason, Mr Bradley was not here tonight and Mr Byrne spoke on his behalf. He made a point that sounded like something from one of Mr Bradley's speeches, namely that we need more imaginative use of the Budget. I am still waiting to hear practical suggestions as to what more imaginative use the SDLP wishes to see of the Budget.

He talked at length, and quite rightly, about the potential of tourism. However, look at the imagination that the Executive have shown in relation to tourism spend in Northern Ireland, such as on infrastructure with the Titanic signature project, the Giant's Causeway centre or, in future, the Gobbins cliff path in my constituency, which, it is said, will be as attractive as the Giant's Causeway, bringing more tourists along the Antrim coast.

Money has also been spent on promoting Northern Ireland to bring people in. Huge investment has gone into the City of Culture in Londonderry and into the Irish Open, which brought people to the north coast — to your constituency, Mr Deputy Speaker. There is the money going into the World Police and Fire Games. Those are all imaginative ways in which the Executive have committed funding for tourist projects, and of course into things such as museums, etc. In all that we have already proven that when we identify a market, we will use public money to try to pump-prime that market.

Mr Cree raised a number of points, one of which was his desire to see the Maze project forwarded. He hoped that there would be money to provide greater access. I thought that the Ulster Unionist Party stance on that was that it did not want anybody to go near the place.

I thought it was against it. Actually, he wants roads into it so that people can get in and enjoy the economic benefits that can be released from that vast site: the thousands of jobs; the opportunities for the development of agricultural research and agriculture-related activities; and the tourist activities and, indeed, the heritage activities in the museum, which celebrates our contribution in the Second World War. I am glad to see that, at least, there is no unanimity in the ranks of the Ulster Unionist Party on the Maze project and that some people see that it has benefits and actually want to find ways to spend money to get more people to go there instead of putting people off with all the

negative stories that we normally get from them.

**Mr Cree:** Will the Minister give way?

**Mr Wilson:** Well, I suppose that, since I mentioned him, I had better give way.

**Mr Cree:** In case there is any confusion, I was just trying to find out where the money was.

**Mr Wilson:** Money has been allocated to the Maze project. It is up to the corporation to decide how that money will be spent. The one thing that we know, the one thing that it has said and, indeed, the one thing it has been successful with so far, is that it has put an infrastructure in place that has already attracted tens of thousands of people to the site this summer when they went to the first agricultural show on the site. Of course, that is an indication of the potential for that site in the longer run.

Mr Cree also raised the issue of overcommitment and some other issues. I could, probably, give him answers on some of them, but, as they will all be contained in the statement on the June monitoring round, I would probably get in trouble with the Executive, much as I would love to give him answers on some of those issues now. He will have to wait for a week or two to get answers to questions on the overcommitment, how much money we carry through on the budget exchange scheme and some of the issues around the Belfast port, such as how much money was meant to come from that.

The Member raised the issue of fiscal powers. Again, it is not an issue in the Budget, but I have made my position clear: as far as the devolution of fiscal powers is concerned, if there is a good, strong economic case for devolving fiscal powers to Northern Ireland, of course, I will support it, and I will push it with the Treasury. If there is not, I do not believe in the general devolution of fiscal powers. Indeed, I agree with Vince Cable, who, the other day, commented that the general devolution of more fiscal and tax-raising powers to devolved Administrations across the United Kingdom would weaken the Union. I believe that it would have that effect, as well as not being economically advantageous either. Of course, if you are dependent on the Exchequer, as Northern Ireland is, why would you seek greater autonomy? The one thing that you can be sure of is that that autonomy will not be to your advantage in the long run.

Ms Cochrane talked about the importance of the shared future and the need to spend money on it. Of course, the First Minister and deputy First Minister have already made announcements on that. Contained in the Budget is the ability for them to spend money on some of those projects. The economic pact enables them to draw down further resources for that. Where there are schemes, there are opportunities in monitoring rounds throughout the year. A number of Members have mentioned schemes that have not been funded in the Budget because the cost is not known. As I said at the very start of my speech, the Budget is not a fixed document. There will be changes to it throughout the year, and opportunities will arise for bids to be made as projects become available.

Mr McGlone raised the issue of Invest Northern Ireland being adequately resourced. As far as I am aware, in all of the time that I have been Finance Minister, there has never been a complaint that, when Invest Northern Ireland needed money, it was not made available to it. In fact, I remember that one of my first actions as Finance Minister was a unbudgeted commitment to Invest Northern Ireland for the now very successful investment in carbon technology at Bombardier. We actually top-sliced Departments' budgets to make sure that we met that. Of course, that has paid off handsomely in the form of jobs in that important sector of aircraft production.

#### 11.15 pm

Mr McGlone asked for assurances that there would be resources for the organisation to proceed and to take up the opportunities that appear to be coming now from increased foreign direct investment. The Minister of Enterprise, Trade and Investment will, no doubt, make bids in the monitoring rounds, and, given the priority that we have attached to the growth of jobs and to the economy, those bids will be honoured.

The Member also raised the issue of the Magherafelt bypass. He talked about Members speaking out of the side of their mouth, but I am not too sure which Members he was referring to. I have actually met Magherafelt District Council and discussed the issue with it at length. I want to make this clear to him: of course we want to proceed with road schemes, especially important ones such as this, if the money can be spent this year. However, the fact is that the land in Magherafelt has not even been vested. Of course, the procurement exercise would then have to be gone through. That being the case, the money cannot be

spent this year. Therefore there is no point in asking for money to be put in the Budget for the Magherafelt bypass scheme when that scheme cannot spend a penny this year. He knows as well as I do that we cannot carry the money forward, so why would you make commitments to spend money on something when, at an early stage, you know that it cannot be done?

**Mr McGlone:** Thanks very much for giving way, Minister. I hear exactly what you are saying about the money being available for this year. I am aware of those issues. Is that a commitment that, subject to those issues being addressed, the money will be available as soon as possible for that scheme?

**Mr Wilson:** All that I can make commitments on is the money that is available this year. In fact, I think that he would be the first to criticise if I were to say that, despite the fact that we do not know what money will be available next year, despite the fact that we do not know what demands will there be on the Budget next year and despite the fact that I do not know the mind of the Executive, including his own Minister, when it comes to these decisions, I will give an assurance to the Assembly that money will be spent in a certain way next year, even though we do not know what money we will have, what demands will materialise and what decisions the Executive will take.

All that I can say is that, if there are capital projects that are ready to run and have high priority, they will, of course, feature heavily in any discussions in the Executive. However, let me make this clear: anyone who suggests that, somehow or other, there is a scheme that is ready to go in Magherafelt and that it has been denied money either by me as Finance Minister or by the Executive is absolutely wrong. Money cannot be spent on the Magherafelt bypass this year. The Member knows it, I know it, and everyone else who is involved in the decision-making process knows it. Unfortunately, that is the way that some Members play politics. They suggest that certain things could happen when they know full well that they cannot. Nevertheless, they try to make an issue of it.

**Mr McGlone:** Will the Minister give way?

**Mr Wilson:** No. I have dealt with the Magherafelt bypass.

This is not really a Budget issue, but I agree with the Member that the greater use of project bank accounts on public construction contracts where there is a substantial element of subcontracting ought to be the norm. It

safeguards subcontractors from main contractors who use them like a bank, and it safeguards them against main contractors who are perhaps in a shaky financial position. Payments are made to the main contractors, but, if they go into administration, the money does not get paid to the subcontractors. I, therefore, encourage all COPEs to use project bank accounts more often. I know that some of the main contractors do not like it, because it removes some of the flexibility that they have in the timing and the amount of money they hand out. Nevertheless, in my view, it is the main way to protect the supply chain in the construction industry.

**Mr McGlone:** I would like some clarification on that please, Minister. By the way, I thank you, on behalf of the all-party working group on construction, for your co-operation in driving this on. Is there any way in which you can ensure that that is good practice right across Departments? Can you, as Minister of Finance, through CPD or otherwise, ensure that the use of project bank accounts becomes good practice across Departments?

**Mr Wilson:** We have discussed this at the procurement board, on which there is representation — usually permanent secretaries — from across the main spending Departments. We have been saying, "We want to see your COPEs using project bank accounts where that fits the criteria, where the value of projects is of over £1 million and where there is a big element of subcontracting". At the end of the day, individual COPEs will decide what kind of tenders they want to put out. We cannot direct them to do it, although I think that the Member's all-party group on construction and others can keep putting pressure on there.

That is all I want to say on this. We are now into the third year of the Budget, and we are probably turning a corner. The gloom and doom when the Budget was first introduced in March 2011 is beginning to dispel. We have managed our way through the first two years of the Budget when we were told that we would not be able to do so. There is still a need, of course, for Departments to ensure that money is spent effectively so that we get best value from the resources that we make available to Departments. I want the Assembly to ensure that every penny spent is spent effectively, and I therefore ask Members to support the Bill.

*Question put and agreed to.*

*Resolved (with cross-community support):*

*That the Budget (No. 2) Bill [NIA 21/11-15] do now pass.*

## **Marriage (Same Sex Couples) Bill: Legislative Consent Motion**

**Mr Wilson (The Minister of Finance and Personnel):** I beg to move

*That this Assembly agrees that the following provisions in the Marriage (Same Sex Couples) Bill, which relate to the treatment of same-sex marriages in Northern Ireland and gender recognition, should be considered by the UK Parliament:*

- clauses 10(3), 12, 15(1) to (3) and 16;
- paragraph 2 of schedule 2; and
- schedule 5 (as introduced in the House of Commons on 24 January 2013).

As the Assembly is aware, the main purpose of the Marriage (Same Sex Couples) Bill is to allow same-sex couples to marry either by way of a civil ceremony — that is, in a register office or approved premises — or, provided that the religious organisation concerned is in agreement, on religious premises. Although the Bill essentially relates to England and Wales, a number of the substantive provisions are stated to extend to Northern Ireland. The motion covers all Northern Ireland-related provisions bar clause 13 of and schedule 6 to the Bill. Before I speak to the provisions covered by the motion, I wish to say why I have not included clause 13 and schedule 6.

Schedule 6 allows for the making of an Order in Council that provides for marriages in overseas consulates or the marriage of service personnel overseas. On the former, I wanted to be sure that appropriate administrative arrangements would be put in place to take account of the law in Northern Ireland. However, I was unable to secure sufficient assurance in that regard. Therefore, I am not recommending that we allow that to go through in a legislative consent motion or that we allow it to be taken through Westminster on our behalf. On the latter, I believe that it is essential that suitable protections are put in place not only for members of the clergy but for other people who object to same-sex marriage because of their religious convictions. Authorised officers will not be allowed to opt out of performing same-sex marriages: I think that that is wrong. In other contexts, such as the provision of healthcare services, the Government have allowed for conscientious objections. I cannot

comprehend why it has not been done in this instance. In the absence of suitable protections, I am not prepared to move a motion in respect of clause 13 and schedule 6.

I turn now to the provisions that are covered by the motion. Clause 10(3) and schedule 2 provide for how a same-sex marriage from England and Wales will be treated in Northern Ireland. Ordinarily, such a marriage will be treated as a civil partnership. However, paragraph 2(2) of schedule 2 allows for the making of an order that provides that an English or Welsh same-sex marriage is not to be treated as a civil partnership or is to be treated as a civil partnership that is subject to conditions. Such an order can be made only with the consent of the Department of Finance and Personnel (DFP). I have agreed that, where DFP consent to such an order is required, it will be given only with the consent of the Executive.

I am sure that Members will recognise the need to take account of the interface between the law in Northern Ireland and the law in England and Wales. By providing for English and Welsh same-sex marriages to be treated as civil partnerships, we are utilising an established legal framework, namely the Civil Partnership Act 2004. We are treating those marriages — this is the important point — in the same way as we already treat overseas same-sex marriages. It would not be a defensible position if we were to recognise as a civil partnership a same-sex marriage conducted in, say, Belgium or Sweden but not one conducted in England or Wales. It would leave us vulnerable to court action.

With the introduction of same-sex marriage in England and Wales, it will be no longer necessary to end an English or Welsh marriage or civil partnership prior to the issuing of a full gender recognition certificate. Paragraph 12 of schedule 5 provides for the amendment of the Gender Recognition Act 2004 to take account of the new arrangements in England and Wales. It also amends the Act to allow for the correction of errors and applications to a court to quash the grant of a gender recognition certificate obtained by fraud.

*(Mr Speaker in the Chair)*

Very often, legislation will provide for consequential or transitional matters to be dealt with in secondary legislation. This Bill is no exception. Clause 15 allows for the making of an order dealing with consequential transitional matters, and clause 16 sets out how the orders and regulations will be made. Clause 16(6)(b) has been amended to provide that the

Secretary of State or the Lord Chancellor must obtain the consent of the Department of Finance and Personnel before making an order or regulations that would amend Northern Ireland legislation that is within the competence of the Assembly. That is a change from where it was originally, where they simply were obliged to consult us; now, they require our consent. Otherwise, we would not accept a legislative consent motion in respect of that part. As I mentioned, it has been agreed that, if the order-making power is to be exercised, the Department will seek the agreement of the Executive.

I have summarised the provisions covered by the motion. Before I close, I want to say a quick word about the overall policy position. I appreciate that we all have our own views. Not everyone in the Assembly will support the policy position on same-sex marriage or the decision to treat English or Welsh same-sex marriages as civil partnerships. However, the Assembly — this is important — has rejected the option of same-sex marriage on two occasions. The Executive have clearly accepted that there is no consensus in favour of same-sex marriage and so has agreed the motion, which I commend to you. Therefore, I ask Members to do likewise and support the motion.

**11.30 pm**

**Mr McKay (The Chairperson of the Committee for Finance and Personnel):** Go raibh maith agat, a Cheann Comhairle. In order to inform today's debate, the Committee for Finance and Personnel, at short notice, endeavoured to gather evidence from a representative group of stakeholders on the policy aims of the LCM. The Committee reported its findings and recommendations within the very tight time frame required, and the report was circulated to all Members and published online on 14 June.

At the outset, the Committee was mindful that, on the basis of recent debates in the Assembly, it is evident that a slight majority of elected Members here are not in favour of same-sex marriage. Therefore, until such times as that position changes and agreement is reached on policy reform, there is a need to put in place practical arrangements for same-sex married couples who move here from Britain or, indeed, from other jurisdictions. While adopting a pragmatic approach and recommending that the Minister is supported on the LCM, the Committee nonetheless has raised key concerns on which I hope to receive some assurance from the Minister today. Before

going into these in more detail, I shall perhaps give Members just a few headlines at this point.

In particular, the evidence highlights the need for the implications of the proposed policy to be very carefully assessed both prior to and following implementation. Clearly, the approach being proposed will leave the North out of kilter with an increasing number of jurisdictions around the world. In European terms, aside from Britain, this will include Spain, Denmark and the Netherlands, to name but a few, with the rest of Ireland also considering legalising same-sex marriage. Indeed, it was pointed out to the Committee that the North would be the only jurisdiction west of Germany not recognising same-sex marriage.

It is also clear that the proposed policy is likely to run into legal challenge on human rights or equality grounds, and I personally believe that, ultimately, the North may be forced by the courts to move on the matter. In particular, we will have a situation where there may be an unequal regime of human rights protection here when compared with Britain. In addition, there is a possibility that the policy will be tested against our distinctive equality protections and the impact on section 75 groupings. There will also be a clear need for guidance or information to be issued in relation to the legal status and position of adoptive parents in same-sex marriages and their children, should they move from Britain to here.

Other notable issues raised were pension anomalies, the order-making powers of the Secretary of State, potential economic considerations and administrative problems for same-sex couples who have been married in Britain and have moved here. There is also a lack of clarity about why there are no provisions in the LCM for overseas marriage, and the Minister referred to that.

Perhaps it would be helpful if I gave some more detail of the evidence gathered and the issues and concerns raised. The Committee's attention was first drawn to the proposed Westminster legislation following correspondence from the Human Rights Commission in March that was forwarded to the Department. The Department informed members that the Minister was considering a request from the British Government in respect of the provisions in the Marriage (Same Sex Couples) Bill that relate to this jurisdiction. The Committee sought further clarification from DFP on the differences between the rights, benefits and entitlements of people in a civil partnership and those of people in a same-sex marriage, on how these could be impacted in cases where

same-sex married couples move to the North from Britain and on whether DFP had sought any legal advice on these issues. It was not until 14 May that the Minister notified the Committee of his intention to pursue an LCM, subject to Executive approval, in respect of a number of provisions in the Bill. The memorandum accompanying the LCM was subsequently laid in the Assembly on 24 May, at which point the matter stood referred to the Committee for reporting to the Assembly within 15 working days, as provided for in Standing Order 42A.

In the context of this time constraint, Members agreed to seek an oral briefing from departmental officials, to commission the Assembly's Research and Information Service and to invite some relevant stakeholders to provide written comment on the LCM. The Committee received a briefing from the Assembly's Research and Information Service and took initial evidence from DFP officials. Written submissions from the Church of Ireland, the Presbyterian Church, the Rainbow Project, the Equality Commission and the Human Rights Commission were also considered. Members agreed to take up offers of oral briefings from the Rainbow Project and the Human Rights Commission and to receive a final oral briefing from DFP officials. Members also noted that the NIPSA LGB&T group had indicated that it would have welcomed the opportunity to make a stakeholder submission but was unable to do so because of the time constraints arising from the LCM process.

The details of the Committee's deliberations were set out in a short informal report issued to all Members last week. I shall, however, summarise the key points now for Members' convenience and for the record. It was evident from the submissions and oral briefings that there is a lack of consensus on the principle of legislating for same-sex marriage in the North. However, it was also immediately apparent that the policy of the LCM will leave the North out on a limb in comparison with developments in other jurisdictions in relation to legislating for same-sex marriage. Nonetheless, the Committee accepts that the approach planned for the North under the LCM aligns with the current majority view in the Assembly, as expressed in recent debates on same-sex marriage, and that such regionalised policy variation on transferred matters is a natural outworking of devolution. That said, members were also mindful of the strongly held and divergent views on the issue and of the need for careful assessment of the implications of the proposed policy before and following implementation.

A key issue to emerge in the Committee's evidence gathering was a potential anomaly regarding human rights protection. Members were advised by the Human Rights Commission that it was unclear whether or not the introduction of same-sex marriage would change the current definition of marriage, as protected by the Human Rights Act 1998, and that an unequal regime of human rights protections in the different jurisdictions may be created. That may be problematic, as the Human Rights Act is designed to have equal force across the jurisdictions. This could lead to appeals and subsequent rulings in the Supreme Court that would have to be applied to the courts here. Having considered the evidence received on this point, the Committee concluded that certainty on the matter would be established only following the outcome of any future legal challenge.

Also arising from its investigation, the Committee queried the extent to which the equality implications of the LCM had been robustly examined. Members noted that the completed equality screening form initially published by DFP acknowledged that the policy would have an impact on several of the section 75 groupings but also stated that there had been no opportunity for the customary consultation due to time constraints. I note that a revised screening form has been subsequently issued by DFP, using the updated format, but this does not appear to provide additional information, and, indeed, the reference to the absence of the customary consultation seems to have been dropped.

Related to the equality considerations is the issue of how gender reassignment cases will be handled locally. Concerns were raised by the Rainbow Project about the emotional and cost —

**Mr Wells:** Will the Member give way?

**Mr McKay:** Yes.

**Mr Wells:** The Member showed a week ago that he can stand up, speak ad lib and be clear and interesting. He is not that good when it comes to getting the head down and reading. Can we get back to the normal performance that he is so capable of?

**Mr McKay:** I thank the Member for his intervention. I ask the Member to note what time it is. It is important that I relate and put across the views of the Committee accurately,

given the sensitivity of the issue, but I note the Member's concerns about my delivery.

Related to the equality considerations is the issue of how gender reassignment cases will be handled locally. Concerns were raised by the Rainbow Project about the emotional and cost burden that would fall to those in a mixed-sex marriage or civil partnership, which must be dissolved in the North for a full gender recognition certificate to be issued to a partner who wishes to change gender. The Committee believes that this issue should have been included in the equality screening exercise that has been undertaken in relation to the LCM policy. I note that this is particularly relevant because, in the Equality Commission's policy screening pro forma, "transgender" is one of the main groups identified as relevant to the section 75 category entitled "men and women generally". Because of these initial concerns, the Committee, in its report, called for a view from the Equality Commission on the Department's equality screening in advance of today's debate. That response was received last Friday afternoon and was published on the Committee web pages in time for today's debate.

In its response, the commission raises a range of issues in respect of DFP's equality screening.

These include: one, the lack of evidence gathered for the wider policy context of same-sex marriage in addition to that for the narrow focus of the LCM; two, the absence of assessment of the issues in respect of gender reassignment and pension entitlement; three, the lack of information presented on numbers in the LGBT community and in civil partnerships affected by the policy; and, four, the failure to engage with external organisations at an early stage of preparing the screening document.

The Equality Commission has also pointed out that the Department's equality scheme commits it to reviewing a screening decision if a consultee raises a concern that is based on supporting evidence. The commission has indicated that it will be advising the Department directly in relation to the screening form and its equality scheme commitments. It has also indicated that it will propose to DFP that, as a result of screening the policy, further monitoring information should be collected to inform any potential future policy options and the potential equality impacts.

Finally, in terms of its recent communication, the Equality Commission reiterates its recommendation that:

*“civil partners should have the right to have their civil partnerships registered on religious premises in circumstances where faith groups do not object to hosting civil partnerships on their premises”.*

I return to the other issues identified in the Committee’s report. During the oral hearings with Department of Finance and Personnel (DFP) officials, members queried anomalies in respect of adoption — in particular, the policy difference that would arise between the position here and that for same-sex couples in England and Wales and their ability to adopt. The DFP officials were keen to emphasise that the responsibility for adoption lies with the Department of Health. However, the Committee believes that there is a practical requirement for information to be made available to ensure that the position for adoptive parents moving from Britain to here is clear, as well as the legal status of their children.

A further issue that arose from the DFP evidence was in relation to pensions. The departmental officials confirmed to members that the provisions in the Bill to amend the law on gender reassignment in England and Wales will have implications for pensions of some same-sex spouses moving to the North. However, the Department sought to assure the Committee that those differences will affect a small number of people, are a legacy from the past and will eventually cease to exist.

Members’ attention was also drawn to provisions in the Bill that will give the Secretary of State order-making powers in respect of devolved areas. The Committee welcomes the clarification from departmental officials that the consent of DFP will be required to make such orders and that the proposals will also have to be agreed by the Executive. The Committee will wish to be consulted on any such proposals in the future before the Department brings them to the Executive.

Other potential issues arising from the policy of the LCM were highlighted by the representatives of the Rainbow Project. These included a potential economic impact from the North having a different policy position on same-sex marriage to Britain and potentially the rest of Ireland. In particular, it was argued that that can be a factor influencing the investment decisions of some multinational companies in terms of their human resource. The Rainbow Project also highlighted the potential administrative problems and potential punitive impacts on same-sex married couples who move to here from Britain and inadvertently

declare themselves married on official documentation.

One final issue is the lack of clarity in relation to why the LCM does not cover the provisions relating to marriage overseas, as had been indicated on the accompanying memorandum. The Committee has asked for further information on communications between the Department and Whitehall on that matter, and the Minister has referred to that today.

I believe that the range of issues that have been detailed and that have arisen from the evidence, not least the most recent communication from the Equality Commission, underscores the Committee’s recommendation that there should be a review of the practical and legal implications of the policy within three years of implementation.

Also, in looking ahead, as Chair of the Committee I must also point out that this exercise has highlighted a major flaw in the LCM process. This LCM contrasts with previous experience — for example, in relation to the LCM on air passenger duty — when the Committee was given early warning of the intention to bring a motion and was able to press ahead and complete a detailed and through evidence-gathering and scrutiny exercise in advance of the memorandum being laid and the 15-day period commencing.

#### **11.45 pm**

I believe that the process will need to be refined and improved in order to ensure that the Assembly is given sufficient time to examine carefully any proposed legislation in Westminster that relates to devolved matters.

Finally, having highlighted the issues that were raised in the evidence sessions, I can confirm that the Committee recognises the need for pragmatism in this matter. In the absence of an agreed alternative, the measures that are contained in the LCM are necessary to avoid a situation in which same-sex couples who were married in England and Wales would have no legal status in the event that they move here. As such, the Committee for Finance and Personnel supports the Minister in seeking the Assembly’s agreement to the legislative consent motion that is before us this evening.

I will now make a couple of brief comments on my party’s position. Obviously, we do not agree with the Minister’s policy position on this matter, but we support the LCM today, not because we feel that it is sufficient but because we do not wish to disenfranchise further those couples

whose marriages are performed in England and Wales.

This is a rights issue, and legislation is going to be introduced in England, Wales and in Scotland. As we heard in the evidence that was given to the Committee, everywhere west of Germany, it would seem, is going to have this legislation introduced. It would be unfortunate were we to find ourselves alone in not giving these rights to same-sex couples.

A test case in this matter is inevitable. We look forward to such a case being brought, and we hope that it will be successful.

**Mr Givan:** I appreciate the Member giving way. It is interesting how Sinn Féin, having fought for "Brits out", is very much in favour of "Brits in" when it comes to this particular policy. On the legal issue, does he not agree that, ultimately, it is for the democratically elected people in this Assembly to set the law, not for judges and courts to usurp the responsibility that rests with the legislators who set the legal framework for these issues?

**Mr McKay:** I thank the Member for his intervention. It is interesting to turn that on its head and say that the DUP wants to see the current policy position in Dublin being the policy up here as well. We can all play games with that, but we believe that this is a rights issue and that members of the LGBT community have rights.

The most concerning thing for me is the evidence that has been presented of bullying, discrimination and prejudice towards those in the LGBT community. This is an issue in the United States as well, and you find that where LGBT people have rights recognised by local legislators, incidents of discrimination, bullying and, ultimately, in many cases, suicide, are reduced. That is one of the main issues that we need to have in the back of our minds.

These rights are being introduced in other countries in Europe, and the sky is not caving in. Of course, people have different views on the matter. They have different religious views on the matter, and they are entitled to those views, but, at the same time, members of our community, regardless of their race, colour, creed or sexuality are entitled to live their lives in the way that they want to.

I hope and believe that this Assembly will, ultimately, vote for a progressive approach to this particular issue, and I think that we are pretty close to it. There are only a handful of votes in it.

I will not keep Members any longer, given the time of the evening. My colleague, Caitríona Ruane, will elaborate on our party policy as the evening continues.

**Mr Weir:** I rise to speak on this legislative consent motion as a member of the Committee for Finance and Personnel. Given the lateness of the hour, I will try to make my remarks fairly brief, and, in order to assuage any potential criticism from my right-hand side, I will try to do so without any notes.

I guarantee that I will be dull but noteless to satisfy the Simon Cowell of the Assembly, who is to my right.

The Chair has gone through in a very thorough fashion the process and the discussion that took place at the Committee. There was a limited opportunity to discuss the issue at the Committee and to receive evidence on it. I think that that is the nature of the LCM. On that basis, and as the Chair indicated, there was not a consensus on the issue. That should not particularly surprise us. Where some of the submissions that were made are concerned, it was perhaps not surprising that the submissions that were made on behalf of the Presbyterian Church and the Church of Ireland were in favour of the LCM. In contrast, when the Rainbow Project came in front of the Committee, it indicated that it was unhappy with the LCM and would prefer that it were not passed.

That lack of consensus is not surprising, because I think that it reflects the differences in views that have been expressed on the issue. We have had two debates on the subject. There is no point in rehearsing the detail of those debates, as they were fairly lengthy and the various parties' positions were fairly well staked out in them. My party has consistently taken the view, which I support, that the definition of marriage should not be redefined. To that extent, I am comfortable and happy with the LCM.

As indicated, the legal position is that, if the LCM does not go through, there is a potential anomaly that would mean that people coming from England could be in a different legal position to those from Canada or France who are in a similar situation. The Chair mentioned a court challenge being made at some point. I have no doubt that, at some point, someone will try to make a legal challenge on an aspect of this. If we did not pass the LCM, I believe that we would be in a fairly indefensible legal position. The LCM is the best opportunity to



defend the current position in Northern Ireland. I am comfortable with the LCM, because it preserves and reinforces the current definition of marriage in Northern Ireland as something that happens between one man and one woman. My party and I are comfortable with that and will continue to support it.

It is wrong where we have judges trying to impose rulings against the democratic will of any institution. We on these Benches will very much defend the view that it should be the Assembly —

**Mr McDavitt:** Will the Member give way?

**Mr Weir:** I will give way briefly.

**Mr McDavitt:** It may be pedantic of me to say this at 11.50 pm, but it is a bit churlish for the Member to complain about a judge trumping the democratic will of an institution when this legislative consent motion surrenders our democratic will to another institution. So, by virtue of the motion, we are handing over authority to make a decision on this matter to the British Parliament, which, like everyone else, will be subject to the judiciary.

**Mr Weir:** The Member shows as much ignorance of constitutional law as he does of the composition of this legislative consent motion. This legislative consent motion is consistent with the current definition of marriage. As the Minister said, when the legislative consent motion was originally discussed with the Government, the idea simply was that the Secretary of State could make changes and would simply have to consult with DFP.

It is enshrined in the legislative consent motion, and it is part of the constitutional theory on devolution, that any changes that are specifically put in this legislative consent motion require the consent of the Department of Finance and Personnel. In effect, any changes will require the consent of the House. Therefore, I believe that we have a degree of protection. I suspect that this debate will be held on other occasions in the future.

**Mr McDavitt:** *[Interruption.]*

**Mr Weir:** The Member can make a late gesture to be called up to the British Lions with a —

**Mr McDavitt:** The British and Irish Lions.

**Mr Weir:** British and Irish Lions. I am always very happy for anybody from an Irish background to be embraced in the broader British tradition as part of the British Isles. Indeed, whether the Member will be an adopted son on that basis remains to be seen. The Member is making gestures about trying to pass the buck, but, if he had read the legislative consent motion, he would know that it means that the House and the Department of Finance and Personnel will have to consent to any changes. This gives us the best opportunity to defend the institution of marriage, defend the current definition of the institution of marriage and, indeed, defend the integrity of the House by ensuring that any change in any subject will require the consent of the House. Therefore, I am very happy to support the legislative consent motion on behalf of the DUP.

**Mr McDavitt:** I may as well start off where Mr Weir ended. For anyone to come to the House and say that the DUP is the last great bastion for whatever it defines marriage to be is a bit like King Canute facing the monumental tide that came in all around him. It is just the height of this House that we would engage in a debate like this at 11.55 pm —

**Mr Weir:** Will the Member give way?

**Mr McDavitt:** I will in a second, but let me just get started.

It is the height of this House that we would do so with straight faces and then turn around and tell our electorate that we have defended the institution of marriage and kept it as whatever it is that the DUP believes it should be. Whatever marriage is, it will be what the DUP believes it has defended it to be.

The legislative consent motion means that we have to do what we have to do. I agree with the Chair of the Finance Committee that it is very probable that, even in doing the bare minimum, we will be challenged, and successfully so. It is the height of indictment of any legislature that it would make law knowing that it was flawed. I regret to say that this is not the first time that we have done so tonight — it is the second time. That seems to be becoming the way that one party at least likes to do its business in the House.

Mr Weir seemed to have a really important point that he wanted to make.

**Mr Weir:** I thank the Member for giving way. I have a number of points. Although I stated clearly the DUP's position on this issue, and the

DUP will hold to that position, it is not simply the view of the DUP. On the two occasions that this has been debated, a clear majority in the House has expressed a view, so it is not a case of one party trying to impose its will.

Mysteriously, in previous debates, a number of your colleagues were not present to support the SDLP position, and I see that the Member is bereft of colleagues tonight as well. I should also point out, slightly pedantically, that he somewhat misses the point in relation King Canute. King Canute's actions showed the limitations of his power rather than his arrogance, but that lesson may have been lost on the Member opposite.

**Mr McDevitt:** No, it was not. The DUP is well aware of the limitations of its power, which is why it insists on carrying on in this legislature in the way that it does. There is no other legislature that would take the DUP seriously when it carries on like this or, indeed, where it would be in any way strong enough to carry on like this.

The situation is that we have to do the bare minimum. We have to do the right thing for people who, perfectly legally, exercise their right to engage in a civil, legal marriage in another part of the UK. It is really quite sad and disappointing that we are having to do this, first, at this late hour and, secondly, in a de minimis, or least possible, way and in an almost begrudging fashion. It says everything about what we need to change in this institution that that is the tone of tonight's debate and the way in which it is being conducted.

The SDLP will support the LCM because the SDLP will not take any steps that would in any way reduce the opportunity for people of the same sex to be able to enjoy the protection of the law, irrespective of what part of the UK they entered into their same-sex marriage. It is a matter of deep regret that we do not take a more mature, honest and grown-up approach to a proposal to change the law with regard to civil marriage. It is not a change to the law on church marriage because it would never be binding on a church. It would not, in any secular state — I believe that we all live in one — affect in any way an individual's right to their belief or freedom from prejudice for their beliefs.

## 12.00 midnight

**Mr Cree:** I thank the last Member who spoke for allowing me to be the first Member to speak this morning. I was going to say "today", then "tonight", and it is now "this morning".

The Finance Minister is seeking the Assembly's approval for a legislative consent motion on the marriage Bill that is making its way through the legislative process at Westminster. As the Committee Chair outlined at some length, we considered the issue in some detail in the Finance Committee and received oral evidence from the Human Rights Commission and the Rainbow Project and written submissions from a number of other organisations. I will not seek to rehearse that work, as Members will be aware of the Committee report that was produced as a result.

The legislative consent motion is necessary for the purposes of recognising same-sex marriages in England and Wales as civil partnerships in Northern Ireland. It is important to state that that is how overseas same-sex marriages are treated in Northern Ireland at present, and it, therefore, follows that it should be the practice for England and Wales as well should the marriage Bill complete its passage through Parliament.

The LCM recognises that there is not sufficient consensus in the Assembly to change the current definition of marriage but ensures that the protections contained in civil partnerships are extended to same-sex couples who have married in England and Wales. It must also be remembered that the Civil Partnership Act is an established legal framework that has been in operation for nearly 10 years. So, we are not reverting to some untried and untested situation that will result in grave difficulties.

I will conclude by saying that I believe that a legislative consent motion of this nature to be the most sensible way forward. I recognise that it is not the preferred way for some, and, indeed, the issue of same-sex marriages is one that Ulster Unionists can vote on according to their conscience. In summary, the motion should ensure that all same-sex couples in Northern Ireland have the option of the protections of a civil partnership, and it will also bring England and Wales into line with how other countries that have legalised same-sex marriage are treated here. Importantly, it recognises the will of the majority of the Assembly, which is to keep the definition of marriage as it is.

**Mrs Cochrane:** I speak this morning on behalf of my party in favour of the legislative consent motion. While we are all aware of the differing views across the Chamber on same-sex marriage, the same-sex marriage Bill will pass in England and Wales, and we must therefore make adequate arrangements to determine how those in same-sex marriages in England

and Wales will be recognised in Northern Ireland.

Many people in Northern Ireland have strongly held views that marriage should remain between one man and one woman, and we respect that. However, it has to be noted that the Presbyterian Church and the Church of Ireland both accept this legislative consent motion. The Church of Ireland says that it does not impinge on the church's understanding of marriage, and the Presbyterian Church feels that it is a very necessary motion to help safeguard the current marriage legislation.

As has been laid out by the Minister and others, the legislative consent motion seeks to implement certain sections of the same-sex marriage Bill, which will mean that English and Welsh same-sex marriages can be treated as civil partnerships in Northern Ireland by using the established legal framework of the Civil Partnership Act. I recognise, however, that that does not go far enough for some, in that civil partnerships are not identical to marriages in terms of rights, registering with a religious institution and adoption. However, at this point, Northern Ireland needs to have measures in place so that those in same-sex marriages in England and Wales will be recognised in legislation in Northern Ireland. This is, therefore, a step in the right direction. I support the motion.

**Ms Ruane:** Go raibh maith agat, a Cheann Comhairle. Sinn Féin supports this LCM not because it is sufficient in addressing the issue of marriage equality; it is not. Nor do we support the motion on the basis that the debate has concluded on the issue; it has not and cannot. We support the motion so as to not disenfranchise further those couples whose marriages were performed in England and Wales from the very limited legal recognition that would be offered by the provisions.

Níl muid ag tacú le LCM an lae inniu cionnas go sílimid gur leor é le aghaidh a thabhairt ar cheist an chomhionannais pósta; ní leor é. Níl muid ag tacú leis cionnas go bhfuil deireadh leis an díospóireacht ar an ábhar seo; níl deireadh léi. Táimid ag tacú leis an rún le nach mbainfear fiú an t-aitheantas an-teoranta atá sna forálacha seo de na lanúnacha sin a pósadh i Sasain agus sa Bhreatain Bheag.

I use the term "marriage equality" rather than the title given to this LCM of same-sex marriage very deliberately, because we are not asking for any special or separate definition of marriage, nor do we want to change, or fundamentally alter, what marriage means, which is to love,

commit and form a union with another and for that union to be protected and recognised by law. We want all people, including same-sex couples to have the right to marry. That is equality.

Eleven countries and nine US states now provide for marriage equality. Let us not delude ourselves that there are no consequences for not legislating for marriage equality here. Research in the US demonstrates that there is a direct correlation between the level of acceptance of lesbian and gay people and the level of legal equality. Put simply, there is more anti-gay violence and stigma in places where there is less legal equality. That fact alone places a heavy burden on this Chamber, and I hope that the Minister of Enterprise, Trade and Investment, who has looked very bored since she came into the Chamber, takes note of that.

I note the Chairperson of the Committee for Finance and Personnel's comments on the short notice that was given by the Minister of Finance and Personnel on this matter, the strong possibility of a legal challenge on human rights or equality grounds and the unequal protection of human rights here compared with Britain. I also note the failure by Minister Sammy Wilson to carry out a full equality impact assessment (EQIA) when he knows full well that there are adverse impacts for various section 75 categories. That is poor leadership indeed by this Minister.

I love the way the DUP and, indeed, the UUP jump up and down shouting parity, except when it does not suit them. The Minister's failure to lead — *[Interruption.]*

**Mr Speaker:** Order.

**Ms Ruane:** — contrasts with the leadership shown by ordinary people in England, Scotland, Wales and the North and South of Ireland. I was at the constitutional convention, where a hugely significant percentage of people voted for equal marriage. *[Interruption.]*

**Mr Speaker:** Order, Members.

**Ms Ruane:** I also pay tribute to the people who organise Pride, which is happening as we speak. I hope that the Members opposite will join their former Lord Mayor of Belfast Gavin Robinson in Pride. I look forward to celebrating equality with my gay brothers and sisters this week and next week, and I, along with my party colleagues, will be joining proudly in the Pride parade.

The state has a duty to treat all of its citizens equally. The Minister has failed abysmally to do this, but I am hopeful and I know that we will have marriage equality in this part of Ireland. We just need to look at the DUP's record in trying to prevent various aspects of gay rights. The never-never brigade, the "Save Ulster from Sodomy" brigade, the party that tried to prevent decriminalisation of homosexuality failed on that count. It said "never, never, never" to civil partnerships, yet one of the first civil partnerships — again I note the Minister of Enterprise, Trade and Investment —

**Mrs Foster:** Will the Member give way?

**Ms Ruane:** I will, certainly.

**Mrs Foster:** It is better to be in that brigade than the east Tyrone brigade. That is what I was saying, if the Member wants me to say it again. *[Interruption.]*

**Mr Speaker:** Order. The Member has the Floor.

**Ms Ruane:** That is the most pathetic comeback that I have heard.

We have had the never-never brigade to civil partnerships, and now it is lauding civil partnerships. Yet, one of the first civil partnerships in Ireland was in Belfast. That was another unsuccessful campaign by the DUP.

In the debate on April 29, here in this Chamber, we had the "never, never, never" to equal marriage. Now, they say that they will do a little bit to try to make sure — *[Interruption.]* I have to agree with my colleague Conall McDevitt: I wish that you could be on this side of the Chamber and look at yourselves making nonsensical comments. *[Interruption.]*

**Mr Speaker:** Order.

**Ms Ruane:** Watch this space, folks. *[Interruption.]*

**Mr Speaker:** Order.

**Ms Ruane:** I have absolutely no doubt that there will be equal marriage in Ireland, North and South. *[Interruption.]*

**Mr Speaker:** Order.

**Ms Ruane:** The island of Ireland will ensure that all our citizens, regardless of gender,

disability, race, political or religious belief — *[Interruption.]*

**Mr Speaker:** Order, Members.

**Ms Ruane:** — or sexual orientation will be treated with respect and equality. I would like to end by saying that the work carried out by all our groups that are fighting for equality for our gay and lesbian, bisexual and transgender community stands in stark contrast to the failure of the Ministers opposite.

**Mr McCallister:** At the outset, I think that it is fair to say that this is not ideal. It is probably a case of us doing as little as possible on this issue. I accept the Minister's point that the mood of the Assembly has been tested twice on this issue and, despite the two petitions of concern on those occasions, it fell short of even a simple majority, so there is not a settled will in the House on changing policy. Therefore, we are stuck in this position of having to accept the legislative consent motion. As I have said, I do not think it is ideal, but if we vote against it, or if the legislative consent motion were to fall, it would create a policy vacuum, with no one quite sure what would be the legal position of our fellow citizens in same-sex marriages who move here from England and Wales.

Perhaps the Minister will clarify in his winding-up speech whether, if the Scottish Parliament legislates for equal marriage, the motion also protects people who have been married in Scotland and later move to Northern Ireland.

I take on board the points made by other colleagues. The Chairman of the Committee for Finance and Personnel reminded the House that, possibly, in a few years, this will be the only part of western Europe that does not have equal marriage. How long or how sustainable that policy position would be is anyone's guess. I agree with Ms Ruane and Mr McDevitt that a court challenge to that position is very likely. However, we are in the position of having to accept this motion to avoid a policy vacuum. There are issues about adoption that I am sure that the Minister will clarify, although my understanding is that adoption orders are almost impossible to break, and so families moving here should be protected by legislation on adoption.

We have been presented with this motion and we have effectively no choice but to support it.

**Mr Allister:** I am implacably opposed to same-sex marriage. By any proper definition, marriage — indisputably and irreversibly — is

the union of one man and one woman, and so it must and should remain. So long as I have a voice in this House, and this House has any control over it, that is the manner in which I will express myself.

**12.15 am**

I trust that this legislative consent motion will not be necessary, because I yet hope that the Westminster Parliament will not take this most retrograde of steps by devaluing and redefining marriage in this perverse way and that this legislation will yet fall, and, if it does, of course, this legislative consent motion will not be necessary. If it does not fall, there is an issue to be addressed, arising from the fact that, regrettably, there would be the capacity for same-sex marriage in some parts of the Kingdom and, therefore, in this part, where it would not be possible, there would be an issue with couples that have gone down that particular path. Foreign couples that have gone down that path avail themselves in this jurisdiction of civil partnerships, and I think it would be nigh impossible legally and constitutionally to construct an arrangement whereby those who, within the United Kingdom, go down that path would not also, in a way that could be defended, have to be afforded the same situation of civil partnership. That in no way means that I endorse or support civil partnership. I do not, but it is a recognition of the legal reality in that regard.

Once more, those who decline to accept the settled will of this House — twice, I think, in six months — in rejecting same-sex marriage talk loosely about legal challenge and all sorts of things. Whether they clutch those matters to themselves as a comfort blanket or something else, I do not know, but let us be very clear: there is no such thing in human rights law that applies in Northern Ireland to a right to same-sex marriage. It does not exist in the European Convention on Human Rights, though some might wish it to exist. It is not there, and, therefore, this pretence that, in some way, we are in breach of our human rights obligations is utterly bogus and false.

Whether we end up as the last place west of Germany, whatever the significance of that is meant to be, where same-sex marriage is not recognised and legislated for is neither here nor there. What matters is that we do right, and the doing of right means that we do not endorse that which is wrong; namely, same-sex marriage.

**Mr Agnew:** I think it is regrettable that we have this legislative consent motion that says that we will not recognise as married those couples who enter into a commitment of marriage in England and Wales. It is regrettable that we would seek to tell others that we do not value their marriage and their commitment as we do the marriage and commitment of others.

I am reassured, despite Mr Allister's contribution and some from others, that we will see marriage equality in Northern Ireland eventually. Just as, under the penal laws, legal recognition of Presbyterian marriage was denied for a long time, and just as Presbyterians now have their marriages recognised in law, same-sex couples will one day win their battle to end discrimination against them — *[Interruption.]*

**Mr Speaker:** Order. The Member has the Floor.

**Mr Agnew:** — and have their marriages recognised. There are attempts here to shout me down. Just as I will not be shouted down, the LGBT community will not be shouted down when fighting for its rights.

**Mr Wilson:** What a man? *[Laughter.]*

**Mr Speaker:** Order. Order.

**Mr Agnew:** I will not be churlish, Mr Speaker, because we have seen progress this evening. It was pointed out that the "never, never, never" brigade has, to some extent, moved on. For the first time, to the best of my knowledge, the Assembly will support legislation to give recognition to civil partnerships. Although we have civil partnerships in Northern Ireland, that happened during a period of suspension. Although we failed to bring forward a sexual orientation strategy, which seems to be stuck in OFMDFM, and although we failed to legislate for full marriage equality, I am pleased with the progress that has been made. Under a DUP Minister, we will see support for legislation, albeit not for equal marriage, but to recognise civil partnerships. I hope that when they see that society does not collapse and the end of all morality does not arrive, some day they may come to accept full marriage equality and that society will be enhanced and not degraded.

**Mr Wilson:** I will reply to a number of the points made during the debate. I will deal with a number of the general points before I go into some of the specific contributions.

A number of points were made by Members, and the last Member to speak referred to this as well. Thankfully, Caitríona Ruane has left the Chamber, and we all rejoice when she disappears. Unfortunately, she is reappearing again. In her contribution, she said that this was lauding civil partnerships and that it was somehow a recognition of civil partnerships. Of course, it is nothing of the sort. As far as the legislative consent motion is concerned — Mr Allister outlined the position in his speech, and I made it clear in my opening speech — as a result of legislation that went through under direct rule, when people whose single-sex marriages occur in other countries come to live in Northern Ireland, they are recognised as being in a civil partnership, so we would have had an impossible situation. The position that the majority of Members and I hold is that we do not wish single-sex marriage to be introduced into Northern Ireland, nor do we wish to have that imposed on us by the courts. Without passing this legislation, we would have been vulnerable to cases of discrimination. Therefore, by accepting this part of the legislation, we are simply regularising the position between England and Wales and other parts of the world and what would happen to same-sex couples who are married in those places when they come to live in Northern Ireland. It is not acceptance, and it is not welcoming civil partnerships. It is simply accepting the reality of what is required to protect the position that, I believe, is representative not only of the majority of the Assembly but the vast majority of people in Northern Ireland.

I believe that although most of the speeches tonight were in favour of widening the legislation, those who spoke in favour are out of step with the community here in Northern Ireland. Mr McDevitt, of course, seems to be out of step with a good lot of his party, who have not even come near the place to support him in his stance. *[Interruption.]*

**Mr Speaker:** Order. The Minister must be heard. Order.

**Mr Wilson:** The second point, and we have to make this clear, is that this has nothing to do with people's rights.

**Ms Ruane:** Shame. Shame.

**Mr Wilson:** Those who have quoted those rights —

**Ms Ruane:** Shame.

**Mr Wilson:** The Member is saying "shame" from a sedentary position. She is one to lecture anybody about rights. Nobody has sought to crush the rights of people in Northern Ireland, including the right to live, as much as the Member who sits on the opposite Benches.

**Some Members:** Hear, hear.

**Mr Speaker:** Order.

**Mr Wilson:** So, she need not complain and say "shame" when I talk about rights. The last person in the world who should be talking about rights is the Member from South Down.

**Some Members:** Hear, hear.

**Mr Wilson:** Let us look at the rights issue. The human rights legislation makes it very clear. Article 12 of the European Convention on Human Rights defines the marriage right. In fact, the Minister made it clear in a letter to the Human Rights Commission that it does not by any stretch of the imagination require the right to same-sex marriage to be enshrined in article 12. In fact, when the Minister wrote to the Human Rights Commission, she said that there is no requirement under domestic or human rights legislation to introduce same-sex marriage. That is the opinion of the Minister who took the legislation through the House of Commons.

The second point that the Committee Chairman argued is that the Human Rights Act requires it to have equal force across all jurisdictions. The Human Rights Commission argued that point. In her response to the Human Rights Commission, the Minister made it quite clear that, on the extension of marriage in England and Wales to same-sex couples, which would affect the interpretation of the Human Rights Act, the courts in England and Wales will consider the legislation and then apply the Human Rights Act in that context. Where domestic provision differs in the United Kingdom, it is clear that the application of the Human Rights Act, according to that provision, may differ. So, there will be different outcomes in different countries across the United Kingdom.

The Minister went on to point out that that had already been shown to be the case with anti-terrorist legislation. What would have been regarded as a right in England and Wales on arrests and detention was different in Northern Ireland because the laws were different. It was a different local situation. So, there is no justification under the law for the appeal to the

European Convention on Human Rights or to the Human Rights Act. It is not a rights issue. It is not an equality issue. Therefore, as far as I am concerned, there is no need —

**Ms Ruane:** Will the Minister take an intervention?

**Mr Wilson:** No, I will not give way to the Member. *[Interruption.]*

**Mr Speaker:** Order. Let us not have debate across the Chamber. The Minister is making a winding-up speech, and he should be heard. It is quite obvious that the Minister has no intention of taking an intervention. Let us move on. Let us moderate our language in the Chamber and display good temper as far as possible.

**Mr Wilson:** I normally take interventions during debates, as you well know, Mr Speaker, but the one thing that I have made quite clear is that I am not going to give the Member on the opposite Benches any platform to pretend that she is interested in human rights of any sort when her record on human rights, and, especially the human rights of innocent victims in Northern Ireland, is very clear for all to see.

**Some Members:** Hear, hear.

**Mr Wilson:** I will not give her an opportunity to carry out an exercise in hypocrisy in any debate.

**Mr Speaker:** Can we get back to the motion, please?

**Mr Wilson:** Yes, I will. Mr Speaker, the point that I was making is that this is not a rights issue and it is not an equality issue. Article 12 of the European Convention on Human Rights makes it quite clear that men and women of marriageable age have the right to marry and to found a family according to the national laws governing the exercise of that right. That makes it clear that domestic laws in each state and jurisdiction govern the right to marriage. If our law defines marriage as being between a man and a woman, that is compliant with the Human Rights Act. Therefore, this is not a denial of people's human rights, even according to the legislation that Members appealed to during the debate.

**12.30 am**

The third issue is that, somehow or other, I denied the Committee the opportunity to

scrutinise this legislative consent motion properly by bringing it late. Let me make something clear: it was evident from the very start of the Bill's passage through the House of Commons that parts of it applied to Northern Ireland and would require a legislative consent motion. I made it clear to Members that I contacted the Minister, and my officials contacted the Department in England. We wanted to change certain things in the legislation. There was no willingness to engage with us on that or to make those changes until the very last moment, when changes were made. Mr Weir made the point that, if there were to be changes in the legislation — for example, in regulations — our consent would be required rather than simply consultation with us. I believed that that was essential, and we got that.

We also sought safeguards on consular marriages to ensure that we did not finish up with sham marriages and people from Northern Ireland trying to get around the regulations. We could not get those safeguards. Right up to the last moment — indeed, in the week before Final Stage in the House of Commons — I had a conversation with the Minister about it. She was not prepared to move on that, and we were not prepared to move either.

When it came to armed forces marriages, because the authorising officer, regardless of his or her opinion, would have been expected to conduct these, I was not prepared to give consent.

So there was negotiation right up to the last minute. The other reason for time pressure is that the Government at Westminster, in their obsession to get this legislation through, has a very tight timetable. They pushed the Bill through to the House of Lords and want it pushed through there as well.

Negotiating to get some of the changes that we wanted, clarifying issues that we were not going to get agreement on and the urgency of the Government at Westminster meant that we did not have a great deal of time to scrutinise the legislative consent motion. I was not running away from its scrutiny; I would have been quite happy for it to be scrutinised by the Committee. If there had been more time to do that, of course we would have done so.

A number of Members raised the issue of adoption. The situation is that regardless of someone marrying or entering into married or in a civil partnership in another part of the United Kingdom, once they have adopted, it is irreversible. If a same-sex marriage couple

came to live in Northern Ireland, their adoption of any child would still stand in Northern Ireland. Adoption is dealt with not by my Department but by the Department of Health.

The Committee raised the question of whether we will review these changes within a three-year period. The answer is no. I have no plans to review the arrangements because I do not believe that a review is necessary. A review would be necessary only in the context of looking at whether we were going to relax the legislation further or go for same-sex marriage. I have made it clear that, as far as my party and I are concerned, and as far as the Assembly is concerned at the moment, the position is fixed: we are against same-sex marriage. So we will not carry out a pointless review of the arrangements.

Some suggested that the legislative consent motion did not go far enough and wanted us to go the whole way and allow full same-sex marriages. I have made it quite clear why I am not prepared to do that. I noticed that Mr McDevitt, in his contribution, asked why we could not have a much more mature and honest debate about the issue. Of course, other Members said that all that they want is equality for people who are gay and want to get married, etc, because it is their right and it is unfair that they do not have that opportunity. I just want to make something clear: there is a balance to be struck in all of this. It may affect a minority of people. However, I suspect that not even all those who are homosexual or lesbian would want to be married anyhow. Therefore, it affects a very small minority.

The legislation and, indeed, even its explanatory notes make it quite clear that there are serious implications for those who do not agree with the changing of the definition of marriage. Some people have talked about the protection that is afforded to ministers. First of all, I do not believe that those protections are as strong as the Government have said they are. In the explanatory notes to the Bill, it is explained that people such as florists, people who drive wedding cars, people who print the stationery and registrars who have to perform the marriage would all be affected by the legislation if they decided out of conscience that they did not want to print the stationery, drive the car, provide the flowers or be the registrar. The explanatory notes make it quite clear that those people would be breaking the law. Then, you go beyond that to include teachers, social workers and others who are in public service who take a different view of this. Of course, that is one of the reasons why I have rejected the armed forces part of the Bill. Before the

legislation has gone through, we have already seen people being dismissed from post because they have posted on Facebook their opposition to some of the changes that have been proposed. The Bill has not even gone through yet. It affects a wide range of people.

**Mr McDevitt:** You should see what "you" are saying on Twitter tonight.

**Mr Wilson:** The Member cannot dismiss the discriminatory impact that that kind of legislation has on the wider community. It is for that reason that I believe that we have probably got an arrangement that, first of all, protects the position that the majority of people in Northern Ireland wish to have, namely that we do not have same-sex marriage and we do not have it imposed on us by the courts — because we would create a situation where people could easily take the matter into the courts — and that, at the same time, we do not hurt the vast majority of people, and a wide range of people, who could be swept up in the implications of the legislation.

**Mr Givan:** I thank the Minister for giving way. Does he share my concern — I am sure that he does; he has mentioned it — that it would be used to discriminate against those, particularly of a Christian faith, who oppose same-sex marriage and that the very people who, even in the Chamber, would argue that it needs to be done to protect the minority lesbian, gay and bisexual community would be the first to use same-sex marriage as a charter to persecute Christians in their objection to give the services that they provide?

**Mr Wilson:** The Member is absolutely correct. It probably does show the kind of dual standards that apply in much of the debate. The very people who shout the loudest about the discriminatory and unfair impact of that would be quite happy to see the unfair impact being imposed on other people who are not part of their charmed circle or the little group that they wish to represent, even though, as the Member has pointed out, they are, probably, the majority of people in Northern Ireland.

I recommend the legislative consent motion to the Assembly. It has the expressed support of the Executive, the Committee in its report, and I hope that it will have the support of the Assembly.

*Question put and agreed to.*

*Resolved:*



*That this Assembly agrees that the following provisions in the Marriage (Same Sex Couples) Bill, which relate to the treatment of same-sex marriages in Northern Ireland and gender recognition, should be considered by the UK Parliament:*

- clauses 10(3), 12, 15(1) to (3) and 16;
- paragraph 2 of schedule 2; and
- schedule 5 (as introduced in the House of Commons on 24 January 2013).

## Care Bill: Legislative Consent Motion

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

*That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Care Bill, as introduced in the House of Lords on 9 May 2013, contained in sections 38 to 40 and schedule 1 dealing with cross-border placements; and chapter 2 of Part 3 and schedule 7 dealing with the Health Research Authority.*

The Care Bill, which was introduced in Westminster on 9 May 2013, emanates from the UK Government White Paper, 'Caring For Our Future: reforming care and support', which set out a long-term programme to reform care and support in England. The Bill also takes forward many recommendations from the Law Commission report on adult social care, which concluded that existing care and support legislation is in need of updating. Essentially, the main purpose of the Care Bill is to modernise care and support law and consolidate a number of existing pieces of legislation into a single, clear statute.

Although the majority of provisions in the Care Bill apply to England only, Members will be aware that any proposed changes in a Westminster Bill that relate to a devolved matter have to be agreed by the Assembly by means of a legislative consent motion (LCM). There are two aspects of the Bill that will require an LCM. The first relates to the status of the Health Research Authority (HRA).

The Department of Health established the HRA on 1 December 2011 as a special health authority with the core purpose of protecting and promoting the interests of patients and the public in health research. The Care Bill proposes to abolish the HRA as a special health authority and establish it as non-departmental public body. The Department of

Health's rationale for doing so is to give the HRA greater independence in its role of protecting and promoting the interests of patients and the public in health and social care research and to allow it to take on a wider range of functions. Among other things, the Care Bill imposes a duty on the HRA to co-operate with the Department of Health, Social Services and Public Safety (DHSSPS), and that will require an LCM. What is important to highlight to Members is that the proposed change to the status of the HRA will not change its relationship with Northern Ireland, nor will it affect the arrangements that currently exist between it and the DHSSPS.

The second provision requiring an LCM relates to cross-border care home placements. By "cross-border", I mean within England, Scotland, Wales and Northern Ireland. At present, health and social care trusts are prevented by law from arranging placements in care homes in England, Scotland and Wales, and those difficulties are mirrored across other UK regions. An informal extra statutory arrangement, regularised by the Department of Finance and Personnel (DFP), exists where clients are placed from Northern Ireland to elsewhere. However, the Care Bill intends to provide a clear, co-ordinated and, more importantly, a statutory basis for care home placements across the UK. In so doing, it will also provide a greater degree of personal choice for clients.

Each of the four UK countries has powers to draft subordinate legislation that would allow trusts and local authorities to place care home residents across the UK. However, efforts to secure the necessary co-ordinated approach to the drafting of subordinate legislation have not proved successful.

The Department of Health in England approached colleagues in Scotland, Wales and Northern Ireland with a proposal that the separate powers that the four UK countries each have to draft subordinate legislation be consolidated into the Care Bill as a means of securing the necessary co-ordinated approach.

In practical terms, the provision in the Care Bill is perhaps best explained by an example. In the case where a person receiving a care package in a care home in England is sent to Northern Ireland, the sending administration, which is England, will bear the cost of the person's care package. However, the person will ultimately be treated as a resident in the receiving administration, which is Northern Ireland, for the purposes of general entitlement to healthcare services; for example, if they have

to be admitted to hospital. In short, this means that the receiving administration will have to bear the cost associated with any healthcare treatment beyond the person's agreed care package.

The Bill also includes provision to allow for the situation where there is a dispute between a local authority in England, Scotland or Wales and a health and social care trust in Northern Ireland about a person's residency to be resolved for the purposes of these provisions. The Care Bill will provide an enabling power to draft subordinate legislation within each of the four UK Administrations that will be taken forward in a co-ordinated way. The subordinate legislation will provide detail on how the cross-border arrangements will operate. It will also provide detail about the arrangements for the resolution of disputes.

I also advise Members that discussions are ongoing between the four UK Administrations with a view to introducing a clause at amendment stage to provide for temporary local support in a situation where someone is receiving a social care package in UK country other than the one that is funding their care, be it residential or non-residential, from a care provider whose business subsequently fails.

**12.45 am**

The proposed provisions of the Care Bill that require the consent of the Assembly will allow Northern Ireland to continue its existing relationship with the Health Research Authority under its new status and, as I said earlier, will provide a clear, co-ordinated and statutory basis for making care home placements across the UK. On that basis, I ask the Assembly to support the motion.

**Ms S Ramsey (The Chairperson of the Committee for Health, Social Services and Public Safety):** Go raibh maith agat, a Cheann Comhairle. Members will be glad to know I have only 25 pages of speaking notes. I am only joking; I will be brief.

The Committee supports the motion. We took evidence on the Bill from departmental officials on 15 May, and we signed off on our report on our findings on 12 June. As the Minister said, the legislative consent motion is required in relation to two issues: the abolition of the existing Health Research Authority as a special health authority, and cross-Administration care home places. In effect, agreeing the motion will allow the Health Research Authority to continue to co-operate with and provide services for our

Health Department when it becomes a non-departmental public body. Although that is a fairly technical issue, it is important nonetheless.

The more significant issue is the fact that the motion will provide a legal basis for local authorities in England, Wales, Scotland and our own health and social care trusts to meet an individual's care needs, including accommodation, anywhere within the four jurisdictions. The Committee welcomes this move because it will allow people who want to be placed in accommodation near their family or friends to do so. Many people who have left here over the years to find work may wish to return here for the latter part of their life, and it is right that people should have that choice. There should be equality for an older person whose children have all moved across to England, for example. Again, it is right that they should be provided with care in England in a place close to their family. The Committee welcomes and supports the legislative consent motion.

**Mr Wells:** I will be brief, which is unusual for me. The Committee has considered this legislative consent motion and is perfectly happy with its contents. I think we have all dealt with situations as constituency representatives that have featured complexity and bureaucracy that arose from people wishing to transfer their care from England to Northern Ireland or vice versa. It was always complicated. There was non-statutory provision, and it is now right and proper that the four Departments are getting together and are ironing out the difficulties through an LCM.

Legislative consent motions can often make a great deal of sense. There is no sense in reinventing the wheel, particularly when legislators in GB are taking the lead. I support this legislative consent motion.

**Mr McDevitt:** I am happy to echo the Minister, the Chair of the Committee and the Deputy Chair. There is strong support for regularising the situation for people who left these shores many years ago and may want to return home for their final years. The SDLP is content to support the LCM.

**Mr Beggs:** I, too, support the legislative consent motion. There is a major piece of legislation going through Westminster at present, and aspects of it will have implications for us, as has been mentioned. It is the wish of the English Health Minister that the Health Research Authority change its standing from a

special health authority to a non-departmental public body. We cannot organise health research individually as a small region of the United Kingdom, so it is right and proper that we work with other regions of the United Kingdom to maximise the benefit of any health research. I have been told that this proposal will result in mutual benefit to each of the regions, and it will be business as usual.

The other aspect has been referred to by others. It is perhaps something that will more easily touch our constituents at some point in their lives, or someone whom they may know of. It is the aspect of someone who may have moved to England, Scotland or Wales through employment, and they may have fallen ill or had an accident and been required to go into residential care. The Bill will enable them to transfer back closer to family and friends here in Northern Ireland and enable that care to be picked up from the original health authority in which they received a package. Of course, there is a reciprocal arrangement for someone from England, Scotland or Wales who may have been working in Northern Ireland and may have lived here, and may eventually have had to receive residential care and support. That, too, will enable them to move back, if they so wish, closer to family and friends.

I am very comfortable with this legislative support motion. I express the support of the Ulster Unionist Party for it.

**Mr McCarthy:** The legislative consent motion may be relatively narrow in its immediate focus, but it touches on some wider and very important policy matters. The Care Bill covers a range of issues other than those addressed in this specific LCM, and it will fall to the Department, the Executive and the Assembly to further consider those as they relate to Northern Ireland.

LCMs can serve as an efficient device to more speedy action. There are some very specific aspects of Westminster Bills where there is an issue of speed or of ensuring a consistent and standardised approach across the different devolved regions of the UK. I am content with the change of governance in relation to the Health Research Authority, as has already been mentioned. The functions that it undertakes should not be lost. The need for research in the health sector and the wisdom of taking decisions based on sound scientific evidence should be clear to everyone.

The issue of adult social care is a huge one; it is of great importance to me and to the wider community. As demographic changes produce

a much older population, which is welcome in many respects, we will have to significantly review and change our policies, programming and resourcing of adult social care. I acknowledge that we have had a recent Northern Ireland consultation, and I anticipate detailed discussions on our way forward.

This LCM offers the prospect of better co-ordination across the different jurisdictions, and the resourcing and support of former residents of one region who are placed in other regions. While this is welcome in principle, there remains some uncertainty, as evidenced by the last Committee session on this issue, regarding whether this will be delivered in practice and the extent to which choice over relocating to a home in another region will be facilitated.

On behalf of the Alliance Party, I support the LCM.

**Mr Poots:** I thank the Members who have contributed to the debate. I see that NI21 has disappeared. Perhaps NI stands for "no interest" in the health service at 1:00 am. I thank the Members who have contributed. I also express my thanks to the Health Committee for taking the time to examine the provisions of the Care Bill that require a legislative consent motion. The positive engagement that took place with the officials was very helpful in coming to this conclusion.

Without further ado, I commend the motion to the House.

*Question put and agreed to.*

*Resolved:*

*That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Care Bill, as introduced in the House of Lords on 9 May 2013, contained in sections 38 to 40 and schedule 1 dealing with cross-border placements; and chapter 2 of Part 3 and schedule 7 dealing with the Health Research Authority.*

## **Renewables Obligation (Amendment No. 2) Order (Northern Ireland) 2013**

**Mrs Foster (The Minister of Enterprise, Trade and Investment):** I beg to move

*That the draft Renewables Obligation (Amendment No. 2) Order (Northern Ireland) 2013 be approved.*

This statutory rule is being made under powers contained in the Energy (Northern Ireland) Order 2003, which prescribes that this Order must be laid in draft for approval by affirmative resolution of the Assembly. The changes that I bring forward in the draft Order will amend the current Renewables Obligation Order (Northern Ireland) 2009 by introducing a six-month extension for eligible combined heat and power projects supported under the Northern Ireland Renewables Obligation (NIRO). This proposed amendment was previously introduced by the Renewables Obligation (Amendment) Order (Northern Ireland) 2013, when it came into operation on 1 May 2013. However, the policy objective was not correctly translated through to the legislation as per the policy intent. I now wish to rectify this situation.

As part of the changes to the Northern Ireland renewable obligation, my Department consulted on retaining the 0.5 renewable obligation certificate (ROC) uplift for combined heat and power (CHP) projects to the end of September 2015. The uplift will cease in the rest of the United Kingdom at the end of March 2015.

The removal of the CHP uplift across all three renewables obligations coincides with the introduction of a renewable heat incentive (RHI) for large-scale biomass, meaning that once the uplift has been removed, new CHP projects will take the relevant electricity-only ROC and, subject to eligibility, the RHI.

My Department will shortly consult on an appropriate RHI tariff for biomass over 1 megawatt in Northern Ireland. Although this is intended to be in place by 1 April 2015, the proposed tariff will not be confirmed in legislation until next year. This presents a difficulty for large-scale biomass CHP projects that are already in development or nearing financial close, which may accredit after 1 April 2015 but do not yet have a clear indication of the appropriate RHI support level.

Given the longer lead-in time to introduce an RHI tariff for large-scale biomass in Northern Ireland, my Department proposes to introduce a six-month extension of the 0.5 ROC uplift until 30 September 2015 for CHP projects accrediting under the NIRO. Eligible projects, which must be commissioned and accredited under the NIRO by 30 September 2015, will receive 2 ROCs.

As currently worded in the Renewables Obligation (Amendment) Order (Northern Ireland) 2013, a biomass CHP station accrediting during the extension period will only receive 1.9 ROCs and not 2 ROCs as the policy

intended and for which support was received at consultation. That small difference has the ability to significantly affect the economic viability of biomass CHP stations. For that reason, this Order is required to amend the current Renewables Obligation Order (Northern Ireland) 2009 by inserting a new version of article 26 that was introduced in the May Order.

In conclusion, the amendments that are contained in this Order are designed to ensure that, in the absence of an RHI tariff, biomass CHP projects in development or nearing financial close have clear sight of support levels after 1 April 2015. It is important that we have a mix of renewable technologies in Northern Ireland and biomass can make an important contribution.

**Mr McGlone (The Chairperson of the Committee for Enterprise, Trade and Investment):** Go raibh maith agat, a Cheann Comhairle. With your permission, Mr Speaker, I will reduce my 20-page speaking brief down to 10. I am just joking.

The Committee for Enterprise, Trade and Investment considered and approved the original draft Renewables Obligation (Amendment) Order 2013 at its meeting on 11 April. The Committee considered the proposed Renewables Obligation (Amendment) Order at SL1 stage at its meeting on 23 May. The Committee is content that the new amendment Order does not change the policy intent of the previous Order but is being brought to correct a drafting error in the original Order that relates to the policy objective to introduce a six-month grace period/extension for biomass combined heat and power projects. The original Order does not allow this policy objective to be implemented as intended.

The Committee was, therefore, content to approve the new amendment Order at its meeting on 13 June so that the error can be corrected.

**Mrs Foster:** I thank the Chair for outlining the Committee's position. The Order introduces a change that will ensure that those who are investing considerable sums of money in biomass CHP projects now have clear sight of support levels in 2015 given the lead-in time for such projects. It will allow the NIRO to continue to adapt to the needs of industry. It will also ensure investor confidence, which is what we want. I commend the motion to the House.

*Question put and agreed to.*

*Resolved:*

*That the draft Renewables Obligation  
(Amendment No. 2) Order (Northern Ireland)  
2013 be approved.*

## **Private Members' Business**

### **Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill: First Stage**

**Lord Morrow:** I beg to introduce the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill [NIA 26/11-15], which is a Bill to make provision about human trafficking offences and exploitation, measures to prevent and combat human trafficking and slavery and provision of support for human trafficking victims.

*Bill passed First Stage and ordered to be printed.*

*Adjourned at 1.00 am.*





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