



## Communities and Local Government Committee

Oral evidence: Operation of the National Planning Policy Framework, HC 190

Monday 14 July 2014

Ordered by the House of Commons to be published on 14 July 2014.

### **Written evidence from witnesses:**

#### **Panel 1 (Questions 357-417)**

[Association of Convenience Stores](#)

[British Council of Shopping Centres](#)

[John Lewis Partnership](#)

#### **Panel 2 (Questions 418-470)**

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### **Watch the session**

Members present: Mr Clive Betts (Chair); Mrs Mary Glendon; Mark Pawsey; John Stevenson; Heather Wheeler; and Chris Williamson

Panel 1 Questions [357-417]

Witnesses: **James Lowman**, Chief Executive, Association of Convenience Stores, **Ian Anderson**, Chairman of the Planning Committee, British Council of Shopping Centres, and **Stephen Wright**, Principal Planning Lawyer, John Lewis Partnership, gave evidence

**Chair:** Welcome, everyone, to the sixth public evidence session for the inquiry into the operation of the National Planning Policy Framework.

Before we move over to our witnesses, I will ask the members of the Committee to put on record their interests, as far as the inquiry is concerned. I am a vice-president of the Local Government Association.

**Chris Williamson:** I have two members of staff who are elected members of Derby City Council.

**Heather Wheeler:** I am a vice-president of the LGA, I employ one councillor and my husband is a councillor.

**Mark Pawsey:** I have a member of staff who is a councillor.

**Q357 Chair:** Mary Glendon, who will be joining us again, has put her declaration on record in the past. If we can make sure that could just be repeated with regard to the staff she employs as well. Thank you all for coming this afternoon to give evidence to us. For the sake of our records at the beginning, could you go down the line and say who you are and the organisation you are representing?

**Ian Anderson:** Good afternoon. My name is Ian Anderson from CBRE, and I am representing the British Council of Shopping Centres, BCSC.

**James Lowman:** I am James Lowman. I am Chief Executive of the Association of Convenience Stores.

**Stephen Wright:** I am Stephen Wright, representing the John Lewis Partnership.

**Q358 Chair:** I will begin with Stephen Wright, in terms of what you have said to us: that retail is going to go through a major change, and you foresee 50 major retail destinations in the country; in other words, a lot of those are going to have to change substantially. Does the NPPF therefore have to change as well to recognise that?

**Stephen Wright:** We certainly do see retail as being in the process of fundamental change at the moment. The move to online shopping is very pronounced. There are some figures in our written evidence talking about the level of our trade that is currently transacted online. We only see that increasing. Our customers want to shop with us in terms of expecting retail to be an enjoyable leisure activity on the one hand, but also expect convenience and access to the goods and services they want here and now quite easily. As we have said in our written submission, that is likely to drive us towards a polarised position where you have a few major retail centres that really do offer that leisure experience of shopping—that critical mass of retailers and services. Then high streets and smaller town centres are very much catering to that here-and-now convenience, whether that is in retail

terms or in terms of the services that people need access to, dentists and doctors and so on, and leisure facilities.

**Q359 Chair:** Moving to James and Ian, do you accept that that fundamental change is coming? Should we therefore be planning for that change? If we are going to plan for it, should the planning system, the NPPF, not take account of it?

**James Lowman:** We do have to face up to some of those changes that Stephen mentioned, with a mix of outlets of services on the high street, not just retail but, as Stephen said, leisure and public sector services as well. We have to face changing consumer needs. The one that I would pick out in addition to everything Stephen said, which I agree with, would be the desire to shop locally, which we are seeing particularly in the convenience and grocery market. Shoppers who were going out of town and shopping once a week are now shopping two or three times a week in local, smaller stores. That is, in many ways, a very good thing for high streets and local centres as well, not just the larger town high streets.

There are also changes in the cost base of businesses operating in terms of business rates in particular. Planning guidance, the National Planning Policy Framework, but also the way the local authorities think about planning and making local plans has to be holistic and has to think about leisure and public sector, just as much as it thinks about retail.

**Ian Anderson:** The retail industry, town centres in particular, has gone through almost the perfect storm in the last five or six years. What we have seen are economic and social pressures and changes to the way in which retailers retail, which Mr Wright outlined. What we are seeing is polarisation. Yes, we are very much seeing convenience at one level, but we are also seeing larger centres become ever more dominant because retailers are wanting to look at experiential retailing, and that requires larger floor space so they can provide a very acceptable showroom. On one level you have convenience day-to-day, and at the top level you have the showroom, and it is the middle area that is becoming increasingly squeezed.

**Q360 Chair:** Should the planning framework not change then, or do you think it is flexible enough to deal with these changes in retailing that are going to happen?

**Stephen Wright:** From my perspective, the NPPF seems to set out a requirement on councils to think about how their town centres are going to operate in the future. The plan-making policies around town centres uses, to my mind, are capable of rolling with these changes.

However, it does require local authorities really to start to get to grips with where their high streets and town centres fit in that hierarchy and that changing retail world, thinking about what their constituents and communities need from their respective high streets.

**James Lowman:** As Stephen says, the National Planning Policy Framework is just that; it is a framework and is really setting out a local plan-led system. That is the way it should work. One of the biggest failings, problems or challenges I see at the moment is that Nathaniel Lichfield & Partners research came out earlier this year saying that only 13% of local authorities had local plans in place that were up to date and compliant with the National Planning Policy Framework. That seems to me one of the key areas that needs addressing. However, I believe the framework allows for local authorities to make the plans that need to be made.

**Q361 Chair:** We will come back to local plans a bit later on. I will just pick up one other point that, Stephen Wright, you mentioned in your submission. This is about permitted development for change of use. You have expressed concerns about the government allowing more permitted development, but if there are all these buildings lying around empty because of changing demands, is it not better that at least there should be some use found for them?

**Stephen Wright:** Absolutely it is right that some use should be found for them, yes. Our position is that the planning system is supposed to be plan led, and how investment comes forward should be in accordance with an up-to-date local plan. The risk, as we see it, with some of the permitted development changes is that you see piecemeal changes happening that perhaps are not in the best long-term interests of the town centre potentially. This is not just about the retail-to-residential changes; it is also office-to-residential changes, because if office space is being lost from town centres and converted to residential, that will take away some of that local shopper population, the users of local cafes and services that would be in that community anyway. Absolutely, if the permitted development rights had a test in them that required the building to be vacant, that would be a very good thing. However, at the moment there is no vacancy requirement for those permitted development rights to kick in.

**Ian Anderson:** It is critical. Retail is shrinking. Town centres are shrinking, but it is essential that the core of a town centre is protected. As Stephen said, if you get piecemeal developments, you end up with the broken-tooth scenario, where you have reduced footfall, reduced viability and the town centre sinks further, further and further. Protecting the town centre core for town centre uses, which could be retail, leisure and other uses, is essential. In more secondary locations,

the ability to convert to residential and other uses is something that should be welcomed.

**James Lowman:** Just to reiterate, it should be plan led and therefore strategic.

**Q362 Chris Williamson:** I want to touch on planning versus market forces and start with you, James. John Lewis say that even a “town centres only” policy would not have directed much retail investment into the town centre over the last couple of years. Do you agree with that?

**James Lowman:** I disagree. We can look at a very strong, well-monitored and enforced National Planning Policy Framework with the town-centre-first policy and say, “This would not have been built and that would not have been built—maybe some out-of-town developments,” but it would send a very clear signal to investors that the place to invest was in town centres. It is that investor confidence in doing so that is critical. Investing in a town centre is often a little bit harder and less straightforward than building something greenfield and fresh out of town. If an investor is to make that leap into town and make a harder decision, they need to have the confidence that two or three years later there is not going to be an out-of-town supermarket built outside of it. We are concerned that the continued bias towards out-of-town development—about three-quarters of development is taking place out of town, and that is our own figures and also the CB Richard Ellis figures—is discouraging people from investing in town centres and, what is more, of the consents that have been granted for out-of-town development, only a small proportion are actually being built. If we want development and economic growth, that is the worst of both worlds, in that we have consent granted that undermines confidence for town-centre development and that is not being built itself. That is a really worrying feature we have seen in recent years.

**Q363 Chris Williamson:** Do you think the NPPF is fit for purpose? Is it about the implementation or does it need to be strengthened in some way? If you do, how?

**James Lowman:** I still believe it is fit for purpose as a framework. That is exactly what it is.

**Q364 Chris Williamson:** So it is about implementation?

**James Lowman:** It is about implementation and monitoring it. Speaking frankly, it is about the Government being bothered about it. It is about the Government saying, “This is a framework and a town-centre-first policy that is worth having, so we are going to monitor it.

We are going to intervene. We are going to call in things that go against this.” What concerns me is not the wording of the National Planning Policy Framework, which we could debate, discuss and I am sure we could improve marginally, but the attitude of government towards enforcing that and making sure that sticks on the ground.

**Q365 Chris Williamson:** Do you have any comments, Ian?

**Ian Anderson:** Yes, one of the challenges that we face in terms of assessing the effectiveness of the NPPF is a lack of data. We do not necessarily have the data to determine quite the success or otherwise of the NPPF. My own personal experience of the NPPF is that we have clearly consolidated a huge amount of guidance, data and government statements into a 55-page document. Things do fall out of that, and where you have the holes, they are being replaced by interpretation. One of the key challenges that we face is the clear and consistent message through the NPPF and the basis on which it is determined against the plan under section 38(6), which clearly should be the primacy, and then the interpretation of where maybe the sequential assessment sits in relation to jobs, investment, growth and the mantra of the presumption in favour of sustainable development.

**Q366 Chris Williamson:** Can you impact a little bit more on what you mean by “we have not got the data”? What data do we need and how do we go about getting it then?

**Ian Anderson:** It is very important that we understand the extent to which town-centre and out-of-centre development is being delivered. The DCLG did have data pretty much up until 2009. It was based on a 2005 data set, but there has not been any update since 2009.

**Q367 Chris Williamson:** So your recommendation would be that the DCLG should get that data to inform better decisions?

**Ian Anderson:** Yes, in the same way that, if you want to push it down to a local level, local planning authorities can genuinely determine their mix of brownfield versus greenfield as part of their monitoring. Out of centre versus town centre, to my mind, is something that could be collected at a local level and fed up to the DCLG so we can understand, as an industry, what the balance is.

Just to come back to you on your initial question and points, one of the challenges we face, certainly across the BCSC membership, is that the majority of developers, funds and investors run balanced portfolios. Clearly that balanced portfolio will have some town centre floor space,

and it may have some edge-of-centre or out-of-centre floor space. It is about that certainty of investing for a scheme that could take 10 to 12 years to deliver, by the time you go through land assembly, planning and CPO. It is a long-winded process. If you can get a single land ownership on a bypass, you could get something through and built in two and a half years. That is the balance and is where the market needs to reflect on planning as being something that does, perhaps, distort the market to make sure there is town-centre investment.

**Q368 Chris Williamson:** Stephen, you are the planning supremo, are you not, at John Lewis, if I can describe you like that? Isn't the point of a planning system to intervene to tackle the detrimental effects of market forces?

**Stephen Wright:** There would be those academics who would say that is part of the reason the planning system was—

**Q369 Chris Williamson:** It is just an academic thing, is it? You say that rather pejoratively. Are you then suggesting that is not what the planning system is for, or part of its rationale—its *raison d'être*?

**Stephen Wright:** The rationale in the current system is that local authorities should have a local plan that is up to date—that looks to take a strategic, balanced, rounded view on what is needed where within their area. The position we have at the moment, as we have heard already, is that far too few councils have a local plan. The NPPF is supposed to be a high-level framework document. It is not supposed to be the document against which all planning applications are judged. Local plans are the documents against which local planning applications are judged.

**Q370 Chris Williamson:** Should not part of a planning system's *raison d'être* be to tackle the detrimental effect, to come back to my point, of market forces? If market forces are having a detrimental impact on the town centres, is the planning system not there to try to deal with that, or do we just have a *laissez-faire* approach?

**Stephen Wright:** The impact test in the NPPF as it stands is aimed at doing that. It is about trying to balance the interests of the town centre against what the interests are in bringing forward edge-of-centre or out-of-centre developments.

**Q371 Chris Williamson:** Do you agree then?

**Stephen Wright:** The impact test is an appropriate test to have in the town-centre-first framework, yes.

**Q372 Chris Williamson:** James, when your research was published, the DCLG said, if I am not mistaken, that it was not representative and did not reflect what was really happening in the country. It seems they were suggesting that you were overstating the threat that out-of-town development poses to town centres. Were you, do you think? How would you respond to that assertion? That seemed to be the implication, did it not, of what the DCLG said?

**James Lowman:** That was really disappointing. We were extremely disappointed by that. That is not because we think that the figures we come up with and the report we did should be the last word on the planning system. We wanted a debate about how we can have an effective monitoring system in place. We want to engage with all the stakeholders to try to find a way of doing that, and mostly that has been led by DCLG. However, the specific criticism that it was based on a small sample is simply not true. It is based on 50% of local authorities. I would like to see how many government surveys are based on a sample of 50% of the population. That is a pretty large sample. They were chosen as a reflective sample of local authorities. I do not accept those criticisms at all.

We would like it to be a starting point for further discussion about what is an appropriate monitoring framework, which I do not think is impossible. The London Assembly's monitoring framework, for example, is more complex than just saying, "Where are things getting built? Is it in town or out of town?" notwithstanding the fact that London's geography is slightly different; it goes into further details about the process that was followed to grant an application, what impact that has had, vacancy rates and other reasonably complex metrics. The GLA have managed to do that. I do not think it is beyond the wit of DCLG, working with the industry, which I think is willing to do so, to come up with something similar.

**Q373 Chris Williamson:** How do we, as a Committee, determine who is right? These are pretty diametrically opposed views, are they not? On the one hand, you are saying one thing and then the DCLG are saying it is unrepresentative and does not reflect the reality on the ground. These are two diametrically opposed views. How do we make this decision then? Who is right? I guess you would say you were right and the DCLG would say they were right.

**James Lowman:** You would have to look at the corroborating data. The data we think came out, which is 76% of development is taking place out of town, is very consistent with the CB Richard Ellis figures, which have been produced for a number of years now, which have seen a growth in out-of-town compared to in-town. I would be very happy

to sit down with DCLG and look at some of the authorities and see if for some reason our sampling was not correct. However, there is no good academic methodological reason why our survey was not credible. They are perfectly entitled to disagree with the conclusions and to challenge us on that and discuss that but, as a piece of research, I do not accept the criticism at all.

**Q374 Chris Williamson:** Have they not met with you? Have you not discussed it with them?

**James Lowman:** I am a member of the Future High Streets Forum so I meet with Brandon Lewis, the local government minister, quite frequently. We talk about high-streets issues generally.

**Q375 Chris Williamson:** Have you discussed your research as such?

**James Lowman:** Not in detail, and we have not met with Nick Boles.

**Q376 Chris Williamson:** Perhaps we ought to recommend that.

**James Lowman:** We would be very keen to do that, yes

**Chris Williamson:** Thanks.

**Ian Anderson:** I think that evidences the point that we have made: there is the need for that bedrock of evidence that we can all work with.

**Stephen Wright:** From our perspective, it is important to recognise that there is investment going on that does not appear in the planning statistics. So, for example, there is lots of high street investment going on from the supermarkets in little convenience stores at the moment. There is money being spent fitting out existing but vacant shops. John Lewis did just that in a big old shop down in Exeter.

**Q377 Chris Williamson:** So maybe the DCLG is basing their view on that?

**Stephen Wright:** The problem, as we have heard already, is that there just is not the evidence on which to really make sound judgments across the board.

**Q378 Chris Williamson:** So you would agree that the DCLG need to get a bit more data rather than simply dismissing James' research?

**Stephen Wright:** The ACS should be applauded for taking the effort to do that research. We do not necessarily agree with all the conclusions in it, but it is a major step forward to just do that piece of research. It would be great if that could be continued. It would also be good if it could be extended beyond just retail consents granted and also look at other town-centre uses and what is being built out, back to the point that James made earlier.

**Q379 Chair:** And presumably what might be being lost as well, so we look at net retail floor space?

**James Lowman:** Yes.

**Stephen Wright:** Absolutely, yes.

**Chair:** I am sure that is the point as well.

**Q380 Mark Pawsey:** The NPPF clearly sets out that the government wishes development to take place in town centres rather than out of town, and it does that by the sequential test, so it says that it should take place in the town centre, then in edge-of-centre locations, and only if suitable sites are not available should out-of-centre sites be considered. Mr Wright and Mr Anderson, you have both said that that is unclear; what is unclear about that?

**Stephen Wright:** I do not think the sequential test as drafted in the NPPF is unclear. What perhaps needs greater clarity is the guidance around what those tests actually mean: how you work those tests through on a decision-by-decision basis for local authorities. There have been a number of decisions recently—the Tesco v Dundee case gets talked about; the recent Rushden Lakes decision—all of which were interpreted to undermine that sequential approach. Our position on it is that it would be really helpful to have some really clear guidance from government on how they want those tests to be interpreted.

**Q381 Mark Pawsey:** Mr Anderson, what do you think is unclear about that statement of the NPPF?

**Ian Anderson:** The starting point is that the sequential assessment relates both to plan making and also to making decisions clearly. In terms of plan making, the practice guidance that came out in March of this year imposes quite a huge burden on local authorities to demonstrate as part of plan making that their sites are suitable and available and will be sufficiently flexible to respond to market changes. That should potentially be over the lifetime of a plan, which is quite a big ask for authorities, particularly when you have changing market circumstances.

In terms of development management, i.e. decisions, the sequential assessment clearly is part and parcel of sequential and impact. Para 27 says that it should be refused if you fail the sequential assessment. That is just one of a number of material considerations, and in the way the NPPF is drafted particularly, from my point of view, the focus on the presumption in favour of sustainable development really does put the sequential assessment somewhere down the pecking order in the soup of consideration if there is a development plan that is out of date or absent. Only about 45% of development plans are currently adopted. Therefore, in the other 50% of the country, the NPPF and presumption in favour of sustainable development kicks in.

**Q382 Mark Pawsey:** Mr Lowman, Mr Wright referred to the Tesco and Dundee case. Does that not show that it is very easy for very clever, well-resourced developers to outwit slow, less agile local authorities in ensuring that retail development takes place where many would like to see it taking place—in our town centres?

**James Lowman:** To some extent, I would refer to the planning lawyers on the detail of the individual case but the picture you have painted there is pretty accurate. What concerns us about the sequential test is that it can be taken forward on the terms of the developer and on the terms of saying, “We want to build something of this size. It must look like this. It must have these dimensions. It must have adjacency to different parts of the development.” That does not fit into a sense of, “Therefore we are going to have to build it out of town.” That is effectively what is happening. It is obviously more complex on a case-by-case basis, but it is as exactly as Ian says: if you have a strong compliant local plan, that deals with the issue, because it makes very clear which sites are made available and are allocated in centres, edge-of-centre and out-of-town, so that becomes the framework. It goes back to a theme of the evidence we have all given: that the basis and the criteria for making decisions should be the local plan rather than the National Planning Policy Framework. The problem with so few local plans in place up to date and compliant is that it keeps going back to the National Planning Policy Framework, which is a much more arguable judgment.

**Q383 Mark Pawsey:** Let us say that a local authority is faced with a developer bringing an attractive proposition to it and saying, “I want it out of town. There are no circumstances in which I am going to do that development in town.” What should the local authority do then?

**James Lowman:** They should apply an impact test and be very proactive about assessing impact themselves. Again, we often see the impact test run on the terms of the developer. An impact test is bound

to be a balanced judgment. There are lots of factors involved in that, but it is the local authority that needs to run that and needs to be consulting with local people about the impacts, consulting with the town centre and understanding the detail of that impact. Because that should be the other test that should be passed in order for an out-of-town development to be passed.

**Q384 Mark Pawsey:** Mr Anderson and Mr Wright, if it is not clear enough and it needs to be made stronger, how would you change it?

**Ian Anderson:** There is one omission that I have identified in the NPPF, and it is very interesting that it has been picked up by both the Scottish courts in the Tesco v Dundee case and more recently in the Rushden Lakes case, and that is disaggregation. You can trace back disaggregation from clarification on PPG6, PPS6 and, more recently, PPS4. Explicitly, there was a requirement to look at disaggregation for unit-based schemes. If you had a retail warehouse park or you had a scheme that you should disaggregate down to the smallest element for the purpose of the sequential assessment, that is no longer in the NPPF. That is something that both Tesco v Dundee picks up on and it is something that is very much picked up on in the Rushden Lakes decision that came out about six weeks ago.

**Q385 Mark Pawsey:** Mr Wright, how would you strengthen the sequential test?

**Stephen Wright:** It comes back, from my perspective, to clear guidance, whether that is from DCLG or the chief planner, on how these key tests around flexibility and disaggregation should be interpreted on a case-by-case basis—how councils should approach those and how they should interpret the Tesco v Dundee case. The Tesco v Dundee case is interesting, to go back to the point about whether councils are feeling pushed into having to grant consent. The judge was very clear in his judgment in Tesco v Dundee that in this particular case the applicants had demonstrated flexibility. They had been very flexible in looking at sites and they had not been able to find any. The suggestion that councils are allowing themselves to be pushed over, as it were, just does not reflect our experience.

**Q386 Mark Pawsey:** Can I put to you what I might call the creeping approach of out-of-town? It was established some years ago that there was a good reason for going out of town in respect of bulky goods—builders merchants, people selling fridges and those kinds of things—so that people would be able to easily put the products in their car. But there does seem to be a big trend to where those bulky goods

restrictions are in place to undo those restrictions. Do you think they should be resisted more strongly—applications to rescind bulky goods restrictions?

**Stephen Wright:** To my mind, they should be subject to the same sequential and impact analysis as an application for a new store. Where we have looked to do just that, we have been held to those tests very rigorously by local authorities.

**Q387 Mark Pawsey:** You can understand why the public would consider that as a creeping change. On the one hand we have said, “Yes, you can go out of town, because you need bulky goods,” and then five years later an application comes in to take away that restriction and it becomes more general retail and, hey presto, what would not have been acceptable out of town suddenly is. How can that be right?

**Stephen Wright:** There is an issue around whether those bulky goods units, some of which have become vacant because bulky goods retailers have suffered through the last few years just as much as anybody else, should now stand empty or whether they should be reused—the reuse of buildings being regarded as sustainable development in many cases.

**Q388 Mark Pawsey:** Mr Lowman, do you have a view about councils rescinding bulky goods restrictions?

**James Lowman:** It is Stephen’s point there about empty out-of-town space, which is what we are seeing up and down the country now. We were talking about market forces earlier. The market is moving away from out-of-town. Large supermarkets have had a difficult time in the last few years for a number of reasons, but one of the main reasons is because they had too much out-of-town space and yet they could keep applying for more. It is, bizarrely, the planning system, or the way they were interacting with the planning system, that is going against market forces and their continued quest for out-of-town developments in the figures we have given—nearly three-quarters or whichever figures you want to believe; I think we have reached a consensus around that. Three-quarters of new retail space going out of town does not make sense given the way shoppers want to shop. It does not seem to make commercial sense for those big retailers to be trying to take over bulky goods warehouses and retailers. In terms of following the market, they should be opening town-centre stores, market-town stores, convenience stores, which many of them are, but there are out-of-town spaces becoming redundant.

**Q389 Mark Pawsey:** You would like to see planning authorities be more resistant to some of these changes.

**James Lowman:** Absolutely, and to be aware of those commercial market changes.

**Ian Anderson:** It is very difficult if you have, particularly in the last three to five years, an operator looking at an old bulky goods unit that is vacant and that will bring jobs, investment and growth, and there is not an immediately developable site. Local planning authorities are being very terminal about it.

**Q390 Mark Pawsey:** Mr Anderson, you spoke earlier about the broken-tooth issue within town centres. Would you rather see that broken tooth out of town where nobody can see it or in the middle of the high street?

**Ian Anderson:** Out of town.

**Q391 Mark Pawsey:** So you would rather see vacant units out of town and vibrant town centres. You also spoke—it was a separate point—about retail shrinking. Do you think too many local authorities are trying to preserve a town-centre retail space that is larger than is sustainable?

**Ian Anderson:** That is a very interesting question. We are in a position of transition in retail. It is essential that you do protect the core. There are two points related to that question. The first point is: are the primary retail areas too big? In some cases, sadly, they are and they do need to shrink. There is probably an aligned point by that where there are a number of centres that need to be—I will use the Portas word—reimagined into something alternative. Sadly, at a local level, it is quite difficult often for councils to accept that their town centres need to go to something else and that they are no longer places you would necessarily buy comparison goods: jeans, clothing and footwear.

**Q392 Mark Pawsey:** Do the other witnesses think town centres need to shrink, or is an alternative strategy for a local authority to grow its population and have a bigger population to take advantage of the existing retail offer?

**Stephen Wright:** We get back to the benefits of a plan-led system and a council taking a strategic overview approach to what is right in the specific parts of its catchment.

**Q393 Mark Pawsey:** Are some councils getting it wrong then? If councils have got to get it right, are some councils getting it wrong, would you say?

**Stephen Wright:** Too many councils do not have a local plan in place. That is the biggest problem at the moment and, without a doubt, some high streets are too big and there needs to be a strategic approach as to how those are right-sized.

**Q394 Mark Pawsey:** Mr Lowman, some of your members need to accept that town centres are not going to be the same as they used to be.

**James Lowman:** Yes, we all need to accept that. It is not just about the size of the centre; it is about the mix. That comes back to the point we made at the beginning: the idea of having several streets in a small market town all made up of conventional retail is probably not viable. It has to be a mix of uses, say, public sector and leisure. So change, absolutely; whether that involves the shrinking of a town centre and shrinking of commercial activity in that town centre goes back to what is right for that particular town centre, which is why they need to have an up-to-date local plan that is setting a strategy for how they want their town centres to look. All of this completely chimes with the Mary Portas review and the Future High Streets Forum and all that work as well.

**Q395 Chair:** One point of clarification, if I could, on the issue of disaggregation, which was mentioned before, and the issue of the format of stores being so large: is that on the same point as the developers getting around the sequential test by saying, "We have a development here that is too big to go on any site within the town centre that is available; therefore we have to, on the sequential test, go out of town because that is the only site available for our particular development"?

**James Lowman:** Yes, that is the model. How that is applied in individual cases is being debated but, yes, that is the model.

**Q396 Chair:** There is enough grey area around that to warrant some clarification, is there?

**James Lowman:** Very much so.

**Q397 Heather Wheeler:** I am interested in your views on what you think constitutes a significant adverse impact and whether the NPPF is clear about that, so where councils are refusing planning permission, using the label of adverse impact.

**James Lowman:** Store closures, vacancy rates and footfall are key: the flow of traffic into centres and the way that people are living their

lives in moving from work to home, to leisure to retail, and the way that that fits in with the overall footfall and traffic in town centres. Those are some of the things that I think are the pretty straightforward metrics—and many local authorities do use them—that need to be adopted.

**Q398 Heather Wheeler:** They need to be tidied up, do they?

**James Lowman:** I am not sure they need to be changed. I am sure up and down the country you would find some poor impact assessments. The issue for us is not necessarily whether local authorities have thought of the metrics. It is about whether the numbers that are put to those are being driven by the developer and they are running the impact assessment rather than the local authority running that process—including talking to the developer of course, but running that process themselves.

**Ian Anderson:** On behalf of the BCSC, we requested further clarification around what constitutes significant adverse impact. What I am not looking for, as part of that, is to say that significant adverse impact occurs at 15%, 20% or 25% diversion of trade. Clearly, the impact is very relative to the health and fitness of the town centre that you are going to be drawing trade away from. We have gone from a position of shrinking the NPPF to 55 pages from thousands of pages and also subservient guidance, and the practice guidance on the application of need and impact has now been reduced to the practice guide that was released in March of about 10 and a half pages from something that actually showed good and bad practice and the type of indications that could comprise significant adverse impact. That is where I would position it. It is not saying a definitive figure. It is providing examples of good and bad practice.

**Q399 Heather Wheeler:** I wonder whether, Mr Wright, you could give us some examples of where you think that the severe impact has been used when, in fact, it is probably not appropriate, in your view?

**Stephen Wright:** Sometimes what happens is the analysis of whether impact is significant or not just comes down to a bald percentage of trade diversion, as Mr Anderson has said. As we have heard from Mr Lowman, it is a much more complicated range of factors. In a struggling town centre, an impact of 10% might be really bad news. In a vibrant town centre, an impact of 10% might be okay. It might be able to stomach that. So I think a very bald-percentage-based approach probably is not right.

**Q400 Heather Wheeler:** You are all centring on loss of trade elsewhere, whereas I thought impact would be traffic movements and that sort of thing, maybe even the design of it in what was a beautiful area or something. That is what I would think of as severe impact.

**Stephen Wright:** The NPPF talks about the impact in both of those ways. In the town centre policies, paragraph 27 in particular to my mind is talking on the impact on town centres from a trading perspective. However, there are policies elsewhere that deal with, absolutely, good design, transport and all of those considerations, which are then held in the balance.

**Heather Wheeler:** Thank you very much.

**Q401 Chair:** Just moving back to local plans, which we have discussed, obviously the whole of the NPPF is essentially reliant on having a local plan in place, as the driver of the planning system. In terms of town centres and retailing, even where local authorities now have a plan in place that covers their town centres, is there any evidence that they are actually taking account of the likely trends in retail over the next 20 years and planning to deal with that, or is everyone saying, "Well, that may be a national trend, but we can buck the trend here," and carrying on as though nothing is going to happen as far as their locality is concerned?

**James Lowman:** Both those things are happening. Some of us are thinking further ahead. What your question goes to, though, is the difficulty of making long-term plans in a very fast-changing market. The changes in consumer habits in the last five years have been extraordinary. We have touched on some already, but there are some other ones: the eating out of home; the continued growth in single-person households. All these factors are changing the way that people shop and live, and it is very hard for a local authority to come up with a genuinely long-term, credible plan. Therefore, the plans have to have some flexibility and review built into them.

That is all against the backdrop of local plans having to cover lots of other things. Obviously, local plans are not just about retail, and one of the challenges suggested by the Nathaniel Lichfield report and other evidence is that local plans are often frustrated by controversy, particularly over housing. The reason why a local plan is in place is not necessarily because there is massive disquiet over the retail plans but that they cannot get an agreement on housing, which then means there is a local plan in place that then undermines the planned retail developments in that area.

**Ian Anderson:** There is a huge burden at the moment placed on planning authorities to deliver the town-centre strategy. I am yet to

see one that is sufficiently flexible or sufficiently geared to future-proofing what the town centre could be, because, to be fair, a lot of it could be crystal-ball gazing. Who would have predicted the rise of iPads since 2010 and mobile internet and purchasing? Certainly we know that online has been a growth, but the massive growth on online is now through mobile purchasing. That also offers opportunity: opportunity for click and collect, to look at town centres as social hubs, to get in Wi-Fi, to attract people, and when you can attract people, you can attract their expenditure as well.

So, to my mind, there is some real sophistication that needs to be bolted into plans, and even the plans that are coming forward now at best are underpinned by a retail assessment, a capacity assessment and perhaps some basic idea of where that retail should go. However, there is not master planning. In many cases, there is not significant public realm and there is not significant future-proofing. It is a very difficult thing for authorities to do, and that is why we think that, in terms of looking at capacity, you should aim to look at the next five to six years and then look at broad indications for the rest of the plan.

**Stephen Wright:** Councils are in a fairly unenviable position on some of this. If you had two retailers in one room and asked them what their respective strategies were on whether their growth was going to be in big stores or small stores or online, you would have some similarities but there would be a good degree of difference as well. The burden on local authorities to really understand how retailing works is quite high.

The other point I would want to make is that putting a local plan in place does not seem to be enough anymore either. We have some great town-centre schemes coming forward now in places like Oxford, Leeds and Croydon, where we have big town-centre regeneration schemes being consented and things starting to come out of the ground in Leeds. Those are happening, in large part, because the council itself has been instrumental, not just in making the right planning policy for that but also in doing what is necessary to help assemble land and to fund public-realm improvements, infrastructure or whatever that might be. Having a policy in place on its own does not necessarily deliver the investment.

**Q402 Chair:** No, but I will quote example of brave councillors that are saying, "Our best guess is that in 10 years' time we will only require two-thirds of the retail space we had five years ago. That is the part of our retail area; we are now going to have a change in usage so we can make the rest of it viable without pepper-potting around bits of decay."

**Stephen Wright:** It would be enormously helpful if councils did take that approach.

**Q403 Chair:** Are there any you can point to where that is happening—where a realistic assessment is being made and plans on the basis of it?

**Ian Anderson:** No, my point is that the NPPF makes it very clear that planning authorities need to assess capacity and need, and need to make provision of that across the plan.

**Q404 Chair:** That is not happening in your view?

**Ian Anderson:** At the moment it is forecasting on what is occurring now and what was occurring in the past, not what is occurring in the future. Again, as Stephen said, retailers have different strategies. No one quite knows quite where we are going, but planning authorities are faced with that unenviable task.

**Stephen Wright:** Because a lot of retail operates on a regional level as well, there is a requirement on councils to co-operate with one another.

**Q405 Chair:** I was going to come on to that and say, presumably, there again must be examples of medium-sized towns in close proximity. Not all of them can have a John Lewis, can they? Maybe there is not going to be a John Lewis in the area but they will all want it. Is there any possibility to gain co-operation on that basis?

**Stephen Wright:** There seem to be some good examples of local authorities working together. Take examples like Greater Manchester, where it seems as if the local authorities are working together to try to plan proactively, positively and strategically across their wider areas. Personally I think it should happen more. Perhaps it will happen in those areas where there is a local enterprise partnership in place to help drive some of those strategic decisions and some of that strategic thinking. It would be good to encourage it elsewhere.

**Q406 Chair:** Stephen Wright and Ian, you both mentioned the requirement that councils allocate sites in full over the development plan period. Could you elaborate on what your concerns are and what changes you would like to see?

**Ian Anderson:** This is not said without consideration, because planning authorities should be very much applauded for looking to the future and planning a strategy and a correct strategy around that urban renaissance that they need to deliver. However, at the moment, in trying to plan across the whole plan period, which could be 10, 15 or

even 20 years, it is very difficult to find the sites that are deliverable, suitable, viable and available so they meet the sequential test criteria.

**Q407 Chair:** Or will actually be needed in 15 years' time, presumably, as well.

**Ian Anderson:** Exactly. It is very difficult to do that, and maybe a better option is the step-by-step approach, not dissimilar to housing, where you need to forecast for five years, absolutely, and then look beyond that as broad locations.

**Q408 Chair:** Then presumably you have a mechanism to bring your plan up to date rather than waiting for 15 years before the next one comes into place, as often happens.

**Ian Anderson:** That is the idea, yes.

**Q409 John Stevenson:** Just looking ahead—we touched upon the future there—the Scottish and Welsh governments are already looking at major changes to town-centre planning policy. Is that something we should do in England?

**James Lowman:** That was my earlier point. I do not think it is the policy or the framework that is the problem. It is always worth reviewing it, and I am pleased the Committee is looking at it, but it is about the implementation on the ground. It is about whether the government is interested in the implementation on the ground. They must know what is happening in terms of development and see it as part of their job to do something about it. If we are going to see changes, it is not necessarily fundamental changes to the 50-odd pages of the National Planning Policy Framework; alongside that it is stronger guidance, more proactive call-in and it is monitoring.

**Q410 John Stevenson:** Do you not feel there is any need for a major change?

**James Lowman:** I do not think the problem is with the words of the National Planning Policy Framework. Should it be reviewed? Of course it should be reviewed over a period of time, but at the moment what are we reviewing? We are reviewing a framework that has not actually been properly adopted by the vast majority of councils.

**Q411 John Stevenson:** I am not talking necessarily about reviewing; I am thinking that in Scotland they are thinking about a complete change in policy. Do you, at this moment in time, feel that the

existing policies are about right and it is the implementation that is the issue?

**James Lowman:** We think the town-centre-first policy is absolutely in line with shopper needs. If we go back to the reasons about market forces and so on, we have had the Mary Portas review, the Future High Streets Forum; there is political consensus and consensus among people at large that high streets, town centres and local centres are worth fighting for. They bring cultural, social and economic value, and I do not think that is a controversial statement. A lot of work has been done on the basis of that base assumption. Therefore, the town-centre-first policy is absolutely right, and it needs periodic review to make sure it is working effectively. However, within the current system, we need the plans in place, more proactive call-in, a better monitoring system and stronger guidance.

**Q412 John Stevenson:** Mr Anderson, what is your view?

**Ian Anderson:** I would agree with that. There are areas of the NPPF—we talked about disaggregation—where it could be firmed up. But clearly there is always a lag between the publication of guidance and its interpretation, and in many cases it then being interpreted in the courts, which is what we have seen through appeal precedents or court decisions. It is too early to make any significant changes to the national guidance. It is down to its interpretation and perhaps clarification in certain areas.

**Q413 John Stevenson:** Mr Wright?

**Stephen Wright:** Consistency is a really important thing when it comes to major investment, whether that is for us as retailers or for developers and investors. One of the problems over the last decade has been an almost constant state of flux in the planning system, which has not helped local councils trying to put local plans in place. A period of consistency, clarity and certainty would be very helpful. That said, one of the benefits of the review that has been undertaken in Wales and Scotland is to go back to looking at what it is about town centres that is important. What is it about town centres that we want to protect? It is the socio-economic benefits of that combination/agglomeration of uses and about creating economically successful places, and so getting back to why we have a town-centre-first policy would be helpful.

**Q414 John Stevenson:** Do you feel there is any need for an overview of the policy at this moment of time?

**Stephen Wright:** I do not believe the text of the policy needs to be reviewed. It is to do with the support that goes towards councils to make it happen that really needs to change.

**Q415 Chair:** Just coming back to Ian Anderson's point that it takes guidance a bit of time to bed in and interpretations to come, do you think there is a case for arguing that, while the NPPF itself may be okay, there has probably been too much guidance stripped out and there might still be areas where a bit more guidance could be helpful?

**Ian Anderson:** Yes, absolutely. The NPPF itself has a number of holes in its interpretation and we have outlined some of those. It is the practice guidance, to my mind, that really needs to put some flesh on the bones so that councillors, local planning authorities, stakeholders and individuals can understand the planning process. We are now at a skeletal level with the NPPF and, unfortunately as a consequence the guidance needs to be slightly more robust. What we are starting to find is a great example is the GLA and their guidance for town centres, which ran to about 300 pages. All it seems to be doing is being pushed down to a lower level and, picking up Mr Wright's point on certainty, if you actually have it at practice-guidance level, it would make it a lot easier for people to interpret consistently.

**Q416 Chair:** Stephen, do you agree with that?

**Stephen Wright:** I do agree with that. The success of our high streets in the future is going to be, in large part, dependent on councils planning appropriately and putting in place investment and strategy to support those town centres. They need some help to do that. James mentioned earlier the work that the Future High Streets Forum has been doing: the portal that it has put together that brings together best practice and guidance and advice. Those sorts of things are going to be hugely beneficial to councils who at the moment are under-resourced and perhaps do not have a local plan and do not quite know how to approach some of these things. My hope is that sort of guidance would be really helpful.

**Ian Anderson:** We have talked only briefly about pooling resources but, certainly across retail planning, in many cases retail-planning applications are only experienced by some of the smaller authorities maybe once or twice every 10 years. It is very rare that you have specific expertise at a local level, and clearly authorities are increasingly being resource squeezed, so sharing that as part of a duty to co-operate might work.

**Q417 Chair:** Finally, we talked about the fact that in the future there may be less need for retail floor space. Even before the NPPF was brought in, the needs test was removed in terms of considering retail planning applications. Should it be reintroduced?

**James Lowman:** Where need is relevant is in the local-plan-making stage. The local-plan-making stage should include a very detailed assessment of the need for new developments, what type of local developments and where it should be at a local level. If that is in place, then to some extent that is need incorporated into the system and that is how it should happen. Whether we would go back, I do not know. Need is in the system in the form of local plans assessing need, and that is where I think it can work effectively in the system.

**Stephen Wright:** I would agree with that. We would not support the reintroduction of the need test. At the plan-making stage, James is absolutely right. At the decision-making stage, need is in fact assessed through the impact-assessment process. The need test was scrapped for some very good reasons; it had some odd unintended consequences, and I am not sure that it would be helpful to strengthening town centres in the future.

**Ian Anderson:** As a consultant, as you say, it is assessed by planning authorities as part of plan making, and in retail assessments it is part and parcel of the impact assessment, because clearly the impact is inextricably linked with the amount of capacity you have to draw on.

**Chair:** Thank you very much indeed for coming to give evidence to us this afternoon.

#### Panel 2 Questions [418-470]

Witnesses: **Jane Smith**, Planning Adviser, Energy UK, **David Cox**, Head of Development in England, RES, and **Gemma Grimes**, Director of Onshore Renewables, RenewableUK, gave evidence.

**Q418 Chair:** Good afternoon, and thank you very much for coming to give evidence to us this afternoon. For the sake of our records, could you just go down the line and say who you are and the organisation you are representing?

**David Cox:** My name is David Cox. I am Head of Development in England for RES—Renewable Energy Systems—the UK’s largest independent renewable developer.

**Gemma Grimes:** Gemma Grimes, Director of Onshore Renewables, RenewableUK, the industry/trade body for wind, wave and tidal energy.

**Jane Smith:** Jane Smith, Planning Adviser for Energy UK, which represents over 80 members made up of generators and gas and electricity suppliers of all sizes, as well as a number of other businesses.

**Q419 Chair:** It would be fair to summarise your views both individually and collectively that the NPPF is fine, you have no real problems with it, but then you have difficulties with government at a national level coming in with different policies and views, often in contradiction to the NPPF and, at local level, councils not always taking decisions in line with the NPPF?

**David Cox:** That is correct.

**Gemma Grimes:** That would be a fair assessment.

**Jane Smith:** Yes, that is fair to say, and there are a number of reasons for all of those. Perhaps we can cover that during this session.

**Q420 Chair:** The NPPF, as you are saying, Jane Smith, is not matched by action on the ground. Does that mean it is a rather toothless document? It is a nice, short piece of paper, and the Government can congratulate itself on reducing its size but not actually on its effectiveness.

**Jane Smith:** It is a positive policy framework for low-carbon and renewable-energy projects under the local planning regime, but it also balances the need to take into account the views of potential host communities. Without the full and consistent implementation of the NPPF in local plans, it is difficult to judge its true impact yet. But if you look at the nationally significant infrastructure project regime, which has just had a five-year review, we are only really seeing a small number of projects going through. A five-year review has now already started to identify a few areas for tweaking, so maybe we are just a bit early in terms of judging the NPPF and its effectiveness.

**Q421 Chair:** David, of course, you have said that you generally welcome the Ministerial Foreword for the NPPF, the guiding principles and that it is all in favour of sustainable development and renewable energy. They are words, are they not? But I think you have concerns that the actions do not match the words.

**David Cox:** Currently, given the fact that the sorts of projects we work on take two, three or four years to go through the planning system,

and with the NPPF only coming out in March 2012, it is still quite hard to assess how effectively the NPPF is working in the system. We have only had three projects that have been determined under the NPPF. The first one was still under its draft form, so it was not entirely under the NPPF. So it is still very hard for us to judge the success of that—its interpretation—with the success of our projects in the planning system.

**Q422 Mark Pawsey:** Going back to the conflict between policies in the NPPF and guidance produced by government, is one of the concerns that some of the messages coming from government are not always about planning in terms of renewable energy? Are Ministers saying that we have, sort of, built enough for the time being? That is not a planning matter, so where would you like to see the NPPF in terms of support of your industry?

**David Cox:** As I put in my evidence, we very much support it and the ethos of it. With, obviously, the DCLG guidance that was updated in March, there does seem to be a little bit of conflict between that in terms of it not necessarily being a given—if it is sustainable development such as a wind farm—that it is given planning permission, or everything else that needs to be assessed with it in terms of culture and heritage, landscape and everything else that goes with the determination of a wind-farm application.

The way we would like to see it go is that we would like the NPPF to be strengthened in terms of its use and interpreted more in the actual DCLG guidance that has come out. If something is wrong with the guidance in terms of it needing it to be tested, we need possibly to re-look at the guidance.

**Q423 Mark Pawsey:** Where does localism and the ability of the NPPF to enable local communities to have a greater say in planning come in? The overwhelming evidence is that when local communities are confronted with applications such as those that you and your members would like to bring forward, local people do not want them. How do we balance that conflict?

**David Cox:** Well, the beauty of the planning system is that it is able to assess all those representations made by the public and balance them against national needs. Therefore, it is up to the decision-maker to make that balanced view.

**Q424 Mark Pawsey:** Ms Grimes and Ms Smith, how do you think that the current system balances those conflicts?

**Gemma Grimes:** The NPPF as drawn is a very balanced and concise document. We have some slight reservations about the potential

dilution of the NPPF message in parts of the guidance, but that is a very second-order issue. The real focus is on implementation, and part of it relates to the fact that, in many cases, it is too early to say because, certainly for wind projects, they take an awfully long time to go through the system. We are only seeing the first ones come out now.

**Q425 Mark Pawsey:** Can I ask you, therefore, is there a difference between the treatment of applications prior to the NPPF? We have seen a large number of installations in recent years. Those were in the system before NPPF, so what is the difference between the old regime and the new regime?

**Gemma Grimes:** I would not be able to put it down to the wording within the NPPF because, as we have all said, we are very supportive of the wording in the NPPF. But we do believe that the political rhetoric has had a very damaging effect on the rate of planning approval, both at the local level and, to a lesser degree, at appeal stage. We have statistics showing that the approval rate as late as 2013 was up around 67%, and if you look at the rate for 2014, albeit obviously we are only partway through the year, we are looking at around 36%. So there is a huge drop.

**Q426 Mark Pawsey:** What would you attribute that to?

**Gemma Grimes:** I would attribute that to political rhetoric across all Departments, not necessarily all parties, and I would put it down to the way in which the Secretary of State for Communities and Local Government has dealt with renewable-energy appeals in the last 12 months.

**Q427 Mark Pawsey:** Is it nothing to do with local residents articulating their concerns?

**Gemma Grimes:** Like David was saying, all planning decisions have local opinion brought into the mix, and I do not think that wind energy is any different in that regard. To that extent, it has always been there. So, no, I do not expect that to have been the driving factor.

**Q428 Mark Pawsey:** Ms Smith, are you happy with the NPPF as currently drafted?

**Jane Smith:** Yes, generally, as I said before, we think it is a very positive planning framework. In terms of the call-in of wind farms in particular and some solar, as Energy UK, we understood why the Secretary of State would test the July 2013 guidance to see whether it was working effectively in taking into account communities' concerns and environmental issues. But we are a bit concerned that that has

been extended now and we are seeing a large number of schemes being called in or recovered. The impact of that, coupled with a sustained period of change, means that it is having a negative impact on investor confidence. We are concerned about, as I say, that wider policy framework.

**Q429 Mark Pawsey:** How would you change the NPPF if you wanted to reinvigorate investor confidence? If that is the problem, what would you do about it?

**Jane Smith:** The NPPF itself is a very positive document for renewable energy and low-carbon energy. When it came out originally and in the build up to it, the only area we would have liked to have seen a little bit more emphasis on was security of energy supplies, because the document itself makes no reference at all to the importance of planning for energy security in the future. If you look at the Armit review, which talks about 73 million people by 2035, you can see that we are going to continue to need to invest significantly to deliver secure and safe energy for all of those people.

**Q430 Mark Pawsey:** Do you think the NPPF balances effectively the need for local involvement in planning decisions and the strategic national interest?

**Jane Smith:** Yes, I do. If you go back to the local planning system, if you get your local plan right and develop it to deliver sustainable communities but also make a contribution to the national energy requirements—if you get that balance right and identify suitable areas for low-carbon and renewable energy—then you can have both.

**Q431 Mark Pawsey:** Do you think that local communities are likely to volunteer for that and include it, first of all, perhaps in their neighbourhood plan or in their local plan?

**Jane Smith:** It depends. There are ways and means of incentivising energy infrastructure. The community energy focus we are seeing at the moment would be a good way of incentivising communities to get involved. Of course, there are lots of benefits of that in terms of understanding energy efficiency, getting involved in the project and shaping that project. Yes, there are ways of doing that. However, it is actually about really consulting well on your local plan. We heard from other witnesses earlier that only around 13% of plans have been updated since the NPPF. We all need to support local authorities in getting those plans in place and up to date.

**Q432 Mark Pawsey:** For both of our other witnesses, are there changes you would like to see to the NPPF that would assist you in your industry?

**David Cox:** Again, it is about trying to sort out the conflict with the DCLG guidance that is out there and, if we can, possibly to strengthen the NPPF to iron out that conflict. Again, generally speaking, we are reasonably supportive of DCLG guidance, but I still do not think it has that strength of supporting sustainable development.

**Q433 Mark Pawsey:** So what would you like to see? How would you change it?

**David Cox:** Again, that is the thing. We do not want another massive level of change. The problem is that we have gone through a long period of uncertainty, which has affected investor confidence and so on, so I am really quite keen on not changing the NPPF in its current form and want to see it through. As I explained before, a lot of our projects take a long time to go through the planning system.

**Q434 Mark Pawsey:** Would you rather live with this degree of uncertainty? Is that better? Is a known period of uncertainty better than the risk of change of policy?

**David Cox:** We would like to keep the NPPF in its current format. We would like the government to encourage all local authorities to get their local plans up to date. We, as developers, are actively taking part in the local planning process and are monitoring local plans across the country, and therefore would like to see more resources put into local plan production to follow through the foundation of the NPPF.

**Q435 Mark Pawsey:** Ms Grimes, are the problems mostly in those authorities that have not got an adopted local plan or is it a more broad issue?

**Gemma Grimes:** I am afraid that we do not have the details to hand to be able to answer that question thoroughly, but we can certainly come back to you with that information afterwards. The suggestions that I am receiving are that those plans that are in place that have been developed since the NPPF do not necessarily embed perhaps the presumption in favour of sustainable development that we would like and, aligned with that, do not necessarily integrate paragraphs 97 and 98 within their own local plans in the way that perhaps we would like them to.

However, it is very early days. The focus is very much on the way in which it is being interpreted obviously in that plan-making for the 13% that have been seen but we have not yet got full news on, but very

much at the political level. In relation to the political level, certainly for wind energy, there seems to be a suggestion that the Secretary of State perhaps does not trust planning professionals—be they the planning inspectorate or local officials—to make effective decisions on projects based on his policy and guidance.

**Q436 Mark Pawsey:** Do you think too many applications have been recovered by the Secretary of State? Is that your view?

**Gemma Grimes:** Yes. We have now got 39 wind energy projects that have been recovered. That now constitutes around 20% more than all of the wind energy projects that are now in the appeal process.

**Q437 Mark Pawsey:** Why do you think they have been recovered?

**Gemma Grimes:** We understand that they have been recovered in order that the Secretary of State can test his policy and guidance and ensure that it is being used appropriately. But if he prevents the planning inspectorate even testing that guidance, then he has no way of knowing. It is rather premature.

**Q438 Mark Pawsey:** You do not think it is anything to do with the strength of local feeling where those applications have come forward?

**Gemma Grimes:** The strength of local feeling where those projects have been taken forward? At the moment we have three projects that have received an article 25 direction and two of those three have been called in. In those cases, they have been taken away from the decision-making of the local authority. That, to my mind, undermines localism. It seems to be naked politicking in the planning process. With the recoveries, it is rather different, but if you are taking out of the system all of those projects that are at the appeal stage, it is sending the message to the planning officers and the planning inspectorate that they cannot be trusted, and it is sending the message to developers that the planning system cannot be trusted, so it is generally undermining the planning process.

**Q439 Mark Pawsey:** So, between them, is that not sending out a message that the NPPF is not working? Would you go as far as to say that?

**Gemma Grimes:** This is it. The NPPF is a good document; it should work. There is nothing, to our mind, that would prevent it from working; it is simply the way in which it is being abused, I would argue.

**Q440 Mark Pawsey:** Basically what you have just said means that your contention must be that it is not working.

**Gemma Grimes:** The contention is that the policy, as we feel it should be interpreted, should work. It is the interpretation of that policy by the Secretary of State, among others—from my perspective representing the association, that is the main concern we have at the moment. It is not necessarily the way in which local authorities are interpreting it, albeit local authorities need more resource to put their plans together; it is the way in which the Secretary of State is interpreting his own guidance.

**Q441 Mark Pawsey:** So the Secretary of State has got it all wrong.

**Gemma Grimes:** I am not saying the Secretary of State has got it all wrong.

**Q442 Mark Pawsey:** He is interfering too much. Would you agree?

**Gemma Grimes:** I would say that the recoveries procedures are there and he is perfectly within his rights. However, there are differences between the letter of the law and the spirit. Recoveries were intended to be used in exceptional cases. When you are recovering all of the projects in the appeal system, those are not exceptional cases. When you are extending it from a period of six months to a period of 18 months, that is not an exceptional case.

**Q443 Mark Pawsey:** Do you agree with that, Ms Smith?

**Jane Smith:** I do, but it is important to look at where we are. In the last 10 years since 2004, we have had continual positive change. The Energy Institute has pushed hard for planning reform, both in terms of the nationally significant regime and the local planning regime, and successive Governments have put in place what we believe are very positive policy frameworks. It is now about us all collectively working together to support local councillors to get in place their local plans, and there are issues around, as I think Gemma mentioned, resources. It is very important that we ensure that we have got the right knowledgeable and experienced planning officers and, indeed, statutory consultee case officers to actually develop a plan.

Bear in mind that to develop a local plan is a very resource-intensive process if you do it well and you consult properly. We need to ensure that we have got the right quality, level and numbers of experienced planning officers to do that. Particularly in respect of renewable and low-carbon energy, we need to support planning officers and councillors

to understand these specialist projects. I think the gentleman we had before, in the first evidence session, mentioned the fact that often commercial projects only come up once every few years. Indeed, energy projects need specialist knowledge. So we, as an industry, need to support councillors and officers to understand these projects. Potentially, the pooling of resources, which was mentioned earlier, is another good idea. You could create planning hubs, and then we have got some hope of getting local plans in place.

**Q444 Mark Pawsey:** Do you think that local authorities do not devote sufficient resources to plan making?

**Jane Smith:** I do not think that they do not devote sufficient resources; it is just that it is a very resource-intensive process.

**Q445 Mark Pawsey:** But if local authorities spent more, they could get their plans done more quickly.

**Jane Smith:** You could say that probably of all frontline services. Every authority has to balance the provision of those services. Indeed, they were stretched before the recent budget cuts that we have seen and perhaps pooling resources would be a good way forward, or you could even have, for different types of renewable energy, different planning officers in an area that became specialists in solar or biomass, etc. They would then support their other planning colleagues in other constituencies when one came up in that area, because they do not come up that frequently.

**Q446 Mrs Glindon:** Chair, can I first of all apologise for having to be out of the meeting for part of the time? Can I, at this point, declare my interest in that my husband is a councillor and one of my employees is a councillor? I do apologise. Gemma, you particularly touched upon the recoveries and call-ins, but you all expressed concern about the Secretary of State's use of recovery and call-in powers. Why do you think your applications perhaps should be exempt from ministerial scrutiny?

**Gemma Grimes:** We are not asking that they be exempt in any way; we are just asking that the recovery powers be used in a proportionate way, as they were intended.

**Q447 Mrs Glindon:** Why do you think the Secretary of State is taking such a keen interest in renewable-energy applications?

**David Cox:** It is obviously his prerogative to do that. Originally, it was obviously nationally significant projects, but the word "renewables" was added to that. We have only had one experience of a recovery with our project so far, and that was a positive one in the sense that it was

eventually given approval by the Secretary of State. For the industry as a whole, it just created mass uncertainty. The biggest thing for us is the delay. On that particular project, from it going from the planning inquiry over to the Secretary of State's office equalled a nine-month delay. With a large infrastructure project, there are lots of costs that are added to that just through the time of being in the development process. So, for us, it is a cost issue as well. We are trying to streamline the planning system and it is just an unnecessary hurdle for us to have to jump over when that decision could effectively be taken by the inspector or the local authority.

**Q448 Mrs Glindon:** Gemma, you mentioned the word "abuse". Do you think when the Secretary of State is actually recovering appeals or calling in applications that the decisions have been made in accordance with the NPPF?

**Gemma Grimes:** We have not got all the decisions in front of us. I have not been through them all with a fine-tooth comb, but, on the basis that, of the 13 decisions, only two have been approved, that suggests a higher rate of refusal than would be considered perhaps the norm at the appeal stage. Of those 11 that were refused, five of those were refused against the recommendation of the planning inspector. So I would suggest that 45%—based on our figures—of the time the decision to refuse has been against the recommendation of the inspector. I would have thought that the inspector, being a professional, would have made that recommendation in line with the NPPF. These are projects that would have been given recommendation for approval or refusal post-NPPF, so that would have been the primary document for consideration.

**Q449 Mrs Glindon:** What would restore your confidence in this process? Is it the length of time that is taken or is it the outcome?

**Gemma Grimes:** The outcome does not help. Perhaps if the outcome was more aligned to the inspector's original recommendation, we would have more confidence, but then the timing and the uncertainty of the project being taken out of the standard appeal process would be a concern. The main concern is around the fact that essentially all projects in the appeal system are being recovered, and that the Secretary of State appears to be continuing that process. He appears to want to extend that process essentially up until the point of the general election. This process, as currently planned, will end around 10 April 2015.

If the reasoning for the Secretary of State's choosing to recover these projects remains that he is wanting to test the guidance and ensure that decisions are being made in the way that he intends the guidance

to be interpreted, I would suggest he should revise the guidance, re-consult on it and return these projects to the planning inspectorate, rather than having this rather extraordinary process used rather in a blanket fashion.

**Jane Smith:** It goes back to getting the NPPF translated into local plans. The NPPF asks local authorities to positively put in a place a strategy for the delivery of suitably sited low-carbon and renewable energy. If we can support local authorities in doing that, that will address a lot of the uncertainty that developers are feeling, because they will know where the suitable sites are. The key issue, of course, is whether those suitable sites have the practical and physical attributes that allow renewable energy to be developed. There are only a certain number of sites in Great Britain that are suitable for, say, wind energy, because you have to have a certain wind speed. You also have to be close to connecting to the grid or have good road access. It is actually about the energy industry and councils working together to find suitable sites that can deliver the energy we all rely on and need while taking into account local people's concerns and issues and addressing those properly, as well as making sure that there is minimum impact on the environment.

**Q450 Chair:** If the Secretary of State appears to be operating completely out of line with the spirit of the NPPF, why do you not take him to court under judicial review?

**Gemma Grimes:** You could ask that question about a lot of occasions in the past when different developers have felt that they had been perhaps waiting in the planning system for a very long period of time or they feel otherwise frustrated by the process. You do not want to frustrate that process any more by aggravating the system and causing more workload and expense for those organisations that you are simply wanting to look at your project. We do not want to go down a legalistic route; we would simply like a return to the routine planning process in terms of recoveries.

On a wider note, I entirely agree with Jane: the best thing that could happen would be for local authorities to get their plans up to date and for them to ensure that they are fully integrating and translating the NPPF and guidance into their local plans. My concern is that, as we have been talking about, you can have the wording of policy but it is about the sentiment behind it and the way in which it is interpreted.

**Q451 John Stevenson:** We have been talking a lot about political rhetoric and political involvement etc. At the end of the day, all decisions to some extent are political—with planning it is certainly the case and

renewable energy policy is also the same. I would like to ask David: you mentioned that council officers' professional judgments have to be shielded from undue and inappropriate political pressure, but can you give us any evidence of that or examples?

**David Cox:** We have had applications in the past where we have had undue pressure put upon the officer and where we have had an officer recommendation for approval and we have taken that to a planning committee; I would like to go away and give you the stats but we have got at 50/50 record as a developer in terms of where we have obtained an officer's recommendation for approval—

**Q452 John Stevenson:** If you have obtained approval, arguably—

**David Cox:** No, sorry, we have obtained an officer's recommendation for approval. That would go on to the planning committee, and therefore it is for the planning committee members to debate the merits of the application and decide whether to approve, refuse or defer.

**Q453 John Stevenson:** Where do you think there is undue influence or inappropriate political pressure? If they are actually recommending the scheme, quite clearly there is little or no interference. It is then up to the democratically elected representatives to decide.

**David Cox:** There have been other cases in which we have felt that there has been undue pressure on the planning officer to recommend a refusal, which I think is what you are trying to tease out of me.

**Q454 John Stevenson:** Right. Can you provide the Committee with evidence of that?

**David Cox:** Yes, I can provide the Committee with evidence of that. Obviously, I have been doing this job a number of years now and this is not necessarily under the NPPF. That is what I said earlier: the NPPF has only been in place for the last two years of our projects.

**Q455 John Stevenson:** Since the NPPF has been in place, has there been an improvement or has there been a deterioration?

**David Cox:** Again, we can get the statistics for this but, just in terms of length of time I spend in planning, at local level and in terms of being determined by local authority, I believe the statistics were that it was 16 months on average that an application has spent in there prior to the NPPF. Since the NPPF, it has been 17 months on average spent at local level.

**Q456 John Stevenson:** So you think it has got worse?

**David Cox:** It has got worse. To follow that on to planning appeals, it is 26 months before the actual NPPF came in. After the NPPF came in, it was 29 months.

**Q457 John Stevenson:** Jane, do you have any comments on this?

**Jane Smith:** Yes. I was not going to comment on the timescales; I was just going to say that, as Energy UK, we recognise it is incredibly difficult for councillors to balance all the different needs that they have to in terms of planning for their community. We absolutely recognise the challenge of granting planning permission for a renewable energy project if communities are against them. We believe, as I say, if we can implement the NPPF objectives to actively plan for low-carbon energy and have a full and robust process of consultation and dialogue around the plan, that will then enable individual projects to be brought forward in a timelier manner so everybody understands where they are likely to be sited.

**Q458 John Stevenson:** Gemma, excluding the activities of the Secretary of State, do you think the issue of onshore wind is becoming increasingly politicised?

**Gemma Grimes:** I do not know if we have reached the top yet. It has, over the last year or so, become increasingly politicised, but we do not believe that to be a true reflection of public attitude. In fact, we believe there may be quite a divergence, with the Government's own figures as recently as April saying that 70% of the population are in support of onshore wind. Now, if you listen to some politicians, you would imagine that these were two separate universes. We have a concern that the general public feel there is a great antipathy towards these projects when they are among fellows in terms of their support for wind and they are in the majority. There is a concern that people do not know a sufficient amount about the need for energy, where it comes from, why we need to plan for it, etc.

We were getting there a number of years ago. I am concerned that we have somewhat taken a back-step because, understandably, we have needed to significantly reduce expenditure and have had a re-focusing of the planning system, which was not unwelcome but has meant we lost some of the momentum we gained through regional spatial strategies in educating people about the need for energy, the different types and the fact that you needed to be responsible for deciding what it was you were going to have—you needed something. We are not seeing so much of that anymore, because, as a gentleman on the previous panel said, we are playing catch-up in terms of local authorities putting their plans together, and we are planning what was

and is right now, as opposed to what will be and what we will need. It comes back to some of the stuff that Jane was saying earlier. There is a real need to raise public awareness around energy generally.

**Q459 Mrs Glendon:** The NPPF encourages councils to include policies in specific locations for renewable energy infrastructure in their local plans. You suggest they have not been very positive in doing so. Why do you think this is?

**Jane Smith:** One thing is that there is a big focus at the moment on housing. If you go back a few years, there was a lot of focus on energy, but now there is a recognition of a big issue in terms of providing enough housing for the British public. A lot of the focus has moved perhaps from thinking about renewable energy to thinking about the immediate priority of housing. As we go forward, as new plans are developed and there is this positive requirement to plan for renewable energy, we would hope that that would start to come through as the newer plans come forward. We will certainly be looking to work with the LGA and councils to try to support them in that.

One of the things we have just started discussions on, which we had a few years ago and it came to nothing, is to look at producing a booklet that explains renewable energy in very simple terms, the impacts that renewable energy might have and how you mitigate it—a much simpler version of the national policy statements that cover large-scale energy, but for the middle-sized and smaller-sized. That, combined with site visits for both councillors and officers, would hopefully help build that expertise, which would then enable the local plans to be informed local plans in terms of renewable and low-carbon energy.

**David Cox:** Developers take a much more active process in the local plan. Traditionally, large-scale renewable projects have not been promoted through the local plan, given the time scales it takes to follow a site through, but we ourselves actively engage in the local planning process. However, it is very frustrating—there are statistics I put in my evidence—that, in the south-west of England, only 15% of the policies adopted so far have had any reference to energy or renewable energy policy in the form of supplementary planning guidance. That is the ideal place in which to place the spatial approach in terms of forward planning in England. It is disconcerting that more local authorities have not grasped the nettle and taken this up. I agree with Jane's points on the great emphasis, if you read planning inspectors' reports on local plan inquiries so far, on the duty to co-operate and housing, and very much less emphasis on energy and renewable energy.

**Q460 Mrs Glindon:** Is that what you mean by the “protectionist approach”?

**David Cox:** Yes. In my evidence, I have given good examples of authorities’ wording. In one, there are eight criteria, all of which the renewables project has to meet. Given renewables projects are going to have some form of impact, it would be impossible for it to meet all eight criteria.

**Q461 Mrs Glindon:** Jane, you were very specific in how, through local plans and working with people, you could get people onside and address issues, but you have also said that a plan should not preclude other sites being considered. The whole point of a plan is to provide clarity on where development will take place, so how would you move from that to what you said?

**Jane Smith:** It goes back to what I was saying earlier. You can engage with the local planning process, you can get suitable sites, but we need to assess, once we have local plans in place: is the sum of all those suitable sites enough to deliver our energy needs? Also, as technology and therefore the impact of technology changes, we believe that other developments that come forward should be assessed on their merits. If, clearly, they are unsuitable, then they should be turned down but, taken on balance, maybe with new technologies with different impacts having come forward, they should be looked at on their individual merits. As I say, certain technologies can only be placed in sites that have certain physical attributes.

**Q462 Mrs Glindon:** So should they be considered beyond any given local plan?

**Jane Smith:** Beyond the suitable areas within the local plan. You say “beyond every local plan”. One of the key things we are seeing is, at the moment, there is little evidence of local authorities fulfilling their duty to co-operate as effectively as perhaps we might hope. Some of the larger scale projects do have impacts across more than one constituency boundary, so that, again, is something, as we move forward, we would like to work with the LGA on, to try to support them in planning more strategically.

**Q463 Mark Pawsey:** Just a quick one: witnesses have told us about the restraints and pressure on local authority planning departments, and also the fact that applications are taking longer. Perhaps asking you as developers more broadly, rather than specifically on energy, do you think there is some benefit in having a fast-track process? Would you be willing to pay more in planning fees if there were

fast-track processes? Do you think that should be incorporated within the system?

**Jane Smith:** If you look at the nationally significant infrastructure project regime, we are already seeing statutory consultees offering pre-application advice. Providing they are cost-based, reasonable and proportionate, developers are picking that up as being a very positive thing. The opportunity to engage with local planning authorities and statutory consultees earlier on in the process, thereby identifying very early on if you have picked a site that is never going to work, is worth paying for. I do not know about a fast-track service, but a timely, proportionate, valuable service early on in the process is valuable, and indeed, on the national regime, is being paid for now.

**Q464 Mark Pawsey:** Mr Cox, you spoke about the delays in the system. Would your company pay more to get a quicker decision?

**David Cox:** Definitely. As I say, the longer a project stays in the planning system, the more money it attracts. For onshore wind, we are doing everything we can to bring those costs down. Development costs just continue to rise.

**Q465 Mark Pawsey:** Can I push you on how much extra you would pay? Would you pay double to get it done in half the time?

**David Cox:** With some local authorities, we have done planning performance agreements. A lot of the information that we submit as part of our planning application and environmental impact assessment needs specialist advisers to look at it, which local authorities do not necessarily have in-house. We have used planning performance agreements for the local authorities to get external consultants in to review those particular chapters of the environmental impact assessment, which, again, helps speed up the process for us.

**Q466 Mark Pawsey:** Basically, you pick up the bill for the local authority in getting specialist advice.

**David Cox:** Yes.

**Q467 Mark Pawsey:** Is that a bit dangerous?

**David Cox:** It is totally up to the local authority. We have no influence over it.

**Q468 Mark Pawsey:** If you are paying for it, is there not a danger? He who pays the piper calls the tune.

**David Cox:** No. Planning performance agreements are quite commonly used in other industries, less so in renewables, but it is quite a well-trodden path.

**Q469 Mark Pawsey:** Ms Grimes, do you think developers would be willing to pay more to get a more speedy service?

**Gemma Grimes:** Yes. What David has said is fairly indicative of the membership generally. There has been some reticence about using planning performance agreements in the past from some in the industry, because they are concerned that, as a developer, you pay the local authority not to prioritise the project but to attempt to consider it within a more concentrated period of time, but there is no comeback if they do not. There is a question. I have had it put to me that you are paying money to discuss with the local authority how you develop the planning performance agreement when you would just prefer them to look at your application, so I do not know. It is something we have encouraged the industry to be proactive in trying. Over the last couple of years, because we were talking about this maybe three years ago, there has been an increase in take-up. It would be interesting to see whether the planning performance agreements could be strengthened in some way to give developers that greater assurance that projects would actually be determined faster.

**David Cox:** It is not necessarily at a planning or pre-planning stage. It is also post-consent in terms of discharge of planning applications. They can be quite lengthy affairs as well in terms of getting the knowledge in with which to have your conditions discharged when you are trying to financially close the project.

**Jane Smith:** At Energy UK, we believe that planning performance agreements have their place, but it should be voluntary for the developer to decide whether to go down that route. If they do them, they should be for non-statutory obligations, so they should not simply pay for what the authority should be doing anyway.

**Q470 Mark Pawsey:** You said it should be for the developer to decide. Are there some instances where there is a bit of pressure on the developer to do it?

**Jane Smith:** I have heard anecdotal evidence of it. I have not experienced it myself, but I have heard some anecdotal evidence of it. It is all about making sure, if you enter into one, it is a service-level agreement so you know what you are getting by when. I do not think it is always about faster; it is about certainty: once the application has gone in, you know you are going to get a decision within a certain

period of time. Indeed, for renewable energy that requires an environmental impact assessment, that is 16 weeks. In practice, many of them run over that time, and it is about getting certainty as to when the decision is going to come.

**Chair:** So you are all prepared to pay more for earlier refusals. On that happy note, we will end our evidence session this afternoon. Thank you very much indeed for coming.