



Communities and Local Government Committee

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

Wednesday 15 October 2014

Ordered by the House of Commons to be published on 15 October 2014.

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Watch the session

Members present: Mr Clive Betts (Chair); Simon Danczuk; Mrs Mary Glindon; David Heyes; Mark Pawsey; and John Stevenson.

Panel 1 Questions [706-759]

Witnesses: **Simon Ridley**, Chief Executive, Planning Inspectorate, and **Ben Linscott**, Acting Chief Planning Inspector, Planning Inspectorate, gave evidence.

Q706 Chair: Good afternoon and welcome to the 10th public evidence session in our inquiry into the operation of the National Planning Policy Framework. You are very welcome this afternoon. Just to begin, members of the Committee want to put on record any interests they need to declare. I am a vice-president of the Local Government Association.

David Heyes: I have two members of staff who are local councillors.

Simon Danczuk: My wife is a local councillor and some of my staff are councillors.

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

Chair: We have got those on the record. Now, for the sake of our records as well, could you just identify yourselves, your name and your position, please?

Simon Ridley: Simon Ridley; I am the Chief Executive of the Planning Inspectorate for England and Wales.

Ben Linscott: Ben Linscott; I am the acting Chief Planning Inspector.

Q707 Chair: Thank you both very much for coming along. Simon Ridley, just to begin with, congratulations on your appointment. Is this someone from the Civil Service being put in to make sure the Planning Inspectorate do what Ministers want?

Simon Ridley: It is not the case, I don't think. I have joined the Planning Inspectorate to lead the organisation and to make sure it is effective in meeting all of its objectives across the piece. The Planning Inspectorate is of course an agency of the Department for Communities and Local Government and is operating in the context of Government policy, but the objectives of the inspectorate are to ensure it is continuing to make impartial, fair and open decisions in all the work it does.

Q708 Chair: Is there not a slight conflict that you are responsible and accountable to civil servants within the Department, yet, at the same time, when your inspectors hear an inquiry, they are expected to operate independently, objectively, in a quasi-judicial role? Is there not potential for conflict there?

Simon Ridley: It is really important to distinguish between PINS, the inspectorate, as an agency of DCLG and how we manage our relationships with the Department in terms of funding and what we are doing around our range of objectives; and the role of an individual inspector, who is making an individual decision on behalf of the Secretary of State, and ensuring that the inspector is making the decision in a completely unfettered way, such that he or she is impartial. Those are quite distinct roles. We have also, on my appointment, introduced a new governance structure at the top of PINS with a new independent chair, and I do not think there is a conflict between the fact we are an agency of the Department and an individual in the field making an impartial decision.

Q709 Chair: How would you handle, then, the sort of situation that arose when the previous Planning Minister took exception to the

wording of a decision of an inspector looking at the Reigate and Banstead local plan, wrote to the chief executive, your predecessor and basically complained about that wording? This was a Minister expecting the chief executive of the Planning Inspectorate to deal with an inspector who was operating in a quasi-judicial role in a particular case, wasn't it?

Simon Ridley: My predecessor, Sir Michael Pitt, responded to the Minister in writing, I believe, and there was an exchange of letters on the point. I think it remained the case that the inspector made an impartial decision, and that is the case. The inspectors are operating under a very clear code of conduct that we put in place in the Planning Inspectorate to support their impartiality. We have very clear values across the inspectorate that include impartiality. That is the role that they are playing. My role, which is a very different role, is about running an organisation of 700 people to be as effective as possible in delivering its objectives.

Q710 Chair: It cannot be completely that, can it? In the case that I just referred to, the then chief executive, Sir Michael Pitt, did deal with the issue. He took a view on it; he wrote back to the Minister. He took a view about what his own inspector was saying in a particular case, so it is not just about running an organisation in terms of managing 700 people.

Simon Ridley: The crucial thing here is to be clear that inspectors are making a decision based on the facts of a particular case, and considerations in a particular appeal are going to be Government policy—Ben might want to say a bit more about that—as articulated in the National Planning Policy Framework. The crucial thing is to be clear about the context in which those decisions are made and what it is that inspectors are weighing in the balance, and protecting that impartiality.

Ben Linscott: The Reigate and Banstead situation was around a local plan and a recommendation made by the inspector to the council about the nature, content and direction of its plan, which involved greenbelt and was obviously of ministerial interest. There was an exchange of correspondence, which I think was helpful in resolving the relationship between the Minister and the inspectorate—and the inspector—and eventually resulted in the local planning authority adopting the recommendation of the inspector. I think it was a helpful exchange of correspondence, and it is the Minister's prerogative to intervene in situations that he feels he ought to. However, I would entirely endorse what Simon said, which is that the inspector made a recommendation based on the facts and evidence of that case, and, indeed, on policy, about that plan.

Q711 Chair: When an inspector makes such a recommendation on an individual case, your job is to support that inspector and the decision they reached, is it?

Ben Linscott: I am not certain there is support that is required to be given, because the inspector is an independent appointed person, and it is for him or her to make a decision or recommendation. My role, if I am called upon in a particular case, is to advise and take a view as to whether or not that has been a reasonable position to take. The correspondence was with the chief executive and it was his initiative to respond to what the Minister had said.

Q712 Chair: Just a general point on a different matter, and then I will pass onto my colleagues: the Secretary of State has taken recently to overturning decisions from inspectors about renewable wind energy projects. Do you think that undermines you as an organisation and makes you look as though you are reaching the wrong decisions and are really irrelevant to the process?

Simon Ridley: No. It is really important, when we think about recovered appeals, to be clear about two different things. The first is that all appeal decisions are delegated from the Secretary of State to an inspector to make the decision in the first place. It is an established part of the system that Secretaries of State can recover appeals for different reasons, whether it is about ensuring the application of policy, or whether it is appeals that are about issues that cover considerations wider than just the local area, for example. We have seen, over many years, appeals get recovered. It is fewer than 1% of the total appeals PINS looks at—under 100 in any year, typically, compared to over 20,000 that we deal with.

Secondly, in the majority of cases, the Secretary of State is making the same decision as the recommendation that the inspector provided. In the cases where that does not happen, the reasons are set out. Of course, in any appeal, two different views are being put forward. It is a matter of judgment on the evidence as to the weight given to various considerations in policy or more broadly than that. It is unsurprising that, in some of these cases, two individuals, the Secretary of State and an inspector, might come to a different view. I think we continue to be integral to the way the planning system works, ensuring that the right to appeal is heard and impartial, fair judgments can be come to.

Q713 John Stevenson: At the sessions, concern has been expressed by a number of witnesses about the inconsistency of decisions being made by inspectors. Turning to you, Ben, can you talk us through

what measures, if any, are put in place to try and deal with that and ensure there is consistency of judgment by inspectors?

Ben Linscott: You hit on a very key point in referring to judgment, because the judgment is required to be taken, or made, on the basis of the evidence given to the inspector in a particular case, and that is pretty settled law. I would not therefore regard different decisions as necessarily inconsistent, even within the same local authority area, because the circumstances at different sites will differ; the policies that apply to particular sites will differ; and, most importantly, each appeal—each inquiry, hearing or written representations case—is effectively a tribunal in its own right, so it is the evidence presented to that tribunal that the inspector must apply. He or she cannot create his own evidence. If there are concerns, because of, for example, knowledge of another appeal decision that might be pointing in a different direction from the evidence that is put to that hearing, then the inspector will need to look at that and, if he or she is inclined to make a different decision, to explain it.

Q714 John Stevenson: Within your organisation, do you actually have systems put in place to deal with that specific point, so that an inspector is aware of other decisions?

Simon Ridley: Let me say a little bit, and then Ben might want to come in with a bit more detail. There is a range of different things that we do. For example, I do not know how much you know about the organisation and the way it is structured, but inspectors are in groups, organised under what we call sub-group leaders, who are our more senior inspectors, and then there are five group managers above that, who are covering the key different areas we deal with around plans, national infrastructure, planning appeals and enforcement. Those groups work, essentially, as teams, ways of sharing information across small numbers of inspectors dealing with similar issues.

At an organisational level, we have Ben as the Chief Planning Inspector, and he has a unit maintaining knowledge out of decisions, changes in case law, changes in policy. We circulate those around the organisation using a number of different means. We are in the process of introducing, and this autumn running for the first time, a series of what we are calling topic-based updates, which bring inspectors together in much bigger groups of 60 or 70, to look at the key issues emerging, discuss recent decisions and make sure we are completely up to date. Equally, we are out there with broader stakeholders, making sure we are getting feedback on some of the process issues, such as how hearings are run. Out of all this, of course, inspectors have an individual responsibility to make sure they are keeping up to date.

Finally, we do a certain amount of what we call reading of decisions. We do that in every case when it is a report on a local plan, and we do it on a risk-assessed basis for appeals decisions. That essentially involves the group manager or other senior inspectors reading the decision and offering feedback; the inspector taking the decision then has the final decision as to whether he or she takes that on. The decision has to be theirs, but it enables us to make sure that key updates are filtered through. We do quite a lot, but, as Ben says, ultimately, these are individual decisions on the individual facts of any case.

Q715 John Stevenson: So your inspectors have to make their own personal judgments given the evidence before them, etc., taking into account the NPPF.

Ben Linscott: Yes, indeed.

Q716 John Stevenson: In your professional judgment, do you think the wording of the NPPF in any way creates inconsistency?

Ben Linscott: I cannot think of any specific part of the NPPF that would lead to that. It brings together a huge range of policies that previously were spread in a whole range of documents of various ages. I know from many years' practice that some of them were in contention, if not contradictory. It has put into one place a set of Government policies that are pretty clearly stated. As with any new policy guidance or law—and I can go back to circular 22/18, PPG3 and PPS6; they all did this—I do not doubt that there will continue to be areas where parties who did not get the decision they sought seek to challenge wording, meaning and so on. That is inevitable.

Q717 John Stevenson: Overall, you think the NPPF wording is good enough for your inspectors to give consistent judgments.

Ben Linscott: Yes. I think the wording, supported by the guidance that has recently been issued, is a good grounding for any professional to be able to make decision.

Simon Ridley: Indeed, we continue to issue decisions, and are doing so faster as a result of updated appeals targets, and maintaining the sort of quality and absence of challenge we have seen in the past.

Q718 Simon Danczuk: Simon, can I say congratulations on your new job and your new role? Could you tell me, as part of your induction into the job, how many representatives from communities concerned about development you have met?

Simon Ridley: I have not yet had meetings with communities. There are a number of things I have—

Simon Danczuk: You have, sorry?

Simon Ridley: No, I have not yet met representatives of communities. I have spent most of my early weeks in the job understanding the organisation and working inside the organisation. There are a number of external stakeholders and groups that I need to meet and have not yet met.

Q719 Simon Danczuk: You say “weeks”. It is months. You have been there since July.

Simon Ridley: 1 July, yes.

Q720 Simon Danczuk: July, August, September, October—so a quarter of a year, and you have not met any community representatives who are concerned about planning.

Simon Ridley: I have not.

Q721 Simon Danczuk: Do you not think that is an error?

Simon Ridley: It is really important that I meet stakeholder groups across the piece. That is an important part of representing a Planning Inspectorate and ensuring I understand what the implications of the work we are doing are, and that is something I will do.

Q722 Simon Danczuk: Who is more important than community representatives, people who are living with the developments that your inspectors are agreeing? Who is more important than they are?

Simon Ridley: I am not saying anybody is more important than they are.

Q723 Simon Danczuk: Why have you not prioritised them, then?

Simon Ridley: As I said, I have spent the early weeks of the job focused internally, making sure I have met the team and the organisation, managing the management decisions that need to be taken. I am increasingly meeting external groups, and I will continue to do so.

Q724 Simon Danczuk: You will not be surprised to hear me say that the public will be disappointed that you have not got round to

meeting community representatives, stakeholders, at this stage. You will not be surprised to hear that the public will be disappointed.

Simon Ridley: I do not know what the average member of the public would say to the way I have spent the first three months of the job. If they were disappointed, then that is something I would need to rectify.

Q725 Simon Danczuk: How soon do you think you might get round to meeting them?

Simon Ridley: I would need to establish the groups that it is most important to meet and do so when I can.

Q726 Simon Danczuk: Before Christmas; six months; 12 months?

Simon Ridley: I don't know. I have not had any representations from such groups that they would like to meet at this point. I will organise meetings in a sensible timeframe.

Q727 Simon Danczuk: Which is what? What is a sensible timeframe?

Simon Ridley: In the coming period. I do not have a date in mind at which I will meet particular groups.

Q728 Simon Danczuk: Okay, fair enough. Ben, people across the country are concerned about unsustainable, speculative development taking place because there is no five-year land supply or local plan in place. Surely, inspectors should only be agreeing proposed development that meets the NPPF definition of "sustainable". Is that not right?

Ben Linscott: That is right. Simon was talking about the kind of training and support that we give to inspectors, and that is very much a founding stone of the approach that inspectors are advised they should be taking. There is good case law, two or three recent cases on appeal, where the inspector will have gone through the process of establishing whether something is sustainable before deciding—for example, where there is a shortfall in the housing land supply—that it can be approved. Paragraph 14 of the NPPF is the trigger.

Q729 Simon Danczuk: Many times during this inquiry, we have been told that inspectors are giving greater weight to the economic rather than the environmental or social pillars of sustainable development. Can you offer any evidence to counter that view?

Ben Linscott: I cannot offer specific evidence other than how I would go about it as an inspector myself, which is to look at the definition. I know that the full range of the NPPF is regarded as the sustainability definition by Government, but there is a passage in the NPPF that sets out the three dimensions. Having read probably hundreds of inspectors' decisions over the last few months and years, and being responsible for ensuring that they know what they need to do, in law, I am confident that they do not unreasonably elevate one over either of the others, and that they do explain how they have reached the conclusion that they have: that the balance of those three elements of sustainable development are properly accounted for. I think that is reflected in the very low number of High Court challenges and complaints we get on that point, and the even smaller number that result in a quashed appeal decision. I do not see any evidence that they are not applying reasonable judgment.

Q730 Simon Danczuk: You are comfortable.

Ben Linscott: I am comfortable, yes.

Q731 Simon Danczuk: Just briefly and finally, Simon, we have a number of people who say localism is a sham. The Government have made a big play of the idea of localism, but members of the public are saying it is a sham because it is not representatives of their community who are ultimately making these decisions; it is planning inspectors from outside. What do you say to those people that have that concern?

Simon Ridley: Clearly, there is a particular perspective if you are an individual concerned about a particular development, but it is really important to first of all say that the NPPF is very clear in putting the local plan at the centre of the plan-making decision and the development of the local plan is absolutely for the local council; and that, in all areas, the vast majority of planning decisions are made by the local council. The total number of appeals we deal with, while a large number, is a small percentage—2-3% typically—of the total number of planning decisions made. Indeed, in two thirds of the planning appeal decisions we make, we are agreeing with the council. Inspectors are making some decisions, but they are then making those decisions with respect to the local plan, where it is in place, and with respect to other material considerations, particularly of course policy in the NPPF, where it is not. The vast majority of planning decisions are still made locally.

Q732 Simon Danczuk: Inspectors review local plans, though, don't they?

Simon Ridley: Yes, they do. Local plans are submitted to us, and inspectors hold hearings to find the plans sound, but inspectors are not making the decisions. Inspectors are working with the council to get to the point of having a sound plan, ideally. That plan does need to comply with policies, including the NPPF, and that includes doing a full, objective assessment of housing need and having the necessary five-year land supply. Inspectors are not making the decisions about this; those are decisions councils are making. Inspectors are examining and, where necessary, asking the council to make modifications, but those are modifications that the council makes.

Q733 Mark Pawsey: I would like to ask some questions about local plans, and of course the National Planning Policy Framework is a system where the local plan is fundamental to plan-making and decision-making. The Planning Inspectorate plays a big role there by approving or not approving local plans, but the evidence we have taken in this inquiry so far is that the majority of problems that occur with the planning system seems to be in those councils that do not have an adopted local plan. Why do you think so many—because there is still a large proportion—local councils have not got their plans in place?

Simon Ridley: It is very hard for me to comment on what might be in the minds of a number of local councils and local councillors. It is important to say that there has been a huge increase in the number of local plans in place. We are now in a position where 79% of councils have published plans, and 59% of councils have adopted plans. That is quite considerably up from where it was two years ago, and where it was four years ago, when only 17% of councils had adopted plans.

You are right; there are still a number of councils that do not have plans, and I cannot really offer you a comprehensive answer on why that might be the case. We are dealing with record numbers being submitted to us, year on year. At the moment, we have about 100 plans of different sorts with the Planning Inspectorate, and we are seeking to deal with them as quickly as we can, but these are quite challenging exercises for councils.

Q734 Mark Pawsey: Do you think there has been a failing on the part of local authorities to put sufficient resources into plan making? Do you think that might be one of the reasons why we have not got so many adopted local plans?

Simon Ridley: I would certainly encourage a local authority to put together a local plan. I cannot say whether local authorities have prioritised their resources sensibly.

Q735 Mark Pawsey: Do you think this has anything to do with the difficulty some local authorities see the plan-making system as being? The District Councils' Network has likened the process of producing local plans to a game of snakes and ladders. They say they work very hard; they then present a plan to the Planning Inspectorate, who reject it, and then they are back to square 1 again. Is that because the plans they are making are too complicated? I recall, on our visit to the Inspectorate, we were shown a whole series of boxes in the corner of a room and told that that was the local plan for a medium-sized district council. Have local authorities got wrong what they should be doing in creating a local plan?

Simon Ridley: The first thing to say is that developing a local plan is a big and complicated business. I do not think there is much question about that. There is the need to do a proper housing-market assessment beyond the boundaries of your local authority across the housing-market area, in order to develop the objectively assessed need. New guidance has set out ways of approaching that, which is meant to reduce the necessary cost and complexity, starting with DCLG household formation statistics, for example. There is a lot of work that needs to go into it, though.

What we have found, examining plans in recent years, is that, at the point at which a plan is submitted to PINS and starting to go forward to examination, it is critically important that the local authority has engaged its neighbours and its public under the duty to co-operate and started to establish what it has done there, and that it has done a really objective assessment of housing need. Those are two things that, if they are not robust at the point at which they come back to examination, quite often lead to long periods after the start while the local authority has to reassess it. I don't know whether Ben can say more about that.

Typically, this is a substantial process. We are trying to manage it as quickly as possible through the Planning Inspectorate stages. We allocate any new plan to an inspector within five days, and we have inspectors now dealing with multiple plans to help them through the process, but, ultimately, there is a lot of work that the local authority has to do.

Q736 Mark Pawsey: Is it the case that many of the plans presented to you for approval are more detailed than they need to be, and local authorities could prepare a local plan not in the level of detail you are currently receiving?

Simon Ridley: I would defer to Ben's expertise.

Ben Linscott: The nature of the NPPF, going back to the question Simon was asking about localism, is to hand to the local authority responsibility for creating a plan that suits its requirement and its context, so I do not think it is for us to say it is too detailed or too long or so on. We may well think that sometimes, but there is no interest on anybody's part in a local planning authority setting out on the wrong path and ending up with an unsound plan. I should emphasise that inspectors do not approve or reject plans; they recommend, and they will find something sound or not sound. Again, the final decision as to whether to adopt and pursue a plan is the council's, but, so that we hopefully never get to a position where a council is unsighted as to the potential problems with a plan, we will offer a lot of support, as will DCLG officials, as will the Planning Advisory Service, up front, so as to prime the process and to guard against people setting off in the wrong direction.

Q737 Mark Pawsey: Would a piece of that support and guidance be that the plan does not need to be as detailed as the ones you have received recently?

Ben Linscott: It may well be. It will be meetings with, from my own organisation's point of view, senior inspectors who are routinely assessing these plans, and one of the group managers in particular. They will talk through what the local planning authority is thinking. They may well get into questions of detail, and the level of evidence and types of policy that are required for that area, but, ultimately, it is for that council to decide.

Q738 Mark Pawsey: We have heard from councils that they feel particularly vulnerable to speculative development while they are waiting for the Planning Inspectorate to approve their plan. Is there any news you can give them about the speed with which they can get approved to take away the speculative applications that are coming forward at the moment?

Simon Ridley: All I can say is that we are seeking to deal with all plans that come to us absolutely as quickly as we can, and I have mentioned we allocate them very quickly, within five days, to an inspector, and inspectors work on them as quickly as possible. The total number of days, on average, an inspector is spending on a plan is going down as we try to manage that. As Ben said, some of front-end stuff we do with the published procedural guidance, but there are sometimes reasonably large amounts of work local authorities have to do through this process in terms of developing, particularly work around objectively assessed need and the five-year land supply.

Q739 Mark Pawsey: The evidence we have heard in this inquiry has suggested that inspectors might allow a rolling or a staged approach to the adoption of local plans, so, if a local authority has done all the work on particular sections of the plan, what is wrong with approving that whilst they finish off work on another area?

Ben Linscott: When a plan is presented to the Secretary of State to establish whether it is soundly made, the assumption is that it is soundly made, complete and meets all of the requirements, in particular of the NPPF. Dealing with it by sections is far from ideal, because there will not be a development plan in place.

Q740 Mark Pawsey: It may not be ideal, but it may take away some of the speculative applications, which is where the area of great concern is. Of course, we understand that, in Dacorum, the inspector found the plan sound, subject to an early review of housing numbers. Why can the Dacorum approach not be adopted more widely?

Ben Linscott: I do not want to talk about individual cases, but, as a matter of principle and law, a plan will only attract statutory weight under section 38(6) when it is a complete and adopted plan. That is why I go back to my point about it not being prudent to attempt to put in place something that is not quite a complete plan in order to cover off one aspect, for example.

Q741 Mark Pawsey: Is that not better than nothing, though, which is often how local authorities are having to determine applications on the basis of development control, in the absence of a plan?

Ben Linscott: There is an argument that, where a plan has been submitted and is being examined and certain flaws become apparent—and I am conscious that there are inspectors taking this line—they will deal with the things that can be dealt with on a staged basis, in order to allow them to make the main modifications or to bring those into play before the council receives its final report saying that the plan is sound. Those main modifications still do not have the statutory weight that section 38(6) provision brings with it, and those are the cases, along with councils that do not have a plan at all, where I am very conscious that we get that bees-round-a-honeypot attraction. I know that there are certain hotspots in the country where that is happening. We cannot stop developers doing that, and they will do it where they see an opportunity.

Q742 Mark Pawsey: Given the importance of the local plan under the new system and the fact that some local authorities do seem to be pretty tardy, which is leading to problems, do you think there is some

benefit in the provision of a local plan within a certain timeframe being a statutory obligation on the part of a local authority? Would that help?

Simon Ridley: I think it would almost certainly bring with it a number of issues. Ultimately, to find a plan sound, it has to meet the policy of the NPPF over whatever timescale, and the policy makers dealing with such a proposal would have to think about what the consequence was of not having a plan in place if there was a statutory timetable. I do not immediately know what those would be.

Q743 Chair: Mr Linscott, you sound as though you are not convinced by the inspector's decision on Dacorum; you have reservations about it. Is that right?

Ben Linscott: No, I did not mean that at all. To be absolutely frank, I do not know enough about the minutiae of that case.

Q744 Chair: It might be helpful if you could write to us on that.

Ben Linscott: I am very happy to do that.

Chair: It is an important point. If this was a good way to deal with Dacorum, could it act as a way forward in other areas?

Ben Linscott: As a matter of principle, I think that what would have happened in a case like that would be that there were certain measures, commitments, requirements in the plan, and maybe the housing land supply was not a fundamental shortfall, but there was sufficient meat, or substance, in the rest of the plan to justify that with an early review.

Q745 Chair: Okay, you will write to us. One of the things that was said, I think on a visit we made, was that there was a bit of resistance from the Planning Inspectorate to engage at an early stage with the local authority about the methodology on the five-year supply. Is that true, or are you willing to sit down from the very beginning with the local authority and talk to them so you do not get right to the end and you say, "You've got your sums wrong" and they say, "No, we've got them right" and you have a disagreement with them?

Simon Ridley: We have made a large number—over 150, I think—visits to local authorities as part of supporting them in the plan-making process. Similarly, as Ben said earlier, the Planning Advisory Service do work. In those sorts of discussions, we are unlikely to get into the minutiae of the calculations, but the expectations about how an objectively assessed need can be calculated and the fact that it needs to be done before applying constraints are precisely the sorts of things that would be talked about, so local authorities should be

submitting plans that meet that. We know that is not in every case what happens, but we are very willing to talk to local authorities about the process and how it works, and we have published quite detailed procedural guidance about some of these issues.

Ben Linscott: It is important to recognise that, once again, the remit is with the local authority in terms of identifying what the methodology should be. I know that there is a reference to a methodology in the guidance. In fact, it is a series of elements that have to be taken into account and then a methodology applied that local authority regards as appropriate to its circumstances.

Q746 Chair: At any stage, the local authority can say to you, "Do you think we are approaching this in the right way?" and you can give them an opinion. Is that fair?

Ben Linscott: It is a question of whether it is a reasonable way that is going to end up with a sensible outcome.

Q747 Chair: Yes, exactly, and an authority can ask you about your opinion at any stage.

Ben Linscott: I do not think we would tell them what their methodology should be.

Q748 Chair: Sorry, this is quite a crucial point, because, if you do not, you have concerns, you wait to express those concerns right until the end when you get to the hearings and then the authority has to go back to square one, that is not helpful to anyone, is it?

Simon Ridley: What we can set out is what the expectations under the guidance are and what the broad requirements are. People can see examples of what has gone before, but we cannot, before we get to hearings, determine whether the calculation and the number is sound, because there is a range of other evidence that has to be heard in that hearing from other parties. We can go so far before plans are submitted in terms of setting out what we have seen in the plans that have been found sound; what the expectations around the guidance and the policy are. Whether the council has calculated a number that will ultimately be found to be robust or not is not something we cannot comment on before we get to the hearing, because it has to be heard.

Q749 Chair: If you have concerns at early stages, you can express them.

Simon Ridley: Yes.

Q750 David Heyes: On this point, would that advice and steer to local authorities include explaining to them how your inspectors would make judgments about how viable particular sites might be in five years' time?

Ben Linscott: Interestingly, viability, certainly in development-plan-making, very rarely raises its head. I suppose, answering both questions, the idea of bringing forward a plan is founded upon there having been collaboration between all of the interested parties, which should include the development industry. Sites should not be put forward that are not deliverable or viable. Equally, it behoves any local authority to ensure that the methodology they are applying, bringing into play all of the factors—the census, the household projections, all of the aspirational stuff that then has to be layered on—is agreed as part of that initial working with partners to create the beginnings of a plan.

Q751 David Heyes: In the real world, it is the case that, even where your inspectors have assessed and found a plan to be soundly made and to have incorporated the kind of advice you might have been able to give about five-year viability, the opportunist developers you referred to in your previous answer still prefer to take a pessimistic view about market recovery, questioning the future viability of sites that are in the five-year supply. How do you deal with that?

Ben Linscott: Again, it goes back to the principle we talked about earlier on, which is that the inspector will have to look at the evidence the local authority is putting to it to judge whether or not all of the inputs, assumptions, factors that have brought together the plan are based on a reasonable approach to such things as the viability of individual sites, their deliverability in a given timescale. That is a matter of judgment. There is not a science.

Q752 David Heyes: Does that judgment involve a steer from you to your inspectors to take a pessimistic view and share that pessimistic view that might be portrayed by developers about future housing supply?

Ben Linscott: I do not think it is for me to suggest that you should be pessimistic or optimistic. What is for the inspector to do is to take an objective judgment, based on the evidence that is put to him or her.

Q753 David Heyes: How do you spot when developers are trying to pull the wool over your eyes?

Ben Linscott: Rigorous application of inquisitorial skills is probably the way to put it. Bearing in mind that we do have an adversarial system, even in the examinations, which are not formal

public inquiries, there is room for an adversarial approach to evidence. Rightly or wrongly, there is often much legal submission and evidence giving a contrary view to positions that local authorities or advocates of sites will take. One of the skills that is required of an inspector is a) to be able to ask the right questions; and b) to be able to ensure that, if there is an attempt to pull the wool, they will intervene in an objective way and reach a reasonable judgment. I cannot tell you what that skill is. I don't know whether I have it, but I think it is a prerequisite for an inspector. It is very rare that we would be confronted with a situation where one or other party says that that evidence was not tested and an inspector has made an under-informed or uninformed decision or recommendation.

Q754 David Heyes: When we visited you some months ago, one of the views that we collectively took away was that your decisions are much more susceptible to High Court challenge than was the case in the past. To what extent has this made you more likely to find in developers' favour? Perhaps both you could let me have your view on that.

Ben Linscott: Are you thinking in terms of what the policy says? In terms of bias, there is no question that there is any bias.

Q755 David Heyes: It is at a simpler level than that: the threat of court action.

Simon Ridley: No, I do not think so at all. Inspectors are very much accountable for making a decision that is challengeable in the courts. They do not carry that responsibility lightly at all. We talked earlier today about the work we do to ensure that inspectors can be updated on the latest policy, latest legal cases and the like. Inspectors are absolutely making the decision themselves, and that decision is absolutely impartial. There is no bias of any sort in what we do in the Planning Inspectorate towards how they make that decision. We are seeing, and we do see, legal challenges. In the majority of cases, we win the legal challenge. I think that is because of the skills and experience of the inspectors that we have taking those decisions, and it would be wrong to say anything else at all.

Ben Linscott: There is an inspector code of conduct that underpins the manner in which we conduct our work. One of the founding principles of that is that you do not come with any preconceptions and you make a decision that is based on the evidence and is reasonable and fair. Many is the time where I have sat at inquiries and there is coded language that suggests that, if you were to contemplate a particular direction, they would regard that as vulnerable. There may be situations where it would be dangerous to take a particular line, but that sort of threat is not a threat to the

impartiality or objectivity of an inspector making a decision or recommendation.

Q756 Mrs Glindon: I apologise for not having been at the full meeting. Mr Linscott, inspectors have rejected a number of plans for failure to meet the duty to co-operate. What professional insight do you have as to why councils are finding co-operation so difficult?

Ben Linscott: The duty to co-operate is one of the requirements for finding a plan sound. There are manifold reasons, most of which can be tested on fact, as to whether something has happened and taken place. In terms of qualifications for judging whether that is so, it is a reasonably straightforward process. It is a fundamental one, and, if our local authority has not demonstrated that to the satisfaction of an inspector, then the plan probably will not be going anywhere. It is correct to say, though, there is only a small number of plans that have failed on that. There are many examples of local authorities working together, either informally or through formal arrangements, to bring about co-operative working, whether it is on whole-plan-making or creating databases and evidence bases to take a plan forward.

Q757 Mrs Glindon: Can you give us any ways that you think the duty to co-operate could be strengthened?

Ben Linscott: I do not really have a view. That is something that would be for the Secretary of State and Ministers.

Chair: Go on, give us a view. Be bold.

Simon Ridley: I think it is working, in the main. As Ben said, we have a lot of very good examples of councils working together to create joint housing-market assessments to sometimes plan together. We have sent you the details of 10 local authorities where their plans did not meet the duty to co-operate, out of a bit more than 150. The issue here is not in the policy. There is perhaps more, as we were talking about a few minutes ago, that can be done to make sure councils understand the process and what the expectations are. Some of our senior inspectors have been very clear in some of the discussions they have with councils about the importance of being able to establish you have met the duty to co-operate when the plan comes forward.

The duty to co-operate is not the same as having full agreement with every council about precisely what the objectively assessed need or indeed the housing land supply should be. The key thing is to have made the engagement. I do not think there is anything that complicated in that. It is about making sure that the expectations and requirements are clear.

Q758 Mrs Glindon: You talked about whether things are clear. There is the example of Hart Council, which withdrew its local plan after the inspector found it had not met the duty to co-operate, while its neighbours' plans had been found sound in spite of the fact that they had not co-operated with Hart. Do you think this shows some inconsistency in the inspectors' decisions?

Simon Ridley: I do not want to comment on individual cases when I do not have the full detail in front of me, but I do not know, Ben, if there is anything you want to say. When we come back on Dacorum, we can say something about Hart, if that would be helpful.

Chair: Could you write to us?

Ben Linscott: Hart was found unsound; is that what you are saying?

Q759 Mrs Glindon: Yes. There was a good example when the Committee visited the inspectorate where the core strategy was used as a positive way for councils to work together. Mr Ridley, why do you think so few authorities, other than the example we had, which was Cheltenham, Gloucester and Tewkesbury, have gone down the core-strategy route if it can be a successful way to do things?

Simon Ridley: Across multiple local authorities?

Chair: Yes.

Simon Ridley: We could probably come back with some other examples of local authorities that have worked together. At the risk of generalisation, as we talked about, it is a complicated business, developing a plan. The larger an area and the more organisations you do that across, to some extent, the more complicated it gets. That probably is a challenge. The vast majority of councils are bringing forward plans across their area, and that is where their boundaries are, but we have got more examples of councils that have been working together at various stages in the process, and we would very happily offer those forward.

Mrs Glindon: Thank you.

Ben Linscott: The point is that there is no prescription from above as to how they should progress with those plans. If there is good merit in identifying a functional area, such as the one you have just identified, it is for the local authorities jointly to take that approach.

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

Panel 2 Questions [760-838]

Witnesses: **Rt Hon Greg Clark MP**, Minister of State for Universities, Science and Cities, and previously Minister of State for Planning and Decentralisation 2010-12, and **Brandon Lewis MP**, Minister of State for Housing and Planning, gave evidence.

Q760 Chair: Ministers, thank you very much for coming this afternoon. You are both most welcome. Can I apologise for the delay in asking you to come in caused by the 4 o'clock voting? I also thank you for agreeing to rearrange the date of the meeting; that is appreciated by the Committee. To me, it seems quite an unusual situation to have a current Minister and a past Minister before us. I will begin with Greg Clark, just to say, when you brought in the NPPF, you made it absolutely clear that it was going to be a plan-led system, and that was the going to be the driving force behind the whole arrangement, yet, even now, two years or more on from the instigation of the NPPF, over 40% of local authorities still do not have a local plan. Do you think that is their failure or yours?

Greg Clark: I think it has improved considerably. Let me start by saying it is good to be back. You will remember that, when I was the Minister in Brandon's position, I asked the Committee to conduct an inquiry into the draft NPPF, and it proved very helpful to us. I also said, when I published the final version, that I hoped that the Committee would, after a little while, scrutinise how it was going, so I was keen to come back and appear before you. We had a situation in which, in terms of the figures—you will be familiar with them; you have had the evidence—very few plans were put in place, despite the fact that there had been an expectation on local authorities, to put it that way, that they should be adopted for some years before.

I was looking at the figures before I came, and 79% of councils have now published a local plan. That was only 32% in May 2010. I dare say, talking to Simon Ridley, you have had his estimates, but, just totting them up last night, I worked out that 90% of local authorities will have published a plan by May 2015. That is a transformed scene during this Parliament.

Q761 Chair: So you have no concern about the number who have not got as far as having a local plan. Quite a lot of residents we have had

evidence from are very concerned about the impact of not having a local plan.

Greg Clark: I said in the framework that it is highly desirable to have a local plan. We have gone from the point of 32% having them to 90% who will have them by the end of the Parliament. If you are tripling the number and getting to 90%, that is consistent with the ambition that we had.

Q762 Chair: Brandon, the Government indicated last year that you might consider making the production of a local plan a statutory requirement. Is that still your intention and do you think it would actually make any difference?

Brandon Lewis: Sorry, can you repeat the first part?

Chair: Last year, apparently, in the consultation around the national infrastructure plan, there was an indication from the Government at that stage that you had thought of introducing a statutory requirement to put a local plan in place.

Brandon Lewis: I misheard the first part and thought you said I said something. It is quite important we never say never to anything, but there are potential unintended consequences from having a statutory target, not least of all that, as soon as you start putting some form of statutory duty in with a date target, you have the risk of authorities literally trying to tick boxes, rather than going through a proper holistic approach to their housing-supply numbers and housing needs in the local plan and then building within that the neighbourhood plans, which are the next part of the jigsaw.

When you think about the fact, as Greg just said, that we are going to be looking at probably 90% by next year—80% are now published already—that is a pretty good place to be, bearing in mind it has then got the NPPF framework. If a local area wants to have more control and a plan-led system—and, with neighbourhood planning, even more importantly, a proactive planning system—the NPPF in itself is an encouragement to do that. Ultimately, it means the power, in the sense of true localism, is with the local area to decide if they want to do it.

Q763 Chair: So you are not going to bring a statutory duty in.

Brandon Lewis: I am not planning on announcing I am bringing in a statutory duty here and today, no.

Q764 Chair: We can read that one of two ways, but, anyway, that is clear for today. One of the conversations we have just had with the

representatives from the Planning Inspectorate was that an idea had been thrown up to us in various evidence we had taken that, in some cases, an authority had done a very good job and had got to almost the local plan in place, but there was just one element or some minor elements that were not quite there, and therefore it could not be agreed as a complete plan. Would there be a benefit in allowing an authority at that stage to say, "This plan is now agreed for that 99% of the bits", go away and finish the 1% off, but, in the meantime, at least there would be a legal basis for that plan and it could be used as the basis for all planning applications that are made? Would that be a sensible position to reach?

Brandon Lewis: To an extent, a local plan, through its process, has a gradual increase in the degree of weight it has anyway. If it is at that stage, then its weighting is higher than it would be if there was no plan. To an extent, that is there, but planning inspectors, if they are in that situation—you may have already talked about this, but, with Dacorum, they have done something not too dissimilar to that position—already have the power to do that.

Chair: We asked about Dacorum, and they are going to come back to us on that.

Q765 David Heyes: Greg Clark, you were the architect of the duty to co-operate. It has caused problems right across the country. Criticisms are that it is too vague and has led to acrimonious disputes between local authorities and even several local plans being withdrawn. Does it need a complete rethink?

Greg Clark: No. It is a very different approach from what was there before, which was the regional spatial strategies that imposed from above on local planning authorities and, as you know, local plans had to be in conformity with them. Our assessment of that was that they had proved unsuccessful. One can understand the reasons for them, but they had proved unsuccessful. People were resistant to them; they were challenged. It is one of the reasons why plans had not been published and adopted, because they struggled to be in conformity with them, so we took a different approach. Members of the Committee will know over the years that the approach that I favour has always been to allow and to give responsibility to local areas to work together and to discharge their obligations from the bottom up, and the duty to co-operate enshrined that.

Obviously, this was a change in the approach, but I think it is the right one and it goes beyond planning. I know the Committee has looked at various areas in which we have had reforms in local government, but the spirit of that is to be found, for example, in the combined authorities, in the much closer working relationships that

exist in terms of economic development. It is a very important principle and I think it has had successful expression in all sorts of areas, including planning.

Q766 David Heyes: We have heard of combined authorities having difficulty agreeing with their adjacent authorities, so a combined authority I do not think is necessarily the answer to it. Do we need to get tougher? Perhaps Mr Lewis could comment; it is his responsibility now. Do there need to be sanctions where authorities fail to co-operate? Despite all the goodwill that Greg Clark hopes will sort out this problem, in reality, it does not exist. Somebody needs to be getting a grip of this, so are sanctions the answer?

Greg Clark: Before Brandon comes in, could I just say something? There is a consideration, whether it is a sanction or not, it is probably not the right word, but in order to be found sound the duty to co-operate has to be discharged. Authorities that want to adopt a plan and have it approved will need to show that they have co-operated, so it is not, as it were, some airy suggestion that they might do it; it is part of the examination.

Brandon Lewis: I was going to say there is a huge carrot in terms of the duty to co-operate and I personally much prefer carrots to sticks. That duty to co-operate is part of getting the local plan in place, so you could argue that a stick at the other end of it is that if you do not have that plan in place and if you want that local control over planning, you need to discharge that duty in order to get the planning approved and, therefore, be able to have your own local plan rather than resorting purely to the NPPF framework.

However, if we want to have, as I think we are all talking about particularly at the moment, a more grown up, a more localised, locally accountable system of local government for the way we govern in this country, we have to be grown up enough to accept that different people are going to have different views. It would be wrong of us to sit here, as people who believe in localism, and say, "We believe in localism right up until we do not agree with you". These are elected and democratically accountable authorities. They need to be grown up enough themselves to work together and to understand the importance of working together. They have to be accountable to their local community every year or every four years in terms of whether they are doing the right thing for their community. I think that is a really powerful tool. They have to work together, but you also have to bear in mind it is a duty to co-operate; it is not a duty to agree. As long as an authority has shown they have tried to work on that duty to co-operate properly they have fulfilled the requirement. It does not necessarily mean they have to agree, because I also appreciate the reality of life is

that not everybody is going to agree on everything all the time. However, we have to have the confidence in council officers and councillors to understand the importance of working across their boundaries.

Q767 David Heyes: Might it not help if there was more clarity about what constitutes co-operation? It is often left to individual planning inspectors to decide how to interpret what co-operation is.

Brandon Lewis: I would slightly challenge that, in the sense that the planning inspectors will challenge and look for evidence, but ultimately the case is there to be made by the local authority. Different local authorities will work in different ways. For example, Greg touched on, and I think you mentioned as well, combined authorities. In those areas, those combined authorities may well make the case that their duty to co-operate is amongst the authorities that make up that combined authority. In other areas, it may be literally on a next-door basis, it could be on a county basis. Obviously, we now have combined authorities which are not contemporaneous as well, so there are lots of different opportunities there. However, if we start saying to areas, "Here are the tick boxes you need to go through to qualify", people will start ticking boxes, and we have to have the courage to trust people locally to do the right thing for the community they were elected by.

Q768 David Heyes: So are you going to give a lead to local authorities to encourage them to join together, to become combined authorities and produce plans together?

Brandon Lewis: As the Minister who, earlier this year, took through four combined authorities, my support for combined authorities, where they are locally driven and locally requested, is fairly clear and on the record.

Q769 David Heyes: With no more encouragement from the top.

Brandon Lewis: There is encouragement there. If local areas want to do combined authorities that is great, but bear in mind I am one of the Ministers who has been at the forefront of encouraging district councils to share management, share services, share chief executives. We have been very clear about the journey travelled and, as Greg touched on, this is more than just planning. For particularly the smaller local authorities, the district authorities, we are moving to a world—and I think that is agreed, it seems to me, fairly much across the local government family—where councils are going to have to be working differently. We want to see councils sharing services, sharing management, and sharing chief executives. In some areas that means they are coming forward with combined authorities and, as I say, I took

four of them through earlier this year, and I know there is more work going on at the moment. If areas can come together with that kind of agreement to work together at that economic level, it is a really good thing. It gives benefits of economies of scale for the community, efficiencies for the community and, I hope, a really good strategic approach to things as well.

Q770 Chair: Just moving on with combined authorities, would it be a good idea, as one of them suggested to us as part of their evidence, if they had a specific responsibility to make sure that the duty to co-operate works in their areas?

Brandon Lewis: Bear in mind the problem with going too far with that. It is logical for those combined authorities, if they come together and agree amongst themselves to be a combined authority, to within that then have an agreement for themselves, but not for us to put it on them. The difference is ultimately, remember, that where we would like to see that responsibility lie is within a democratically accountable authority, which is not the combined authority, it is the district authorities that make it up.

Q771 Chair: Right, or at least a duty to encourage their component authorities to co-operate.

Brandon Lewis: It would be a logical thing. If you are working together in a combined authority, you should be able to make a duty to co-operate work. Bear in mind there are only 10 areas that have failed on the duty to co-operate, so far, anyway, so there is not a widespread issue here.

Greg Clark: We have encouraged that. In the city deals it was a condition of some of the city deals that they needed to improve their governance to match the type of organisation that their competitor cities had in different parts of the world. That was an explicit term in some of the city deals and in some of the growth deals, where there were clearly opportunities to work better together that was something that they agreed to as part of reaching those deals.

Q772 Mark Pawsey: We have just covered two areas where there has been disagreement about the effect of the NPPF in terms of the ability to get local plans in place and the duty to co-operate. One area where the evidence we heard where people are in total agreement is that it makes sense for development to take place on previously developed land rather than going to greenfield. However, there is some concern that the brownfield policy had been weakened under the NPPF compared to what

existed beforehand. I am sure that was not an intention of the NPPF, but do you accept that it has been a consequence?

Greg Clark: No. This was one of the points of controversy during the consultation when, in fact, I intended to, in effect, strengthen the policy and we did not mention the term “brownfield” because there are some brownfield sites that have become environmentally very important. The loss of the term “brownfield” set lots of hares running, which was completely unintentional, so we took the opportunity to clarify in the final document that we meant brownfield sites, as commonly understood, where they were not of environmental importance. So we reinforced the importance of brownfield.

Q773 Mark Pawsey: If you look at the old Planning Policy Statement, it talked about actively seeking the use of previously developed land, where the NPPF talks about encouraging. Would you not accept that that is a reduction in intensity of message?

Greg Clark: No. One of the things that I hope the NPPF did was to get us out of this whole semantic debate about comparing particular words. “Encouraging” was a word that is familiar to people. People know what it means and they have known what it means. One of the consistent themes of the evidence you have taken is that people do find it pretty clear and I think that is an example of that.

Q774 Mark Pawsey: I wonder if I might put to Mr Lewis then the fact that the proportion of new dwellings built on brownfield sites has fallen from 77% in 2009 to 64% in 2011. There is no more recent data, unfortunately, but do you have a sense that the NPPF is ensuring that more development is taking place on brownfield land than on greenfield?

Brandon Lewis: Certainly the journey of travel has been very clear about brownfield land. Our figures have it going from 56% to 68%—the last figures in 2011—but there is the intention and the aim to have more than 90% of the suitable brownfield land developed and with permissions in place by 2020. Indeed, just over this summer you have seen some of the announcements we have made around taking forward some of the brownfield land, putting some money into it to make it more viable and making it very clear that we see the brownfield land as where people should be developing. In fact, one of the pieces of work I am looking to do over the next few months with CPRE is looking at some of the land that they believe is available as well, to take this to the next stage and going further in delivering those houses.

Q775 Mark Pawsey: Should we also not expect the proportion of development on brownfield land to increase as the amount of brownfield land itself increases as old, industrial processes move out of existing built-up locations to new locations?

Brandon Lewis: Yes, but I am talking about the proportion of brownfield land as well. The aim is to get to 90% of the proportion of brownfield land to have permissions in place by 2020.

Q776 Mark Pawsey: Can I just ask you about the Chancellor's proposal to allow local authorities to use local development orders on brownfield sites? Did the Chancellor bring that forward? Is that because local authorities are a barrier because local authorities are not actively identifying land that we need to go through this local development order process?

Brandon Lewis: We have seen the local development order work, because we brought it in for the enterprise zones. We have seen how useful they can be in terms of making land easier and faster to develop. One of the things I suspect we are all in agreement on is we want to see development happen quicker, so local development orders are quite a logical way that authorities have a vehicle through which to see development happen that much quicker, particularly on those brownfield sites. It is just a logical development of where we are.

Q777 Mark Pawsey: What would you say to those who think that some of these relaxations that have taken place are because of this massive imperative to get more houses built, because we have not done anything like enough house-building in recent years? Is there a sense that we are pushing some relaxations here, allowing more greenfield land to be used, because we simply have not done enough in previous years?

Brandon Lewis: The development is on brownfield land, rather than greenfield land. I am not sure if I misheard you.

Q778 Mark Pawsey: There is relaxation here. There is a presumption in favour without the need for a planning application to come forward.

Brandon Lewis: Yes, if you have the LDO. It is absolutely around speeding up that development process and giving local authorities another tool and the LDO is a really good tool for local authorities to use. It gives certainty to developers as well, so they know that that is an area they can develop, and it does speed up the process. Bear in mind, as you rightly said, we are rebuilding a housing market that had fallen to the lowest level since the 1920s. We are now back up to the 2007-ish figures. We have the fastest rate of building,

and the fastest rate of construction hiring since 1997 now. That is good, but we want to see that continue and develop.

Q779 Chair: Just to be clear, the target is to get the proportion of brownfield land that has planning permission up to 90%.

Brandon Lewis: We want to see the permissions that are in place more than 90% of the suitable brownfield land by 2020.

Q780 Chair: Is the intention also to get the proportion of dwellings that are built on brownfield land increased as well?

Brandon Lewis: As a proportion of what?

Q781 Chair: Of the total number of dwellings.

Brandon Lewis: No, I have not set a target for that. As you know, Chair, I am not a big fan of setting targets.

Q782 Chair: You have set one target but not another target.

Brandon Lewis: What I mean is I cannot control, and I think it would be wrong for any Government to control, exactly where local authorities decide the planning should be in their areas. The whole point of a plan-led process and particularly—

Chair: You are encouraging them, and then not—

Brandon Lewis: Yes, yes, let me just finish. It is for those local authorities to decide what is right for them. Now, we believe that there is quite a lot of brownfield land that can be developed. Brownfield land is more acceptable for communities to be developed; it should be a priority for communities to develop and, therefore, giving them the tools to do that quickly seems quite a logical way to go. Ultimately, though, the decision is for the local authorities.

Q783 Chair: Would it be helpful for us all to know whether that encouragement was working, because currently the Department are not producing any figures, they do not seem to be keeping any figures about the number of dwellings built on brownfield sites and greenfield sites. The last figures we have appear to be 2011. Why do we not have more recent data?

Brandon Lewis: I think that also comes into the category of us not putting too many burdens and requesting so many figures from local government.

Q784 Chair: So we do not know whether the encouragement is working or not. We have a policy and we do not know whether it is working or not.

Brandon Lewis: The money we put in this summer, we have bids coming in at the moment and when we have had those bids come in we will have an assessment. However, I have to say at the moment we have bids coming in that show that it is a very popular scheme, that the local authorities are keen on it—

Q785 Chair: That is one scheme, but there is an encouragement in general across the country to build on brownfield sites. That is the encouragement and Greg Clark has just told us that is what the NPPF was designed to do, but we do not know whether it is working, because nobody is keeping any stats about the number of houses built on brownfield sites as opposed to greenfield sites.

Brandon Lewis: We do not collect that kind of data from local authorities in that way.

Q786 Chair: We used to, but we do not.

Brandon Lewis: No, we do not, not now.

Q787 Chair: So we cannot tell if the policy is working.

Brandon Lewis: You can see if it is working when you talk to the local authorities. If you are taking evidence from local authorities, you can ask those local authorities about it. What we do not do is collect that kind of data on a local authority by local authority basis any more, which is part of reducing the data burden for local authorities.

Q788 Simon Danczuk: I want to start by just reading you something from *The Economist*; it will only take a second, you will be pleased to know. It says, "The green belt land we are protecting from the bulldozers is mostly not gorgeous countryside but scrubby lettuce fields, golf courses and pony paddocks. Its protection is an enormous subsidy to various rich people—golfers, horse owners and farmers." Tell me, Mr Lewis, instead of looking after hardworking people who need houses, it looks like you are just looking after your own kind of people. You are just protecting the rich, are you not?

Brandon Lewis: That is an interesting way of making an interpretation, Mr Danczuk and, no, I would not agree with that. Bear in mind this Government has built more council houses than in the entire 13 years of the last Labour Government. We have the fastest rate of affordable house-building that we have seen in the best part of 20 years and it is going to speed up, with 165,000 over the next three

years. I think we have shown our credentials for wanting to make sure that we are doing everything we can to make sure that people who want to get on the housing ladder can do, whether it is through affordable housing, whether it is through making the housing ladder more achievable through the Help to Buy schemes, which have been phenomenally successful and have played a large part in seeing house-building come back to the sort of numbers we all want to see. However, we want to see that go further rather than the rather sad figures we inherited from the last Government.

Q789 Simon Danczuk: My argument is that you are protecting the green belt to protect the rich. Your own figures show that the size of the green belt has reduced by only 0.02% between 2011 and 2012-13. Why not build on more of it?

Brandon Lewis: There are two points there. First of all, the green belt itself is a vital component in terms of that green line protecting us from urban sprawl that people, I would contend, do not want. Regardless of what the value of their property is, people do value the green belt in the area they are in. I would also say that it is also a matter for local authorities. Whether a local authority decided to reassess its green belt or not is very much a matter for that local authority that is accountable to local people and that seems, to me, absolutely the right way for it to be.

Greg Clark: Can I just comment on that? We weighed this quite carefully when we were drafting the NPPF, because I agree with you that if you have the green belt there, the original point was that it should be accessible to people in the town. It should be a source of recreation and leisure for them, so we put in, at paragraph 81, something that was new to capture this. We said that once green belts had been defined, local planning authorities should plan positively to enhance the beneficial use of the green belt, such as looking for opportunities to provide access, to provide opportunities for outdoor sport and recreation, to retain and enhance landscapes, amenity and biodiversity and to improve damaged and derelict land. Risking some controversy, we went on to talk about some of the potential uses of that, and so we have said that an appropriate use or a not inappropriate use of the green belt would be for sports facilities, for example. In fact, we talk about outdoor sport, outdoor recreation and for cemeteries. I am not sure that cemeteries are quite the recreation that the other two are, but the thought was in mind that rather than building over them, the intention was to encourage local authorities, where there was limited use of the green belt by people within the towns and cities, to be able to get into those a bit.

Q790 Simon Danczuk: Finally, just considering the housing crisis that the country faces, would it not be an idea to review the use of green belt, perhaps change the principles a little bit more to allow more houses to be built on green belt or to revise it in some way? Do you not think we could review it?

Brandon Lewis: That is absolutely part of localism, and the way that the local planning system works means that local authorities have the ability to do that and some local authorities are doing that at the moment and have done that as part of their local planning process. Ultimately, it is a matter for those local authorities to look at what their needs are, look at their local area, they know it best, they are accountable to local people for that, and to make those decisions locally. As I say, the local planning process is showing that that is happening.

Q791 Chair: Recently, you issued some new planning guidance about green belts, which seemed to indicate that if a local authority could only meet its housing need by building on the green belt then it did not have to meet the housing need; that could be an exception. Is that right?

Brandon Lewis: Yes, it is, in the sense that what we did was reconfirm what is in the NPPF. It literally was making the point that the NPPF makes it quite clear that a local authority, when it is looking at its housing need assessment and then its ability to fulfil that, one of the things it can take into account and the evidence it can put forward is around environmental constraints, and the NPPF makes it very clear that one environmental constraint is green belt. However, it is ultimately a matter for those local authorities.

Greg Clark: That goes back to the NPPF.

Chair: This is new guidance.

Brandon Lewis: No, no, no.

Q792 Chair: Is it not?

Brandon Lewis: I would just say, Mr Chairman, if you look at what we issued, the guidance we issued was confirming exactly, word for word, what is in the NPPF. It is not new in the sense of new policy or anything of the sort.

Q793 Chair: It is making it clear what the intention is.

Brandon Lewis: It is making it clear what is in the NPPF.

Q794 John Stevenson: Mr Clark, from the evidence that we have heard, lots of people have been expressing concern about the emphasis that has been placed on achieving the five-year housing land supply. Indeed, some people have suggested that it is in danger of destabilising the planning system itself. When you were involved with the setting up of the NPPF, was it your intention that it would become such a dominant part of it?

Greg Clark: I am not sure that it is a dominant part of it. If you are engaging with the planning system and you are producing a plan, a plan is about the future and it seems reasonable to me that if you think about the future, five years is not a terribly onerous timeframe to be considering for the future. If you were not to do that, then you get to the point that it scarcely is a plan if it is just about the next six months. It is about thinking about the future and the whole purpose of plan-making is to be able to, with a cool head, consider where development is going to be, not just in the next few months but in the next few years, consider what is the right place for that and what are the right conditions to apply so that you can exercise the planning function. The alternative is what we had: a system that could be more fairly described as development control, where important policy decisions were effectively being taken application by application, without foresight.

Q795 John Stevenson: Did you think it should be a central part of the NPPF?

Greg Clark: Yes, as I say, because a plan has to be about the future.

Q796 John Stevenson: You saw it as being an important part of it.

Greg Clark: Yes.

Q797 John Stevenson: Mr Lewis, can I just go into two specific aspects of it? Do you accept that a site that is not viable now could become viable within that five-year period, because there could be an upturn in land prices, you could see all the changes and that that bit of land that may not be viable now should remain within a five-year plan?

Brandon Lewis: Potentially, yes. The reason I use the word "potentially" is that would be a piece of evidence in a case that has to be made by that local authority.

Q798 John Stevenson: However, you are finding that developers are almost doing the opposite and saying that that is just not viable and that is causing problems.

Brandon Lewis: From what I have seen, the evidence is that the viability question is not creating too many problems, in the sense that it is for the local authorities to make the case that that land can be viable and why. If you cannot sit today and give a strong case for why a piece of land could become viable in two or three years' time, other than speculative, then I think there is a very good case to make that the local authority has to look at a slightly more holistic approach about that and they have to have a very good reason, a very good argument to make about why that would suddenly become viable. If they can do that, then that is something they can put to the inspectors and is a very fair case to make.

Q799 John Stevenson: Do you think central Government could help local authorities with regard to, dare I say, the definition of "viability", so people are working on the same assumptions?

Brandon Lewis: This falls into the case generally about how local authorities are making the case for their five-year land supply, in the sense that different areas will have different needs and have to make a different case appropriate to their area at a given time, because obviously local plans are going through at different timescales in different areas; as I said, 80% are now published. It is a case that that the local authority has to make. In terms of helping them, we, at the Department, do help local authorities and, in fact, if local authorities need help we have been, through the course of this year, using some experts and retired inspectors to go in and help authorities if they do need help.

Q800 John Stevenson: Would you give central Government guidance on the assessment of viability? Do you think that would be a way forward?

Brandon Lewis: Then we are starting to get into the realms of the Government deciding what the case is for any given local authority, and I think it is very much a matter that that local authority has to make the case for what is viable and why something is or is not viable, because it will differ.

Q801 John Stevenson: It would help the local authorities in terms of their planning in making their assessments if there is a degree of consistency, do you not think?

Brandon Lewis: Part of the problem with that is if you are looking at what is viable in London, for example, where we are sitting now, compared to a case somebody is making about what is viable in Cumbria, they are not necessarily going to be making the same case about the same type of properties. Therefore, we have to allow local authorities to look at what is right for their area and make a case about what they believe is right and viable for their area.

Q802 John Stevenson: Finally, would you be open to amending the NPPF to make it clear that all sites with planning permission should be included within the five-year supply?

Brandon Lewis: There is an issue because once planning permission is given there are a couple of things that come into play. One is obviously that planning permission is for a period of time anyway, plus the local authority has to be looking at its five-year land supply going forward and deciding what is there rather than what has been done in the past, including permissions being given. Some of the evidence is there is a very limited amount of land that is being held in that manner where land has planning permission or being built, because obviously they have a set period of time; they have to build it or planning permission falls anyway. Developers themselves will obviously be working on their own business case for their own three to five-year land supply as well as part of a programme of development. So councils have to be looking at what they need for the five years ahead and part of the calculation they have to make is looking at their ability to have delivered that in the previous years as well. That is part of the process, but they have to be looking at going forward, not what they have done in the past.

Q803 Chair: Mr Clark, I suppose any major change—and this has been a major change—in planning policy and guidance has at least one unintended consequence resulting from it. I just wonder whether, on reflection—this is around paragraph 47 of the NPPF and the following paragraphs, which talk about this issue that to be in the five-year land supply a site has to be viable and deliverable. What happened, certainly shortly after the NPPF, was we were still in a relatively depressed housing market, so some sites that might, a few years before, have been viable were not viable, but equally they were not viable because demand for houses had fallen. So you have a situation where demand had fallen in the area but the requirement to have a certain supply of land was still the same. Some of the sites that would have been in that five-year supply were now not deemed to be viable because of the drop off in demand. It happened in a number of authorities—it happened at my own in Sheffield; it happened in Leeds; we have had evidence from them; the Forest of

Dean is another one—and authorities have had to go around and look for additional greenfield sites to put in their five-year supply, because the brownfield sites they had identified could not be included. Is that an unintended consequence of the changes?

Greg Clark: No, I do not think there was a lack of demand. New families and new households were being created throughout this period when we had low housing numbers. The affordability was a problem, but the demand was there.

Q804 Chair: Okay, the need was there.

Greg Clark: The need was there, but that provides an answer to the question, because if you have allocated some land that can only be built out at very high prices that people cannot pay, then, in effect, that is out of grasp. One of the purposes of the NPPF and the reforms that we were making was that people had to get serious about planning. There were families who needed homes, young people needing homes for the first time, an increase in demand that needed to be accommodated. You could not put your head in the sand about it, and so the responsibility that was passed to local authorities was a serious one, so that if you have sites that are not going to be built because they are unviable in the next five years, that does not mean to say you can say, “We will come back to it in five years’ time and, by the way, you people during these five years can go and pitch a tent somewhere”. You have to deal with that and that is why it was a tough policy but a deliberately rigorous policy.

Q805 Chair: So the encouragement was to build on brownfield sites, but the viability and deliverability tests forced building on greenfield sites.

Greg Clark: No, that is not the case. There are lots of brownfield sites that have come forward. What it caused and what it has caused is for local planning authorities to take seriously their obligation to house the people living in their area and those that were coming forward in future generations, and I think you have seen that responsibility.

Brandon Lewis: I would just add that with the best will in the world you cannot have it both ways. Mr Danczuk was making the point, quite rightly, that there has been a very, very minimal amount of green belt land that has been developed over the last year—

Q806 Chair: I was talking about greenfield.

Brandon Lewis: Oh, sorry, I thought you said green belt.

Greg Clark: You mentioned unintended consequences. Perhaps just to emphasise that one of the reasons for this is that if you did not have this policy, you could have severely unintended consequences, which is that you publish a plan that is a fake plan; it is a Potemkin village of a plan. You say that you have allocated tens of thousands of sites to be built on, but they can never be built on because they can never be viable in foreseeable circumstances. That is not a real plan; that is a fake plan, and the test and the examination has required people to publish real plans, not fake ones.

Q807 Mark Pawsey: Minister, will you accept that there is a problem for some authorities where they have allocated substantial amounts of housing that is going to take some time to deliver? That cannot be included in the five-year land supply and that is giving rise, on some occasions, to speculative applications coming forward in areas that have not previously been allocated for housing.

Greg Clark: It is a different circumstance if the housing is going to come forward beyond that period.

Q808 Mark Pawsey: However, if it is going to come forward beyond that period, you are not allowed to count it. You cannot include it in your five-year supply and that is causing a problem.

Greg Clark: Yes, I can see that is a different case and I am sure you would want to reflect on that. However, for those five years there are homes that are needed, and it is right that there is a responsibility on the authority to house the people who live in their area.

Brandon Lewis: In terms of the properties that then may be coming on stream after that timeframe, if the local authority has developed a local plan, it should not be, "We have done our local plan, full stop, the end. We now walk away for five years." It should be a living document that the local party is, for its own purposes, reviewing, because again, at the end of that five years it is going to need another five-year land supply, and some authorities are looking at their 10 and 15-year needs as well.

Q809 Mark Pawsey: If a site is anticipating that delivery in five and 10 years' time, it seems pretty tough on an authority to say, "You cannot allow for that", which, in certain instances, is giving rise to speculative applications on sites that are not included for housing development in the local plan.

Brandon Lewis: I would challenge that a bit in terms of the phrase, "speculative applications", because if a local authority has a five-year land supply in its local plan, it is not going to be vulnerable to

speculative applications. It is going to be vulnerable to speculative applications in terms of the NPPF if it does not have a local plan in place.

Q810 Mark Pawsey: The delivery may be 10 years away because of the very magnitude of the site. You cannot deliver a very substantial extension in a short space of time.

Brandon Lewis: I would say a couple of things to that. If a local authority is putting their local plan together and has a particular reason and a case to make—for example, let us say a local authority is talking to Government and wants to develop a garden city of 10,000 or 15,000 houses and that is going to take some time to get in place, then that is looking at what they are going to do within their five to 15-year land supply. Coming back to Greg's point: that does not deal with their next five-year land supply. They still have to be looking at what they are supplying over the next five years for people who need houses in the next five years, not people who can wait for that five to 15 years. That is important and will fall into their next plan that they do as they review their plan, because after five years it does not stop and they suddenly do not need to build any more houses. Councils should be using that as a starting point for what they then do as they move that document forward and review it over the years. Otherwise you go back to not having a plan-led system, so good authorities, when they finish their local plan and they get their local plan signed off—as some did a few years ago—should still be keeping an eye on, "Okay, what next? What are we developing and where do we need to look at next to develop the next five-year land supply?"

Mark Pawsey: Thank you, Minister. That is helpful.

Q811 Mrs Glendon: Mr Clark, in your statement when you launched the NPPF you said of the framework that it took power away from remote bodies and put it firmly into the hands of the people of England. Last month, the Committee met with representatives of communities across the whole country, and the things they said overwhelmingly to us were that localism, they felt, had failed, consultation was just a sham and that they generally felt they had lost any ability to influence development in their areas. What do you think has gone wrong with the framework?

Greg Clark: I think that is a completely wrong assessment of what has happened in the meantime. First of all, the plans that govern development in local areas are now the plans of the local authority. Previously, they were trumped by the regional spatial strategies at a level that no one had any democratic accountability or say into. For all

of the local debates, I was always clear that planning does excite emotions, excites passions and people do care about where they live, and I think members of this Committee and my successors as Planning Ministers, when they have toured the country, have seen a bit of this. So I think people are engaged in planning more than they ever were. There are more plans that have been adopted and they are adopted by the resolution of a local council.

If I take another area that we brought in at the time, it is referenced in the NPPF as part of the Localism Bill I took through the House—neighbourhood plans. Neighbourhood plans are now being pursued in, I think, over 1,200 areas across the country. People in community centres, in town and village halls right across the country are getting together and producing plans for their neighbourhood in a way that not only was not done before but was not allowed to be done before. I think we have made a huge advance in involving people in planning.

Finally, just in terms of being able to do that, when I started to look at the task of revising the planning framework, when I asked for the existing planning policy documents they had to be brought into my office—which Brandon now occupies—in boxes and trolleys. That was clearly impossible for people to engage with. For all of the debates we have had around it, a document of this size and written in the way that it is, is now accessible in a way that the planning system simply was not before to people in communities.

Q812 Mrs Glendon: We cannot deny what we were told in our session we had that was quite intense. I do not know how many people were there, but there seemed to be loads and loads of them, and it was consistent and, as you know, it is not just seeing a paper document, but how these things are translating on the ground. Do you think that what has happened really is that the power has gone from one remote body, the regional assembly, and instead it has gone to another remote body, the Planning Inspectorate? Could that have something to do with it?

Greg Clark: No, I think it has gone from a remote and unelected body to an elected body, the councils, in adopting their plans and to neighbourhood bodies, whether they are neighbourhood forums or parish councils. As I say, 1,200 areas across the country is even beyond what we expected for the rollout of neighbourhood plans and that is where they are. Brandon will have the latest figures, but I am sure there is no sense that there has been a great surge in references to the Planning Inspectorate for decisions. In fact, fewer planning applications are going to appeal to the Planning Inspectorate than before; you have just had the Chief Executive. In fact, it was one of my ambitions that fewer decisions would go to that remote body. I

have high regard for the people there and I do not want to disrespect them, but for some of us in Kent Bristol is some way away. There has been about a 10% reduction in the number of applications that have gone to the inspectorate for determination.

Brandon Lewis: I do not have in front of me the list of who you took evidence from, but something the Committee might be able to reflect on when it is looking through the evidence is whether some of the people who still feel quite strongly that way are people who are in areas where they have a neighbourhood plan and/or a local plan in place. Anecdotally, my experience has been that in such places—particularly if they have a neighbourhood plan as well in place—there is a very, very different feeling, because the local communities have been involved. Through the local planning process, that community is given a chance to have its say in consultation with the local authority around the decisions the local authority makes. They are made by democratically elected people. If a local community does not like what its local authority is doing, we have a democratic process and people should take advantage of that and deal with that.

With neighbourhood planning, it is the next part of the jigsaw, as Greg rightly says. What we are seeing with that is that we are getting relatively high turnouts on that, averaging around 35%, one recently was over 50%, which is something most local authority elections would be very, very happy with, but with an approval rating average of about 88%. That is because local communities are getting the chance to be really, really involved and feel that they have some confidence around putting together not just whether they are going to have and what quantity of housing they are going to have, but the quality of it, the appropriateness of it to their area, and the infrastructure they need for it. In some areas, we are seeing those neighbourhood plans come back, meaning that some local areas have ended up with a larger housing supply than they have allowed for in the local plan, because the communities there are starting to sit down and work out that they do want some housing, but they want housing that they feel is appropriate for them. Having some control over that and some input into that makes a big difference.

One of the surveys I saw that was done over the summer showed that there is quite a big improvement in the number of people who are more accepting and more supportive of development in their area. I think you will find a correlation between people who feel that way, who have been part of a neighbourhood plan or a local plan, as opposed to those who do not have a local plan. However, if people are in that situation, then I would happily stress to them that it is really important they put their views very strongly now to their local authority, whoever

that may be, that they should get on and get their local plan in place, so local people have got that local control.

Q813 Mrs Glindon: Did you say there were 12 neighbourhood plans?

Brandon Lewis: No, there are about 1,200 currently going through the process, and I am very happy to use every avenue I can to encourage more people to get on board and start going forward with neighbourhood plans. The difference with neighbourhood plans is you start moving into a genuinely proactive planning process, not just development control and laying out areas, but proactively looking at what they want for the future, what the design, the quality and the appropriateness of that should be.

Q814 Mark Pawsey: I want to ask some questions about ensuring that development is accompanied by the necessary and appropriate infrastructure. We rely on the developers to provide funding for infrastructure through planning obligations through either section 106 agreements or section 106 and CIL. On the one hand, we heard that local authorities have got a little bit better in negotiating and that is driven a little bit by the resource situation. The fact that local authorities are receiving less grant from Government means that they have become a little sharper and tougher in their negotiations with developers to get the appropriate investment from the developers, which broadly can be considered to be a good thing. On the other hand, we have heard from some councils that developers are now looking for a bigger profit and they are negotiating and saying, "We are not going to be able to contribute". In particular, we heard concerns from Leeds City Council about that and, as Cities Minister, Mr Clark, I wonder if you would be concerned that we are not getting the appropriate infrastructure to enable our cities to grow because developers are not able to come up with the right amount of funding for infrastructure.

Greg Clark: Developers are always going to want to make more profit, and I know very well the leadership of Leeds City Council; they are not naive enough to think that that is not the case. They need to negotiate and they need to negotiate hard. In my experience, they can be pretty good negotiators, not least in negotiating the city deal and the growth deal with me, which has established, in terms of the infrastructure of Leeds and West Yorkshire, a £1 billion transport infrastructure fund, which was something that Keith Wakefield, the leader of Leeds and his fellow local authority leaders there have said and will say is a transformation in terms of the future infrastructure that is available to support growth in Leeds. What they have also done, both through the planning system and through these growth deals, is to

get developers to commit contributions to new schemes to be able to put forward to the Government, on the basis that if they are not jointly funded they are not going to happen at all. So we have been able to do more than we have been able to do in the past.

Q815 Mark Pawsey: What Leeds told us was that developers are looking to make 4% more than they used to in the early 2000s—and I am quoting from their evidence—and they said what suffers in the middle is that the provision of the infrastructure, you either do not get your affordable housing or schools or you cannot provide the road. Do you not recognise that?

Greg Clark: I am surprised developers are not looking to make even more than that. The point is that the councils should not accept that and they should negotiate hard. I think what you are seeing now is a more vibrant sector, the property sector, where there is competition. There is not a monopoly of development partners and where there is land to be developed the councils should drive a hard bargain.

Q816 Mark Pawsey: In respect of the use of the community infrastructure levy, Leeds also told us that they were not keen on CIL. They took the view that section 106s were simple and understood, and they would rather see CIL disappear and we did take some evidence from developers, who said that if they had the choice between developing an area where there was a CIL and one where there was not, they would rather develop in the one where there is not. Is that a case of, “They would say that, wouldn’t they?”

Greg Clark: We did not make it compulsory. Brandon will reflect on policy since I was there, but we had a decision to make as to whether we would continue with CIL when we came into office or whether we would rescind it and abolish it. I was persuaded that this was a useful tool that authorities would have at their disposal. Some have taken it up. It has proven to be very important in some places. Others have not and they have preferred existing arrangements.

Brandon Lewis: There is an element of “Yes, they would say that”, but there are two sides to this. One is that if the community infrastructure levy is in place, then there is certainty, clarity and transparency about if you want to develop in that area that is what it involves, that is what it is going to cost, and I can see an advantage of that for the local community in terms of having that confidence that in the development the community knows it is going to see the right benefit from that. There is certainty and confidence for developers, and when you talk to developers, whether they are private developers or housing associations or anything, one of the things they want in a

planning system is certainty and, at times, they will even admit that having certainty is as important, if not more important, than having the answer they want every time. So the certainty of the community infrastructure levy can be appealing to them.

From a local authority point of view, the problem for developers with the 106 agreement is not always necessarily just linked to the finance involved. It leads to uncertainty, both for the local authority and developers, around what will be negotiated, so it does come down to that ability to negotiate at a given point in time. That can be attractive for both parties, depending on where they are and what that given point in time is, but one of the things that I always thought was quite attractive about the community infrastructure levy was the transparency of it and the upfront position of it, whereas with a 106 agreement, having planning permission that is subject to a 106 agreement and then spending what can be a considerable period of time bartering over something that everybody knows without it you cannot do the planning, is a fictitious kind of situation to be in. It means that some things can be stalled for some considerable time and can be, literally, years once the planning itself is agreed, whereas with the community infrastructure levy that is dealt with upfront.

However, we have said we will review this in 2015, and I will be very interested to look at what the Committee have to say about it when you issue your report.

Q817 Mark Pawsey: If there is a local authority that has not yet adopted a CIL, would you advise them to do so?

Brandon Lewis: As things stand, the local authority has to look at what is right for them. Personally, as things stand, if they have a community infrastructure levy, the more areas that have it the more certainty there is, the more transparency there is, then the easier the community infrastructure levy will be for everybody.

Q818 Mark Pawsey: We did hear one concern about those areas where the CIL had not been adopted and we got that from the National Association of Local Councils, who said that there was a guarantee for them to get some money through CIL, not necessarily through section 106. They are very anxious to see CIL adopted more widely to ensure that they get the benefit of development, because parish councils and town councils often do not come into the picture.

Brandon Lewis: Yes, you are quite right, Mr Pawsey. One of the other advantages of a community infrastructure levy is that the communities themselves see the benefit from it, because—and this is what the NALC are looking at—if it goes into a parish or town council

they get 15% of it. Again, I would go further and this is another reason why I would encourage all of those areas to get neighbourhood plans in place, because if they have a neighbourhood plan in place with an authority that has a community infrastructure levy, they do not get 15%; they get 25%. So it is starting to move towards communities being able to see that if there is development in their area that they are happy with and they approve of, they will see the benefit of it directly, not just through new homes but through the infrastructure for their area, whatever that may be.

Q819 Simon Danczuk: Mr Lewis, research by the Association of Convenience Stores suggests that 76% of retail floor space given approval since the introduction of the NPPF is located out of town. Why is the NPPF not ensuring Town Centre First?

Brandon Lewis: Town Centre First is there. I have to say that the association—and I am a big fan of the association having worked with them in my previous capacity on town centres—has taken a particularly small sample, so I am not sure it is entirely reflective of what is going on right across town centres. Also, let us be clear, as I said when I was running the housing brief, local authorities now have the ability and should be looking at their town centres and assessing those as part of their local plan. However, the Town Centre First policy is one that local authorities can use to protect and develop their town centre and they should be doing so.

Q820 Simon Danczuk: The ACS says that their methodology is robust, and I have a copy of it here. They did a random sample of 50 case studies from 157 local authorities. I am a researcher and it looks quite a good sample that they have used. If it is not 76% of retail floor space that is now being built out of town, what percentage is being built out of town, Minister?

Brandon Lewis: As I say, the problem with their case study and the work they have done is it is used on a sample of just 50 case studies and many of those areas they looked at were already out-of-town centres and it focused on major retail applications only, so it is not necessarily taking the whole picture of what is going on around the country. I am not able to give you—because again we do not collate that kind of information from local authorities—a breakdown local authority by local authority across the country.

Again, it is part of the toolset. The way the NPPF works, and the Town Centre First policy as part of that, is it is part of the toolset that that local authority has and the onus is there for the local authority to use it.

Q821 Simon Danczuk: The Government does not collect figures on where houses are built, whether it is on brownfield or greenfield. They do not collect information, statistics on where retail floor space is built, whether out of town or in town centres. Does the Government know anything about anything that is being built anywhere in the United Kingdom?

Brandon Lewis: I appreciate the sarcasm in the question, Mr Danczuk, but the reality is obviously we do know the number of houses that are built across the country. That is how we know that we inherited the worst house-building numbers since the 1920s.

Q822 Simon Danczuk: However, we do not know where they are being built.

Brandon Lewis: We have got it back up to the levels of 2007. We are seeing 165,000 affordable houses being built next year, which will be the fastest rate for 20-odd years. In terms of town centres, from our point of view, obviously, I would argue strongly that it is not a matter for me, as a Minister or any other Minister in Government, to sit here and say, "I want X, Y or Z done in a particular area". It is a matter for that local area and for that local authority. What the NPPF does, and more importantly what local plans do and then neighbourhood plans do, is put that power and that decision-making in a local authority to decide what is right for them. Whether a local authority takes the view that it wants to create a new town centre, shrink its town centre because its town centre is changing and the format it wants is to be more footfall with more residential around it, has to be a matter very much for that local authority.

Q823 Simon Danczuk: Do you think the new High Streets Minister is happy with this sort of approach?

Brandon Lewis: Yes. What I would say to you, Mr Danczuk, is that as a party we are passionate about localism and seeing that local power devolved as much as possible.

Q824 Simon Danczuk: The sequential test that has existed for some time, and it is in the National Planning Policy Framework, has always been there to try to ensure—we can never judge this because you do not collect the figures—that town centres should be put first. However, it is suggested to me that that is now being used not as a pass-or-fail gateway test, as it probably should be, but as a factor that is considered by the planning department to take into account when it is

judging the overall application. Therefore, my question is: are you monitoring or examining how the sequential test is being applied?

Brandon Lewis: On a local authority or case-by-case basis?

Q825 Simon Danczuk: Yes.

Brandon Lewis: No, we do not collate that kind of data. Again, it is a matter for the local authority to use the toolset it has.

Q826 Simon Danczuk: Yes, so it might not be being applied appropriately at all, for all we know.

Brandon Lewis: If it was being applied inappropriately, we would see that coming through with appeals.

Q827 Simon Danczuk: Finally, how can you have an effective retail planning policy when the National Planning Policy Framework makes no reference to multi-channel shopping and the impact of online retailing? That is a major development, is it not, but there is no reference to it at all in the NPPF?

Brandon Lewis: The development of online retail is absolutely having a huge impact. We are now at about 15%, which I think is the largest percentage in the world and it will continue to grow exponentially. I think I have said to you at this Committee before—I have certainly spoken about it quite widely—with regard to the change in our high streets, they are changing. Our high streets are no longer, to use a cliché, where we go shopping and while we are there we do things. They are places we go to spend time, to either do shopping or to go to a coffee shop, a restaurant, the bank or whatever, and while we are there we will also do some shopping, and high streets do need to change to reflect that. That is why we consulted earlier this year and over the summer on some of the changes that are potentially there for retail to be able to move back to residential.

With reference to the vitality and vibrancy of the town centre, we have been consulting on some of the issues around permitted development rights for town centres and the use classes over the summer, because we want to make sure that that toolkit is there to make sure that high streets are flexible and able to move with the times, to reflect the moving times.

One of the things we are seeing with high streets is that good high streets are taking advantage of the opportunities, particularly through online shopping with click and go and click and collect and things like that. However, I suspect I am straying too much into high street policy and away from the NPPF for your taste.

Greg Clark: Can I just comment on the sequential test? Again, we weighed this very clearly. We took evidence from the ACS when we were drafting the framework and paragraph 27 says very clearly, “Where an application fails to satisfy the sequential test or is likely to have significant adverse impact it should be refused”. It is very clear.

Q828 Simon Danczuk: Yes, but I am arguing that planning departments are not seeing it like that. They are seeing it just as one of the factors that should be considered in the whole array of factors when making a judgment on an application, but we are not monitoring it, so we do not know.

Greg Clark: The policy is that it should be refused if it fails the test.

Brandon Lewis: What this comes back to—for example, it is why we initiated the note around the issue with the green belt—is a matter of making sure that councillors are absolutely aware of what is in the NPPF, what their powers are, and what tools they have at their disposal, so that they use them. Also, forums like this are, I hope, a good way, because I am sure many people will be reading Hansard tonight to see everything we are all saying, to make sure that more and more of the public are aware of what powers their councillors have to make the right decisions for their areas and to hold them to account for that.

Q829 Chair: Just to come back to the sequential test, one issue that has been raised with us is that the previous sequential test had this issue of disaggregation in it where a local authority could say to a developer, “You have to consider whether you can split up elements of a development so that they can be accommodated in a town centre provision where the sites might be smaller”. That has been removed, and it does mean there are a number of examples around the country—some have gone to appeal and decisions have been overturned—where a developer says, “This is the scale of my development. I am not going to split it up. Therefore, I cannot build it in the town centre. All I have to do is to build it out of town.” Is that an omission, do you think, from the current sequential test, because it is a change from the previous one?

Greg Clark: Such a developer is taking a big risk if they fail to satisfy the sequential test.

Q830 Chair: It is a different test now. That is what we have been told. Previously, as part of the test, an authority could say, “You have to show us that you cannot split up this development into more than one site, so it can be accommodated in a town or city centre”.

Greg Clark: Indeed, but there is a chapter on the vitality of town centres and the essence of that is reflected in the other policies in that section.

Q831 Chair: Right, but if the authority does not have that tool, it cannot be—

Greg Clark: Yes, they do.

Chair: The disaggregation tool is not there now and it was there before. Do you think that was an omission?

Greg Clark: No. The other paragraphs in that section give plenty of grounds for an authority to refuse a planning application for an out-of-town development if it thinks it would have an adverse effect on the town centre.

Brandon Lewis: That is in paragraph 26.

Q832 Chair: Are you saying that the disaggregation policy is an irrelevance?

Greg Clark: It is relevant, but the powers are there within the drafting of the framework.

Q833 Chair: The argument would be that the effect on a town centre is a second thing on top of the sequential test.

Greg Clark: Indeed, and that is exactly what I am saying.

Q834 Chair: Anyway, let me pursue one other point with Mr Lewis. The issue that Mr Danczuk raised about the change in retailing habits now is absolutely crucial. We are a bit concerned that many local plans do not appear to recognise that. Another concern that was raised with us was that if authorities do get to grips with this and start to adjust their plans so they have a smaller retail floor space in their areas, which is probably going to be true across the country, then if permitted developments have been allowed for lots of bits of these retail units to be converted to other uses, is that not going to make a constructive and long-term change—a planned change in their retail offer—much more difficult?

Brandon Lewis: There are a couple of things there. Yes, you are absolutely right, in the sense that the high street is changing and it is something local authorities need to take account of. I think you are right, Chair, that there are too many local authorities at the moment that have not yet grasped this as a priority for their local area and should do. They should be setting out a plan, because the high street does give a feel for the heartbeat and the feel of an entire community.

It is where people go and spend time together and come together, so I would encourage more and more local authorities to listen to your words and to take some action around setting out what their vision is for their high street and their town centre and how they think it should develop. They should look at it in terms of how it is likely to change, because it is changing, and how habits are changing in terms of not just shopping online, but looking at different things.

As I said earlier—and this comes to the second part of your question very directly—people who are going into their town centres are not just going there to do shopping anymore. They are likely to be going there as much for services, whether that is hospitality, food, leisure, banking—whatever it happens to be—and while they are there they might do some shopping, as much as they used to be going just for shopping. Now, what that does mean is that local authorities should be looking at the scale and size of their town centre. One of the things we very much had in mind when we looked at the issue of the conversion of retail to residential, and the reason we had the reference in about the vitality and vibrancy of the town centre, was if you have a town square or a street with what I always refer to as spider legs off that are struggling, then the authority should be looking at how they bring that back to being the core of the town centre.

Q835 Chair: Should that not be done in a planned way, rather than the pepper-potted way, which permitted development—

Brandon Lewis: No. In terms of the ability to turn retail back into residential, that is something that the local authority can very much plan for and work around. What we are looking at in terms of the consultation we have just done, which we have not responded to yet and what we have been looking at feedback from—the consultation, I think, has now closed—is about how we allow areas to potentially speed that up. So one of the things we have been looking, and I will use a bit of a clichéd argument, but people make the case that it is very, very easy for a pub to convert into a fast food restaurant or to convert into a supermarket or convenience store, but it is very difficult to go the other way round, to go from a convenience store to a food outlet or a coffee shop or drinking establishment. We have been looking at whether that flexibility needs to be there to enable that very point around town centres being able to move more fluidly to suit what the customers want, because ultimately the town centres that survive will survive because they are focused on what we, as customers, are driving them to be. It will not be because somebody has decided, “This is how I want my town centre to be”. A town centre will be driven by the customers who use it and if it is supplying what the customer wants,

the customer will go there, so we have to make sure there is flexibility there to allow that to happen.

Q836 David Heyes: The Chair referred earlier to the lack of data on which to judge the effectiveness of the NPPF, but you have written to the Chair recently to say that you intend to consult on the development of a clear set of data. Does that mean we can have some hope that we will see an evaluation from the work in place eventually?

Brandon Lewis: Hope should always remain eternal. On a serious note, I am just very conscious about us not getting into a situation where we are going back to the days where we were collecting an awful lot of data from local government, much of which was not particularly useful for anybody and was not being used for anything productive. It just puts a big onus and, having been in local government, as I know many of us around the table have been, you end up spending your time trying to make sure you fulfil the data requirements rather than doing your job of representing the people you were elected by. However, we also need to make sure that we do not have the unintended consequence of creating the situation where local authorities are so focused on supplying data in a format that they think the Government wants to see that it becomes a tick-box culture. That is why I am very, very cautious around setting out further data collection from local government, not least because the LGA themselves have a very strong view about what more data we should or should not be taking from them.

Q837 David Heyes: When might we see some results from this?

Brandon Lewis: Not in the next few days, but I will come back to you on that, if you do not mind, Mr Heyes.

Q838 David Heyes: I guess we are talking about a number of months at least before anything can be properly established, but in the meantime you are making policy decisions in the dark about the facts. That is the way things are going to continue for the foreseeable future, are they not?

Brandon Lewis: The policy at the moment and all of the policy around planning is driven around giving more power to the local areas to be able to mould and shape and be part of deciding the future environment of their local areas. It is very much about the local authorities who are accountable to local people, and we have to be able to trust the local people to make those decisions, to hold their local authorities accountable. It is dangerous when we, in central Government, start saying that that is okay, but only when we agree with it.

Chair: Ministers, thank you very much indeed for coming this afternoon and answering our questions. I do not think we have found a great deal of difference between you in the answers you have given, so that is probably good for your future careers. Thank you very much indeed.