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GENERAL COMMITTEES

Public Bill Committee

LEVELLING-UP AND REGENERATION BILL

Twentieth Sitting

Thursday 8 September 2022

(Morning)

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not later than

Monday 12 September 2022

The Committee consisted of the following Members:

Chairs: Sir Mark Hendrick, Mr Philip Hollobone, † Mrs Sheryll Murray, Ian Paisley

† Atherton, Sarah *(Wrexham)* (Con)
† Benton, Scott *(Blackpool South)* (Con)
Farron, Tim *(Westmorland and Lonsdale)* (LD)
† Fletcher, Colleen *(Coventry North East)* (Lab)
Gibson, Patricia *(North Ayrshire and Arran)* (SNP)
† Henry, Darren *(Broxtowe)* (Con)
† Johnson, Gareth *(Dartford)* (Con)
† Lewell-Buck, Mrs Emma *(South Shields)* (Lab)
† Maskell, Rachael *(York Central)* (Lab/Co-op)
† Moore, Robbie *(Keighley)* (Con)
Mortimer, Jill *(Hartlepool)* (Con)
† Nici, Lia *(Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities)*
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Pennycook, Matthew *(Greenwich and Woolwich)* (Lab)
† Scully, Paul *(Minister of State, Department for Levelling Up, Housing and Communities)*
† Smith, Greg *(Buckingham)* (Con)
† Vickers, Matt *(Stockton South)* (Con)

Bethan Harding, Kevin Maddison, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 8 September 2022

(Morning)

[Mrs Sheryll Murray *in the Chair*]

Levelling-up and Regeneration Bill

11.30 am

The Chair: Hon. Gentlemen are welcome to take off their jackets if they wish to do so. I have a few preliminary reminders for the Committee. Please switch electronic devices to silent. No food or drink, except for the water provided, is permitted during sittings of this Committee. *Hansard* colleagues would be grateful if Members emailed their speaking notes to hansardnotes@parliament.uk. I welcome the Minister to his place.

Schedule 11

Infrastructure Levy

Matthew Pennycook (Greenwich and Woolwich) (Lab): I beg to move amendment 162, in schedule 11, page 288, line 11, after "development" insert "of the area".

This amendment seeks to ensure consistency with inserted section 204A(2) on page 282 and ensure that consideration of viability relates to the area as a whole.

The Chair: With this it will be convenient to discuss the following:

Amendment 163, in schedule 11, page 289, line 33, leave out "or require".

This amendment and Amendment 164 would prevent the Secretary of State imposing a nil rate, differential rates, reductions, or a minimum threshold below which IL is not charged and ensure that rates are set by the charging authority.

Amendment 164, in schedule 11, page 289, line 36, leave out "or require".

See explanatory statement for Amendment 163.

Matthew Pennycook: It is a pleasure to reconvene with you in the Chair, Mrs Murray. I warmly welcome the hon. Member for Sutton and Cheam to the caretaker role that he has bravely taken on today. He is the third Minister I have engaged with in proceedings on the Bill. The shadow Department for Levelling Up, Housing and Communities team are setting new records when it comes to the ministerial attrition rate. It may be overly ambitious to hope that we can get through five Ministers by the completion of proceedings on the Bill, but we live in hope.

On a serious note, I place on record our thanks to the hon. Member for Nuneaton (Mr Jones) for his efforts in taking the Bill through Committee in recent weeks, including before the summer recess, and for the constructive way in which he did so. I hope that we can continue in that vein today.

We had, in our last sitting, an extensive debate on the infrastructure levy, and touched on the issue of viability as part of the design of any new proposal. This group of amendments relates to the infrastructure levy rate-setting process, and how viability testing will be used to inform it. Once again, allowing for the fact that we do not have the detail we need, and for the fact that the required forthcoming regulations will be subject to further consultation, I am assuming for the purposes of these amendments—largely because of the remarkable similarity between schedule 11 and the provisions in the Planning Act 2008 that gave effect to the community infrastructure levy—that the Government are minded to base the IL rate-setting process on that which applies to the process for adopting a CIL charging schedule.

If that is the case, the process will require charging authorities to undertake—if not directly, then by commissioning consultants for the purpose—an area-wide viability assessment. Such assessments would be similar to—and indeed could, where appropriate, be combined with—the area-wide viability testing that forms part of the evidence base for the examination of new local plans. As "full viability assessments", these will involve a large number of residual land valuations for different development typologies, and potentially strategic sites, to test what IL rates could be supported in different circumstances. It is likely that they would have to consider all aspects of development appraisal, including average values, costs, profit and land value, rather than using gross development value as the value-based metric used to determine specific IL liabilities.

The new levy has broader scope than the CIL, incorporating as it does both infrastructure and affordable housing. Higher rates will be necessary as a result. Given that, and given that GDV—the metric to be used—does not take into account site-specific development costs, IL has the potential to result in significant non-negotiable liabilities, so the stakes involved in the IL rate-setting will be far higher than those that pertain in the CIL charging schedule adoption process. Thus it is almost certain that the IL rate-setting process in any given area will be heavily contested; landowners and developers will task their representatives with challenging the scope of the assessment, its methodology, inputs, assumptions and conclusions, with a view to reducing IL rates and their future liability. There is therefore a strong case for putting in place additional measures to ensure that the IL rate-setting examination process is fair, and I hope that the Government are exploring what might be done to ensure that the Planning Inspectorate is able to draw on the necessary expertise so that that is the case.

The aim of amendment 162 is to ensure that the bar for viability testing in the IL rate-setting and examination process is not set unreasonably high, and that there is therefore a more level playing field between charging authorities and those who might potentially object to a proposed IL rate or rates. The amendment seeks to avoid authorities being compelled to either undertake onerously detailed analysis, bring forward overly complex charging structures or set artificially low rates to compensate for the risk that the Bill creates of developers arguing that specific projects in an area are unviable. It does that by specifying, using the language used in proposed new section 204A(2) of the 2008 Act, that when setting IL rates, charging authorities must consider the economic viability of development in the area as a whole. That would make it clear that in the rate-setting process, the test of viability should not be so specific as to relate to individual sites, unless perhaps they are of strategic significance to the charging authority area, but should instead take into account viability across a range of

sites, and the overall delivery of the amount of development envisaged in the local plan. That is in line with current practice, and would mean that IL rates would not be unduly influenced by the characteristics of development sites that may not be typical of the area, and that could result in nil or particularly low rates being set across the whole of it.

Rachael Maskell (York Central) (Lab/Co-op): I am grateful to my hon. Friend for tabling the amendments. It is clear that the system is not working, because when going through the planning process many developers argue that the site is no longer viable, and therefore make changes to the plans. What should be put in place to ensure that we have more accurate viability testing before planning permission is granted?

Matthew Pennycook: I thank my hon. Friend for that well-made point. We had, as she will know, an extensive discussion on viability in the last sitting. The system is flawed in many respects, but there are ways in which it has been improved in recent years, and it could be improved further. The Mayor's threshold approach in London is a good example of how that can be done; it draws in relevant expertise to ensure that contentious sites undergo a full viability assessment.

Our issue with the proposed system is that it is premised on removing the viability issue from the process entirely, but the point here is that the system certainly does not do that; at the rate-setting stage, viability is very much an issue. That needs to be addressed through the amendments. Amendment 162 would ensure that IL rate-setting testing and examination cannot be unfairly manipulated by developers seeking to drive down levy rates, because the amendment would clarify that charging authorities will not be expected to test every development site in their area. It would mitigate the risk that the infrastructure necessary to support development will not come forward, and that amounts of affordable housing will be reduced.

Amendments 163 and 164 are necessary to give full effect to the Government's commitment that the new system will be, to quote the policy paper, a "locally determined Infrastructure Levy", with Il rates set locally by charging authorities. The amendments do that by altering the provisions that give the Secretary of State the power to impose specific IL rates, nil rates or minimum thresholds that have not emerged as a result of an examination, or been justified with reference to local evidence. By preventing the Secretary of State from overriding a charging authority in those respects, the two amendments seek to avoid a scenario in which a charging authority is either prevented from developing its own IL rates or, after the lengthy and resource-intensive process of determining the IL rates and thresholds appropriate for its area, and after having them verified by an independent examiner, has them overridden by the Secretary of State.

There is nothing in the Bill to ensure that IL rates imposed by the Secretary of State in the way that the Bill allows would be based on local evidence or subject to independent assessment. There is therefore an obvious risk that the Secretary of State may, on occasion, be persuaded to bypass the IL rate-setting process on spurious grounds. We feel strongly that the process should be genuinely local, and that charging authorities should be confident, if they develop a rate or rates that are approved in examination, that they will be able to apply those without interference from the Department. I look forward to hearing the Minister's thoughts on each of these important amendments.

The Minister of State, Department for Levelling Up, Housing and Communities (Paul Scully): It is a pleasure to serve under your chairmanship, Mrs Murray, and to address the Committee and answer the questions raised. The hon. Gentleman talked about attrition rates, which are important for all of us as constituency MPs, and we all want to make sure that we get this right. I, too, thank the former Minister for Housing, my hon. Friend the hon. Member for Nuneaton (Mr Jones), for the work that he has done over the summer.

I begin by acknowledging the work of the Committee so far. The planning reforms will clearly be important in supporting our growth agenda, so I look forward to the next few days. I understand why the hon. Gentleman seeks to introduce the amendments. I will try to clarify some of the points, and to explain why we do not believe that the amendments are necessary. I will start with amendment 162.

Local planning authorities will be responsible for setting infrastructure levy rates, and for charging and collecting the levy, and they can spend the levy revenues on local priorities. When setting rates, they must have regard to the economic viability of the development of the area. I reassure the hon. Gentleman and the Committee that proposed new section 204A(2) of the Planning Act 2008 already ensures that that is the case. It states that the overall purpose of the levy,

"is to ensure that costs incurred in supporting the development of an area and in achieving any purpose specified under section 204N(5) can be funded (wholly or partly) by owners or developers of land in a way that does not make development of the area economically unviable."

The overall purpose of the levy applies to all levy regulations, including those made under proposed new section 204G(4)(a), to which the hon. Gentleman has proposed additional text. This means that when charging authorities set rates or other criteria, they must have regard to matters specified in levy regulations relating to the economic viability of development. Although I understand his point, I hope that with that explanation, he will agree that amendment 162 is unnecessary.

Amendments 163 and 164 would prevent the Secretary of State from requiring, through regulations, that differential rates of the levy be set. They would also prevent the Secretary of State from specifying in regulations the basis on which a threshold for such rates may be determined. Again, I recognise that the aim of the amendments is to ensure that the rates are set solely by the charging authority, but I reassure the Committee that local rate-setting is indeed essential to the levy design. However, the levy must be charged in a coherent and consistent way, so that it meets its objectives of capturing more value and raising more revenue for local planning authorities, while maintaining the viability of developments across an area.

How the levy is charged should reflect the different amounts of additional value that might be generated across different kinds of development. In some circumstances, it might be necessary to require in the levy regulations that rates be set at higher or lower levels. For example, the additional value created by new

[Paul Scully]

floor space might be a lot greater than that created when existing floor space undergoes change of use. Similarly, the additional value generated by a residential development might be a lot higher than the amount generated by some types of commercial development, and it is right that the difference in value is reflected in levy rates.

There might be types of development on which it is simply not appropriate to charge the levy, or on which it would be appropriate to charge a reduced rate. Providing for that in the levy regulations will ensure the coherence of the regime that I talked about.

How much additional value is generated by a development depends in part on how much it cost to build, and on the value of the land before development takes place. The minimum threshold will broadly account for the costs of development in an area by charging the levy on the final gross development value. Above the minimum threshold, the levy is charged only on the additional value of a development. Without a minimum threshold, the levy would not be able to reliably capture more of the value uplift in different development types and land uses, while maintaining viability. The ability for levy regulations to require that thresholds for nil or reduced rates be determined in a specified way, including the ability to adjust them with reference to the cost of development in a charging authority's area, is key to ensuring that this aspect of the levy function works in a coherent and consistent way.

11.45 am

The approach to nil and reduced rates has precedent in the existing system of developer contributions, which already allows for circumstances under which reduced or no contributions are sought. We will design the detail of our approach to nil and reduced rates in our forthcoming consultation.

For those reasons, and given that the upcoming consultation will allow plenty of time to discuss, debate and shape these measures, I am unable to accept the amendments and ask the hon. Member to withdraw them.

Matthew Pennycook: I appreciate that comprehensive answer from the Minister, but I am afraid to tell him that I am not reassured. I am not sure—I will happily go back and check the record—that he addressed my specific points. As I said, our concern is that the language in proposed new section 204G(4)(a), when it comes to specifying how viability is handled within the rate-setting process, refers simply to "development". It is not consistent with the language in proposed new section 204A(2), which specifically refers to "development of an area".

The Minister spoke in general terms about the local rate-setting process. I take no issue with that. It is absolutely right that the local charging authority looks at viability as part of that process, but the specific concern that we have, as I said, is that it may be forced to assess the viability of every site in the area that it oversees, rather than being able to undertake a general assessment of viability in that area and not have specific sites skew the results. This could potentially have very serious implications for the levy rates that are set and the ability of developers to try to drive down those rates as part of the process. We are not satisfied on that score.

On amendments 163 and 164, we do not take issue with the fact that there needs to be a minimum threshold or the need for specified ways of setting or adjusting the levy rates. Our issue is with the powers that the Bill provides for the Secretary of State to intervene and overturn a locally determined rate that has gone through an examination process. The Minister has not convinced me that there is a good reason for those powers. On that basis, I am keen to make the point that we think this is one of the many weaknesses in the Government's proposed infrastructure levy, so I am minded to press amendment 162 to a vote.

Paul Scully: Let me just answer a couple of points as the hon. Member considers whether to press the amendment to a vote. I assure him that charging the levies is very much for the local authorities. The intention is to not have a system that is different for every single development, because that becomes incredibly unwieldy—that is the point of introducing this system rather than the existing, technically complex system, where developers, who have deeper pockets than many local authorities, and more expertise, get round section 106 and CIL and so on. If they so choose, local authorities should be able to have different levies in different areas within their remit, but that should not be just from development to development. That is the intention of the measures here.

The powers of the Secretary of State reflect the current system. As I mentioned, the Secretary of State has powers under the existing system and we are reserving that same right, which is to be used only very sparingly.

Matthew Pennycook: I thank the Minister for that useful further clarification of the Government's intention, but in many ways he made my point for me. No one is taking issue with the fact that the Bill specifies that local charging authorities set the rate. That is absolutely right. It is an advantage of the proposed system vis-à-vis that outlined in the 2020 "Planning for the Future" White Paper, which envisaged a nationally set rate or rates. The issue we have—the Minister spoke directly to this point—is the inequality of arms between developers and local planning authorities. Our concern is that the language in the Bill will allow developers, not in the way they do with the current section 106 system but under the new system, to use their extra resources, skills and expertise to drive down levy rates at the point at which they are set, due to the way that viability is dealt with in proposed new section 204G(4)(a). I am not satisfied by the Minister's comments, and I will press amendment 162 to a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 9.

Division No. 13]

AYES

Fletcher, Colleen	Norris, Alex
Lewell-Buck, Mrs Emma	
Maskell, Rachael	Pennycook, Matthew

NOES

Atherton, Sarah	Nici, Lia
Benton, Scott	Scully, Paul
Henry, Darren	Smith, Greg
Johnson, Gareth	Vickers, Matt
Moore, Robbie	

Question accordingly negatived.

Rachael Maskell: I beg to move amendment 168, in schedule 11, page 288, line 25, at end insert—

"(4A) IL regulations must make provision for a sliding scale of charges increasing in proportion to the share of the development that is on greenfield land, for the purposes of incentivising brownfield development, unless any development on greenfield land is offset by the re-greening of an agreed area of brownfield land in a densely developed or populated area."

This amendment is offered as an alternative proposition to Amendment 59, adding safeguards intended to prevent extremely dense development in urban centres with an undersupply of open space.

The Chair: With this it will be convenient to discuss amendment 59, in schedule 11, page 288, line 25, at end insert—

"(4A) IL regulations must make provision for a sliding scale of charges increasing in proportion to the share of the development that is on greenfield land, for the purposes of incentivising brownfield development."

This amendment would require rates of the Infrastructure Levy to be varied in line with the proportion of the development that is on greenfield land in order to promote brownfield development.

Rachael Maskell: It is good to see you in the Chair again, Mrs Murray. I welcome the Minister to his place.

Amendments 168 and 59 have the same objective. Labour has set out clearly that we believe it is important that brownfield sites be developed on first. Many sites across the country have been wasteland for too long. We have a housing crisis and there are economic opportunities, so we very much want to see developments. Such sites are often old industrial areas, which are begging for housing development.

York has the largest brownfield site in the country, adjacent to the station, so we have obviously given much thought to this issue. I am glad that the Government supported our call to make it a site of development. What will go on there is another matter of dispute, but it is welcome that, the site having been derelict for 30 years, we now see roadworks on it—I was looking at them just last weekend—thanks to the additional funding to release it that has been locked in by the railways, but my amendments seek to go further than that.

The White Paper—it is important that we refer to it—suggested that development could be brought forward almost on street corners if sufficient land was available in developed areas. Of course, that takes away vital green space from local communities. My amendments therefore seek to recognise the value of green space in urban environments. It is crucial that we join up the agendas across Government—I often think the Government think too much in their own silo—when looking at the opportunities to create green spaces in urban areas. They could address environmental issues, including drainage and flooding, and mental health issues.

In my constituency, brownfield sites' being turned over for development has led to a very heated-up urban centre, which has serious consequences. The York Central site and other developments on the west side of the city are taking up spaces that were either old industrial land or school playing fields, which means that we have more traffic. As a result, the west side of York will become gridlocked because the development has not been properly thought through. Within the planning process, the developers are referring back to our local transport plan from 2011, which is well out of date.

If we keep developing on brownfield sites without thinking about the wider consequences, it will have a significant impact on the urban environment and will ultimately create more congestion and pollution, which will have a significant impact on the local community, whose frustrations will grow. We have to make sure that we talk about infrastructure and the transition from car use to public transport or active travel, and we need to take a more holistic view rather than focus on brownfield site development, but my amendment seeks to go further than that in recognising the importance of having some of that land converted into green spaces.

I can give a fantastic example in Tang Hall, a densely populated area of York. It used to be the old refuse site and would have been classified as rich for development, but it was turned into St Nicks environment centre and an incredibly important space for wellbeing. The centre runs opportunities for people experiencing mental health challenges and engages in environmental projects, thereby improving the wellbeing of all residents in the local area. That was a project of yesteryear, but as the housing crisis, which is significant, has grown in York, I have noticed that areas where there is the greatest deprivation—somewhere such as Clifton, where life expectancy is 10 years less than elsewhere in York—also have the least green space.

The former Bootham Park Hospital was on public land, and people would go there and walk around. That space will be handed over to a private company with the disposal of the hospital, but Bootham School will take over the land for its playing fields, which will lock out the public. However, the rest of the estate, where there is currently green space, will be turned into further housing. That involves changing somewhere that is green but categorised as a brownfield site into a developed area, which means that the area will lose public green space. People will not be able to walk their dogs, get fresh air and improve their mental health. We know the correlation between mental health and deprivation, so that is really important.

I can give another example. Acomb had a secondary school in what was the old Acomb Park area, and the school had playing fields. Although the school has been disposed of, the area has been used by the public as a free park for the community, which has been really important. However, the land would be categorised as a brownfield site, and our local council has the intention to develop the site and put more housing there. We desperately need housing—I am not decrying that—but we should re-categorise some brownfield space as green space and then use some current green space as brown space, thereby getting the green lungs into the city. We know from research that that was very much the focus over 100 years ago, because that was how York was built out.

Putting in green lungs will increase the opportunities to improve mental and physical health, to have a better environment and to address some of the issues around pollution and so on. It will also improve the whole area by creating public space and a sense of community. If we see a direct swap with current greenfield sites, I do not believe that the area should be penalised for not building on brownfield sites but choosing to build on greenfield sites. This is about providing greater opportunity and recognising that we can develop brownfield sites first but put in those green lungs in order to place the proposed housing in other areas. We should not penalise

[Rachael Maskell]

local authorities for improving public health and wider aspects of their community. That is a perspective that a joined-up Government would be looking at: how we improve not just homes and units, but communities and people, which is what planning should be all about. My amendment seeks to provide that opportunity, recognising the reality of this in highly populated areas in particular.

12 noon

I will close by turning to York Central itself, which the Minister will hear mentioned several times today. There is a proposal to put a new public park adjacent to the station, in the heart of York. I welcome that perspective and opportunity, but the way to get the numbers on that brownfield site is to build really densely populated accommodation in York. It will not be accommodation that is required in York; this is about ticking boxes in order to fit in with Government objectives, as opposed to fitting in with what is needed in the community. For the first time, we will have high-rise flats in our city. There is an unwritten law that there should not be a level above five storeys in the city, so this will change the whole context of the city. For instance, it will mean that the view from the Minster—a line that must not be crossed—will be obliterated for much of my community in Holgate.

We see this happening more and more—density, then crowding out—when these accommodations are made for green space. Building high-rise, high-density accommodation goes against what we know is good for communities. The only way it can be viable, returning to that issue, is through high-value accommodation; we are talking about luxury apartments that no one in my city can afford. We will end up with 2,500 units—which my families will not be living in, so their housing situation will not be solved—in order to create a green space. By recognising the need for green space, we would not have to build high-density housing on that location, but would be able to take it elsewhere, while also prioritising the development of that brownfield space.

Greg Smith (Buckingham) (Con): It is a pleasure to serve under your chairmanship, Mrs Murray. I join you in welcoming the Minister of State, Department for Levelling Up, Housing and Communities, my hon. Friend the Member for Sutton and Cheam, to his place on the Front Bench. It is also a pleasure to follow the hon. Member for York Central; I recognise the point she made about green lungs in urban environments, and about parkland and green spaces being in towns and cities up and down the land.

Listening to her comments, I remembered my own time in local government some moons ago, in the London Borough of Hammersmith and Fulham. We gave planning permission to one of Europe's largest regeneration projects on brownfield land, crossing the London Borough of Hammersmith and Fulham and the Royal Borough of Kensington and Chelsea, around Earl's Court and West Kensington. That development had multiple parks and lots of green space locked into its design, and into the planning permissions that were granted. It was, in fact, the incoming Labour council in 2014 that undid all of that and turned it over. While I have not been there in some time, I think I am right in saying that Earl's Court still sits in rubble, as opposed to housing and beautiful green parks.

I will speak principally to amendment 59, which is tabled in the name of my right hon. Friend the Member for Chipping Barnet (Theresa Villiers), to which I too have put my name. It goes to the nub of the concerns that many Members across the House have about planning reform and the way we should go forward. There is a debate about where we should build; should we build on brownfield, or should we build on green space—green belt, greenfield, agricultural land and so on? When I look at my constituency, covering 335 square miles of north Buckinghamshire, 90% of that land is agricultural land. We have seen substantial development over the last 20 or 30 years. Some villages that started off small are now almost unrecognisable because of the vast housing estates that have been built, and which continue to be built on greenfield land around them. I think of villages such as Haddenham—close to my home village, for total transparency—where, yet again, another huge acreage of agricultural land is being built on for homes right now. Buckinghamshire Council, a good Conservative-run council, has a clear vision to build the housing the county needs through the light densification of some of the towns in Buckinghamshire.

However, what amendment 59 principally talks to is the need to incentivise developers to consider brownfield sites when they look at where to build the homes needed in Buckinghamshire and the rest of the country, and that they are not disincentivised because it is so much easier for them to build on greenfield, where they do not have the decontamination costs and all the other expensive costs of developing out brownfield sites. We can use the infrastructure levy to do that. If there is a sliding scale that says to developers that we can create that incentive through the taxation system and the infrastructure levy and potentially make these things cost-neutral, we can take the challenges of decontamination and other costs associated with brownfield land out of the equation for them. In that way, they will pay less infrastructure levy for building out on brownfield sites than they would for destroying the great British countryside.

It is not a perfect solution by any stretch of the imagination, because we still need the money for the roads, the GP surgeries, the schools and everything else the infrastructure levy is there to provide. However, unless we can create a system that really does come good on the Government's welcome and solid commitment to building on brownfield first, I fear—and I had another developer in my inbox yesterday wanting to build out on a partially greenfield site in Waddesdon in my constituency—that all we will see is planning applications come in for greenfield development, and the brownfield first policy will not be realised.

I therefore urge the Minster to consider how we can use the infrastructure levy, in the spirit of amendment 59, to ensure that there are not financial penalties on developers for developing on brownfield land, so that we make that brownfield first policy come true. In that way, we can give local authorities that have lost a considerable chunk of greenfield and agricultural land in recent years—food security is important to all of us, and it is a pretty simple proposition that the more agriculture land we lose, the less food we can grow—the tools and powers as planning authorities to say that

certain proposals are not what they need right now. In some areas, the proposals might be fine and might be what they want but, to use Buckinghamshire as an example, we could put in the differential rate enabled by this amendment to protect our greenfield and agricultural land and to drive development of the homes, commercial units and businesses we need on to the brownfield sites that exist predominantly in towns, and in some villages, in Buckinghamshire.

I urge the Government to look at the spirit of the amendment and to incorporate it into what will undoubtedly, after the leadership election, be quite a different Bill by the time it emerges on Report, to see whether we can make these proposals a reality.

Matthew Pennycook: First, I congratulate my hon. Friend the Member for York Central on amendment 168. She rightly speaks about the importance of green space in urban areas and about how we can increase the rate of it, if anything, when it comes to individual planning applications.

I will speak primarily to amendment 59, because I think it is worth putting the following on the record. I understand the point that the hon. Member for Buckingham is making, but my reading of the Bill is that the framework established in part 4 already allows charging authorities to set different IL rates according to existing and proposed uses, and those could include different rates for greenfield and brownfield sites. So the means to resolve the issue he is driving are already in the Bill, and Buckinghamshire Council will be able to set different rates on brownfield and greenfield sites if the Bill is given Royal Assent.

Our concern is that, by seeking to make mandatory a sliding scale of charges relating to land type or existing typologies by site, amendment 59 could result in reduced infrastructure contributions and lower levels of affordable housing in areas where development mainly or exclusively takes place on brownfield land, because it would prevent charging authorities from setting rates that are effective and suitable for their area and that consider local circumstances. For example, a mandatory sliding scale of charges, as proposed in the amendment, could result in the expectation that a charging authority whose development sites are entirely or mainly on brownfield land would set low IL rates to incentivise development in that area and disincentivise development in other areas with fewer brownfield sites.

Furthermore, brownfield development in higher-value areas will almost certainly generate sufficient values to support higher levels of contributions than would be possible on greenfield sites. As such, a mandatory sliding scale of charges would mean the loss of developer contributions that could viably have been delivered on brownfield sites, with no assurance that this would be offset by a higher level of contributions on greenfield land. Labour firmly believes in the principle of brownfield first, as do the Government, and that is absolutely right. However, we feel strongly that the setting of different IL rates for different land types should ultimately be determined by individual charging authorities taking account of local circumstances, rather than by the method proposed in amendment 59.

Paul Scully: The Government are already providing strong encouragement for the take-up of brownfield sites—we are all agreed on that—and are prioritising suitable brownfield land for development wherever possible. There is significant investment through the £550 million brownfield housing fund and the £75 million brownfield land release fund to unlock brownfield land across different communities across the country. Our national planning policy framework makes it clear that local authorities should give substantial weight to the value of using suitable brownfield land in settlements for homes and other identified planning need.

We recognise the importance of delivery on brownfield sites, as has been raised by the hon. Member for York Central and my hon. Friend the Member for Buckingham. However, we believe that that is better achieved through planning policy rather than through a fixed algorithm that automatically increases levy charges on the basis of the proportion of greenfield to brownfield. This further amendment would add a new element to the levy formula, which would still allow for greater greenfield development in certain circumstances, but would remain a formulaic approach rather than a policy-driven one.

The proportion of greenfield development within the local authority should continue to be policy driven at that local level, as we have heard. I agree with the hon. Member for Greenwich and Woolwich that it should be the local authority—the charging authority—driving that, based on their local circumstances. In any case, proposed new section 204G(5) and (8) in schedule 11 already contains powers for the levy regulations to permit or require local planning authorities to set different levy rates for different kinds of development, and proposed new section 204G(4) makes it clear that the local authority must have regard to the increases in land value that result from planning permission. That provides a framework where, if increases in land values are higher, as we have heard is often the case with greenfield development, higher rates can be set. On that, we agree in terms of policy.

In answer to the hon. Member for York Central, I totally understand her drive when she talks about buildings going up to five storeys, and it is important that it is the local area that determines exactly these things. Whether it is the view of the Minister or the affordability of properties, that should not be determined centrally with an artificial algorithm. It very much needs to be locally driven, so that local families and communities benefit from housing themselves and from the economic value of bringing in new people and new investment. It is about getting that balance right, and that will change for different areas. It was interesting to hear the hon. Member's tour de force—that tour of York, and I suspect I will get a bit more about green spaces later this morning.

Matthew Pennycook: A lot more.

Paul Scully: A lot more, the hon. Gentleman says from a sedentary position.

Clearly, we do need those green lungs, as my hon. Friend the Member for Buckingham said. Those of us who have an urban, suburban or semi-urban area need to get that balance right, and I would much rather that that was done through a policy framework than by an algorithm, which can be game-played by developers. It is important to get this right at a local level, so it is important to get for local authorities to get the local plan in, so that they can shape their place. They have the determination to do so. For those reasons, amendments 168 and 59 are not necessary.

12.15 pm

Rachael Maskell: I thank the Minister for his authoritative words in recognising the importance of green lungs in urban environments, because they are so important. Often in planning we lose the wider benefits we are trying to achieve when we look just at bricks and mortar as opposed to people and places. It is so important that we bring that to the fore in this debate, so I will certainly refer back to his speech when talking about this issue. It is important to draw that out as we consider how we take planning forward.

Of course, I am disappointed that the Minister does not want to advance my amendment, but I will withdraw it at this stage and see on Report whether the Government will recognise the opportunity to stress the importance of green in brown areas. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Rachael Maskell: I beg to move amendment 169, in schedule 11, page 294, leave out lines 15 to 28 and insert

"(a) roads and other transport facilities, including routes for good quality active travel including cycling, walking and micro-mobility, parking facilities and street infrastructure including benches,

(b) flood defences,

(c) schools and other educational facilities including nurseries, play areas and family friendly areas,

(d) medical facilities including dentists, diagnostic hubs, general practices and other community spaces to address mental health and promote wellbeing,

(e) sporting and recreational facilities including youth centres and skate parks,

(f) open spaces,

(g) affordable houses,

(h) facilities and equipment for emergency and rescue services,

(i) facilities and spaces which—

(i) preserve or improve the natural environment, or

(ii) enable or facilitate enjoyment of the natural environment,

(iii) provide outdoor space for communities including allotments and forest schools,

(iv) provide flood and drought mitigation,

(j) space for energy generation

(k) space for business incubation

(l) community buildings for social, cultural, religious purposes,

(m) community facilities including post offices, cafes, libraries, support and advice centres

(n) day centres for the elderly or disabled people, including for the purposes of state-provided day or residential care."

This amendment broadens the scope of inserted section 204N(5), which defines "infrastructure" for the purposes of the Infrastructure Levy.

I appreciate being able to talk about this amendment, not least because although the schedule—I do not mean any offence—is a list of areas the infrastructure levy could be focused on, it is not a comprehensive list. Therefore, I wanted to expand on areas I think are important for the Government to consider in the planning process at this stage.

We are going through perhaps the greatest change to our economy in our lifetimes, whether that was caused by Brexit, covid or, now, the energy crisis, and none of us knows what is around the corner. As we look at planning, we need to think in a more holistic way. Many of these crises are forcing us into that space, and in many ways we have had to do that thinking, which could be positive. Therefore, in looking at the opportunities available to us, I would argue that the definitions in the schedule are too narrow and that the list should be more expansive.

It could be argued that my amendment puts down an even more expansive list but still is not comprehensive, and I will come back to that in a moment because I recognise that a number of other areas could be included. I am sure the Minister will argue that many of the things that I have listed in my amendment could easily fit into some of the points already in schedule 11. However, my amendment provides an emphasis. For instance, proposed new section 204N(3)(a) in schedule 11, which covers

"roads and other transport facilities",

sets out a car-focused future. Of course, our future should not be dependent on roads and cars. We have active travel, so we should be talking much more about cycleways and footpaths, and opportunities for micro-mobility, which we are seeing the advent of. Proposed new paragraph (a) emphasises development around a hydrocarbon future, as opposed to moving away from that.

I could talk a lot about many of the other areas. We will concur around such issues as flood defences—York is unfortunately at the top of the league for flooding—but I want to come on to such things as schools and other educational facilities. For instance, what about nurseries and play areas? We know that investment in early years is really needed. That goes beyond an educational facility; we need play areas for children. I would argue that play is education, but would that fit within the definition when we came to argue such points within our local planning systems? We need to ensure that there are family-friendly areas and areas where people can feel safe and included. Looking at expanding the definition under proposed new section 204N(3)(c) is very important.

On medical facilities, the world of medicine is changing. Diagnostic hubs are coming forward from the Government, which I very much welcome. We are seeking to get them in my constituency, and we need to think about health in a very different way than we have in the past. Medical facilities will not necessarily just be clinics or hospitals, as we have seen in the past. We are moving much more into social prescribing, particularly on mental health. When it comes to mental health and wellbeing facilities, we need to look at the most advanced place pioneering mental health work, the city of Trieste in Italy, which does not have hospitals for mental health, because people have facilities in the community. Would that be included here, or would it be seen as something very different? Again, I would argue that the brief definition in the Bill is quite outmoded within its own context.

Proposed new section 204N(3)(e) covers "sporting and recreational facilities", but what about youth centres and youth clubs? The Government brought forward a proposal to develop 300 new youth facilities, and of course we welcome them into our communities. Sadly, in York we are losing ours, but if we introduce more youth clubs and facilities where do they fit into the proposals? We know that we absolutely need them.

My amendment goes further in looking at some of the areas that we particularly need to focus on. My proposed new section 204N(3)(i) focuses on the need particularly for allotments. We have not heard much about allotments in the debate on planning, but I have been talking to the York Allotments Charitable Incorporated Organisation, which oversees our allotments. YACIO has been talking about the impact that allotments have on mental and physical health. We need to go back over 100 years, and look at New Earswick for the model regarding allotments. Many will know that New Earswick is the first garden village in the country. It is not in my constituency; it is in that of my neighbour, the hon. Member for York Outer (Julian Sturdy). It was designed for urban clearance—for moving people out of the slums and tenant homes in York into a new village—but every home was allocated an allotment. This was family housing, where people had some garden space, but also an allotment.

If we think of today and the food crisis, and the mental health challenges that we all face in our constituencies, having allotments available for families is incredible for the community and for wellbeing. In York 1,500 people are currently waiting for allotments. There is a real shortage. Being able to develop allotments through the amendment would be really good for the wellbeing of our communities and for the people waiting for them. I said that 1,500 people are waiting, but we have 1,350 allotment spaces, so some people are being told that it could be 10 years before they get an allotment. Bringing plots forward could, again, join up Government, tick lots of boxes, and make things available for our wider communities. I think that is really important. s

What the Rowntrees achieved there with their pioneering social work could have a significant impact if we think about the need. In urban spaces in particular, more and more flats and apartments are being built, but people do not have any green spaces, so where do they have the opportunity to grow their own veg? Community gardens and community allotments where there is a collective share are really important in giving people the opportunity to grow their own food. At a time when there is a food crisis, this is a step for many families in food poverty towards greater resilience. These crises are focusing our attention, and we have to think about these things in our modern age.

Turning to my proposed new section 204N(3)(j), the Government are missing a massive trick—I want to stress that this is so important. I was just listening to a BBC World Service programme, which a constituent drew to my attention, about what other countries are doing in relation to energy. It was a fascinating listen; I do not know whether the Minister heard it. Particularly in the Netherlands, but also in Scandinavia, they are making facilities for local energy production on the outskirts of areas. We are currently in an energy crisis, and we all obviously want the very best for our constituents. I notice that the energy debate has started in the main Chamber; I am sure we are all longing to see what the exact proposals are, but in Scandinavia, they allocate land to be used for energy development and production. That is renewable energy production for a local community, so there is a dependence on local energy, which of course can be built into wider networks.

It is really important that the Bill puts into the planning system those allocated opportunities for the IL to be used for future energy production. If we do not have that in the Bill, those spaces will disappear, and we will miss that opportunity. If we are looking at the opportunity presented by wind, solar and in other areas, this could be part of the solution, not only in relation to local energy prices and the costs that people are having to pay now, but also job opportunities on those sites and for future energy supplies. The fact is that other countries are ahead of us. We often focus on what is happening here in the UK, trying to get those plasters out and stretch them as far as we can, but if we look to Finland, we can see that they are instituting microgeneration and large generation of energy for their local communities. That creates a direct relationship, but it is also fantastic for the climate.

We should be thinking about future opportunities. I think it is remiss of the Government to not include those opportunities in this Bill, so I want the Minister to give this issue some thought as the Bill goes through Parliament. Obviously, it would be great to have support for that today, but if at a later stage of the Bill we can ensure that there is space for energy generation, that would be a real advance and would represent a commitment to the people that energy challenges will be addressed.

I also want to draw attention to my proposed new section 204N(3)(k), which deals with business incubation. We know where there are opportunities for investing in business growth. Often, we think about growing out housing, but we also need to build a high-skill economy with good wages for the future. We want to give our entrepreneurs opportunities; they need incubators and accelerators to grow their businesses, root them and ensure they are successful. We know the great success that comes from businesses, but they need those start-up opportunities. Again, I have been hearing about amazing projects that are building that infrastructure, but it has been because somebody has given them a peppercorn rent or they have had generosity from elsewhere. If we are building new conurbations in particular, we need to think about rooting opportunities in those areas for new businesses and ensuring they get the support that they need to grow, but getting that first building—that first step—can be incredibly challenging. I would certainly want to see that in the legislation.

That takes me to my final proposed new paragraph, although it also draws into some of the other areas. When seeing new developments, we often see a lack of opportunity to celebrate the diversity of our communities. I have been greatly concerned about that in York. Many moons ago, there was a proposal for a cultural centre that was kiboshed for whatever reason and never went forward. We do not have a cultural centre in York. We are increasingly seeing a diverse community and that is fantastic, but not places where people can congregate and socialise. We are seeing greater isolation in our communities, particularly among old people. Nine million people are lonely in our country and they do not have somewhere safe to go and meet other people. Therefore, it is important to be able to build community centres, as well as new churches, mosques and places of worship.

If we think about the old villages and towns, there was no place in the country without a church in every community—a place where the community could gather and members could have their spiritual, social and so many other needs met. Those pillars in our community were the pub and the church. I appreciate that some of those pubs have been facing many challenges, but the church still stands—those buildings still stand.

[Rachael Maskell]

We need to see those opportunities coming forward for new developments so the community's needs are met. Those things need investment. The infrastructure levy can be used to support vital community infrastructure. That is drawn out through proposed new paragraph (m), which looks at local facilities, and they can be pooled. It is possible to have a church that is a post office. I do not know whether it could be a pub as well, but it certainly could be a café. We are seeing a lot of those facilities coming together.

Where is the heart of community if we just build? We have all been to those horrific estates where there is no community centre and where there is just housing, housing, housing or flats, flats, flats, but the community is not pulled together. I have seen that in developments in York and it is horrid. People are not centred; they do not know their neighbours, they do not know anybody around them and they are increasingly isolated. As I said, 9 million people in our country experience loneliness. If we think about that wider context of where that goes because of the type of housing—increasingly flats and apartments—being built, if we do not invest in that social infrastructure as well, we are going to end up with a massive mental health and isolation challenge in the future.

12.30 pm

My final proposed new paragraph, (n), focuses on older and disabled people and ensuring there is proper provision around that social care. Again, we are talking, as Homes England would, not about just building but place making. That is essential to meet the needs of our communities. I would be encouraged to hear that the Government want a wider perspective on how we build our communities to be sustainable, connected, energised by their new energy sources and able to work as a community, as opposed to just building volumes of houses that have no soul.

Paul Scully: It has been interesting moving around some of the areas where the infrastructure levy can be used, whether for cycles, footpaths or micro-transport. The hon. Member for Greenwich and Woolwich mentioned from a sedentary position that we are going to get the good experience of York. I did not realise that we were going to have the experience of Trieste in Italy as well. It is interesting to hear about that, although I understand that in Trieste they do not have mental health provision in hospitals either because they tend to keep to people suffering with their mental health in their homes. It is a different cultural situation, but the point was taken.

The hon. Member for York Central talked about allotments. I do not want to see the community levy contributing to a dulling of good developers who want to provide community facilities as part of their place-shaping. Allotments are comparatively low cost to design and implement, but have massive social and community value. I very much understand that point. Having been the Hospitality Minister for two years, and now the Minister for Faith, I find the hon. Lady's proposal to combine those roles in the church/pub really interesting—we will see how that goes.

This is the problem with putting lists in Bills. The list is not supposed to be exhaustive and comprehensive—there are plenty of things that charging authorities can, should and will be looking at, such as those the hon. Lady has outlined. The Bill gives a starting point, but I do not think we need to go further at this stage, because the rest of the Bill gives the local authorities wide powers, allowing them to spend the levy on the infrastructure that their communities need, rather than it being imposed by us in the detail proposed by the amendment.

I reassure the hon. Lady that, should a local authority wish to spend the levy on items of infrastructure that are not expressly stated in the list in proposed new section 204N, as long as it is infrastructure in the common sense and natural meaning of the word, it will indeed be able to do that. The levy can be spent on any infrastructure that supports the development of an area, including funding the provision, improvement and replacement, operation or maintenance of infrastructure, providing that it is in accordance with the original aim of the levy as set out in proposed new section 204A.

The Bill also allows for regulations to add, remove or vary the content of the list to support infrastructure delivery through the levy if it is necessary and if any clarification is needed.

Rachael Maskell: Energy should get particular mention in a redrafting of the Bill. Other countries are further advanced; we are behind. That is a specific point, and we should see that change. Does the Minister conclude that all the other issues in the amendment would be facilitated by proposed new section 204A, as set out in that broader definition of the Bill? If that is the case, I am happy to withdraw the amendment.

Paul Scully: I do not see the need to put energy generation in the list because, absolutely, that and the other areas she raises are included. I am happy to give her that reassurance. As long as the local authority thinks something is needed, and it fits within the definition of infrastructure—I think we can agree that all the points she raises fit within that definition of infrastructure—the answer is yes.

Rachael Maskell: I am grateful to the Minister for giving way again. Just for clarity: if the authority were to bring forward a proposal for microgeneration of energy or an energy facility in order to support a local town, conurbation or whatever, that would be included, too. I made the point about energy having a separate mention in the Bill because it is such a big issue and much broader than some other areas, but would that also be covered?

Paul Scully: Yes. If the local authority thinks it is needed, then absolutely. The discourse around housing is often just about the supply of housing, but clearly energy, and energy generation of all sorts, needs to be brought into it. We need to bring in schools, hospitals and medical facilities of all types, and indeed allotments, as she said. Yes, I can give her that assurance, and ask her to withdraw the amendment.

Rachael Maskell: I have heard what the Minister has said. I will take his words as authoritative—they will be in the *Hansard* record of today's debate—and, as a result, I will withdraw my amendment. The point about energy is significant, not least if I look at the Derwenthorpe development by the Joseph Rowntree Housing Trust in

York, which has put energy and a community centre at the heart of that social/private development. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Matthew Pennycook: I beg to move amendment 165, in schedule 11, page 306, leave out from line 38 to line 2 on page 307.

This amendment would limit the circumstances under which the Secretary of State could direct a charging authority to review its charging schedule.

This amendment, much like amendments 162, 163 and 164, which we debated earlier in relation to the IL rate-setting process, is concerned with ensuring that the new levy system is genuinely local and that charging authorities are fully in control of developing its discretionary elements at a local level. It would remove proposed new section 204Y(1)(b), which provides the Secretary of State with the power to direct a charging authority to alter its charging schedule in a range of circumstances, including

"in any other circumstances that IL regulations may specify".

That is of particular concern.

Given that the Bill gives the Secretary of State the power to revise individual charging schedules at their sole discretion, with no need to justify that intervention by means of any objective evidence-based criteria, we are concerned that, as drafted, it could have significant implications. For example, it could allow a future Secretary of State to require a charging authority to amend its locally developed charging schedule as a result of lobbying by a developer, without having to provide any evidence that the levy as implemented in the area in question is impairing viability and frustrating development.

We believe that this amendment is necessary to ensure that the Secretary of State cannot direct a charging authority to alter its charging schedule merely due to the passage of time or any other circumstances they see fit, given that the only justified rationale for an intervention from Ministers in relation to a charging schedule—namely, its impact on viability—is already covered by subsection (1). I look forward to the Minister's response.

Paul Scully: Proposed new section 204Y(1)(b) enables the Government to require an authority to review—not necessarily alter—its levy charging schedule if a significant amount of time has passed since its last issuing, review, revision or replacement. Proposed new section 204Y(1)(c) enables the Government to require a review in any other circumstances as may be specified through regulations. It is important to have a power to direct a review to be undertaken after a significant period has elapsed since the schedule was put in place or revised. That is because there may be occasions when a schedule has been in place for many years without a proper review, and so is not up to date.

The levy will be a mandatory charge, and for many local authorities operating a levy on new developments it will be a novel means to capture land value. Monitoring and reviewing charging schedules will therefore be important, especially for authorities that are unaccustomed to charging a levy. That is why we want levy charging rates to be reviewed on a timely basis. We will issue guidance on what that might reasonably mean in terms of time and circumstances. I hope that provides reassurance, including for communities and developers, that the rates remain appropriate. We want to make sure the approach is balanced.

Historically, local planning authorities have not always reviewed and updated key documents, such as local plans, in a timely fashion, which is why it is appropriate to take this power to direct a charging authority to issue, review, revise or replace. Furthermore, it is entirely consistent for the Bill to secure timely reviews of charging schedules and to require that local authorities introduce a charging schedule in the first place. Levy charging schedules are underpinned by evidence on local economic circumstances and viability. Reviews either provide confidence that the charging schedule remains appropriate or starts a process of revision if they are considered not to be.

We also consider it important to have the power to regulate for any other circumstances in which the Government may want to direct that a review be undertaken, such as if a new local plan is issued soon after the publication of a charging schedule. Any further circumstances identified will be introduced through affirmative regulations, and so will be laid before this House and debated and approved here. With that clarification, I hope the hon. Gentleman will agree to withdraw the amendment.

12.45 pm

Matthew Pennycook: I appreciate that response from the Minister. I am partly reassured, and I note the point that he made about the use of "review" as opposed to directly "revise" in terms of the power available to the Secretary of State. I also note what the Minister said about the forthcoming guidance. I remain slightly concerned about how broadly defined line 2 of page 307 is, in that it does allow the Secretary of State to call for that review on the basis of anything that might come forward in future regulation, subject only to the affirmative procedure. We all know the limitations of that.

I am not going to press the amendment to a Division, but I hope the Government will reflect on the Opposition's concerns about the ability in the Bill, as presently drafted, for the Secretary of State to intervene in a number of ways that should be the preserve of local charging authorities. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Matthew Pennycook: I beg to move amendment 166, in schedule 11, page 308, leave out line 25.

This amendment would prevent IL regulations making unspecified provision about how powers under section 106 of TCPA 1990 (planning obligations) are used.

The Committee will be relieved to hear that this is the last of our amendments on the infrastructure levy. It relates to the interaction of the infrastructure levy with other existing powers. As drafted, proposed new section 204Z1(1) in schedule 11 provides for future IL regulations to make unspecified provisions about how a range of existing powers, including CIL and section 106 planning obligations, are to be used or not used.

Our specific concern relates to the application of those broad powers to the use of section 106 agreements. While we appreciate fully that there are circumstances where the use of section 106 will have to be limited—for example, to avoid double charging a development for the same infrastructure item—we feel strongly, for reasons that I went into in exhaustive detail on Tuesday in relation

[Matthew Pennycook]

to that part of the Bill in the round, that section 106 agreements have a crucial role to play in ensuring we secure sufficient levels of affordable housing. We are concerned that proposed new subsection (1) could be used to unduly restrict their use.

By deleting line 25 from page 208, amendment 166 simply seeks to ensure that future IL regulations cannot make unspecified provisions about how section 106 agreements are used once the levy system is operational. I hope the Minster will seriously consider accepting the amendment. If not, I feel that we need, at a minimum, far greater clarity about the precise circumstances in which the Government expect to have to restrict section 106 of the Town and Country Planning Act 1990.

Paul Scully: Proposed new section 204Z1 in schedule 11 enables the Secretary of State to prescribe how certain powers are to be used or not. As we have heard, proposed new subsection (1)(c) enables the Secretary of State to prescribe how section 106 applications may or may not be used alongside the levy. That power has been used previously to make provision under the community infrastructure levy regulations to ensure that section 106 obligations are necessary in planning terms, directly related to the development, and fair and reasonably related to the scale and kind of development.

We need to be able to continue to ensure, under the new system, that section 106 obligations are used in ways that are appropriate, necessary and fair. We need to be able to delineate between matters that should be funded by the levy, and contributions to infrastructure or mitigation that should be secured by the more narrowly focused section 106 agreement. That means that developers will know that they will receive consistent treatment across different local authorities.

Removing section 106 from the list of powers will mean that the Secretary of State is unable to provide clear, coherent and consistent boundaries between what the levy should be used for, and what section 106 agreements can and cannot be used for. That would remove a key provision that will provide for coherence across the levy and the planning obligations regime. It is important to remember that the levy will take most of that. It will be more complicated, niche or bespoke schemes for which section 106 will remain. That coherence is why we want to keep that power and consistency. For that reason, I hope the hon. Member for Greenwich and Woolwich will withdraw the amendment.

Matthew Pennycook: That is a welcome additional clarification from the Minister, and I do not want to rehearse the previous debates that we have had. As I set out at length, we believe that the infrastructure levy should be discretionary and that, if it is not discretionary, affordable housing should not be within scope, so we remain concerned about the ability of this power to restrict how section 106 agreements are used. However, I will not press the amendment to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 11, as amended, agreed to.

Clause 114

POWER TO DESIGNATE HOMES AND COMMUNITIES AGENCY AS A CHARGING AUTHORITY

Question proposed, That the clause stand part of the Bill.

Matthew Pennycook: I have a question relating to clause stand part. The Homes and Communities Agency, which operates under the trading name of Homes England, can already be designated as a local planning authority under the Housing and Regeneration Act 2008. The clause amends section 14 of the Act to provide that, if a designation order is made under section 13 to designate the HCA as a local planning authority for all or part of a designated area, the designation order may also make provision for the HCA to be the IL charging authority for all or part of the designated area.

The current situation with CIL is that the Homes and Communities Agency, urban development corporations and enterprise zone authorities can also be collecting authorities for development where they grant permission, but only if the relevant charging authority agrees. It would appear that the new provision in the clause allows Homes England to be a charging authority for the area where it acts as the planning authority, without the need for agreement from the local planning authority, as is currently the case with CIL.

Given the circumstances, I am more than happy for the Minister or his successor to respond to me in writing at a later date, but I would be grateful if he could explain the rationale behind the change of approach, what engagement and consultation Homes England will be required to carry out with other relevant local bodies in the absence of an explicit agreement to exercise the relevant powers, and what processes Homes England will use to decide how IL should be spent in that area.

Paul Scully: I will write to the hon. Gentleman with further details. As he rightly says, the clause is designed purely to act as a framework for having Homes England become a charging authority as well as a local planning authority. That power has not be exercised to date, but if it were, Homes England could become a charging authority. It is important to have the power in order to allow the Homes and Communities Agency to become the charging authority as well as the local planning authority, and to specify the purpose and kinds of development. Without the clause, the levy may not be able to function effectively in areas where the Homes and Communities Agency may be designated as the local planning authority. I commend the clause to the Committee, and I am happy to write to the hon. Gentleman with further details, should he require them.

Question put and agreed to.

Clause 114 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(Gareth Johnson.)*

12.53 pm

Adjourned till this day at Two o'clock.