PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

LEVELLING-UP AND REGENERATION BILL

Thirteenth Sitting

Tuesday 12 July 2022

(Afternoon)

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not later than

Saturday 16 July 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)
† Jones, Mr Marcus *(Minister of State, Department for Levelling Up, Housing and Communities)*
† 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)
† Smith, Greg *(Buckingham)* (Con)
† Vickers, Matt *(Stockton South)* (Con)

Bethan Harding, Adam Mellows-Facer, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 12 July 2022

(Afternoon)

[Sir Mark Hendrick *in the Chair*]

Levelling-up and Regeneration Bill

2 pm

The Chair: The usual rules and conventions on food and drink apply. Water is obviously acceptable. You have already been given permission to remove your jackets.

Clause 75

Power in relation to the processing of planning data

Tim Farron (Westmorland and Lonsdale) (LD): I beg to move amendment 118, in clause 75, page 85, line 9, at end insert—

"(1A) Regulations under this Chapter may require relevant planning authorities to process data in accordance with approved data standards relating to the number and nature of—

(a) second homes, and

(b) holiday let properties

in the planning authority area.".

This amendment would enable planning data regulations to provide for the collection of data to national standards about second homes and holiday lets.

The amendment seeks to aid transparency and therefore accountability on some of the issues that the Committee has already discussed regarding the number of homes that are not used for permanent dwelling.

I could give the Committee various statistics on excessive second home ownership and holiday lets. For example, estate agents in Cumbria tell me that up to 80% of all house sales since the pandemic began, two and a bit years ago, have been in the second homes market. In one year, from June 2020 to June 2021, there was a 32% rise in the number of holiday lets in the district of South Lakeland. Hon. Members can imagine the number of holiday lets that existed to start with in a district that includes the biggest chunk of the Lake district and a large chunk of the Yorkshire dales; 32% is a huge number. Across England, there has been a 50% reduction in the number of long-term rental properties available. Outside London, there has been an 11% rise in rents; in London, the increase is nearly double that.

All those figures come from local councils, housing charities and research I have carried out myself; none of it comes from central Government sources. The amendment would ensure that there is a real sense of the scale of the problem. I feel it and I know it, from talking to people in my constituency. From Grasmere to Garsdale, from Coniston to Arnside, every community is suffering a haemorrhaging of its working-age population. They have experienced that for years, but in the last two years the situation has been especially awful.

What do we need to know? What are we looking for? Someone who owns a second property that they rent out for 70 days a year counts as a small business, which means they do not pay council tax and they do not pay business rates either. I can think of thousands of homes in my constituency where someone who is, by definition, comfortable—to say the very least—is being subsidised by people working every hour God sends, with two, three or four different jobs, often on minimum wage. Those hard-working people are subsidising second home owners, who do not have to pay any kind of tax whatsoever, either to the Government or to the local authority, on their dwelling, and that is not on. It is not right and we must do everything we can to prevent it.

We can dig down, via various routes, to get the number of holiday lets, give or take, but we do not know anything about second homes—for a slightly good reason. After a Liberal Democrat by-election win in Ribble Valley in 1992, Mr Major abolished the poll tax and introduced the council tax, and gave 50% relief—a subsidy—to anyone with a second home. The Labour Government between 1997 and 2010 reduced that to just a 10% subsidy, so people had to pay 90%. The coalition got rid of the subsidy altogether, so now, in most authorities, second home owners pay full council tax. As a result, there is no incentive to register a home as a second home, so we just do not know; broadly speaking, the information we have is anecdotal.

The purpose of the amendment is to make sure that we know formally the scale of the problem, so that the Government can be held to account and we can take action to alleviate the problem, in order to ensure that there are homes for the permanent populations of our communities.

Matthew Pennycook (Greenwich and Woolwich) (Lab): It is a pleasure to serve with you in the Chair, Sir Mark. I take the opportunity to echo the sentiments expressed by my hon. Friend the Member for Nottingham North in warmly welcoming the new Ministers to their places and in thanking their predecessors—the Minister of State, Ministry of Justice, the right hon. Member for Pudsey (Stuart Andrew), and the hon. Member for Harborough (Neil O'Brien)—for the constructive way in which they engaged with us and the thoughtful manner in which they approached the consideration of the Bill. On the basis of this morning's proceedings, I am confident that we will continue in that vein.

Turning to amendment 118, the hon. Member for Westmorland and Lonsdale is a doughty champion for his constituents on this issue. He will know from previous debates in the House on this subject that we are in complete agreement that the Government need urgently to commit to far bolder action. It is not in dispute that a balance needs to be struck when it comes to second homes and short-term holiday lets; no one is arguing that they are of no benefit to local economies, but the potential benefits associated with them must continually be weighed against their impacts on local people.

At present, the experience of a great many rural, coastal and, indeed, urban communities makes it clear that the Government have not got the balance right. The problem is not second homes and short-term holiday lets per se; as the hon. Member for Westmorland and Lonsdale said, it is excessive numbers of them in a given locality. While individual hon. Members will have a

clear sense of the communities in their constituencies that are affected by this problem, the hon. Gentleman is absolutely right to highlight with the amendment the fact that we do not know the precise number of second homes and holiday lets across the country, or their distribution.

Members have heard me say this before, but council tax records are likely to significantly undercount second homes, both because there is no financial incentive to register a property in areas where a council tax discount is no longer offered, and because second home owners can still avoid council tax altogether by claiming that their properties have moved from domestic to non-domestic use.

The estimates of second home ownership produced by the English housing survey are more reliable, but even they are based on a relatively small sample and rely on respondents understanding precisely what is meant by a second home and accurately reporting their situation. Similar limitations apply to short-term lettings. There is no single definitive source of data on rates for what is, after all, an incredibly diverse sector, with providers offering accommodation across multiple platforms.

It therefore strikes us as entirely logical that as well as considering what more might be done to mitigate the negative impact of excessive rates of second home ownership and short-term and holiday lets, the Government should consider whether digitisation of the planning system could allow us to better capture data on overall rates and provide a better sense of which parts of the country face the most acute challenges. We therefore very much support amendment 118, and we hope the Minister will give it serious consideration.

Rachael Maskell (York Central) (Lab/Co-op): I, too, support the amendment. Data is key to everything: we cannot make good, informed, evidence-based decisions unless we have data before us. In my community, I have seen my boundaries change because of the number of empty properties and people not registering. I have seen a real change street by street as well as community by community. Second homes, commuter homes and holiday homes are taking over residential properties, which my local residents cannot afford to live in any more due to the lack of supply. As a result, they are having to move out of my city. We have to look at this extraction economy through the eyes of the people it impacts the most, and collecting data is absolutely key to that.

There is another reason I think data is really important. The Government are driving their whole housing policy through numbers. They are saying, "We are going to build x units in each of these locations across the country." We have heard hon. Members in various debates discuss whether those levels are right, but if those housing units simply become empty units, second homes or holiday lets, that will not resolve the housing crisis we are dealing with. It will not add to our communities or make a difference to them. It will not have an impact on Government targets for addressing the housing crisis. It is essential that we can identify the issue in the detail it deserves, not just in whole areas but drilling down to understand what is happening in different parts of the community.

In York, we have around 2,000 Airbnbs—last time I checked, the number was 1,999. The vast majority are concentrated in my constituency of York Central. I can name the streets where those properties are. The number of homes is increasing in those areas. We will go on to talk about measures that the Government can introduce—measures that I very much hope they will introduce—to address this serious problem, which is sucking the life out of our community. If we have up to 350,000 Airbnbs nationally, what does that mean for Government targets for house building? How are they going to say they are building additional homes when we are seeing that sharp increase in Airbnbs, second homes and so on?

The Government need the data to drive their own housing policy and to ensure that they are delivering on their targets for improving the housing situation, rather than just watching it get worse while they busily tick boxes and say, "We are delivering, delivering, delivering," when it is not making a scrap of difference on the ground. That is the feeling in my community. I welcome the amendment. It is a helpful start and a helpful guide to the Government about some of the considerations they should be taking into account in the planning system.

The Minister of State, Department for Levelling Up, Housing and Communities (Mr Marcus Jones): I thank the hon. Member for Greenwich and Woolwich for his kind welcome and good wishes. I look forward to working with him across the Dispatch Box, in a reasonable and constructive way.

We spoke at length earlier about second homes, which I suspect will be a running theme for the Committee. We talked about the importance of addressing the issues that can be caused by second homes and holiday lets in an area. I want to focus on why the amendment is not needed.

We acknowledge the importance of data on holiday lets for supporting tourism and manging the impacts on local communities. However, I believe that there may have been some misrepresentation of the intent of clause 75. The clause aims to require planning authorities to process their planning data in accordance with approved data standards, whereas the amendment seeks to regulate for the collection of data by planning authorities. Nothing in the clause can require the collection of data by planning authorities.

Having said that, let me add a point of reassurance: where planning authorities have holiday let data, subsection (2)(b) provides the ability for data standards to be set for it. The amendment tabled by the hon. Member for Westmorland and Lonsdale is not necessary to achieve his intention. Regulations will specify which planning data can be made subject to data standards and require planning authorities to comply with those standards once created.

We will turn to the substance of second homes and short-term let policy in due course. We take the concerns raised by the hon. Member for Westmorland and Lonsdale seriously. I hope that I have provided sufficient reassurance at this point to allow him to withdraw his amendment.

Tim Farron: I will not press the amendment to a vote at this point, but I may bring the measure back later in another guise. I am very grateful that the Minister has accepted the need for this data, so that decisions can be made and otherwise.

As I and other hon. Members said earlier, the existence of second homes and holiday lets is not, by any means, an unalloyed bad. The holiday let market, in particular,

[Tim Farron]

is crucial to the economy and the hospitality and tourism industry in Cumbria, which is worth £3.5 billion a year and employs 60,000 people, but we have to get the balance right. There is not a lot of point in having holiday cottages where people go on holiday but find they cannot get a bite to eat, because it turns out that their holiday cottage was the chef's house last year, and they have been evicted and the balance is all wrong.

One assumes that, if the Government were to accept further amendments that might be proposed later, there would be powers available to local authorities to restrict the number of second homes or holiday lets in a community. We would not want to do that carte blanche; it would have to be done on the basis of information. We might decide that up to 20% of a community could be second homes. How would we know whether that was the case and be able to make a judgment, unless the data were available?

I will not press the amendment to a vote now, and I am grateful for the Minister's remarks. It is important that we make decisions to save our communities based on the reality of the situation out there. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

2.15 pm

Matthew Pennycook: I beg to move amendment 65, in clause 75, page 85, line 14, leave out paragraph (b).

This amendment would prevent the Government from using the powers in this Chapter for information other than that provided or processed by a planning authority under a relevant planning enactment.

Having had just over four productive and, I am sure the Committee will agree, stimulating days of line-by-line consideration of parts 1 and 2 of the Bill relating to levelling up, local democracy and devolution, we now turn to the first of the Bill's parts on planning. As my hon. Friend the Member for Nottingham North remarked during, I think, our second session, in practice this is not wholly, or even largely, a levelling-up Bill. Indeed, I would even go so far as to describe the legislation before us as essentially a planning Bill in all but name, albeit in a shiny but ultimately flimsy levelling-up wrapper.

To the extent that this is essentially a planning Bill, it is, as hon. Members are aware, a far different beast from the legislation the Government had in mind when they published the "Planning for the future" White Paper in August 2020. The remnants of that White Paper that have found their way into this Bill, augmented with several new initiatives of varying quality, amount collectively to a rather modest set of proposals that we fear fall far short of the kind of reform that is required to meet the multiple challenges we face as a country.

Some of the planning provisions in the Bill are extremely controversial, and we will consider several of those in the hours and days that remain before the summer recess. Others are less so, and chapter 1 of part 3, which we are now considering, falls squarely in the latter category.

The clauses in chapter 1 seek to digitise the planning system, with the objectives of raising standards across planning authorities, facilitating cross-boundary engagement—particularly around infrastructure by better enabling the comparison of planning information—and, perhaps most importantly, making it easier for members of the public to access and easily comprehend information about specific local planning matters. This represents a real step forward, and I want to make it clear at the outset of the Committee's consideration of clauses 75 to 81 that we strongly support in principle the digitisation of the planning system.

As Dr Hugh Ellis rightly put it to the Committee in our final oral evidence session:

"There are some very archaic practices in the planning process".—[*Official Report, Levelling-up and Regeneration Public Bill Committee,* 23 June 2022; c. 125, Q157.]

As things stand, the planning system is overwhelmingly reliant on outdated software that places a considerable burden on the sector. Often, progress on local planning matters is almost entirely reliant on individual council planning officers and their familiarity with a particular scheme, rather than transparent and accessible information that can be drawn upon by all. Given that the systems in planning authorities more often than not sit on separate platforms, they frequently prevent cross-referencing of data by other council staff and local councillors. More generally, the planning process is too heavily reliant on documents rather than data, and this has a direct impact on the speed and quality of decisions.

Provision for public interaction with the planning system can, in many cases, appear to have been designed to actively discourage engagement, as anyone who has tried to analyse a local plan map will know. Even in cases where online access to information is possible through local authority portals, the data available is often inconsistent, confusing, and a barrier to community participation.

If any hon. Member has had to trawl their local council's website to find information on a given planning application—I have, many times—they will know that documents often come in the form of hundreds if not thousands of pages of material spread across multiple PDFs, putting off anyone other than committed souls determined for one reason or another to trawl through reams of uploaded documentation to try to understand precisely what changes are being proposed in their local area. In short, there is an unarguable case to upgrade the technology that underpins the planning system in England. Doing so would have myriad benefits.

Perhaps most importantly, digitisation could go a long way to boosting engagement in local planning matters, particularly at the local plan phase, incentivising residents who, as things stand, would not dream of involving themselves in a planning matter. As Tony Burton from Neighbourhood Planners London put it to the Committee in oral evidence relating to local and neighbourhood plans,

"we would point to the opportunities it presents around new, complementary forms of community engagement…and more effective ways of pooling and analysing the evidence that is required".—[*Official Report, Levelling-up and Regeneration Public Bill Committee,* 23 June 2022; c. 80, Q107.]

A digitised and integrated system would make it easier to find and search through the detail of a given application, and to see associated data and drawings, and it could well facilitate opportunities to directly interact or submit feedback. New interactive digital services and tools could even allow members of the public to submit their own ideas or take part in discussions

and design workshops at an early stage of a proposal, and to explore different site distributions, massing and densities themselves.

Digitisation could also deliver huge benefits for the development and distribution of local plans. If done well, the roll-out of, for example, 3D model platforms could support the creation of local plans by changing the way councils visualise and make assessments of their localities, as well as aiding the monitoring of their delivery. Similarly, making local plans digitally available and interactive across England could help standardise processes and offer greater accessibility, collaboration and community engagement.

I add a small caveat at this point, in that the clauses in chapter 1 really cover only how data will processed and standardised. The Bill contains no indication of how the Government see consultation and decision-making processes being opened up to a more diverse audience as a result of digital technologies. I hope the Minister will give us a sense of the Department's thinking in that respect, on issues such as digital mapping, when he responds.

However, that the clauses in this chapter present such opportunities is undeniable. That said, we are firmly of the view that a series of safeguards are necessary to ensure that the digitisation of the planning system does not have adverse consequences, intended or otherwise, and amendment 65, along with amendments 66, 67 and 68, seeks to provide some of those safeguards.

The particular concern that amendment 65 is intended to address is the potential for the broad powers provided by clause 75—to regulate the processing of planning data—to be used as a surreptitious way of prescribing the length, layout and content of local and neighbourhood plans. That concern arises in part from the ways in which the Bill, in other places, centralises the planning system by effectively downgrading the status and the scope of local planning—a theme will we return to many times over the course of this Committee's life.

Given our concern that the powers in clause 75 give scope for excessive central control of local development plan formulation, we believe it is essential that the Bill clarifies that the powers are to be utilised only for the purposes of technical data handling and processing—hence the suggested removal of the broad language in subsection (2)(b) specifying that planning data can mean any information provided to, or processed by, the authority

"for any other purpose relating to planning or development in England".

The key point here is the need for the Bill to better define what functions can be regulated by the powers set out in this clause.

Binding "approved data standards" applied to a limited range of technical functions, such as standardising contributions to the preparation of a local plan or how local plans are made accessible, is all to the good and will aid access, engagement and cross-boundary comparison. However, if not more tightly circumscribed on the face of the Bill than at present, our concern is that the proposed regulation of the processing and provision of planning data may, inadvertently or otherwise, enable the central imposition of what can and cannot be in a local or neighbourhood plan.

I appreciate the distinction is a subtle one, but I hope the Minister understands the concern we are trying to highlight. I also hope he will accept the amendment or, if not, at least provide the Committee with robust assurances that the powers in this clause will only ever be used for the narrow purpose of regulating the handling of technical data, rather than in any way dictating the form of local plans.

Mr Jones: I understand and share the desire to ensure that the information in scope of these new powers is proportionate and focuses on digitising the planning system.

Amendment 65 gets to the heart of our digital reforms—how we define planning data—and would narrow that definition. I fear, however, that the amendment underestimates the breadth of information upon which planning authorities rely. It is important to remember that these powers are designed to underpin the entirety of the planning system. We need to encompass information that will support plan making with interactive map-based plans; the flow of information, such as from the heritage sector, to planning authorities; and accessible environmental outcomes monitoring and reports.

As such, information relevant to planning may not in fact arise from a planning enactment. For example, it may come from activities of local authorities under their general power of competence or from information provided or used by that authority for the purposes of other legislation, such as the Local Government Finance Act 1992. Equally it may come voluntarily from other public sector organisations or from private companies and individuals for purposes that are not clearly related to a statutory planning function. We want to ensure that we do not accidentally exclude any of that valuable information from being made even more valuable to planning authorities and others as a result of our reforms.

As we will cover in subsequent clauses, there are underlying safeguards to protect all the information from inappropriate use. That includes protecting against inconsistency with data protection legislation. Equally, as I am sure we will discuss, our continuing pilot work with planning authorities will ensure that data standardisation can be implemented by them.

We will consult to ensure that we hear a diverse range of voices on how this part of the Bill is put into guidance. We will produce new guidance on community engagement in planning, which will describe different ways in which communities can get involved and highlight best practice.

The hon. Gentleman had some concerns about what is covered in a local or neighbourhood plan. The intent of creating the data standards is to ensure that local and neighbourhood plans can contain more information in a standardised format for the benefit of their communities. Data standards will be introduced gradually, and local authorities will not be prevented from using planning data where standards are yet to be introduced.

I hope the hon. Gentleman is reassured that amendment 65 is not required, and I would be grateful if he withdrew it.

Matthew Pennycook: I am grateful to the Minister for that response. I think the best way to put it would be that I am slightly reassured, but not wholly reassured. I welcome what he said about the recognition that the powers need to be used proportionately. I welcome the clarity on the intent. What I did not hear was a cast-iron guarantee that the powers will not, inadvertently or

[Matthew Pennycook]

advertently, in any way end up constraining the length, layout and content of local development plans. Therefore, we still think and are concerned that they could be used to do such. While I will not be pressing the amendment to a vote, this is an issue that relates to our wider concerns about the status and scope of local planning, which we will come back to. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Mr Jones: The planning system currently relies on information presented in various formats and contained in lengthy PDF documents from which it is hard to extract. Local plans alone can be hundreds of pages long. As the hon. Gentleman said, they can contain dozens and dozens of PDF files, which are difficult for experts to navigate, let alone members of the public.

This clause is the foundation for changing the way planning authorities hold and present their planning information, moving the planning system from being document based to being data driven. The clause does this in a manner that allows the planning system to keep pace with the innovation we hope to promote. The clause grants the Secretary of State the power to specify in regulations which planning information must meet set data standards.

I know that some are concerned that the data standards will outstrip the ability of planning authorities to meet them. I therefore want to reassure the Committee that the very reason for the approach I have just set out is to allow us to bring information into scope as it is ready. We will proceed incrementally and take into account planning authorities' capabilities and innovation in property technology. I hope that reassures the Committee on that point.

In order to reduce the burden on planning authorities, clause 76 gives them the power to require those submitting planning data to do so in accordance with new planning data standards. In addition to enabling information in the planning system to flow freely, following that approach will help authorities perform their crucial role more effectively, with more ability to compare and co-ordinate with other authorities; will empower more local people to engage with planning, with better tools to support them in meaningfully shaping their areas; and will drive private sector innovation, improving the efficiency of the housing market as well as the planning system.

In summary, the clause begins the modernisation of the planning system, creating accessible, reusable data to the benefit of planning authorities, communities, central Government, developers and the wider private sector. I commend it to the Committee.

2.30 pm

Matthew Pennycook: I will be brief, but I have some questions for the Minister. Clause 76(1) allows planning authorities, by published notice, to require a person to provide them with planning data that complies with an approved standard that is applicable to the data. Subsection (4) allows planning authorities to reject all or any parts of planning data from a person if they fail to comply with the requirements under subsection (1). Subsection (5) requires that planning authorities must serve the person with a notice by writing to inform them of any such decision, specifying which aspects of planning data have been rejected.

The two examples in the explanatory notes accompanying the Bill relate, respectively, to local plan creation and the identification of conservation areas nationally, rather than to individual planning applications. Given that the aim of this chapter is the creation of a data-led planning system, as the Minister said, and that the White Paper specifically referenced the intention to create a

"national data standard for smaller applications",

it strikes me that there is a need for clarity over what "data not documents" means for individual households in the context of clause 76.

As such, I would simply like to get a sense from the Minister of what impact he believes these provisions will have on households seeking planning permission for projects such as extensions and conservatories, or garage and loft conversions. Specifically—this relates to a point that I will return to when speaking to amendment 66 to clause 77—what does the Department have planned, if anything, to ensure that residents making such applications who may lack the requisite digital skills or access to the internet are provided with appropriate support? Is any element of discretion provided, or other means of assisting such people?

Mr Jones: I thank the hon. Gentleman for his questions. With regard to that last one, we will probably discuss that as we go through the next few clauses. However, there is no intent to exclude those who do not have the ability to use digital equipment—those we consider to be digitally excluded. I hope that I can reassure the hon. Gentleman on that as we deal with further clauses.

Question put and agreed to.

Clause 75 accordingly ordered to stand part of the Bill.

Clause 76

Power in relation to the provision of planning data

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

Mr Jones: Too often planning information is hard to use for all the purposes it should serve. The clause helps to address that problem.

The large amount of information received by planning authorities often comes to them requiring manual intervention to make it usable. Re-entry is then required to use that information later in the system. That is bureaucracy at its worst, actively detracting from the ability of planning authorities to perform their core role, taking time and resources away from the decisions that matter to communities.

The clause works to achieve three effects. First, it works with clause 75 to ensure that complying with data standards does not create a new bureaucratic burden for planning authorities receiving information and then having to render it compliant. Secondly, it gives planning authorities the power to require information in a manner

that best suits their systems and the data standards to which they are subject. Thirdly, it protects against the risk that some may attempt to use the requirements under clause 75 to inconvenience authorities' decision making by deliberately submitting information in a problematic format that is difficult to extract.

The clause also sets out the process that planning authorities must follow to exercise their powers. Planning authorities will be required to publish a notice on their website or through specific communications to inform participants about what planning data will be subject to data standards when it is submitted to a planning authority. If the data fails to comply, a notice must be served specifying the reasons for rejection.

I will touch briefly on the power of planning authorities to refuse information as non-compliant. Planning authorities are not obliged to refuse non-compliant information, although for the reasons that I have outlined we expect them to accept such information only exceptionally. The Committee will see that information cannot be refused where the provider has a reasonable excuse. That is to protect those who, for whatever reason, cannot use the means of submission stipulated by a planning authority or cannot comply with the data standards in the submission. In that way, planning authorities will be under a duty to accept and fully consider such information. Those with a reasonable excuse will not therefore be disadvantaged.

Where authorities refuse information, the clause provides them with discretion to accept a complaint resubmission, although again there is no general expectation that they should do so. The result of the clause will therefore be that, by default, the information received will be usable for all purposes to which planning authorities need it to be put. That will make their work faster and easier and will allow them to focus on planning rather than data entry.

Question put and agreed to.

Clause 76 accordingly ordered to stand part of the Bill.

Clause 77

Power to require certain planning data to be made publicly available

Matthew Pennycook: I beg to move amendment 66, in clause 77, page 87, line 3, at end insert—

> "(4) On the day any regulations under this section are laid before Parliament the Secretary of State must publish an accompanying statement explaining the steps that the Government has taken to ensure that the regulations do not exacerbate digital exclusion."

This amendment would require the Secretary of State to publish a statement explaining how the provisions in this Chapter do not exacerbate digital exclusion.

As we discussed in relation to development plans, Labour believes that a series of safeguards are necessary to ensure that the digitisation of the planning system does not have adverse consequences. One of the most adverse consequences that could arise from digitising the present system—we have already touched on it—is of course the exacerbation of digital exclusion, which several of the witnesses who gave oral evidence to the Committee highlighted as a concern. Digital exclusion is already a serious problem and one that does not simply affect a minority of the population. The Office for National Statistics estimates that 7.8% of UK adults have either never used the internet or last used it more than three months ago—that is 4.2 million people. The amendment seeks to address the digital divide in the context of the planning system.

When we discuss digital exclusion in the context of the Bill, it warrants saying, as my hon. Friend the Member for York Central did, that a democratic planning system that takes seriously the right of communities to be heard and to participate effectively in every aspect of development plan formulation can never be entirely digital. As Dr Hugh Ellis told the Committee:

> "We can have as much digital information as we like, but we also need access to the arenas where decisions are made"."—[*Official Report, Levelling-up and Regeneration Public Bill Committee,* 23 June 2022; c. 126, Q157.]

I make that point simply to stress that meaningful engagement with the planning process requires in-person access to key decision-making forums, and the Bill erodes that right in important respects. That is why we will seek to amend clauses 82 to 84 and schedule 7 in due course.

When it comes to planning data, it is evidently not the case that everyone will be able to access information digitally even once it has become more accessible, as the Bill intends. For some people, that might be because they are digitally literate but do not have the proper means to engage with online data, and that concern was raised by Jonathan Owen, the chief executive of the National Association of Local Councils, in his evidence to the Committee, who suggested the potential need for capital investment to enable remote communities such as his own to engage with online material. Otherwise, it might simply be because a small but significant proportion of the population would not be able to engage with online data even if they had the means of accessing it.

In short, digital exclusion is not merely about whether people can access the internet but about their ability to use it, and a small but significant proportion of the population struggle to do so. The most recent UK consumer digital index published by Lloyds bank estimates that 21% of adults—11 million people—do not have the essential digital skills needed for day-to-day life.

Rachael Maskell: I am grateful to my hon. Friend for making this point. It is so important that we ensure that the planning process is accessible to everyone. The all-party parliamentary group on ageing and older people carried out a mini inquiry into the issue of digital exclusion. Its findings show that being able to access the planning process will be excluded from so many people. Does my hon. Friend agree that this is so important because often it is older people, who have slightly more time available to them—we all recognise that from our own constituencies—who do the heavy lifting on planning for everyone else in their community? If they cannot access those planning documents and the data, that will have an impact on their whole community's ability to access the planning system.

Matthew Pennycook: I very much agree that, potentially, some of the proposed reforms could exclude those on whom we rely most in our communities to engage with the planning process. My hon. Friend also touches on the wider point that digital exclusion is inextricably

[Matthew Pennycook]

linked to wider inequalities in our society. It is more likely to be faced by those on low incomes, disabled people and, as she said, people over the age of 65. Indeed, so close is the link between digital exclusion and other facets of poverty that it has been argued that it should be considered a key index of deprivation.

Evidence collected by the Local Government Association found that when the pandemic struck, only 51% of households earning between £6,000 and £10,000 a year had access to the internet, compared with 99% of households with an income of over £40,000. Even when poorer households had access to equipment and the internet, they were less likely to have the skills to utilise it. Clearly, to the extent that the pandemic drove many aspects of life online in ways that appear to have stuck, albeit in many instances in a hybrid form, the problem of digital exclusion has correspondingly become more acute.

I fully appreciate that the challenge posed by digital exclusion extends far beyond the issue of access to and engagement with the planning system in England. I am also fully aware that there are a range of policy initiatives beyond the remit of the Department for Levelling Up, Housing and Communities that have been put in place to address the problem—for example, funding for adults to gain a first qualification in essential digital skills. Although, as you might expect, Sir Mark, we would urge the Government to do far more to reduce the prevalence of digital exclusion. However, in the context of the Bill, the fact that digitisation of the planning system is a key feature of it, and the rationale for that is in part boosting engagement and participation, we believe that the Government need to address digital exclusion explicitly. We believe that they should do so in two ways.

First, there should be an explicit recognition that digitisation should enhance more traditional ways of communicating with the public about local planning matters, rather than replacing them entirely. Even if digitisation of the planning system proceeds apace, many people will still want and need practical help and support with understanding and engaging with the system. Simply being furnished with the opportunity to access vast quantities of data online is unlikely on its own to encourage more people to get involved in local planning. Given the chronic lack of capacity within local planning authorities, peer-to-peer, face-to-face support is extremely challenging. But established formats for communication, such as site notices, which were referenced earlier, have a role to play. We believe that they should not necessarily be removed as requirements from the system.

Secondly, there needs to be a focus on ensuring that digitisation is as inclusive as possible. In the context of clause 77 and the other related clauses, that means a focus on ensuring that planning services, data and tools are accessible to all, including those without the confidence or skills to use digital. Amendment 66 is designed to force the Government to engage more directly with those issues, and it does so simply by specifying that on the day any regulations under the section are laid before Parliament requiring certain planning data to be made publicly available, the Secretary of State also publishes a statement on how the provisions do not exacerbate digital exclusion.

I appreciate that this is not the most elegantly crafted amendment, but the issue it seeks to tackle is a real one, and the need to do so is pressing if the Government are serious about making the planning system accessible to as many members of society as possible. As such, I hope that it will elicit from the Minister a clear response, and that the digitisation that the Bill will facilitate will not exacerbate digital exclusion. I hope that by implementing new data standards reporting requirements and transparency measures in the Bill, Ministers will be actively working to adhere to digital best practice and ensure that digital planning tools are built and designed to be easy to use for all, regardless of age or accessibility needs.

Mr Jones: I entirely agree with the spirit of the amendment. As we discussed previously, digital exclusion is an important consideration for the design of public services. The statement proposed by the hon. Gentleman would, however, be unnecessary. Currently, as we know, published planning information is often difficult to access. It is inconsistently presented and hard to use for everyone in the planning system. Too few of our constituents engage with planning. We want as many people as possible, and as diverse a range of people as possible, to participate in our planning system, and our digital reforms are central to this endeavour. We can all agree that in a world in which an increasing emphasis is placed on using digital services and tools by default, those who have to use alternative methods can be at risk of exclusion.

2.45 pm

As I have already said to the Committee, the core purpose of our data standards is to make planning data easier to find, use and trust for everyone. By standardising how information is presented, we can design ways to make the planning system more inclusive than at present. We are actively working with planning authorities to accelerate the adoption of tools to digitally engage communities. We are already working with planning authorities in some of the most deprived housing estates in the country. The PropTech engagement fund is supporting the creation of hybrid digital engagement tools, which aim to provide solutions for digitally excluded people and for public engagement. It is also important to remember that clause 77 is only one part of the picture when protecting against digital exclusion. As has been discussed previously, clause 76 ensures that planning authorities can accept information non-digitally, based on individual circumstances.

I turn now to clause 77. If the concern is that there is potential for digital exclusion around making certain planning data publicly available, the clause does not prevent any other means of publishing information—it does not override any provision allowing or requiring information to be published in other ways. It also cannot authorise the publication of information that would otherwise not be disclosable. The clause simply ensures that accessible and comparable information will be available in a digital format to everyone across the country. Additionally, if the concern is about the means of digital engagement having an impact on digital exclusion, digital engagement will not replace the need for traditional forms of engagement, as currently undertaken by planning authorities. Therefore, those who are not able to engage digitally will still benefit from traditional engagement methods that currently exist.

As a consequence, our view is that the statement envisaged by the amendment would be unnecessary, because the regulations could not, by definition, exacerbate digital exclusion. In the light of this and the reassurance I have given about the attention that the Government are giving to this important issue, I hope the hon. Member for Greenwich and Woolwich will withdraw his amendment.

Matthew Pennycook: I am grateful to the Minister for that response. I am glad that he agrees with the spirit of the amendment. As he might expect, I am somewhat disappointed that he has not agreed to the publication of a simple statement addressing how the Government are responding to this serious problem, but I am reassured by his assurances that traditional methods of information publication will not be ruled out by these clauses, and by the various initiatives he has mentioned that are already under way to tackle digital exclusion. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Matthew Pennycook: I beg to move amendment 67, in clause 77, page 87, line 3, at end insert—

"(4) The Secretary of State must provide sufficient additional financial resources to local planning authorities to enable them to implement the provisions in this section."

See explanatory statement for NC32.

The Chair: With this it will be convenient to discuss new clause 32—*Duty to provide sufficient resources to local planning authorities for new burdens: planning data*—

"(1) The Secretary of State must provide commensurate additional financial resources to local planning authorities to enable them to implement the provisions in Chapter 1 of Part 3.

(2) Where local planning authorities have made investments in planning data software that is incompatible with the changes in that Chapter, the Secretary of State must provide compensation for this additional cost."

This new clause, along with Amendment 67, would require the Secretary of State to provide sufficient additional resources to local planning authorities to enable them to implement the changes required by Chapter 1 of Part 3.

Matthew Pennycook: Clause 77 provides powers to require certain planning data to be made publicly available. Along with new clause 32, the amendment would require the Secretary of State to provide sufficient additional financial resources to local planning authorities to enable them to implement the changes required by chapter 2 of the Bill and, where local planning authorities have made investments in planning data software that is incompatible with the changes sought, to ensure that the Secretary of State provides compensation for the additional cost incurred by its replacement. As I argued this morning, although we believe that a series of safeguards are necessary—two of which we have just discussed in relation to amendments 65 and 66—we strongly support the digitisation of the planning system and the introduction of new data standards, reporting requirements and transparency measures as part of that process.

It stands to reason, however, that a transformation of the kind that the Government are seeking to achieve when it comes to digitising planning will place extra demands on local planning authorities, primarily for their planning departments but also, by definition, for their IT support services. It is therefore important to require that they are provided with additional financial resources and investment. That would be the case irrespective of the current position of local planning authorities when it comes to skills, capacity and resourcing. After all, the kind of change that clauses 75 to 81 seek to facilitate, whether that be the harnessing of new digital technology, new digital engagement processes, or the integration of spatial, environmental and other datasets across England, will by their very nature frequently involve software upgrades as well as investment in other related services.

Yet the need for significant additional investment to meet the new demands that will result from the provisions in chapter 1 is made all the more acute by the parlous present state of local planning authorities when it comes to resources. The Department is well aware of that long-standing problem. For example, it has established a skills and capacity working group to determine what response is required, but precious little urgency is evident. In that respect, will the Minister tell us, when he responds, when the Department intends to publish a skills and capacity strategy and, if so, how much funding will be put behind it?

That answer aside, I am sure the Minister would agree that in general terms the pressures on local planning authorities are acute already. A report published by the National Audit Office in February 2019, entitled "Planning for new homes", found that between 2010-11 and 2017-18 there was a 37.9% real-terms reduction in net current expenditure on planning functions by local authorities. Even when the income that authorities generated from sales, fees, and charges or transfers from other public authorities was taken into account, the report concluded that total spending on planning had fallen by 14.6% in real terms between 2010-11 and 2017-18, from £1.125 billion to £961 million.

A 2019 research paper published by the Royal Town Planning Institute found much the same, concluding that

"total expenditure on planning by local planning authorities is now just £900 million a year across England. More than half of this is recouped in income (mostly fees), meaning that the total net investment in planning is now just £400 million, or £1.2 million per local authority. This is fifty times less than local authority spending on housing welfare, and twenty times less than estimates of the additional uplift in land values which could be captured for the public during development."

That same RTPI report also detailed the staggering regional imbalance in funding for planning, finding that the average investment in planning by local authorities in some regions is three times more per inhabitant than in others.

Put simply, as a report published by the House of Lords Built Environment Committee in January of this year put it, there is an "evolving crisis", with local planning authorities under-resourced and consequently unable to undertake a variety of skilled planning functions effectively.

Rachael Maskell: I am grateful to my hon. Friend for moving the amendment. City of York Council has dispensed with the role of the chief planner, so now not only do we not have the skills, but that is really slowing down development. The Government are trying to reach their objectives and to see economic investment, but that just cannot happen without the infrastructure and, crucially, the people in place to see this forward. The amendment is excellent.

Matthew Pennycook: I thank my hon. Friend for that point, which is well made. Not only are local planning authorities overstretched, but they are often outgunned in their relationship with developers and in having that capacity to interrogate properly what is happening in order to get the best deal for local people.

The simplest answer as to why that has happened is a general lack of resourcing for local authorities. At the same time as dealing with budgets cuts, they have had to cope with growing responsibilities, not least in relation to social care. That general lack of resourcing is largely the result of reductions in central Government grants, which have been the most sharply cut component of local government revenue since 2009-10, falling by 37% in real terms between that year and 2019-20, from £41 billion to £26 billion in 2019-20 prices.

We therefore have a situation in which the resources dedicated to planning within local planning authorities—never particularly high by international standards, even before 2010—have fallen dramatically as a result primarily of local authority belt-tightening in response to central Government funding cuts. The Bill does not provide an opportunity to resolve the wider problems of inadequate local authority funding, but we believe—I am certain this is not the only time that we will consider this issue—that any new burdens placed on local planning authorities by this legislation must be adequately resourced and that specific commitments to that end are put on the face of the Bill.

On the new burdens associated with the planning data requirements in the Bill, there are two facets to the argument. First, local planning authorities will need sufficient additional resources to comply with the new work pressures that will be placed on them as a result of the Bill. Without such additional resources, I suspect that many local planning authorities will struggle to comply in practice with the provisions of chapter 1. Without a commitment to new funding, it is not difficult to imagine, to give a practical example, that planning departments in local planning authorities will face a Herculean task to ensure that their already hard-pressed IT services comply with all the new requirements.

Secondly, many local planning authorities will already have purchased software and tools that may ultimately not be approved under the powers provided by clause 78. As such, proposed new clause 32 explicitly specifies that where local planning authorities have made investments in planning data software that is incompatible with the changes sought, the Secretary of State will provide compensation for the additional cost incurred by its replacement.

There is widespread support—if not enthusiasm—in both the public and private sectors for the digital transformation of our planning system. There is also an obvious need to ensure that the requirements in this chapter that will facilitate that transformation can be enacted in a way that will not add further burdens to already overstretched local planning authorities. I trust that the Government accept as much and we will hear from the Minister that he is content to make these changes to the Bill.

Tim Farron: This is a good and wise amendment that looks at the additional responsibilities placed on planning departments and how important it is that the Government ensure adequate resourcing for these new functions so that the digitisation of the planning system is performed adequately. It really opens a window on the wider issue that the hon. Member for Greenwich and Woolwich rightly highlighted into the staffing, resourcing and competence of planning departments across the country.

The Bill introduces many measures—perhaps many more than some of us would like. How frustrating will it be to developers, proposers, local residents, members of councils and local communities—everyone—if it turns out that the new powers and functions that might come about simply cannot be enacted? We see around the country a reduction in the quality of planning decisions, not because planners are not good people but because there are too few of them.

There is not the capacity for planners to go and spend a semi-formal hour with a potential developer or householder to scope out what may or may not be possible. That would save people putting in an application that was always doomed to fail, or ensure that an application is more likely to be in line with planning policy and the wishes of the local community. We get bad decisions that end up being appealed, which is more expensive for everybody and sucks all the energy out of that planning department when it should be focused on trying to preserve and promote the community's priorities.

We will have many debates—we have had some already—about what planning provisions should be in the Bill and what powers local communities should have. It will all be pretty meaningless if there is no way whatsoever of ensuring that the new provisions are enforceable.

Mr Jones: In considering the thrust of the hon. Gentleman's amendment, the Government recognise the need to ensure that planning authorities are well equipped and supported to successfully deliver these reforms. The Department has already adopted a joint approach with local authorities to modernise the planning system. Examples include the work to reduce invalid planning applications, the back-office planning system software projects and our local plans pathfinders.

We will continue to fund and run pathfinders and pilot projects to test and develop the standards, tools, guidance and templates needed by planning authorities. Central to that, we will work with planning authorities to ensure that the reforms and the legislative requirements we are placing on them work as we all want and intend. We therefore agree on the need to support planning authorities. That work is already under way and will continue. I am unconvinced that putting a vague requirement of doubtful enforceability into law would meaningfully add to that commitment.

3 pm

New clause 32 also proposes compensation for planning authorities' expenditure in the event that software is not approved under clause 78. We will touch on clause 78 in more detail shortly. However, it is worth noting that the clause is designed to ensure that the provision of software is compatible with the requirements under the data standards and publication powers, enabling planning authorities to adapt to working in a digital planning system.

The power under clause 78 forms part of and reinforces the joint approach that we are already taking with planning authorities and software suppliers. Its use would therefore follow the setting of data standards, which, as we have discussed, will themselves be introduced gradually. That will all be preceded by further work with planning authorities and software suppliers, in addition to that already under way, to establish realistic implementation timetables and the trialling of new software.

Given the time required for the work, planning authorities will have sufficient notice to prepare for any change. It would therefore be inappropriate to prejudge decisions that we need to make further down the track. Although I can understand the concerns of the hon. Member, I fear that legislating for that requirement could be unhelpful.

I appreciate that my responses are not what the hon. Member would ideally want to receive. Nevertheless, I hope that I have reassured him. As he has rightly pointed out, we have committed to the skills strategy. We are developing a comprehensive strategy to make sure that local authorities are properly equipped to deliver reform and places that the people who live in them can be proud of. We will publish the details of the strategy in due course. For the reasons that I have outlined, I hope that he will withdraw the amendment.

Matthew Pennycook: I am glad the Minister understands the concerns that the amendment seeks to highlight. I welcome his recognition that local planning authorities need to be well equipped and supported to make the changes. In all honesty, I was not reassured by his answer, which I found to be quite vague. We know that, as has already been said, local planning authorities face real challenges in resourcing new capacity. That is a pre-existing problem. They are being given a set of new responsibilities and there has been no reassurance that we will get any additional financing for those new burdens. I do not intend to press the amendment to a vote, but we will come back to the issue of adequate financial resourcing for some of the changes that the Bill seeks to enact many times during its passage. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Mr Jones: The planning information that is currently published is often difficult to access, inconsistently presented and hard to use, limiting its wider usefulness. Clause 77, in combination with clause 75, changes that by requiring standardised information to be openly available to anyone for free. The Secretary of State will set the licence under which the information is to be published and regulations will specify the information to which the requirements apply. There is a limitation on the information that may be made available to ensure that sensitive data, such as where the planning authority has an obligation of confidence or where data protection legislation applies, cannot be subject to the regulations.

We believe opening planning data will drive greater productivity and efficiency levels across the housing, planning and land sectors, which will deliver significant benefits to a wider range of groups. Benefits include time savings, the development of new tools, and increasing accessibility to the information required for decision making.

Without accessible planning information, both local and central Government cannot make faster, better-informed decisions to meet the needs of local communities and understand national demands and challenges. Likewise, the development of innovative digital tools and services that better engage communities and allow planners to work more productively is hampered.

Open, consistent and comparable planning information will unlock a more transparent planning system where communities can better understand, contribute to and, as a result, have greater confidence in planning for their areas. I therefore commend the clause to the committee.

Question put and agreed to.

Clause 77 accordingly ordered to stand part of the Bill.

Clause 78

Power to require use of approved planning data software in England

Matthew Pennycook: I beg to move amendment 68, in clause 78, page 87, line 10, at end insert—

"(1A) On the day any regulations under this section are laid before Parliament the Secretary of State must publish an accompanying statement setting out—

(a) the reasons why the planning data software in question has not been approved for use by the Secretary of State,

(b) the steps that the Government has taken to ensure that the decision not to approve the planning data software in question does not undermine effective competition in the procurement of planning data software in England."

This amendment would require the Secretary of State to publish a statement explaining why the provisions in this section were used to restrict or prevent the use of planning data software and setting out the steps taken to avoid the creation of a Government-granted monopoly in planning data software.

Clause 78 permits the use of regulations to restrict or prohibit relevant planning authorities from using software not approved by the Secretary of State. We have just considered one possible adverse outcome of the use of these powers, namely that local planning authorities who have purchased software and tools may find that in the future they are not approved for use and that their investment has been made redundant as a result. However, we are concerned that another adverse consequence might potentially flow from the use of the powers and that is the limitation of fair and open competition among software providers.

Amendment 68 would add to clause 78 a requirement that on the day any regulations under the clause are laid, the Secretary of State must publish an accompanying statement setting out, first, the reasons why the planning data software in question has not been approved for use and, secondly, the steps that the Government have taken to ensure that the decision not to approve does not undermine effective competition in the procurement of planning data software in England.

The effect of the amendment would not be to prevent the Secretary of State from exercising the powers in clause 78 but simply to ensure that the holder of that office properly justifies their use and has due regard to the need to maintain healthy market competition. The reasoning behind the amendment is that as benign as the provisions in clause 78 might appear to be, in the

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sense that taken at face value they are merely a means of rolling out new data standards and enforcing standardisation, they could, deliberately or inadvertently, create a Government-granted oligopoly or monopoly in planning data software. We believe the Government should be clear that the intention of the powers is not to foster an oligopolistic or even, dare I say, a monopolistic market in planning data software.

I appreciate fully that the Government are bound by public procurement rules, albeit ones that they intend to overhaul by means of the Procurement Bill that is progressing through the other place, and that within the general procurement framework there is a specific set of rules and handbooks for technology procurement. However, the powers in clause 78 strike us as so expansive, enabling Ministers by regulation to restrict or prevent the use or creation of software used by planning authorities to process planning data, that a further check to their use is required.

Assuming the Government do not wish to fetter rigorous competition in the planning data software market, amendment 68 should be an easy one for the Minister to accept and I hope to hear that he will do so.

Mr Jones: We wholeheartedly support the principle embodied by the amendment, although I think there may be a slight misunderstanding about the mechanics of clause 78. Clause 78 aims to ensure planning authorities are supported by modern software that complies with the requirements created by our digital reforms. We will set out clear criteria that the Secretary of State must then apply in deciding whether to approve any given software to which the regulations apply.

The expectations of the Secretary of State will therefore be public and clear before any software is submitted. Likewise, the reasoning of the Secretary of State's decision to grant or withhold approval will necessarily be the compliance with those criteria. In that context, a statement on individual software decisions would be superfluous and could risk inappropriately disclosing commercially sensitive information. That could, for example, deter submission for approval, undermining the intention of the provision.

That brings me to the second aspect of the hon. Member for Greenwich and Woolwich's amendment—the statement about the effect on competition in the software market. Regulations could not lawfully be made, nor could decisions lawfully be taken, under that power with the aim of conferring a monopoly. The Secretary of State cannot use the powers other than impartially between software suppliers to foster the innovative market our reforms are designed to achieve. The criteria for approval will be informed and refined by continuing—and continual—work with planning authorities and software suppliers on trial planning software. We have, for example, already funded planning authorities for the creation of new software and supported programmes for local authorities to improve their existing development management software.

We have started to engage with the technology sector through local authority-led pilots and pathfinders. We will continue to engage meaningfully with them and others to establish a realistic adoption timetable for any planning data software that the Secretary of State may wish to approve for use by planning authorities. I hope that provides sufficient reassurance to the hon. Member for Greenwich and Woolwich to allow him to withdraw his amendment.

Matthew Pennycook: I am grateful to the Minister for that response. I note that he only said that the clause would prevent the advent of a monopoly and not an oligopoly. I still worry, reading the text of the Bill, that we could inadvertently find that the Government restrict what software can be used by local authorities. That said, I welcome the clarification and reassurances that the Minister has provided. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Mr Jones: We have already discussed some aspects of the clause in relation to amendment 68. Many planning authorities are reliant on outdated and expensive software and systems that do not work with one another, forcing manual re-entry of information while locking that information away in formats that are not reusable. Clause 78 allows the Secretary of State to change that entrenched status quo. Without the right software to support processing standardised data, the benefits from the chapter across the planning system will be thwarted.

Clause 78 relies upon, and will therefore follow from, the introduction of data standards set under clause 75. Those data standards will take time to develop. The aim of our reforms is to create a virtuous circle whereby better software enables better information to be published, which in turn allows better tools to be developed for planning authorities. As such, it is not our intention to require approval for all planning data software. We will work with planning authorities and the technology sector to determine where and when the use of that power will most benefit the planning system. The clause enables the creation of the effective, high-quality system that the public rightly expect of Government at all levels. I commend clause 78 to the Committee.

Question put and agreed to.

Clause 78 accordingly ordered to stand part of the Bill.

Clause 79

DISCLOSURE OF PLANNING DATA DOES NOT INFRINGE COPYRIGHT IN CERTAIN CASES

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

The Chair: With this it will be convenient to discuss clauses 80 and 81 stand part.

Mr Jones: The Government want to encourage innovation in the property technology sector. That is one of the key benefits expected from opening planning information to the public. The clause provides a narrow expansion of the existing protections against copyright infringement by planning authorities for the purposes of their statutory role in planning functions. It is primarily intended to put the position beyond doubt that any use of planning information by planning authorities and software developers in developing or maintaining software to comply with approval requirements under clause 78

does not infringe copyright. The clause is grounded in and maintains the existing scheme for the protection of copyright that allows the use of copyright works for statutory purposes. It does not prejudice the rights and protections afforded to copyrighted works, and supports the innovation for planning authorities that we all want to see. I therefore commend the clause to the Committee.

3.15 pm

Matthew Pennycook: I have a few questions for the Minister about the three clauses. Clause 79 provides that a local planning authority that makes planning data available to a person does not, in doing so, infringe copyright if making the data available is necessary for certain purposes such as the development of planning data software. Will the Minister explain the rationale for restricting the circumstances where planning data will not be in breach of copyright solely to those purposes set out in subsections (1)(a) and (b)? Will he also comment on whether he foresees any other circumstances where it may be desirable for copyright to be limited, for example in relation to academic research?

Clause 80 stipulates that the Secretary of State may only make planning data regulations that contain provision within devolved competence of the Scottish Parliament, the Senedd or the Northern Ireland Assembly after consultation. I presume—the Minister can correct me—that legislative consent is not required for the provisions, but perhaps he could clarify what engagement his Department has had with the devolved Administrations about the planning data aspects of the Bill.

Finally, clause 81 provides definitions of key terms. Will the Minister confirm that the definition of relevant planning authority to include any public body with functions relating to

"planning or development in England",

as laid out in paragraph (n)(i), covers community and parish councils, and neighbourhood planning forums? If so, what support, if any, will they be provided with to ensure that any plans or priority statements they produce conform with the regulations, given they are generally voluntary organisations?

Mr Jones: On the point about devolving planning to neighbourhood planning level, I expect that support will be provided by local planning authorities in that regard.

The hon. Gentleman also mentioned the type of copyright material that is in scope of infringement protection. Any information with the purpose of approving and maintaining or upgrading the planning software that falls under the definition of the planning data defined within the Bill, in which copyright subsists, is in scope of the power. One such example is architectural drawings, where the planning authorities are required to consult on new proposed developments.

The hon. Gentleman raised one other point. I am not able to confirm at the moment but will certainly write to him about the discussions that my predecessor has had with the devolved Administrations.

Question put and agreed to.

Clause 79 accordingly ordered to stand part of the Bill.

Clauses 80 and 81 ordered to stand part of the Bill.

Clause 82

DEVELOPMENT PLANS: CONTENT

Rachael Maskell: I beg to move amendment 117, in clause 82, page 91, line 8, at end insert—

"(3A) After subsection (4) insert—

'(4A) A local planning authority must review and update the development plan no less regularly than once every five years.'".

This amendment would require local authorities to review and update the development plan at least every five years.

This is a probing amendment and I would be grateful for the Minister's response. York has not had a local plan for 76 years—that is another issue that will no doubt come across the Minister's desk—and I am trying to work through why that has been the case. There has often been a complex and rapidly changing political context in the city.

We seem to talk about local plans, development plans, minerals and waste plans, transport plans and so on as events, rather than in the context of a place's evolution. Therefore, if there is a 10-year period—or even longer in the case of York—between plans being updated, the task is so great that it can be very challenging indeed. Thinking about how we can get some sequencing and timelines for how data is produced and how development and supplementary plans are put in place could improve the process.

I have some observations about why it has not worked in York and about the task ahead. For our city, the situation has presented many challenges because developers have taken advantage. It has caused a lot of difficulty over the years, but it has also dominated the political environment and destabilised our city, rather than stabilised the way forward.

I want to touch on the supplementary plans, which feed into the data, and to think about the pace at which things are moving forward. The local transport plan, which feeds into our development plan, dates back to 2011, and the data was gathered two years earlier, so it is already 13 years out of date. That is informing the local plan, which is being discussed with the inspectors is this week. Thirteen years ago, we did not have micromobility, e-scooters and e-bikes. Electric vehicles were not really a thing and bus services were very different. Even our major roads have changed over that time, and we have seen deepening congestion of late.

We now know that climate pressures are bearing heavily on our environment, whether in respect of housing, economic development or transport infrastructure. Anybody who was at the briefing yesterday with Sir Patrick Vallance will understand how pressing it is that we address the climate issue at this moment. Leaving plans for too long could mean that they are not responsive to the call of our time, particularly on climate issues. They will also not recognise the changing environment we are in. I have to hand it to the Government: some of the things they are putting forward on national infrastructure and housing are ambitious. Whether they can deliver is another question altogether, but they are certainly putting out a rapid change, and we need to reflect that in our planning system.

A supplementary plan that is 13 years out of date is not responsive to the logjams that we see in York today—the increase in the volume of traffic and the consequences of that on our air quality—and developments

[Rachael Maskell]

that have happened. We have an outline plan for the York Central site, with 6,500 jobs and 2,500 dwellings. We are talking about placing this new city within York in the middle of our old medieval city, as well as the infrastructure routes feeding into it, but with transport planning that is 13 years out of date, we will rapidly see that bringing all those cars into the city centre will just create a car park. Therefore, it is not responsive enough to the reality of what we are doing. At rush hour, York will come to a complete standstill, yet these supplementary plans are meant to inform what is happening.

I could talk about environmental plans and what is happening on flooding. Fortunately, we have been putting in mitigation to address the flooding challenges in our city, but the Environment Agency tells me that we have 17 years until we are challenged again, unless upstream infrastructure is put in place and we take water out of the rivers, improve soil quality and so on. We really need to think about the rapid changes and pressing issues that we face.

Therefore, we need some time. I put five years as a suggested time period for us to start thinking about how we move on to the next stage of our planning. That is why it is a probing amendment. I am trying to build a culture in our planning system of a thinking process, as opposed to having rigid timetables.

Our major routes around York will have an impact on the way traffic flows in our city, whether it is the dualling of the ring road or the widening of some of the A roads—not in my constituency but on the outside of York. At the same time, we have a city centre that has been declared car-free. That will have a massive impact too, with blue badge holders being locked out of their city. We have changes of routes through various parts of the city, building pressure and volume on some of the core routes through York.

It is important to recognise the pace of the change that is occurring and to think about how we can best address that in the planning system. We can do that through a timetable, and that is why I have said it is a probing amendment. We have to start addressing what is happening on the planet around us in the context of planning. In particular, I am thinking about scheduling and the evolution approach, as opposed to this being an event. It certainly will be an event in York if we do get that local plan over the line. *[Laughter.]* I am sure the Minister will want to come and celebrate with us all at that moment.

A conversation is needed about planning and about how we bring together our supplementary plans—our minerals and waste plan, and our local transport plan—in sequence for a local plan process. More thinking needs to be done. I thought it was necessary to table an amendment to make that point today and to see how the Minister responds, because this may be something we want to explore at later stages of the Bill.

Matthew Pennycook: I congratulate my hon. Friend the Member for York Central on making a strong case for her amendment. The problem she highlights is a very real one—that of out-of-date plans based on out-of-date data and analysis. The Opposition believe that local development plans are vital ways that communities can shape and agree a vision for future development in their area and properly account for the specific housing, employment and infrastructure needs within them. We want to see the proportion of England covered by a local plan increase. We believe it is important that each plan should evolve over time to take into account changing circumstances affecting the area in question, whether it be changes in the level of housing need or new infrastructure requirements.

Paragraph 33 of the national planning policy framework makes it clear that:

> "Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary."

I appreciate the argument of my hon. Friend the Member for York Central that this aspect of national guidance should be put on a statutory footing in the Bill. We are certainly sympathetic to that, and I hope the Minister responds to her amendment favourably, with the proviso that, as with so many other measures in the Bill, sufficient resources flow down to local authority planning departments to enable them to carry out a review and an updating exercise at least once every five years, given how onerous a task it is to prepare a local plan or to revise it.

Tim Farron: I, too, think this is an important amendment, as it allows us to get a sense of how important the Government consider development plans to be and what support they will give communities to not just have them, but ensure that they mean something. In Cumbria, both at local authority level and in the national parks, we consider development plans to be important. Not having a development plan means basically sub-letting it to the market. The reality is that the developers decide what gets built in people's communities. We end up seeing development for demand, not for need. In a community like ours—pretty much anything can be built in the lakes and the dales in Cumbria and there would be a market for it—we do not get the buildings that are needed to meet the requirements of a community that will otherwise dissipate, and is doing so.

I suspect one reason a number of authorities are reluctant to have a development plan, or are not as committed to having one as they might be, is that they often think they are not enforceable. Very often, a development plan will outline the priorities in a community. I mentioned earlier the Yorkshire Dales national park authority boldly saying only the other week that it wants to ensure that every new development needs to be 100% for permanent occupancy. That is a brilliant endeavour, which I totally support, but there is a great deal of doubt as to whether the authority will ever be able to enforce it. In fact, I think we all know that it will not be able to do so, unless the Government were to change the law through this or some other process.

3.30 pm

Likewise, in South Lakeland, we set aside land to ensure that a development near Grange-over-Sands had a significant number of affordable houses. Not to make light of this, but the developers arrived at the site, turned over a bit of turf, found a few rocks underneath and—surprise, surprise—said, "We can't afford to do this after all." We tried to push them to deliver the

viability assessment, but they got out of building all but two affordable houses on the development, which is not acceptable.

Development plans are important because they are a defence against the untrammelled market and give a community some sense of control—or sovereignty, if you like—over its land, but they are not foolproof or failsafe. They do not give ultimate power to the local community and are often riddled with holes. That is not the fault of the local planning authority or the local community; it is because the Government do not give communities the power to make sure that development plans come to pass. The Government need to address that very seriously.

Mr Jones: It is extremely important that local planning authorities ensure that policies in their plans remain up to date, so that they can effectively address the needs of local communities. We have certainly heard one example where the policy is not just out of date; it sounds like it has not been in date for some decades. That causes significant challenges, as has been outlined by the hon. Members for York Central and for Westmorland and Lonsdale.

In the current system, local planning authorities are required to review their plans once every five years from their adoption, as is set out in regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. We have made it clear in the Bill's policy paper that we intend to require, through regulations, authorities to update their local plans at least every five years. Although I fully understand the spirit of the amendment, these are procedural matters that have traditionally been addressed via regulations, and we intend to retain that principle. I therefore ask the hon. Member for York Central not to press her amendment to a vote.

Rachael Maskell: I am really grateful for the debate and for the Minister's response. We all recognise the importance of development plans and supplementary plans in shaping our communities. Ultimately, we want the best for our communities and to make sure that providers that have profit in mind do not come and take advantage of an area, which is why such plans are really important. We must ensure that they are timely and kept up to date, and that they are of great use in shaping the future. Therefore, having a process whereby we start to think more about the evolution of our communities, as opposed to five-year or 10-year events that we have to race around to prepare for, is really important.

To get a different culture in planning, we need sufficiency. As my hon. Friend the Member for Greenwich and Woolwich said, we need to ensure that the resourcing is there for local authorities to do a proper job at planning, because if they can build a robust local plan and some of the supplementary plans, it protects them. It also protects their community and enables them to drive change—something I think we all want to see.

As I said, however, I tabled amendment 117 as a probing amendment. I am grateful for the debate. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Mr Jones: The Government want the planning system to be truly plan-led, to give communities more certainty that the right homes will be built in the right places. To achieve that, plans will be given more weight in decision making. They will be faster to produce and easier to navigate and understand. Currently, communities and applicants can face an alphabet soup of planning documents, leaving all but the most seasoned planning professionals pretty baffled.

The clause provides an important change to the definition of the development plan set out in section 38(2) of the Planning and Compulsory Purchase Act 2004. It outlines the elements that, collectively, will comprise the development plan for any given area of land. It replaces the terminology used to describe constituent documents to align with that used in schedule 7 to the Bill, as introduced by clause 87. It paves the way for a system without local development documents, local development frameworks, area action plans, and local plan part 1s and part 2s. Instead, we will have a simpler approach, with specific references to neighbourhood plans, local plans, spatial development strategies, supplementary plans, and minerals and waste plans, as defined in schedule 7.

That change will leave communities and applicants in no doubt about which are the key planning documents for an area, and will lay the foundation for the later reforms of the planning system through this Bill. I therefore commend the clause to the Committee.

Question put and agreed to.

Clause 82 accordingly ordered to stand part of the Bill.

Clause 83

Role of development plan and national policy in England

Matthew Pennycook: I beg to move amendment 86, in clause 83, page 91, line 28, leave out lines 28 to 30 and insert—

> "(5C) But the development plan has precedence over any national development management policy in the event of any conflict between the two."

This amendment gives precedence to local development plans over national policies, reversing the current proposal in inserted subsection (5C).

The Chair: With this it will be convenient to discuss amendment 57, in clause 83, page 91, line 30, leave out "national development management policy" and insert "the development plan".

This amendment would require any conflict between a local development plan and a national development management strategy to be resolved in favour of the local development plan.

Matthew Pennycook: In moving to chapter 2 of part 3, "Development plans and national policy", we confront an altogether more contentious set of issues than planning data, as the new Minister will be acutely aware.

Let me start by making it clear that, in general terms, we welcome efforts to strengthen development plans. Building on clause 82, which updates existing definitions and references to provisions in the Planning and Compulsory Purchase Act 2004 to reflect changes proposed in the Bill, clause 83 makes amendments to that Act in two important ways relating to development plans.

[Matthew Pennycook]

First, proposed new subsection (5B) provides that any determination of a planning matter under the planning Acts must be made in accordance with the development plan and any new national development management policies, unless

"material considerations strongly indicate otherwise".

In other words, departures from a plan will require stronger reasons than at present, thereby giving residents more confidence that plans will be adhered to and that any safeguards woven into the fabric of such plans will be respected. That is an entirely sensible measure, and we fully support it.

Secondly, however, that measure is immediately undermined by proposed new subsection (5C), which stipulates that at the point an individual planning application is determined, if there is any conflict between a formulated development plan and any new national development management policy that the Government might introduce,

"the conflict must be resolved in favour of the national development management policy."

The Bill makes it plain that we are not talking only about significant conflicts between local and neighbourhood plans and national development management policies.

Proposed new subsection (5C) is clear that conflict "to any extent" must be resolved in favour of national policy. That is a far more problematic measure that the sensible strengthening of plans provided for by proposed new subsection (5B), in that it clearly accords precedence and a large measure of control to the national over the local. The result is that, in the clause, the Government are giving with one hand while taking away with the other, making it harder to deviate from the local development plan at the same time as giving themselves powers to exert greater control over them.

The amendment would replace proposed new subsection (5C) and, in doing so, reverse the proposition currently in the Bill by making it clear that the development plan would have precedence over any national development management policy in the event of any conflict between the two. We believe that that is one of the most essential changes required in revising the Bill, and I hope that the Committee will forgive me if I explain why in some detail.

The Government contend that the creation of national development measurement policies will help to make local plans simpler and easier to produce by providing greater certainty on the question of whether policies in any individual development plan are consistent with national policy. There is a glaring paradox there, however, because to simplify all local plans sufficiently, NDMPs would have to cover an extensive range of issues in enough detail to be readily applicable to the huge diversity of local circumstances found across England. If they do ultimately cover the broad range of diverse policies that apply "in most areas"—as the policy paper suggests they will—they risk becoming meaningless.

Nor is it clear how NDMPs will actually enable the Government to prevent local planning authorities from duplicating large swathes of national policy in local plans. We should bear in mind that the national planning policy framework already instructs local planning authorities not to duplicate national policy, but most authorities—understandably—like to make it clear how national policies apply to their local area, which highlights the fact that one person's duplication is another person's tailoring to local circumstances.

When the Minister responds, could he explain—referring back to the debate we had earlier today—whether duplication of national policy in development plans is an issue that the Government believe can be addressed by the processing of planning data as provided for by chapter 1? Are clauses 75 to 81 intended, in part, to be a means of making local plans shorter? I struggle to see how NDMPs will, in and of themselves, lead to a simplification of local planning.

In any case, when it comes to local plans, the laudable objective of simplicity and certainty should not also require that development plans be subordinate to national policy, as clause 83(2)(5C) clearly renders them in the event of any conflict between the two. The Committee might wonder why such subordination is problematic, because should national policy not be clearly set by central Government, with local planning authorities given no discretion whatever to depart from it? Well, I would make two points in response.

First, we have absolutely no idea from the Bill, from the accompanying notes, or from the non-existent impact assessment, what might be covered by a national development management policy in future, other than that they are likely to relate to policies that, as set out in the policy paper, "apply in most areas". The fact that none of us knows what future NDMPs might cover is deeply problematic.

As Victoria Hills, the Royal Town Planning Institute chief executive, put it to the Levelling Up, Housing and Communities Committee on Monday 20 June:

"As I sit before you today I could not tell you if 20%, 50% or 80% of local plans are due to be nationalised."

That is an incredibly concerning state of affairs given the powers provided for by clause 84, which we will come to next, and it should trouble every member of the Committee.

The new Minister is a diligent parliamentarian, and I know that he will have read his brief over the weekend. I fully expect him to stand up and argue that the concerns expressed across the House about this matter are misplaced; that there is no need to worry because NDMPs will only ever relate to areas of policy that are naturally and incontrovertibly matters for national decision making; and that there are already legal protections in place that simply need to be interpreted for planning—policy relating to aspects of the protection of heritage assets, for example.

However, I say gently to the Minister, who I am incredibly fond of, that he will not be around forever. Indeed, as things stand, he is unlikely to make it past early September. Even if he does, on the basis of the average tenure of a Housing Minister under Conservative-led Governments since 2010, whoever replaces him will, by my reckoning, have until the summer of next year before they are also moved on. I am afraid that any personal reassurances that Ministers might offer—as the now previous Secretary of State did, including to the Select Committee—count for little. What matters is what the legislation says, and it offers us no guide to what will be covered by NDMPs.

Let us take as an example a particularly contentious area of policy: the green belt. Will rules on development in the green belt be the subject of an NDMP? If so,

what will they specify? At the moment, we have no idea. That matters for the simple reason that there are no limits in the Bill on the scope of the national development management policies; the legislation enables them to be about anything that is common to most areas, which brings me to my second point.

As the Bill specifies no limit to what might be covered by an NDMP, there is potentially no corresponding limit to central interference in areas previously considered to be firmly within the preserve of local decision making. There is therefore no certainty whatever that the changes proposed will mean that local plans will deal with local problems, and national policy will deal with national problems.

3.45 pm

It is worth pausing and considering just how radical a departure from the status quo proposed new subsection (5C) of clause 83 is. Its effect is clearly not to afford national policy equal status to the development plan. Indeed, in a response dated 30 June to a letter from the Chair of the Select Committee, the former Secretary of State acknowledged that NDMPs "would have precedence". It is therefore not the case, as some have argued, that the measures in the clause simply have the effect of ensuring that national guidance matters as much in local planning decisions as rules contained in a local plan. If the Bill passes unamended, such guidance will matter more.

As things stand, national policy is set out in the national planning policy framework, and it is a material consideration throughout the entirety of the planning process. However, as much as it is implied by various provisions in various pieces of legislation, there is no statutory provision for the scope or legal weight of national policy; it is simply guidance issued by the Secretary of State.

As such, while the NPPF has to be considered alongside the development plan, while developments plans have to be seen to be consistent with the NPPF to be approved in examination, and while NPPF guidance has to be taken into account when determining individual planning applications, it is all policy rather than law. As such, it is extremely influential but accordance with it is not required by statute and, as a result, when there are good reasons to set aside particular elements of NPPF guidance, that can be done in an entirely lawful manner if adequately justified. In short, it is possible under the existing system to bring forward a local plan that departs in some ways from the NPPF.

In contrast, clause 83 will ensure that element of discretion is lost. It is therefore not correct to assert, again as the previous the Secretary of State did several times over recent months in the Chamber and to the Select Committee, that national policy already supersedes local discretion in a number of areas. And if it were the case, then what precisely is the rationale for national development management policies? Why not simply continue to utilise the NPPF as at present or, if its legal status is the problem, put it clearly on a statutory footing?

The reason is that what is proposed in clause 83 is a wholly different proposition from the current application of the NPPF. The clause says that areas of policy covered by NDMPs, which again I stress the Bill as drafted allows to be about almost anything, will not only have legal status but will trump local development plans in any instance there is found to be a conflict. That is what the Bill plainly says, and it is a very significant change from the current relationship of the NPPF and local development plans because it represents a radical centralisation of planning decision-making and a corresponding erosion of local control in a way that threatens to transform what is currently a local plan-led system into a national policy-led system.

It is firmly the view of the Opposition that the effect of the provisions in this clause fundamentally alter the status and remit of local planning and that that is deeply problematic—not because local is always and invariably best in every instance, but because giving NDMPs legal primacy over local plans could have a number of potentially damaging consequences. These include the stifling of local innovation on issues such as affordable housing, energy efficiency and nature conservation in cases where local planning authorities seek to be more ambitious than nationally determined policy; the erosion of local democratic control of, engagement in and scrutiny of the planning process in a way that further damages public trust and confidence in the planning system; the very real potential for significant legal delays where conflict between development plans and national policies is contested; and the prospect that new devolution deals will be undermined as a result of local leaders being prevented from exercising discretion over development management policies in way that would better stimulate growth.

Responding to the concerns that have been raised about the effect of these provisions on local planning in recent evidence he gave to the Select Committee, the previous Secretary of State urged the House to wait for the publication of the NPPF prospectus in July

"to make judgments about whether the protections"

That the Government intend to put in place "are sufficient". However, we do not have that prospectus today, and even if we did, the policies it sets out would in no way be binding, so we must arrive at a judgment based on the text of the legislation.

On the basis that the Bill provides unlimited scope for what is to be covered by national development management policies and that it accords those policies both legal status and primacy over local development plans, we believe clause 83 represents an unacceptable centralisation of development management policy that will afford communities no protection from central interference in what is currently locally decided planning policy.

We absolutely recognise the need for national planning policy in a number of discrete areas but there is a fundamental difference between the freedom for local planning authorities to diverge within strict parameters and dictating what local planning authorities must do in any area of policy that Ministers see fit. Unless and until the Government clearly delineate, on the face of the Bill, the limits to what can be covered by a national development management policy and constrain the scope of such policies to override local development plans, we believe proposed new subsection (5C) should be removed from the Bill.

The Government clearly know that they have a problem here: concerns about this matter were raised by a significant number of hon. Members on Second Reading, including a great many on the Government Benches. As attested

to by amendment 57, in the names of the right hon. Member for Chipping Barnet (Theresa Villiers) and the hon. Members for Buckingham and for Isle of Wight (Bob Seely), it is not just this side of the Committee that is seeking to force the Government's hand on this matter. I therefore hope to hear from the Minister that the Government are minded to substantially overhaul the clause, even if they will not accept our amendment.

Tim Farron: This is an important amendment, as is the one in the name of the right hon. Member for Chipping Barnet. I will not go into a great amount of detail on this matter as we talked in earlier debates about the motivation for devolution. Who is it for? I am hoping to be persuaded otherwise, but my suspicion is that the legislation is mostly about trying to make local government a more efficient agency. What we really ought to be talking about is developing and delivering greater levels of power and control to local communities. Who is the Bill for? Who are development plans for? Is this even devolution, or is it just a form of delegation—tidying up the process to help Whitehall?

Plans have to mean something. One of the reasons I suspect some authorities do not have the plans that they should have, or that their plans are not as up to date as they ought to be, is that there is a lack of confidence in them. As we said earlier, there is a belief among communities that: "We may set out our priorities, but they will be overridden because they are in conflict with national policy, or the Government simply will not stand with us as a local community if we seek to enforce zero-carbon homes, to maximise the number of affordable homes being built or to ensure that infrastructure is provided for developments before they are made."

There will be some who say, "If you give local communities the ultimate power over development plans, things won't happen at all." I think that is baloney. The evidence is that that is not true. If we give communities the ability to specify and enforce their priorities—for example, for the huge majority of homes being built to be affordable and zero-carbon, and to have the infrastructure provided for them in advance—we will find that those communities are much more likely to be willing to play ball in the first place. It is the opposite of nimbyism. I can name sites in Coniston, Hawkshead and Grasmere where people have fought to get hold of sites to provide affordable homes, because they were given agency. They were in the national park, where there was more power as a consequence.

That is why this question is important. Do we want to see the Bill as being about empowering local government, and therefore national Government having to step back and genuinely trust communities? Or are the Government going to simply see the Bill as an opportunity to exert more control, just in a slightly more efficient way? If the Government refuse amendments at least of this sort, then we will know that the Bill is not about devolution, but delegation, and that it is not for the communities or for levelling up, but for the convenience of Whitehall.

Greg Smith (Buckingham) (Con): I will not take up much of the Committee's time on this issue, because we have already explored many of the key points that go to the nub of why these two amendments—57, tabled by my right hon. Friend the Member for Chipping Barnet, which I have been happy to sign and support; and 86, in the name of the shadow Minister, the hon. Member for Greenwich and Woolwich—are so essential.

I spoke on Second Reading to say that the Bill was fundamentally good, but that it needed some considerable polishing. This section of the Bill is one of those elements that, in my opinion, just has to change. None of the points I am going to make will come as any surprise to the Minister, given that, up to four days ago, he was my Whip—he has heard it all before. I do not doubt the cartwheels of delight across Nuneaton when the Minister, having been relieved of whipping me, found himself on the Bill Committee, where there are indeed a number of amendments that I have supported or tabled myself.

This group of amendments goes to the heart of whether we are serious about localism and the principles of subsidiary, or whether the default position is still "Whitehall knows best." There are countless examples of developments across my constituency—this is before I even get on to High Speed 2—where the local council has said no, parish councils and town councils have said no, and the case against them has stacked up with the local plan, be it in the former Wycombe district or the former Aylesbury Vale district. They have even contravened the NPPF.

However, by the time those developments have got to the inspector, the rubber stamp has come down in the opposite direction. As the shadow Minister said, it is already a problem, and I fear that the clause will seek only to bake and lock into the legislation the ability—no matter the cause or the reason and no matter how strongly a community, neighbourhood, parish, town, borough or metropolitan authority feels—of Whitehall to come down and impose a different will on those neighbourhoods and communities.

I give the example of the village of Ickford in my constituency, which is to the very west of Buckinghamshire on the border with Oxfordshire. Every single person in that village knew that that land currently under development floods—not once in a blue moon, but four or five times every autumn and winter. The people who back on to that land know that it floods, because it floods their back gardens, too. The people who drive through that village know that it floods, because the roads flood when that field floods. Locally, that development from Deanfield Homes was turned down because, among other reasons, the land floods. By the time the inspector got his hands on it, it was approved with a peculiar statement that the development had a chance of flooding once every 100 years. Within days of that judgment being passed—guess what? The land had indeed flooded. I know, because I stood in it, and the water lapped up to the top of my Wellington boots.

I give that as an example of why local control and decision making must have primacy in planning, because local people, local councils, local parishes and towns—or whatever tier of local government—actually know what happens in their own back yard. They understand it. They see and feel and breathe and touch the problems that any proposed developments could come across. Therefore, as we look to the summer recess and to coming back in September to finish the Bill's passage through Committee before it gets to Report, I really urge my hon. Friend the Minister to consider the real implications of baking into the Bill the position that national planning policy can overrule local people's decision making.

If we are serious about making the Bill truly about localism, we need to seriously amend clause 83. As the great Ronald Reagan once said:

"There is no limit to the amount of good you can do if you don't care who gets the credit."

I really do not mind which amendment is chosen, because fundamentally they do the same thing, but I urge the Minister please to reflect on this serious, fundamental point that underpins the Bill and to see if we can find a better way of ensuring that it is local decisions that are made, and not with national overriding.

Rachael Maskell: It is a pleasure to follow the hon. Member for Buckingham, and I agree wholeheartedly with his comments. Ultimately the clause comes with an air of arrogance from the Government. I am not looking at the Minister on that as I appreciate he is new in post, but it says to a community, "We, as Government, know best." I think back to a few years ago, when many of us were involved in the debate about fracking, which was being imposed on our communities. We fought back on those measures. Fracking would clearly have impacted on the environmental and climate situation we are facing. That was a fight from within communities to protect themselves. The communities knew best about the impact that would have.

4 pm

We should think about where that debate has gone over the subsequent years. If the national development management policy covered the area of fracking—I say "if" because the real problem is that we do not know what will be in scope—we can see that a detriment would have been created. There are many more examples that I could give.

Although I obviously understand why the Government want to control everything—it is in the nature of Governments to suck in powers to themselves—the reality is that the Government will forever be in a tug-of-war with the communities of our country. The Government should be thinking about co-production and working with communities, as opposed to fighting them. Listening to the heartbeat of our country—the people who live in those areas and know those communities so well—is really important. Therefore, I find it slightly obtuse that we are being asked to accept a clause on national development management policies and where they sit in the hierarchy of powers when we do not have the tight definition required to understand what that will achieve.

I therefore ask the Minister to reflect on that hierarchy of authority in the planning system and where those powers should really sit, because such reflection would give the Government the opportunity to think about how to work better with communities to ensure there is a win-win, as opposed to a tug-of-war that we all know will end up in the courts. That will be expensive and time consuming, and will create a lot of anger. That could be avoided if some of these provisions, such as clause 83, were reviewed, and the Government tabled amendments, perhaps after the recess or on Report, to placate some of that feeling and build a stronger planning system and a stronger outcome for communities.

I considered High Speed 2 as the shadow Minister at the time, and I understand why the Government want to have an upper hand on some of the planning decisions. However, we have seen what has happened with HS2, particularly in Yorkshire, in that we are not seeing a continuity. But a very suitable, alternative plan has been put forward by communities, which would have dealt with many of the challenges that Government were trying to wrestle with behind the scenes. That listening by a Government is important. We do not hear or see enough listening by Governments. We see a lot of telling, and actually, that is not what our communities want. They want respect and dignity.

The amendments provide an opportunity for the Government to really have a think. Earlier in the Bill, we were talking about new layers of authority, particularly with the county combined authorities, and giving them more responsibility. But if CCAs are created and do not have a real voice, what is the purpose of that additional tier of governance? Of course, planning is the most important thing that any authority deals with in building for the future and meeting community needs. I trust that the Minister has heard the deep cries from all of our communities across the House, and will give this issue some significant reflection in order to put us in a better place for a stronger planning system.

Mr Jones: I thank hon. Members for their contributions on the amendments. It has been a somewhat lively debate. I will miss the conversations that I have had week on week with my hon. Friend the Member for Buckingham, but I am sure that those calls from me to him will now turn into calls from him to me as he pursues me, probably weekly if not on a more frequent basis.

The amendments, which aim to make the same change to clause 83—namely, to ensure that development plan policies always take precedence over national development management policies—come from the collective commitment of the hon. Members for Nottingham North and for Greenwich and Woolwich to support local democracy in planning. However, it is the Government's view that it would be counterproductive to amend the Bill as proposed. Clause 83 reforms decision making, strengthens the role of the development plan, including local plans and neighbourhood plans, in practice. It states that the relevant decisions, for example, on planning applications will only be able to depart from the development plan where

"material considerations strongly indicate otherwise".

It would no longer be enough for those other considerations merely to "indicate otherwise", something that can be exploited to override local decisions. This will be the biggest change to the basis of planning decision making since the early 1990s, and will ensure local and neighbourhood plans have greater primacy.

Mrs Emma Lewell-Buck (South Shields) (Lab): I am curious as to whether the Minister can give us an example of what will be designated a national development management policy?

Mr Jones: I am not in the position to give the hon. Lady that example today. As she knows, such policies are often developed through the process of making primary legislation, and then are developed beyond the process we have before us today. I take her comment.

[Mr Marcus Jones]

As part of the reform, we are also introducing statutory national development management policies. Those policies would sit alongside those in local plans when relevant planning decisions are made, with clear statutory weight. National development management policies will be primarily those nationally important policies used for making decisions. The hon. Member for South Shields should note that a current example is green belt protection.

There are several reasons why we think national development management policies are an important and positive reform. First, they will make it easier for local authorities to produce their local plans. By dealing with universal planning considerations nationally and giving them the same weight as the plan, local authorities will no longer need to repeat those matters to ensure they have sufficient force.

Secondly, introducing national development management policies means that local plans can focus on matters of genuine local importance to communities—saving time and money for authorities, and making plans more locally relevant and easier to use. Thirdly, it will be easier for applicants to align their proposals with national and local policy requirements—something which we expect to be of particular benefit to small and medium-sized builders.

Fourthly, it will provide greater assurance that important policy safeguards that apply nationally, or to significant parts of England, such as protections for areas at risk of flooding, policy on climate change, and policies to protect the green belt, will be upheld with statutory weight and applied quickly across the country, including when any changes are made.

That brings me to the heart of the issue outlined by the hon. Member for Greenwich and Woolwich about the national development management policy taking precedence over local plans. It is extremely important to reiterate that where we have local plans that become very out of date, it is important that the protections set out in national policy continue to be reflected in the decisions.

Finally, this framework of basic national policies can guide relevant planning decisions if a local plan is significantly out of date and cannot be relied upon in certain respects. Introducing national development management policies and giving them statutory weight is, therefore, important to creating much greater clarity around the role of national policy in decisions. Increasing this clarity is crucial to reducing the number of planning appeals local authorities face, and therefore reducing the number of unanticipated developments communities face on their doorstep as a result. That point has been made a number of times this afternoon. That clarity also reduces the cost associated with those appeals, enabling local authorities to divert their resources to planning positively for their area. I think I can safely say that that is an outcome that we all want to deliver.

The amendment deals specifically with what to do in the event of a conflict between national development management policies and the development plan when a planning decision must be made in accordance with both. As I have indicated, I believe the current clause is a necessary safeguard in situations where plans are out of date and important national policies on the environment or other matters need to be reflected fully in decisions.

To explain that more fully, some local plans are woefully out of date. We heard one example in Committee this afternoon and there are a number of examples across the country where the plans, although not quite as out of date as the one mentioned by the hon. Member for York Central, have been out of date since the 1990s.

Matthew Pennycook: How does the Minister believe that this clause specifically will address the fact that there is not sufficient coverage of local plans across England? How will the provisions in the clause incentivise people to take up a local plan if they have not already done so?

Mr Jones: We have just discussed a clause that will compel local authorities to put in place an up-to-date local plan every five years. What we are discussing here is making sure that, where we get outliers and places with out-of-date local plans, green belt protection and other such things can be maintained through the national development management policies. This is a crucial point. We wish to use national policy to drive higher standards where those standards at the moment are not as they should be, especially on the environment and to tackle climate change. It is important that those policies can take precedence in the event of conflict with the out-of-date policies in plans.

I would nevertheless expect such conflicts to be limited in future, because we are making it easier to produce plans—we have discussed a number of situations today in which that would be the case—and because the Bill makes sure that new plans will be drawn up consistently with national policies, including the new national development management policies.

As I said at the outset, I appreciate the strength of feeling on this issue. Last week, the previous Secretary of State, my right hon. Friend the Member for Surrey Heath (Michael Gove), published his response to the letter from the Chair of the levelling-up Select Committee in which clarification was requested on this question. I have spoken to the new Secretary of State, the right hon. Member for Tunbridge Wells (Greg Clark), who took office this week. His view is the same as that expressed in the letter. We will provide a copy of that letter to members of the Committee.

We are also committed to providing more information about how we expect national development management policies to work in the future, which is why we plan to publish shortly the prospectus I referred to earlier, if not as articulately as I could have, so that we can look at our approach to the preparation of that prospectus. We will welcome views from hon. Members. With those assurances, I hope that the hon. Member for Greenwich and Woolwich will feel able to withdraw the amendment.

Matthew Pennycook: Given how long the Minister has been in post, I do not blame him, but the arguments he makes in defence of clause 83(2), and proposed new subsection (5C) in particular, are the same ones we have heard over many months. Frankly, I do not think they stack up. I note with interest the points he made about the new Secretary of State taking the exact same view. I do not think his line that it would be counterproductive to amend this aspect of the Bill will hold.

I do not intend to press amendment 86 to a vote, because we will almost certainly come back to this issue on Report, but I just ask the Minister to go away and satisfy himself that the powers in subsection (2) are appropriate and justified. Will he think through, as the hon. Member for Buckingham said, not only the implications for democratic control of planning, engagement and scrutiny of planning, and the impact on trust and confidence in the planning system, which we know is an issue, but the implications in terms of innovation, undermining devolution deals and the legal delays that I am certain will come if the Government try to use this power? They will have to think about this issue again, and we will certainly come back to it on Report. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

4.15 pm

The Chair: Does the Member who tabled amendment 57 wish to move it formally?

Greg Smith: I have heard the assurances that the Minister has given but agree with some of the reticence of the shadow Minister, so I urge my hon. Friend to consider these points very carefully over the summer. I will not press amendment 57 to a vote right now, but I underline the importance of getting this right for the whole Bill and its meaning.

Matthew Pennycook: I beg to move amendment 98, in clause 83, page 91, line 30, at end insert—

", subject to subsection (5D).

(5D) But any conflict must be resolved in favour of the development plan in an area if—

(a) if, in relation to it, regulations under section 16 of the Levelling-up and Regeneration Act 2023 have been made to provide for the town and country planning function and the highways function and any functions exercisable under the Environment Act 2021 of a county council or a district council that is exercisable in relation to an area which is within a county combined authority area to be exercisable by the CCA in relation to the CCA's area,

(b) if, in relation to it, regulations under section 17 of the Levelling-up and Regeneration Act 2023 have been made to provide for at least one function of another public body that is exercisable in relation to an area which is within a county combined authority area to be exercisable by the CCA in relation to the CCA's area,

(c) it has a joint spatial development strategy, or

(d) it is in Greater London."

This amendment would place limits on the primacy of national development management policies over the development plan where a Combined County Authority had been handed planning, highways, environmental powers and at least one function of another public body under a devolution deal, in areas covered by a joint spatial development strategy and in Greater London.

This is a probing amendment. Given that the Government have just declined to accept amendments 83 and 57, and reconfirmed their intention to have national development management policies override local development plans in the event of any conflict between them at the point of determination, amendment 98 is designed simply to try to elicit from the Government whether they will consider allowing any specific exemptions to that general principle. The amendment would do so by specifying that any conflict between an NDMP and a local development plan at the point of determination must be resolved in favour of the latter in an area where a combined county authority has had key powers transferred to it under a devolution deal, where a joint spatial development strategy has been agreed, or in Greater London. The idea is that an exemption from the primacy of national policy in the form of NDMPs would be the reward, so to speak, for agreeing a devolution deal with the full panoply of powers available or for engaging in strategic planning by putting a spatial development strategy in place—or, it should be said, for taking part in a new joint spatial development strategy across authority boundaries.

Let me explain my reasoning further by using the example of an area where an SDS or a joint SDS might be taken forward. As the Minister will know, once a spatial development strategy is in place, it provides for a strategic framework for the development plan or plans, which should in theory supersede or take primacy over NDMPs that the Government might happen to bring forward.

While we remain of the view that no local development plan should be made subordinate to national planning policies in the form of NDMPs, if the Government are determined to ensure that they are—it sounded that way from the Minister's comments in the previous debate—we believe that they should at least consider exempting from that centralising approach areas that have proactively taken on greater powers, including powers to plan strategically, so that they can use them to the full to reflect local priorities and innovate, having regard to national policy but not being unduly constrained by it.

On that basis, I hope that the Minister will give our amendment due consideration.

Mr Jones: I thank the hon. Member for his amendment 98, which relates to higher-tier authorities with planning powers. During the debate on amendments 86 and 57, I set out our case as to why it may be necessary for national development management policies to outweigh the development plan in the event of a conflict. Amendment 98 would prevent that from happening where there is a conflict in an area covered by a Mayor or a combined authority.

I understand that the argument behind the amendment is that it would support our efforts to promote devolution by exempting Mayors and combined authorities from any situation in which national development management policies might have precedence over their own. While I understand that argument, it is not one that we are able to agree with at this point. It makes complete sense for Mayors and combined authorities to use their strategic planning powers to make policies that support proper planning in their areas, but it does not follow that those should automatically outweigh national development management policies, given what those policies aim to do.

National development management policies will be nationally important policies, such as for the green belt or flood protection, as I have already mentioned. It remains important that those are not duplicated through strategic plans, which should restrict the chances of conflict occurring in the first place, especially where plans have been kept up to date. More details on what

[Mr Marcus Jones]

national development management policies could look like will be set out in the prospectus coming this summer, which will also indicate the scope for policies in plans to address matters that are locally important, or of strategic importance in the case of a Mayor or combined authority.

The other arguments made in relation to amendment 87 also apply here. There will be occasions when circumstances arise that mean the Government need to make an urgent change. That became apparent during the pandemic, when we had to act very quickly to protect temporarily closed theatres and live music venues from the threat of development. In those circumstances, it is right that national development management policy is able to override the development plan, even where there is a strategic plan-making body.

I hope that the hon. Member for Greenwich and Woolwich understands those reasons and will withdraw his amendment.

Matthew Pennycook: The Minister will appreciate that I am, naturally, disappointed that the Government will not countenance any exemption from the precedence that clause 83 affords to national development management policies, but I do not intend to press the amendment to a Division. The root of the problem is the powers in clause 83, rather than the specific issue raised by the amendment. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

The Chair: With this it will be convenient to discuss that schedule 6 be the Sixth schedule to the Bill.

Mr Jones: On the basis that we have debated this matter at significant length, I commend clause 83 to the Committee.

Matthew Pennycook: I will be extremely brief because a Division is due in the main Chamber, but also because schedule 6 is largely a tidying-up exercise, amending the Town and Country Planning Act to add requirements for local planning authorities to have regard to material considerations in NDMPs when modifying or removing permission, granting outline permission, and enforcement and appeals.

However, reading the schedule prompted two questions in my mind. First, paragraph 12(b) to schedule 6 amends paragraph 8(2) to schedule 4B of the Town and Country Planning Act 1990 to insert paragraph (da), requiring neighbourhood development orders, which implement neighbourhood plans, to be in general conformity with NDMPs. Given that the Government are explicitly legislating in the Bill to ensure that neighbourhood development orders are consistent with NDMPs, can the Minister give the Committee a sense of what kind of national policies covered by an NDMP would have direct relevance to extremely local, sub-district plans, such that conformity with them needs to be required by the Bill?

Secondly, paragraph 15 to schedule 6 amends section 337(2) of the Greater London Authority Act 1999 to insert new paragraph (ca), which adds NDMPs to the list of matters that may require modification of the Mayor of London's spatial development strategy prior to its publication. Given that the supposed thrust of the Bill is to enable greater devolution to regional authorities and leaders, could the Minister explain the rationale for making the London spatial development strategy subservient to centrally mandated policy?

Mr Jones: On the hon. Gentleman's point about neighbourhood plans, as I have mentioned a number of times, a prospectus will be brought forward in the summer to explain how national development management policies may work. I urge him to wait and see those documents. When he sees the prospectus, he will no doubt provide a response. *[Interruption.]*

The Chair: Can we have order?

Darren Henry (Broxtowe) (Con): I am sorry, Sir Mark. I am trying to switch my phone off but I cannot.

Alex Norris (Nottingham North) (Lab/Co-op): It's another leadership video, isn't it? *[Laughter.]*

Mr Jones: I reiterate the point that I made with respect to amendment 98. For the reasons I mentioned then, national development management policies will be nationally important policies, and like those for the green belt and flood protection, it remains important that they are not duplicated, so that we restrict the chances of conflict occurring in the first place, especially where the plans have not been kept up to date. My hon. Friend the Member for Buckingham in particular mentioned a number of situations in which planning decisions had been made and overturned, and clearly policies conflicting can quite often be the reason why that happens. It is therefore extremely important that we try to restrict the chances of such conflicts. With that, I commend clause 83 to the Committee.

Question put and agreed to.

Clause 83 accordingly ordered to stand part of the Bill.

Schedule 6 agreed to.

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

4.27 pm

Adjourned till Thursday 14 July at half-past Eleven o'clock.

Written evidence reported to the House

LRB19 British Property Federation (further submission)

LRB20 Asylum Matters, Medical Justice and the Helen Bamber Foundation (joint submission)

LRB21 Linda Scarbro and others (submission from Linton-on-Ouse resident re: clause 97)

LRB22 Chartered Institute of Housing

LRB23 London Forum of Amenity and Civic Societies

LRB24 Professor Olga Matthias