PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

LEVELLING-UP AND REGENERATION BILL

Fourteenth Sitting

Thursday 14 July 2022

(Morning)

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not later than

Monday 18 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

Thursday 14 July 2022

(Morning)

[Mr Philip Hollobone *in the Chair*]

Levelling-up and Regeneration Bill

11.30 am

The Chair: Before we begin, I have a few preliminary reminders for the Committee. Please switch electronic devices to silent. No food or drink is permitted during sittings of this Committee, except for the water provided. *Hansard* colleagues would be grateful if Members emailed their speaking notes to hansardnotes@parliament.uk.

Clause 84

National development management policies: meaning

Matthew Pennycook (Greenwich and Woolwich) (Lab): I beg to move amendment 87, in clause 84, page 92, line 9, leave out lines 9 to 16 and insert—

"(2) Before designating a policy as a national development management policy for the purposes of this Act the Secretary of State must carry out an appraisal of the sustainability of that policy.

(3) A policy may be designated as a national development management policy for the purposes of this Act only if the consultation and publicity requirements set out in clause 38ZB, and the parliamentary requirements set out in clause 38ZC, have been complied with in relation to it, and—

(a) the consideration period for the policy has expired without the House of Commons resolving during that period that the statement should not be proceeded with, or

(b) the policy has been approved by resolution of the House of Commons—

(i) after being laid before Parliament under section 38ZC, and

(ii) before the end of the consideration period.

(4) In subsection (3) 'the consideration period', in relation to a policy, means the period of 21 sitting days beginning with the first sitting day after the day on which the statement is laid before Parliament under section 38ZC, and here 'sitting day' means a day on which the House of Commons sits.

(5) A policy may not be designated a national development management policy unless—

(a) it contains explanations of the reasons for the policy, and

(b) in particular, includes an explanation of how the policy set out takes account of Government policy relating to the mitigation of, and adaptation to, climate change.

(6) The Secretary of State must arrange for the publication of a national policy statement.

38ZB Consultation and publicity

(1) This section sets out the consultation and publicity requirements referred to in sections 38ZA(3) and 38ZD(7).

(2) The Secretary of State must carry out such consultation, and arrange for such publicity, as the Secretary of State thinks appropriate in relation to the proposal. This is subject to subsections (4) and (5).

(3) In this section 'the proposal' means—

(a) the policy that the Secretary of State proposes to designate as a national development management policy for the purposes of this Act or

(b) (as the case may be) the proposed amendment (see section 38ZD).

(4) The Secretary of State must consult such persons, and such descriptions of persons, as may be prescribed.

(5) If the policy set out in the proposal identifies one or more locations as suitable (or potentially suitable) for a specified description of development, the Secretary of State must ensure that appropriate steps are taken to publicise the proposal.

(6) The Secretary of State must have regard to the responses to the consultation and publicity in deciding whether to proceed with the proposal.

38ZC Parliamentary requirements

(1) This section sets out the parliamentary requirements referred to in sections 38ZA(3) and 38ZD(7).

(2) The Secretary of State must lay the proposal before Parliament.

(3) In this section 'the proposal' means—

(a) the policy that the Secretary of State proposes to designate as a national development management policy for the purposes of this Act or

(b) (as the case may be) the proposed amendment (see section 38ZD).

(4) Subsection (5) applies if, during the relevant period—

(a) either House of Parliament makes a resolution with regard to the proposal, or

(b) a committee of either House of Parliament makes recommendations with regard to the proposal.

(5) The Secretary of State must lay before Parliament a statement setting out the Secretary of State's response to the resolution or recommendations.

(6) The relevant period is the period specified by the Secretary of State in relation to the proposal.

(7) The Secretary of State must specify the relevant period in relation to the proposal on or before the day on which the proposal is laid before Parliament under subsection (2).

(8) After the end of the relevant period, but not before the Secretary of State complies with subsection (5) if it applies, the Secretary of State must lay the proposal before Parliament.

38ZD Review of national development management policies

(1) The Secretary of State must review a national development management policy whenever the Secretary of State thinks it appropriate to do so.

(2) A review may relate to all or part of a national development management policy.

(3) In deciding when to review a national development management policy the Secretary of State must consider whether—

(a) since the time when the policy was first published or (if later) last reviewed, there has been a significant change in any circumstances on the basis of which any of the policy set out in the statement was decided,

(b) the change was not anticipated at that time, and

(c) if the change had been anticipated at that time, any of the policy set out would have been materially different.

(4) In deciding when to review part of a national development management policy ('the relevant part') the Secretary of State must consider whether—

(a) since the time when the relevant part was first published or (if later) last reviewed, there has been a significant change in any circumstances on the basis of which any of the policy set out in the relevant part was decided,

(b) the change was not anticipated at that time, and

(c) if the change had been anticipated at that time, any of the policy set out in the relevant part would have been materially different.

(5) After completing a review of all or part of a national development management policy the Secretary of State must do one of the following—

(a) amend the policy;

(b) withdraw the policy's designation as a national development management policy;

(c) leave the policy as it is.

(6) Before amending a national development management policy the Secretary of State must carry out an appraisal of the sustainability of the policy set out in the proposed amendment.

(7) The Secretary of State may amend a national development management policy only if the consultation and publicity requirements set out in section 38ZB, and the parliamentary requirements set out in section 38ZC, have been complied with in relation to the proposed amendment, and—

(a) the consideration period for the amendment has expired without the House of Commons resolving during that period that the amendment should not be proceeded with, or

(b) the amendment has been approved by resolution of the House of Commons—

(i) after being laid before Parliament under section 38ZA, and

(ii) before the end of the consideration period.

(8) In subsection (7) 'the consideration period', in relation to an amendment, means the period of 21 sitting days beginning with the first sitting day after the day on which the amendment is laid before Parliament, and here 'sitting day' means a day on which the House of Commons sits.

(9) If the Secretary of State amends a national development management policy, the Secretary of State must—

(a) arrange for the amendment, or the policy as amended, to be published, and

(b) lay the amendment, or the policy as amended, before Parliament."

This amendment stipulates the process for the Secretary of State to designate and review a national development management policy including minimum public consultation requirements and a process of parliamentary scrutiny based on processes set out in the Planning Act 2008 (as amended) for designating National Policy Statements.

It is a pleasure to serve with you in the Chair, Mr Hollobone. We had an extensive debate on Tuesday about the powers provided by clause 83 and the fact that they represent, in our view, an unacceptable centralisation of development management policy and a downgrading of the status and remit of local planning. Clause 84 is important, and the provisions in it relate directly to the previous debate, because it sets out what constitutes a national development management policy and provides the statutory basis for such policies and their operation.

As hon Members will note, the clause provides an extremely broad definition of what a national development management policy is, with proposed new subsection 38ZA(1) clarifying that an NDMP can be anything relating to development or use of land in England that the Secretary of State, by direction, designates as such a policy. Proposed new subsection 38ZA(2) provides for powers that allow the Secretary of State to modify or revoke a national development management policy, and proposed new subsection 38ZA(3) makes it clear that they have to consult about any modification or revocation only if they believe it is appropriate to do so. Given the fact that, as we spent a lengthy period of time considering in the last sitting, it is the Government's intention that national development management policies will override local development plans in the event of any conflict between the two, we are strongly of the view that the powers clause 84 provides the Secretary of State with are unacceptably broad.

I ask Government Members to look up from their digital devices for a moment and to consider precisely what the Government are proposing here and the future implications of that for their constituencies and the individual communities they represent. These powers would allow a future Minister, of whatever political allegiance, to develop an NDMP that could encompass literally any policy designated by them as relating to development or use of land in England; to determine not to consult on the development of that policy or its modification if they saw fit; and then to use that policy to overrule any local or neighbourhood plan in conflict with it at the stroke of a pen. No one who values localism and the role of effective local and neighbourhood plans in enabling communities to develop a shared vision for their area should feel comfortable with the provisions in the clause.

Amendment 87 simply seeks to impose a degree of transparency and accountability when it comes to the use of the powers, by clarifying the process by which the Secretary of State must designate and review a national development management policy, stipulating, first, that it must include minimum public consultation requirements, just as there are intensive consultation requirements for local plan policies, and secondly, that it must be subject to the same level of parliamentary scrutiny as is currently the case for designating national policy statements, as set out in the Planning Act 2008. It cannot be right that national policies that will have a far greater impact on local communities than any existing national policy statement and that the Government intend will trump local development plans in the event of a conflict can be developed without any public consultation or parliamentary approval process.

If the clause is left unamended, the danger is twofold. First, we fear that the use of the powers will be viewed by the public as yet another means of disempowering communities and hoarding more control at the centre, with all the implications that has for public engagement in a planning system that already suffers from low levels of trust and confidence, with people feeling that their concerns are overlooked and their interests subordinated to other priorities.

Secondly, without a minimum of public consultation or parliamentary oversight in designing NDMPs the Government are far more likely to get it wrong, because they will be developing and designating national policy without appropriate input from communities and their representatives about how the needs and aspirations of their areas are best served. If the Government are determined to force through a suite of NDMPs covering

[Matthew Pennycook]

the broad range of policies that, to repeat the test set out in the policy paper, "apply in most areas" and to render local development plans subordinate to them in the event of a conflict, the least they can concede is that the Secretary of State be directed to consult with institutions, authorities and other bodies before making, revoking or modifying NDMPs—not just the initial suite of NDMPs, but any that follow in future years—and to ensure that appropriate parliamentary oversight takes place.

Rachael Maskell (York Central) (Lab/Co-op): I am grateful to my hon. Friend for his amendment and the speech he has just made. This is the pivotal part of the whole Bill. It is about ensuring that there is a full and proper process—one that should eliminate risk and maximise the representation of local interest.

We had a really helpful discussion on Tuesday that explored why the amendment was needed in the first place, and I am sure the Minister soon recognised the democratic deficit the Bill would create. The Government have left a hole in the Bill, because it defines the process for establishing a national development management strategy but not the extent to which the strategy could apply, and it also fails to take forward the considerations of our communities. This provision does not belong in primary legislation, and the Minister should reflect today and over the summer on what his Government are trying to do.

The Minister said that he will be developing more detail over the summer, but we are considering the Bill line by line today. As my hon. Friend outlined, his amendment has done the work on how to govern the process for the Minister. First, on designation, there must be an in-depth consultation and any issue must come before Parliament. If an issue is of such magnitude that it requires Government to say that they need to override a local plan, surely there has to be a proper process. After all, planning does not just suddenly occur. I was scratching my head about what would constitute a national emergency that required planning permission. The only thing I could think of—the Minister may correct me—would be a war, but then we would have separate legislation to address that. On Tuesday, the Minister himself struggled to articulate where the thresholds would be and exactly what would constitute such a situation.

I have been thinking further about how our planning process is devised and the importance of co-production within our planning process. Why would this national development management strategy override a process of local planning? There could be no reason. If we think about unpopular things that the Government want to force through, such as mining hydrocarbons, fracking and so on, they should not be happening, because our planet cannot sustain their use. The same applies to building road infrastructure, but then again there are processes and national policy statements that can be made for those things.

High Speed 2 or an airport are perhaps the only other examples. We cannot sustain more air travel because of the climate crisis, and HS2 had a national policy statement —again, it has had its own legislation and processes. I really cannot imagine what is in the Government's mind that is of such magnitude that it should require the overriding of a local plan and the hopes and aspirations of our local communities. Certainly in my community, local people have not had their aspirations heard in the planning process, because we have not had a local plan. There has been imposition by developers, using the powers they have, and it has just run into conflict, gridlock and pain. I cannot see why a Government would want to excite that in a community.

I am sure the Minister will give serious consideration to this matter, if not today, then through the summer. Opposition Members have made it clear that these clauses are an unnecessary development, but I am sure the Minister will hear that point even louder from Government Members.

Tim Farron (Westmorland and Lonsdale) (LD): It is a pleasure to serve under your guidance today, Mr Hollobone. This proposal from the Government feels rather tin-eared, and the amendment—or something like it, at the very least—seems appropriate. It is good that the official Opposition have put forward a route that the Government could choose to go down.

It seems odd that there is not a worked-out process for properly scrutinising and consulting on national policy statements that could have huge ramifications for every part of this country. This is a very diverse country: we have four nations, and communities that are rural, urban and suburban. National planning policy could have many different ramifications on different communities.

I think of my own community, with 67 parish councils and the need for them to be involved and to understand the issues. Further north in Cumbria, we have the very live issue of Britain's first new coalmine in 30 years potentially being given permission later this summer—we will wait and see about that. It will be hugely significant for the community it could impact directly, but it will also have a national impact. For us not to have a level of scrutiny and consultation for national plans—something that a local authority would be slaughtered for not doing with its own local plans—seems to be very wrong and, as I say, somewhat tin-eared.

It goes back to a theme that I have tried to develop throughout debates on this Bill, which is about trying to understand the motivation. It could be that the Government are just being tin-eared and have not thought this through properly. That is entirely possible—Governments do that. The question is, who is this for? Is this devolution? Is this empowering local communities? That is what the Government claim it is. Or is it just for the convenience of central Government? If there are national plans and a national planning framework allowing Government to take forward their central agenda without proper consultation of local communities—be they rural or urban or in any part of this country—that will meet with huge opposition, including in the constituencies of Opposition Members.

The Minister of State, Department for Levelling Up, Housing and Communities (Mr Marcus Jones): It is a pleasure and an honour, as ever, to serve under your chairmanship, Mr Hollobone. I thank the hon. Member for Greenwich and Woolwich for tabling this amendment. The national development management policies are an important change to the system, and I understand the desire to ensure that they are properly considered.

The amendment has three elements: consultation, parliamentary scrutiny and policy review. I will deal with each in turn. On consultation, the existing clause already imposes an obligation on the Secretary of State to ensure that such consultation and participation as are considered appropriate take place. The previous Secretary of State was clear in his comments to the Levelling Up, Housing and Communities Committee that consultation on the national development management policies will indeed be carried out. The consultation specified by the amendment is therefore unnecessary.

Moreover, we need to bear in mind the possibility that circumstances may occasionally arise in which the Government need to make urgent change. I heard what the hon. Member for York Central said earlier, and I would like to give her an example that became apparent during the pandemic of when we had to act quickly. Hon. Members will recall, during the first part of the pandemic, the significant issue with food supply. One of the decisions that was therefore made at a national level was to disapply planning conditions relating to the hours during which supermarkets could be served by delivery vehicles. Because of the way supply chains were at that point, it was extremely important to get food through to the stores. In those circumstances, it may not be feasible to do everything that the amendment seeks to do, for reasons that I hope she understands.

11.45 am

Mrs Emma Lewell-Buck (South Shields) (Lab): In relation to consultation, the Minister just said that it depends on what the Secretary of State thinks is appropriate. Is there anywhere else in our legislation where things are left to the whim of a particular Secretary of State in that way? I cannot believe that the Minister thinks that is an acceptable way to conduct planning.

Mr Jones: I thank the hon. Member for her question. We need to look at what is being put forward today. Clearly, the passage of the Bill has some time to run, and we have to look at this issue in the context of the national planning policy prospectus that is being put out later this year so that hon. Members get a wider understanding, and I hope they will be able to respond to that.

Mrs Lewell-Buck: I thank the Minister for giving way again. Surely the prospectus should come first, before we consider implementing this legislation. It seems like things are being done in a completely back-to-front way, and I do not understand why. This is not a good way to make legislation.

Mr Jones: I understand what the hon. Member says, but clearly this process will take some time. There are other parts of the process that follow today's proceedings and Committee stage. By the time we get to that point, I am sure hon. Members will have been able to see the national planning policy prospectus and understand it more fully.

Rachael Maskell: I am grateful that the Minister was able to produce an example of where a national planning decision would override a local plan, but he talked about logistics, which does not come into the local planning process. That example was operational—it was not actually to do with planning. Can he drill down to say when a national development management policy would override a local plan?

Mr Jones: Clearly, the example I gave follows from national policy and the conditions that can be placed on planning decisions. That necessity came forward when the Secretary of State had to take a view in what was, at the time, a national emergency.

Matthew Pennycook: Further to that point, is the Minister seriously saying that a logistical issue about the opening times of supermarkets is the type of policy that will be covered by an NDMP?

Mr Jones: What I am explaining is an example of where powers need to be taken, sometimes at short notice, in the national interest.

To move on, let me turn to parliamentary scrutiny. I have listened to the debate with interest, and I appreciate the points that have been made. The existing provisions for scrutiny of national policy statements, on which I believe the amendment has been modelled, play a particular role, given the way that those statements provide a framework for decisions on nationally significant infrastructure projects, which are decided by Ministers.

National development management policies will serve a broader purpose and will sit alongside policies in locally produced plans as the starting points for considering the suitability of development proposals. They will carry forward the role that successive Governments have played since the 1940s in setting high-level national policy that influences plans and decisions. The sort of things that we envisage them covering are standard policies—for example, avoiding inappropriate development in a green belt and areas at significant risk of flooding or coastal erosion; protecting nationally important habitats and heritage, and assets such as listed buildings; and ensuring that access for pedestrians, cyclists and people with disabilities or reduced mobility is taken into account when assessing development proposals.

As I have said, we have committed to consulting on national development management policies, and this is the first step in the process. The prospectus, which we will publish shortly, will set out more of our initial thinking on the scope of the policies, and the principles for their production. I am sure that the hon. Member for Greenwich and Woolwich will read that document with interest when it comes out, and I hope that it will provide further reassurance on our commitment to transparency and full engagement as we develop the policies.

As the national development management policies will be public, parliamentarians and the public may still hold the Government to account, in the usual way, for the content of those policies. The nature of national development management policies differs from national policy statements, so we believe that the clause strikes the right balance.

We will continue to keep national policies under review by listening closely to colleagues, to the public and to the evidence presented to us, as Governments of all complexions do as a matter of course. It is not clear to me that the amendment would necessarily fit into that context. I have listened to the strength of feeling during the debate, and I hope that the national planning policy framework prospectus, when published, and my response to the three major issues that have been raised in discussing the amendment, will reassure Members. I will continue to reflect on the issues that have been raised,

[Mr Marcus Jones]

particularly in relation to responses to the prospectus. I hope that the hon. Gentleman will feel able to withdraw his amendment.

Matthew Pennycook: I am extremely disappointed by the Minister's response. The hon. Member for Westmorland and Lonsdale was right to use the phrase "tin-eared". That is what the Minister's response was, and I hope he will reconsider.

The amendment and the clause go to the heart of the problem with the Bill. Is it a vehicle to empower communities and their representatives, or to override them when the Government of the day think that is the appropriate thing to do? Where the Government fall on that question is clear from the Minister's answer. Let me reiterate that the level of scrutiny that we are asking for is not excessive or inappropriate; it is a minimum public consultation requirement in the way that currently applies to local planning policies, and the same level of parliamentary scrutiny as for designated national policy statements.

The Minister's response was very telling. He said: "Well, the Secretary of State"—the previous Secretary of State now—"has committed to consultation." That is all well and good, and I hope the prospectus will come in the summer, but it is not about that or about what the previous Secretary of State said; it is about what the Bill says. The Bill says that a Secretary of State needs to consult on an NDMPs if he or she considers it "appropriate". If a Secretary of State in a future Labour Government brings forward an NDMP, does not consult on it, and uses it to override a local development plan in a constituency of one of the Members now on the Government side of this Committee, those Members would be the first to cry foul the use of such powers. The clause guarantees only that a Secretary of State needs to consult if he considers it appropriate.

On parliamentary scrutiny, the Minister said that NDMPs are different from national policy statements because they have a broader purpose. If they have a broader purpose, surely there is all the more need for basic parliamentary accountability and scrutiny, in the way that currently applies to such statements under the Planning Act 2008.

I am extremely disappointed by the Minister's response, as he can tell. I hope that he will go back and reconsider this issue and those that we raised in the debate on clause 83, because we will certainly discuss these matters again, if not on Report in this place, then in the other place. I will not press the amendment to a vote, but I urge him to reconsider. 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: Clause 84 provides the statutory basis for national development management policies in England. As they will play an important part in the planning process, the clause puts a necessary safeguard in place: they must be designated by the Secretary of State so that their status is clear, they must relate to the development or use of land and, most importantly, they must be subject to appropriate consultation before they can have effect.

The clause is necessarily broad in scope so that national policies can address the various planning considerations that apply across the country, from basic policies for protecting the green belt to those for avoiding areas of high flood risk. That will free up local plans to focus on matters of local importance.

We intend to consult fully on the scope and content of these policies before they are first introduced to ensure we have heard a wide range of views before deciding what is best set out at a national level, and before deciding what the policies themselves will say. Alongside clauses 83 and 84, they will be instrumental in making it easier to prepare local plans that reflect communities' priorities for their areas while providing a sound basis to address the general planning considerations that apply across the country. I therefore commend the clause to the Committee.

Question put and agreed to.

Clause 84 accordingly ordered to stand part of the Bill.

Clause 85

Contents of the spatial development strategy

Matthew Pennycook: I beg to move amendment 93, in clause 85, page 92, leave out lines 26 and 27.

This amendment would remove an additional legal test within London's Spatial Development Strategy that could preclude the insertion of policies which contribute to the effective strategic planning of Greater London but would also apply to other urban areas or are not specific to Greater London.

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

Amendment 94, in clause 85, page 92, line 27, at end insert—

"(c) supporting policies within the Spatial Development Strategy that achieve objectives for the benefit of strategic planning of Greater London."

This amendment would enable the Mayor of London can include policies in a Spatial Development Strategy that contribute to the effective strategic planning of Greater London.

Amendment 95, in clause 85, page 93, line 5, at end insert—

"(2DA) The determination of whether a matter is of strategic importance to more than one London borough for the purposes of subsection (2D) lies solely with the Mayor of London."

This amendment is intended to remove ambiguity about whose opinion is relevant in relation to whether or not a matter is of strategic importance to more than one London borough.

Amendment 96, in clause 85, page 93, line 9, at end insert—

"(2F) The spatial development strategy must include statements dealing with the general spatial development aspects of—

(a) such of the other strategies prepared and published, or to be prepared and published, under the enactments mentioned in section 41(1) above as involve considerations of spatial development, and

(b) such of the Mayor of London's other policies or proposals as involve such considerations, whether or not the strategy, policy or proposal relates to the development or use of land."

This amendment would retain provisions relating to the Mayor of London's Spatial Development Strategy which relate to the spatial development aspects of the other Mayoral strategies.

Amendment 97, in clause 85, page 93, leave out lines 13 to 19.

This amendment would remove inserted subsection (10), which would place constraints on the Mayor of London's Spatial Development Strategy relating to national development management policies.

Amendment 91, in schedule 7, page 241, line 16, leave out "with respect to design".

Amendment 92, in schedule 7, page 241, line 18, after "met" insert

"in support of plan-making or".

Matthew Pennycook: Clauses 85 and 86 relate to the spatial development strategy in London. I hazard a guess that the subject is not likely to set Government Members' pulses racing, but it is important none the less, and I feel duty bound to do it justice as the only Member present who represents our glorious capital city.

On the surface, clause 85 appears relatively innocuous. It would seem that it is simply a matter of bringing the London plan in line with other spatial development strategies and providing greater clarity on the matters that can and cannot be covered by a spatial development strategy. However, once one digs into the detail, as I have, it quickly becomes apparent that taken together with two proposed changes set out in schedule 7—proposed new section 15CC, on supplementary plans—it is far more insidious. It amounts, in effect, to the rolling back of London's strategic planning powers in important ways.

Let me say a little at the outset about why curtailing the strategic planning powers that Greater London enjoys would be harmful. London's devolved strategic planning powers have been a huge success story over the past two decades under successive mayoral administrations. Since the first draft London plan was published in 2002, successive plans have facilitated a step change in the planning of our country's only global city. London has been able to lead the way in planning policy approaches in a wide range of areas, whether focused on tackling climate change, addressing biodiversity loss, improving fire safety, addressing poor air quality or increasing the supply of affordable housing and the pace of its delivery.

The results speak for themselves: since the creation of the Greater London Authority, annual net housing supply has doubled and new homes in London lead the country in design, quality and energy efficiency. Indeed, the co-ordinated strategic planning approach that London has adopted has been so successful that the Government are proposing, through this Bill, to allow the new combined county authorities essentially to adopt it.

Despite the tacit recognition of the success of London's strategic planning powers that the provision of the new power to CCAs implies, clause 85 and parts of schedule 7 explicitly curtail their effective use by putting in place significant additional restrictions on the preparation of future iterations of the London plan. They do so in four ways: first, proposed new subsection (2A)(b) states that policies can be included in a future London plan only if they are designed to achieve objectives that relate to the "particular characteristics or circumstances of Greater London". We believe that is unnecessarily restrictive. There are many objectives that the London plan should appropriately be working toward that are not specific to the characteristics or circumstances of London, whether that is climate change, biodiversity and green infrastructure, supporting town centres and high streets, or parking and suburban housing development.

12 noon

The purpose of strategic planning in London is not to constrain itself purely to matters that are demonstrably only relevant to that city, but to provide a strong statutory framework for the constructive and co-ordinated planning of our capital. Our amendment 93 would remove the additional legal test, thereby allowing the inclusion of policies within a future London plan to achieve objectives that may not be solely applicable to our capital.

Secondly, proposed new subsection (2D)(b) states that policies can be included in the London plan only if they are strategically important to more than one London borough. It is not clear why that qualification is necessary, given what is set out in subsection (2D)(a), which precedes it, and it risks inhibiting strategic planning in relation to issues that are clearly of strategic importance but that fall within the boundaries of a single borough.

To use a case that I am familiar with in my constituency, the boundaries of the Maritime Greenwich world heritage site lie solely within the Royal Borough of Greenwich, but of course it is of strategic importance to London, just as the Charlton riverside opportunity area in my constituency is of strategic importance to London's housing market. Our amendment 94 would resolve the problem by clarifying that it is for the Mayor of London to determine what is of strategic importance to more than one London borough.

Thirdly, clause 85(3) removes the link between London's spatial development strategy and other mayoral strategies by replacing the relevant parts of section 334 of the Greater London Authority Act 1999. That is problematic because it would mean that the London plan is no longer required to set out spatial policy for those strategies, despite the fact that the planning system is an incredibly important means of delivering on a number of policy objectives, at least in so far as they relate to the built environment.

Let us consider health inequalities in London. The planning system clearly has the ability to promote and support public health measures through access to open space, sports facilities and a range of healthy food choices, including allotments. The London plan currently requires an assessment of the impacts of new development on health, as well as the mitigation of those impacts.

I also draw the Committee's attention to London plan policies that deliver against the Mayor's environment and transport strategies. The implementation of those strategies is profoundly affected by the built environment: from a building's energy performance to prioritising brownfield sites with good transport accessibility and design that reduces air pollution and increases active travel.

We believe that the explicit duty that exists for the Mayor to address via the London plan the spatial elements of other mayoral strategies should remain so that strategic planning can continue to help secure positive change in the environmental, economic and social spheres, rather than leaving other mayoral strategies as nothing more than a wish list that cannot be effectively implemented. Our amendment 96 would restore the link between the two in the Bill.

Fourthly, although the Bill provides new powers for the creation of mayoral supplementary plans in London, the powers to produce them as set out in schedule 7 are

far narrower than the powers provided to local authorities to produce their own. Line 16 on page 241 states that a supplementary plan produced by the Mayor

"may include requirements with respect to design",

thereby excluding, for example, detailed guidance about non-design matters such as affordable housing.

Line 18 on the same page specifies that supplementary plans can be used only for guidance about how to determine a planning application, rather than about how to do plan making, thereby preventing a mayoral supplementary plan from providing advice to London boroughs in preparing their own local plans so that there is general conformity with the London plan. Our amendments 91 and 92 resolve those two issues.

London is as exposed as any other part of the country to the Government's determination to give primacy to national planning policy through national development management policies, as set out in clauses 82 to 84, and it would be damaged by them in the same way if the Government determined to use NDMPs to impose inappropriate national policies on our capital city.

However, the additional ways in which the Bill curtails the effective use of London's strategic planning powers by putting in place the significant additional restrictions I have set out will add further complexity to the plan-making process in our capital and impact on London's ability to meet the future challenges it faces, whether in co-ordinating the delivery of housing or optimising investment in transport and other infrastructure.

I urge the Minister to think again about what is actually proposed in clause 85 and the parts of schedule 7 that I have referenced, and about the impact that those unnecessary restrictions will have on our capital, and to accept this group of amendments.

Tim Farron: I am very concerned about this part of the Bill. If we ask people in England which part of our country has the most autonomy and sovereignty and is listened to the most, most of them will say London—and they would be broadly right. It is really concerning to any person in this country who cares about genuine devolution and the empowerment of local communities that the part of England with the most powers devolved to it is having many of those powers curtailed, qualified and restricted by the clause, and the amendments are important because they put a spotlight on that issue.

Some of the language around levelling up may in fact be divisive, because it is about setting ourselves against one another. Rural communities are the poorest and most needy in England, but there is much that binds us all together. We need to consider ourselves as a United Kingdom and to make common endeavour, but we can do that only if we trust one another, give communities genuine sovereignty and power, and trust them.

Again, there is a theme with the Bill: it is about levelling up and devolution in name, but in reality it is about a lack of trust in the local electorate, local communities and local leaders—in this case, the Mayor of London. Anybody in this country—in England at least—who is concerned about their autonomy, their sovereignty and the devolution they want for their community should be deeply concerned about this proposal and should stand in solidarity with communities in London, who seem to be having theirs curtailed in the Bill. That is the opposite of levelling up and the opposite of devolution, and it increasingly sounds not like devolution but like delegation.

Mr Jones: Clause 85 reaffirms the vital role of the London plan in setting strategic policy for the capital. However, the London plan is intended, and was originally designed, to deal only with matters of strategic importance in London. Those are limits to which the London plan has not always strictly adhered, and it now often touches on matters that no one would consider as strategic in nature, but rather as instances of applying the strategy.

Let me give an example of where the Mayor of London has overstepped that strategic objective. Policy H16 in the London plan refers to laundry, bedding and linen services, which do not seem overly strategic. The inclusion of non-strategic matters means that the London plan is far lengthier and more detailed than it needs to be—the current London plan is over 500 pages long. Not only does that increase the time taken to produce it, but it makes it more complicated for the people of London to work out what policies apply in their area and how those interact.

One of our most important objectives in reforming the planning system is to give a distinct and clearly defined role to each part of the development plan. By clearly specifying that the London plan must cover matters of strategic importance to London, we are making the plan's role and its relationship to individual local plans easier to understand.

The text that amendment 93 proposes to remove also underlines that policies should relate to the particular characteristics or circumstances of London. During the preparation of the London plan, there is nothing in the Bill that would prevent the Mayor of London from considering matters that affect London but relate to areas outside Greater London. However, I hope we can agree that the policies themselves should relate to the area for which the Mayor has jurisdiction. Likewise, on amendment 94, it seems entirely reasonable that any policy included at the level of the London plan should have more than a local impact. Otherwise, it would be properly a matter for the appropriate local planning authority's local or supplementary plans.

On that subject, under the provisions in the Bill, the Mayor of London may prepare a supplementary plan relating to design matters for the whole of Greater London, and amendments 91 and 92 concern that new power. I agree entirely with the intention behind amendment 92, but the amendment is needed to achieve that aim, because the Mayor's supplementary plans will be part of the development plan, and schedule 7 inserts proposed new sections 15CA(5)(g) and 15CC(8), which provide that, in preparing local and supplementary plans, London boroughs—as local planning authorities—must have regard to the development plan.

Turning to amendment 91, supplementary plans provide local planning authorities with the flexibility to bring forward policies for specific sites, or groups of sites, quickly—for example, in response to a new opportunity that had not been identified in the local plan, or to set design standards too detailed for the local plan itself. They are not intended to supplant the primacy of the local plan or to circumvent the fuller process to which local plans will be subject. Supplementary plans are therefore primarily intended as a tool for local planning

authorities to set more granular policies. Allowing the Mayor to set such policies would be contrary to the strategic—rather than locally specific—role of the Mayor. The Mayor's role should be in setting design standards on a London-wide basis.

That is what the Mayor's supplementary plan power provides for, while not precluding the Mayor from producing guidance on particular planning matters—a tool that I understand he has made good use of. However, the Mayor of London does not allocate sites in the London plan. Therefore, the ability to produce site-specific supplementary plans is not necessary. In the same way, in the current system, the Mayor does not produce supplementary planning documents.

That leads on to the effect of amendment 97. The London plan has never been able to allocate specific sites. It will retain its ability to identify broad locations for development, which will inform site allocations in individual local plans produced by London boroughs. Local plan making is the correct level at which to allocate individual sites for development, as boroughs work closely with their communities to identify the most suitable sites.

The Mayor should therefore not be able to allocate sites for development through either a supplementary plan or the London plan itself. That preserves the defined roles for strategic planning relative to the local plan. For that reason, it would be inappropriate for the Mayor alone, as suggested by amendment 95, to determine what should constitute "strategic" across more than one borough. That is not to say that the Mayor's opinion on what constitutes a strategic matter is not essential. However, it is legitimate for other organisations and people, including the boroughs and those examining the London plan, to take a view on the issue.

In addition—although I do not think we need to repeat our earlier debate on this point—we have included the requirement not to be inconsistent with, or to repeat, any national development management policy, to ensure that the whole planning system, from national to local level, is consistent. That allows those matters that are best dealt with at the national level to have status, without requiring repetition in the development plan, potentially at both the strategic and local plan level.

Finally, on amendment 96, we want to remove unnecessary obligations from plan makers. Removing the requirement for the Mayor to include statements on general spatial development aspects of their other strategies and policies does not bar the Mayor from so doing. It merely allows the Mayor to judge how far it would be helpful to do so. I hope we can agree that that is a more sensible position.

I am aware that I have spoken at some length on these points, but I hope that has been helpful for the Committee. In the light of what I have said, I hope that the hon. Member for Greenwich and Woolwich will feel able to withdraw the amendment.

12.15 pm

Matthew Pennycook: I must confess that I am slightly disappointed with that answer. I appreciate that, in reading his remarks, the Minister has addressed each of the amendments in this group, but I do not think he has provided a convincing defence of why the Bill as it stands needs to be that way or of how restricting the Mayor's powers in the way the Bill intends will not lead to harmful impacts of the kind I set out. I do not intend to press the amendments, but I very much hope that the Minister will continue to engage in dialogue with the Greater London Authority about these specific points. In one way or another, I think we will come back to these issues; if not, I expect that the noble Lords in the other place will do so. 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 clause 86 stand part.

Mr Jones: The Localism Act 2011 abolished regional spatial strategies, which acted as strategic plans for the regions of England. The exception was London, where the Mayor has retained the power to produce a spatial development strategy, better known as the London plan.

The London plan acts as the strategic plan for the capital, and local plans produced by London boroughs must be in general conformity with it. It sets out the planning framework for the capital, which includes the setting of a London-wide housing target broken down into individual housing targets for boroughs. It cannot allocate sites, but it can identify broad locations for development, the details of which are established in subsequent local plans. Local plans require closer consultation between plan makers and the people they represent, making them better placed to identify specific sites for development.

Since 2011, the power to produce an SDS has been extended through devolution deals to three mayoral combined authorities—Greater Manchester, the Liverpool city region and West of England—with the intention to give the equivalent power to West Yorkshire in the future. The Bill will expand the power to produce an SDS to all local planning authorities in England outside of Greater London and the mayoral combined authorities I have mentioned. Groups of authorities will be able to use the powers on a voluntary basis when they feel that they would benefit from such a plan.

Spatial development strategies are prepared by an elected Mayor or a combined authority to provide the strategic policies for the development and use of land in the area they cover. The Government wants the development plan system to be clear and efficient. By setting out clearly what a spatial development strategy can and cannot do, clause 85 will be instrumental in achieving a system that is easier to engage with.

Spatial development strategies enable a co-ordinated approach to planning across multiple local authorities and are an effective mechanism for resolving cross-boundary issues. The London plan has broadly been seen as a useful plan at that spatial scale, with each newly elected Mayor choosing to commence work on a new London plan shortly after entering office. It provides a clear and accountable mechanism for setting planning policy across London boroughs and for redistributing housing need across the city.

The London plan is intended to deal only with matters of strategic importance to London. However, that intention has not been strictly adhered to, as I mentioned earlier, and increasingly the London plan has included detailed

[Mr Marcus Jones]

development management policies on a range of issues that are not usually considered to be of a strategic nature. That increases the length and detail of the plan and the amount of time taken to produce it. It also means that the London plan encroaches on aspects of policy that should be dealt with at either local plan level or national level, which creates overlap between several types of plans and makes plans longer than they need to be.

The amendments made by clause 85 will ensure that the distinction between spatial development strategies and local plans remains clear. The clause will amend the provisions of section 334 of the Greater London Authority Act 1999 to update the permissible content of a spatial development strategy and will ensure that the purpose and scope of this type of development plan is clear.

In particular, at proposed new subsection (9), it is clear that a spatial development strategy must not be site specific, and nor can it be inconsistent with or repeat national policy. Proposed new subsection (9) also prohibits spatial development strategies from identifying particular sites, preserving that level of detail for the local plan, where such specificity is more appropriate. Unfortunately, only one member of this Committee is from London, but I am sure that the hon. Member for Greenwich and Woolwich would accept that his particular local authority knows local people on a more granular level than the Mayor does, because the Mayor works at a strategic level. Therefore it is a far better principle for the local authority to identify sites and make decisions on them.

The amendments made by the clause will mark a change to the current scope of the London plan and mean that it needs to be consistent with national development management policies. Proposed new subsection (2D)(b) introduces a new and additional requirement for strategic matters to be of strategic importance to more than one London borough. The clause deliberately uses the same wording as proposed new section 15AA of the Planning and Compulsory Purchase Act 2004, as inserted by schedule 7 to the Bill, which applies to the content of a joint spatial development strategy. The strategy can be prepared by partnerships of other local planning authorities around the country outside of combined authority areas, meaning that a spatial development strategy will have the same effect whichever system it is produced under. Again, that will help to clarify and demystify the planning system.

London plan policies would, in future, need to avoid conflict with national development management policies, which the Bill empowers the Secretary of State to prepare, and to be of strategic importance to more than one borough. The Levelling-up and Regeneration Bill will not affect how the Mayor consults on or gains approval for the London plan or the role of either the Mayor or the Secretary of State in relation to it.

Question put and agreed to.

Clause 85 accordingly ordered to stand part of the Bill.

Clause 86 ordered to stand part of the Bill.

Clause 87

PLAN MAKING

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

Mr Jones: The clause introduces schedule 7, which will replace the majority of part 2 of the Planning and Compulsory Purchase Act 2004, namely sections 15 to 37. Schedule 7 contains new provisions relating to different elements of the development plan—specifically joint spatial development strategies, local plans, minerals and waste plans, and supplementary plans. The details of those provisions will be debated throughout these sessions.

In summary, the proposed changes will ensure that plans are faster for local authorities to produce, easier for communities to navigate, engage with and understand, and more focused on things that matter locally. The reforms will support local planning authorities to produce local plans and keep them up to date—something that has proven challenging for many under the existing system. Local planning authorities and communities invest considerable time and effort in preparing local plans, but many plans take too long to produce. The average plan takes seven years, and plans are frequently out of date and can be difficult to understand.

Decisions on planning applications are meant to be plan-led, but in practice local plans cannot always be relied on for guiding decisions, especially when they are not up to date or do not set clear standards for development to follow. To make the system more responsive and flexible, local authorities will be given new powers to collaborate voluntarily with each other on joint spatial development strategies. They will also be able to introduce new policy at pace through supplementary plans.

There are two specific elements of the current plan-making system that the Government are not looking to retain. The first is the requirement for local planning authorities to produce a statement of community involvement. Such statements do little to drive meaningful dialogue with communities during plan production. Instead, the Secretary of State will produce guidance setting out much clearer expectations around how local planning authorities should engage people in the planning process.

Secondly, we do not propose to retain the duty to co-operate. The duty has been widely criticised as inflexible and burdensome, causing significant delays to the production of local plans. It will be replaced with a more flexible policy-based approach to addressing strategic issues that cut across authorities. That will be set out in a revised national planning policy framework in due course.

Matthew Pennycook: Just to check that I understood the Minister correctly, is he saying that the new flexible alignment test, which is to follow in the Bill, will come in only at the point that the NPPF is finalised in 2025? Is he saying that that is when we should expect this new test to appear?

Mr Jones: Clearly we will need to ensure that the new test is workable. We will have to consider that very carefully, and we will no doubt consult on it. I will need to come back to the hon. Gentleman about the timeframe in order to provide him with that information. However, given the important changes that this clause enables us to introduce, I commend it to the Committee.

Question put and agreed to.

Clause 87 accordingly ordered to stand part of the Bill.

Schedule 7

PLAN MAKING

Matthew Pennycook: I beg to move amendment 112, in schedule 7, page 224, line 14, after "authorities" insert "or county councils".

This amendment and amendment 113 would enable county councils to prepare joint spatial development plans.

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

Amendment 113, in schedule 7, page 224, line 16, after "authority" insert "or county council".

See explanatory statement for Amendment 112.

Amendment 103, in schedule 7, page 224, leave out lines 19 to 22.

This amendment would leave out inserted section 15A(2)(b) and make combined authorities eligible for a joint spatial development strategy.

Amendment 102 in schedule 7, page 233, line 41, at end insert—

"15AJ Duty to co-operate in absence of joint spatial development strategy

(1) This section applies in any area in which a joint spatial development strategy is not operative.

(2) Each person who is—

(a) a local planning authority,

(b) a county council in England that is not a local planning authority, or

(c) a body, or other person, that is prescribed or of a prescribed description, must co-operate with every other person who is within paragraph (a), (b) or (c) or subsection (10) in maximising the effectiveness with which activities within subsection (3) are undertaken.

(3) In particular, the duty imposed on a person by subsection (2) requires the person—

(a) to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (4) are undertaken, and

(b) to have regard to activities of a person within subsection (10) so far as they are relevant to activities within subsection (4).

(4) The activities within this subsection are—

(a) the preparation of a joint spatial development strategy,

(b) the preparation of development plan documents,

(c) the preparation of other local development documents,

(d) the preparation of marine plans under the Marine and Coastal Access Act 2009 for the English inshore region, the English offshore region or any part of either of those regions,

(e) activities that can reasonably be considered to prepare the way for activities within any of paragraphs (a) to (d) that are, or could be, contemplated, and

(f) activities that support activities within any of paragraphs (a) to (d), so far as relating to a strategic matter.

(5) For the purposes of subsection (4), each of the following is a 'strategic matter'—

(a) sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and

(b) sustainable development or use of land in a two-tier area if the development or use—

(i) is a county matter, or

(ii) has or would have a significant impact on a county matter.

(6) In subsection (5)—

'county matter' has the meaning given by paragraph 1 of Schedule 1 to the principal Act (ignoring sub-paragraph 1(1)(i)),

'planning area' means—

(a) the area of—

(i) a district council (including a metropolitan district council),

(ii) a London borough council, or

(iii) a county council in England for an area for which there is no district council,

but only so far as that area is neither in a National Park nor in the Broads,

(b) a National Park,

(c) the Broads,

(d) the English inshore region, or

(e) the English offshore region, and

'two-tier area' means an area—

(a) for which there is a county council and a district council, but

(b) which is not in a National Park.

(7) The engagement required of a person by subsection (3)(a) includes, in particular—

(a) considering whether to consult on and prepare, and enter into and publish, agreements on joint approaches to the undertaking of activities within subsection (3), and

(b) if the person is a local planning authority, considering whether to agree under section 28 to prepare joint local development documents.

(8) A person subject to the duty under subsection (2) must have regard to any guidance given by the Secretary of State about how the duty is to be complied with.

(9) A person, or description of persons, may be prescribed for the purposes of subsection (2)(c) only if the person, or persons of that description, exercise functions for the purposes of an enactment.

(10) A person is within this subsection if the person is a body, or other person, that is prescribed or of a prescribed description.

(11) In this section—

'the English inshore region' and 'the English offshore region' have the same meaning as in the Marine and Coastal Access Act 2009, and

'land' includes the waters within those regions and the bed and subsoil of those waters."

This amendment would require local authorities and other public bodies to co-operate on local planning measures in the absence of an operative joint spatial development strategy on the lines of section 33A of the Planning and Compulsory Purchase Act 2004. This duty would encompass co-operation by all relevant local authorities on preparation for such a strategy.

Matthew Pennycook: Schedule 7 is 40 pages long and it contains a very wide range of provisions on plan making, many of which are complex. The amendments in this group relate to the provisions concerning joint spatial development strategies.

We support the new power in proposed new section 15A that allows two or more local planning authorities to work together to create one of these strategies. If done well, we believe they that will provide a high-level investment framework, more choice of where to direct development, greater opportunity to deliver sustainable growth and a means of translating national policy priorities, from levelling up to net zero, on a place-based basis.

[Matthew Pennycook]

In our view, joint spatial development strategies are likely to provide a much more attractive and deliverable strategic planning model than provided for by existing joint strategic plans, which have proved problematic, given that they are prepared and tested by means of an arrangement essentially designed for detailed local plans. Allowing groups of authorities to come together and collaborate to prepare and test strategic planning policies in relation to matters that cross local boundaries, whether that be infrastructure or affordable housing, by means of a joint spatial development strategy, is clearly a good thing, and it is crucial that more authorities do that.

12.30 pm

At the end of the day, we cannot ignore the economic, social and environmental geography of England if we want to meet the challenges our nation faces and secure its long-term prosperity. To take just one example of why more cross-boundary strategic planning is essential, the Environment Agency's climate change allowances analysis estimates that 32 district authorities, from the Humber to the Thames, are at risk of up to 1.5 metre sea level rises over the next 80 years. Clearly, no one district authority can deal with an existential threat of that magnitude on its own, so we must have better frameworks for enabling co-operation on that and other types of cross-boundary challenge, with effective accountability baked into them. However, we believe that there are three distinct weaknesses with the concept of joint spatial development strategies, as set out in proposed new sections 15A to 15AI of schedule 7, and the four amendments seek to address them.

First, and I am happy to be corrected by the Minister if this is not the case, given the complicated patchwork of powers resulting from devolution, it is our understanding that joint spatial development strategies cannot be prepared where there is an existing mayoral combined authority or combined authority, even in instances where an MCA or CA does not currently have the powers to prepare a spatial development strategy, as is the case with the North East Combined Authority, the North of Tyne Combined Authority, the Tees Valley Combined Authority and the West Midlands Combined Authority, or has chosen not to enact the existing powers, as is the case with the South Yorkshire Mayoral Combined Authority and the Cambridgeshire and Peterborough Combined Authority. If that is the case, it would appear effectively to rule out swathes of urban England that the Government rightly consider to be priority areas for levelling up.

We believe it would be sensible to enable and encourage existing mayoral combined authorities and combined authorities to come together to create joint spatial development strategies. If the Government feel that option is too expansive, they could consider instead enabling MCAs and CAs to create joint spatial development strategies, but prohibit from doing so those that have existing powers to develop them. I concede that amendment 103 is not the most elegantly drafted amendment, but it is designed to probe the Government on that point. It would remove proposed new section 15A(2)(b) from page 224, thereby rendering combined authorities eligible for the new power to create a joint spatial development strategy.

Secondly, the Bill provides for joint spatial development strategies to be solely the responsibility of local planning authorities. That means that in two-tier areas, which as we have discussed in previous debates cover 80% of England, county councils will have no statutory duty to support the preparation of a spatial development strategy and will play no role in decision making relating to them. That strikes us as odd given that county councils have responsibilities in a range of significant areas that impact on spatial decisions and priorities, including statutory responsibilities for transport and other strategic infrastructure. They are lead flood, public health and minerals and waste authorities, and they have responsibility for the new local nature recovery strategies.

We believe that excluding county councils from involvement in joint spatial development strategies is problematic in terms of who owns the strategies and of accountability and the provision of resources to sustain them. We believe that there is a case for giving county councils a voice, alongside local planning authorities, when it comes to preparing a joint spatial development strategy—something that could be achieved with some small changes to schedule 7 to make it clear that all relevant authorities within a given area, whether they are district or unitary authorities or county councils, have responsibility for and should be involved in preparing one of these strategies. Amendments 112 and 113 would make that possible by specifying that county councils also have access to the new powers, allowing them to participate in the creation of one of these strategies.

Thirdly, and most importantly, as the Minister said, the Bill specifies that joint spatial development strategies are entirely voluntary. They therefore rely on the willingness of local planning authorities to agree to work together to tackle major cross-boundary challenges in relation to issues such as the spatial distribution of development or the provision of strategic infrastructure. Not only that, but schedule 7 replaces section 33A of the Planning and Compulsory Purchase Act 2004, thereby abolishing the duty to co-operate, as the Minister said.

As such, if the schedule is not amended, in a given geographic area where authorities do not come together to use the new powers provided by the Bill to create a joint spatial development strategy there will be no statutory arrangement to encourage them to work together on strategic planning other than the new flexible alignment test that is to be set out in national policy in due course. Yet as we consider the clause, we have absolutely no idea what that flexible alignment test will look like and how it will apply. The Minister said he will write to me with more details, and I very much appreciate that. At the moment, we are legislating blindfolded as to how the flexible alignment test will operate.

Even once the Government's flexible alignment test has been set out, however, it will not provide a statutory arrangement for strategic planning in the way the duty to co-operate does. We fully recognise that the duty to co-operate has not been uniformly successful—I put that as diplomatically as I can. Although there are examples of it making a positive difference, such as the joint work being done by the East Riding of Yorkshire Council and Hull City Council, in the main it has not been effective. The West of England's recent experience is perhaps the most well-publicised example of its failings. We would argue that that is because it was a mechanism introduced primarily to prevent non-strategic planning

in the context of local plans and the distribution of new housing following the scrapping of regional spatial strategies and regional development agencies, rather than one designed to foster the kind of deep strategic co-operation that enables areas to meet their cross-border challenges and the sharing of unmet local need to adjacent authorities.

In the absence of any provision for democratic and accountable regional and sub-regional planning, however, the duty to co-operate at least provides a minimum standard for cross-border strategic planning. By scrapping it and determining to replace it with only a discretionary new power, our fear is that the Bill risks resulting in even less cross-border strategic planning co-operation, because the incentive structure is not right. That flaw in the Bill could be addressed in a number of ways. The Royal Town Planning Institute has suggested various ways of incentivising authorities to participate in new joint spatial development strategies, whether that is by integrating them with devolution deals or providing tangible rewards such as funding or infrastructure provision.

Amendment 102 merely probes the Government on the issue by coming at the problem from the other way and reinserting the duty to co-operate in the Bill, ensuring that it would continue to apply to any authorities that determined not to voluntarily enter into a joint spatial development strategy. In that way, it seeks to provide a clear incentive for authorities to use the new power provided for by proposed new section 15A, but ensures that if they do not, there is not a complete absence of any statutory arrangement designed to foster cross-border strategic planning.

I trust that the Minister understands the points that I have made. I hope that in responding to these four amendments, he will indicate whether the Government will consider making combined authorities eligible for the new power, whether they will allow all tiers of authorities in a given area to participate in the creation of joint spatial development strategies and whether they will give some consideration to how best authorities might be incentivised to make use of the new power to create them.

Tim Farron: This is an important part of the Bill. I am comfortable with much of the direction that the Government seek to go in, but if we are to offer the power to develop joint spatial development strategies, it should be to everybody. I will make particular reference to national parks in England and the duty to consult with them.

It is worth bearing in mind that national parks are quasi-local authorities. In many ways, they have the functions of a local authority, particularly when it comes to planning and some other associated issues. They do not have council tax-raising powers and they are not directly elected in any shape or form in England or Wales. In Scotland, there is an element of direct election to the national parks.

I will make two suggestions. First, the needs of national parks and areas of outstanding natural beauty are significant. They are parts of the country that we have collectively decided are so important that they need to be protected for environmental reasons, to provide education and enlightenment about our heritage and our culture, and to protect the communities within them. I am especially concerned about that latter point.

In national parks, decisions are made about housing, planning and development that have a huge impact on the lives of the people who live within them. The Lake District national park has between 40,000 and 50,000 full-time residents, a not inconsiderable number of people whose lives are affected by an unelected authority. By the way, the national parks do a great job—I have a lot of time and praise for what the Lake District national park and the Yorkshire Dales national park in my constituency do—but it is not true to say that they make their decisions entirely democratically.

When we are consulting and imposing a duty to consult, we must have a duty to consult the national parks. They must not be considered things to be overlooked, and communities must not be overlooked. We need to remember that decisions made about affordable housing and allowing farmers to do something on their farms that might enable them to diversify and to provide a home for agricultural workers, or a home for a farmer to retire into so that a young farmer can come and take their place, are often decided by people who do not live in the national park and who are not elected by the local community.

It would be interesting if the Minister could reflect on the extent to which the Government might consider learning from the Scottish example, whereby a number of members of national park authorities are directly elected. When we place a duty to consult, which means that we bring in the national parks, we should consult people who are there representatively, who are democratically elected and who are there to speak on behalf of the community. If we do not do that, the national parks will continue to be considered simply places for people to visit, not places for people to live. It is essential that we consider the living, vibrant communities of our national parks, as well as the fact that they are huge assets for the nation as a whole.

Mr Jones: Although I understand the reasons for the amendments, our intention is for the reformed planning system to be district-led. As we have discussed previously, we do not want to see planning or any other powers being drawn upwards as a result of our reforms. As such, joint spatial development strategies need to be driven by the authorities closest to their communities.

We agree that county councils should play an important role in the plan-making process. They will have significant influence over the development of a joint spatial development strategy, and we envisage that they will be closely involved with its day-to-day production. To make sure that happens, we are giving them the formal status of statutory consultee so that they can bring their experience and expertise in a range of issues, particularly highways, transport, flood mitigation, education and the rules on waste, to the creation of a joint spatial development strategy. Planning inspectors examining the joint spatial development strategy will want to see evidence of work on those key issues and to make sure that any views expressed by the county council have been properly taken into consideration.

The approach that we are proposing strikes a balance between ensuring that joint spatial development strategies are developed at the right level and ensuring that the views and expertise of county councils are part of the process. Likewise, in areas with an elected Mayor, we believe it is vital that the Mayor is formally involved

[Mr Marcus Jones]

in the production of a spatial development strategy, in order to provide clear and accountable leadership for it. That is why combined authorities should not be eligible to produce a joint spatial development strategy. In such cases, the Mayor, with the support of all the member authorities, can approach the Government to ask for spatial development strategy powers to be conferred on them as part of their devolution deal.

I hope that was the response that the hon. Member for Greenwich and Woolwich was looking for. His amendments seem to view spatial development strategies as a co-ordinating layer in the planning system. Amendment 102 seeks to resuscitate the duty to co-operate, which is widely agreed—most Conservative Members would agree, at least—to have been an ineffective mechanism, criticised as inflexible, bureaucratic and slow. That is why the Bill abolishes it. We can all agree that it is vital for local planning authorities to work together to make sure that cross-boundary issues are properly addressed. We expect them to plan for, and deliver, the housing and infrastructure our communities need. The planning system provides a number of mechanisms to assist them in doing so to which we are adding.

We intend to replace the duty with more flexible policy within the revised national planning policy framework, upon which we will consult. This will enable local planning authorities to address any issues of alignment during the preparation of a plan. At present, if an authority fails the duty its local plan must be withdrawn. The Bill also introduces a new requirement to assist with plan making, which we will consider more fully in due course. That will ensure the involvement of those who are vital to production of plans, including the delivery and planning of infrastructure. As such, joint spatial development strategies should not be seen as a co-ordinating function, replacing the duty to co-operate. I hope that the hon. Member for Greenwich and Woolwich will agree to not to press the amendments to a vote.

Matthew Pennycook: I am grateful to the Minister for that response. On the issue of mayoral combined authorities and combined authorities, I cannot say that I am entirely convinced. However, I note the detailed response he gave me to the amendment, and I will give it further consideration. On the issue of county councils, the Minister says that they will be closely involved. I remain concerned that not giving them equality of status will be harmful. I am aware that the Department is concerned that if we do not get county councils to bring resources to the table for the new joint spatial development strategies, it may have effects that the Government do not want.

On the issue of the duty to co-operate and the voluntary nature of those new powers, I remain concerned about what happens and how that impacts on the Government's wider policy objectives in areas where authorities do not make use of the power when we have removed the only statutory arrangement to enable them to co-operate. I urge the Minister to go away and give that some thought. If the Minister is not comfortable reintroducing the duty for those who have not taken up those powers, will he at least think again about whether the incentive structure might be tweaked to ensure that the majority of areas make use of the powers? I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

12.47 pm

Adjourned till this day at Two o'clock