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Monday
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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Monday 13 July 2020

The House met in a Hybrid Sitting.

1 pm

Prayers—read by the Lord Bishop of Birmingham.

Arrangement of Business

Announcement

1.05 pm

The Lord Speaker (Lord Fowler): My Lords, the Hybrid Sitting will now begin. Some Members are here in the Chamber respecting social distancing and others are participating remotely, but all Members will be treated equally. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. Oral Questions will now commence. I ask that those asking supplementary questions keep them sensibly short and confined to two points, and I ask Ministers for their answers to be brief.

Covid-19: Performing Arts

Question

1.06 pm

Asked by Baroness McIntosh of Hudnall

To ask Her Majesty's Government what plans they have to provide further assistance to performing arts companies and venues which are unable to resume operations due to the restrictions in place to address the Covid-19 pandemic.

Baroness McIntosh of Hudnall (Lab) [V]: My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I draw attention to my interests as listed in the register.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, the Government recognise how severely the cultural sector has been hit by Covid-19. On 5 July, we announced a £1.57 billion support package for key cultural organisations, to help them through this pandemic. The funding will provide targeted support to organisations across a range of sectors including performing arts, theatres, museums and galleries, heritage sites, live music venues and independent cinema. It will protect cultural assets of international, national and regional importance, and prevent the loss of the valuable cultural fabric from our towns and regions.

Baroness McIntosh of Hudnall [V]: My Lords, I of course acknowledge with gratitude the scale of last week's announcement, but there is urgent need for further clarity about whether the new funds will do anything to address the plight of freelance workers, including performers, who make up 70% of the sector's

workforce. Many of them have been unable to access current income support schemes. Further, when will funds start being distributed, and when will there be a plan with dates and sufficient notice to allow theatres and other indoor spaces to reopen in an economically viable way? At this perilous time, speed really is of the essence.

Baroness Barran: I acknowledge that the Covid-19 crisis has presented a particular challenge for freelancers. The package will support cultural institutions, which means the physical and the human fabric of those institutions. The department is working with our arm's-length bodies to get the funds out as quickly as possible, and the noble Baroness will be aware that stage 3 of the road map has now been reached, meaning that outdoor socially distanced live performances are now possible.

Lord Caine (Con) [V]: My Lords, having raised the plight of small music venues previously, I warmly commend the Government for the unprecedented package of support announced last week, which for many will be the difference between closure and survival. With venue owners now looking forward to planning schedules and reopening, particularly in time for the all-important Christmas period, I follow the noble Baroness, Lady McIntosh of Hudnall, in urging the Minister to do everything possible to ensure that the application process for funds can be expedited as quickly as possible so that support reaches those most in need.

Baroness Barran: My noble friend is right to highlight the importance of bringing back our live music venues as quickly as is safe to do so. We hope that the application process for funding will be open by the end of the month and that funds will start to flow from the autumn, but there is a small amount set aside for those in short-term distress, and obviously, a number of arm's-length bodies have already been actively distributing funds over the last few months.

Lord Berkeley of Knighton (CB) [V]: My Lords, I declare my interests as listed in the register. Of course, the great flagships of our cultural fleet must be protected, but surrounding the main flotilla are many small craft employing freelancers, who, as we have heard, are currently in a perilous financial situation. These smaller vessels address many of the Government's aspirations in terms of geographic reach, diversity, education and innovation, not least in their instigating vital new work from our composers and writers. Will the Minister push for these criteria to be at the forefront of DCMS and Arts Council deliberations?

Baroness Barran: The department has been very clear about where our priorities lie, in protecting both nationally and internationally recognised institutions and the role of local institutions, particularly in levelling up and economic growth. Hard choices will have to be made, but both those elements are seen as vital within this package.

Baroness Bakewell (Lab) [V]: My Lords, mention has already been made of the national institutions and their international reputations, as well as the spread of small-scale institutions and enterprises around the country and the importance of freelancers in that respect. Going forward, numerous small enterprises are still at risk, so may I suggest that the Government consider underwriting insurance for theatre productions in case they are forced to pause or close?

Baroness Barran: I am happy to take the noble Baroness's suggestion back to the department.

Baroness Bonham-Carter of Yarnbury (LD) [V]: My Lords, I declare my interests as laid out in the register. Does the Minister accept that, despite the generous and much-appreciated cash injection for the sector announced last week, unless we get the EU-UK deal right post Brexit—and now, post the possibility of an extension—and in particular the right deal on movement of talent and skills, the creative industry faces another crisis and imminently? Are the Government working on a creative freelance visa to maintain access to EU talent and reduce red tape and costs for performers and creatives?

Baroness Barran: The noble Baroness is right that travel and working within the EU have been important for freelancers in many artistic disciplines. I remind her that we have been clear that we are not asking for anything special in relation to freelancers, but to replicate some of the deals that have been struck with other countries.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, following the Question asked by my noble friend Lady McIntosh, the Minister implied that the funding package recently announced included funding for freelancers but how that is to be done is opaque. Will the Minister write to me setting out precisely the quantum of financial support expected to be available to freelancers in the creative industries and what the take-up has been to date? Will she also set out fully the plan for how freelancers will survive until the full opening of the sector?

Baroness Barran: I am always delighted to write to the noble Lord—I feel that I do so at regular intervals, which is entirely appropriate. It is hard to be precise about the specifics of take-up to date on a sector-by-sector basis to see exactly where particularly the self-employed income support scheme has been used, but I can give the noble Lord the data that we have. How it will work will be up to individual institutions to judge in their applications for funding.

Baroness Hooper (Con) [V]: My Lords, as co-chair of the All-Party Parliamentary Dance Group, I am particularly interested in that sector of the performing arts. However, there has been a lack of clarity about how the welcome government package announced on 5 July applies to the world of dance. It has been suggested, for example, that only professional dancers and choreographers will be allowed to use dance studios.

But according to the Prime Minister's earlier statement on 23 June, they must remain closed. Will my noble friend clarify the extent to which the general rules apply to dance and whether any further guidance is due?

Baroness Barran: My understanding is that the package does include dance companies in particular and touring companies. My noble friend refers to training that I understand is in line with other elite sports, but I am happy to write her to confirm that.

The Earl of Clancarty (CB) [V]: My Lords, even with the funding, this could yet be a disaster for the music sector where 90% of the workforce is self-employed. Will the Government extend the self-employed scheme at least until the end of the year? Otherwise, there is the danger that many talented musicians will leave the industry or go abroad.

Baroness Barran: I beg to differ with the noble Earl that the scheme is a disaster. It has been welcomed widely by the sector and is recognised as the most generous scheme of its type in Europe. I am not aware of any plans to extend the self-employed scheme.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We move to the second Oral Question from the noble Lord, Lord Howell of Guildford.

Libya Question

3.16 pm

Asked by Lord Howell of Guildford

To ask Her Majesty's Government what assessment they have made of the situation in Libya.

The Minister of State, Foreign and Commonwealth Office and Department for International Development (Lord Ahmad of Wimbledon) (Con): My Lords, we remain deeply concerned by the conflict in Libya, which continues to threaten stability across the region. The UK is clear that all parties to the conflict and their external backers must de-escalate, commit to a lasting ceasefire and return to UN-led political talks. We welcome recent engagement by the Government of National Accord and the Libyan National Army in the UN-led ceasefire negotiations.

Lord Howell of Guildford (Con) [V]: My Lords, in the civil war in Libya, Egypt, our friend the United Arab Emirates and France aligned with the rebel side along with Russia and even some support from Washington, but Turkey and Italy, which are NATO allies, supported the UN-recognised Government of National Accord. Will my noble friend indicate which side we are on, if any, and how we can mediate in this increasingly bloody conflict, given that the Geneva talks have failed to produce any results?

Lord Ahmad of Wimbledon: My Lords, Her Majesty's Government are on the side of peace and political settlement. That is why it is important that both sides get together. My noble friend is right that there are proxies at work on both sides. Therefore, the outcome of the Berlin Conference is what we should focus on. It was held in January and of course the follow-up has been taken up at the UN Security Council. We need to get all sides, including external backers, around the table.

Lord McNicol of West Kilbride (Lab): My Lords, I declare an interest as I have worked on a government-funded project in Libya over the past two years. To go further, what steps have the Government taken to work with civil society in Libya to try to bring about an end to the conflict? To take the point made by the noble Lord, Lord Howell, what conversations have the Government had with those countries which have shown an interest, often for their own gain, in the conflict in Libya?

Lord Ahmad of Wimbledon: My Lords, the role of civil society mentioned by the noble Lord is very important and we continue to emphasise its engagement and involvement. Until all sides are firmly around a table, we are some distance away from their effective involvement. Equally, the role of women and particularly women peace mediators is key. The noble Lord asked what we had done so far. We engaged as penholders on the UN Security Council after the Berlin Conference to ensure the passing of Resolution 2510. Most recently, my right honourable friend the Minister for the Middle East took part in the UN Security Council meeting, again emphasising the need for political discussions.

Baroness Uddin [V]: The UN Secretary-General has called for immediate international attention and described the situation as gloomy. I have been a member of the APPG on Libya for some years and visited Tripoli with the much respected interfaith advocate Dr Zaki Badawi to participate in a conference on African and Arab women. I met highly educated outstanding women leaders of Libya. Over the past decade we have heard nothing about their suffering and that of their families in the persistent battle over oil and resources to which we may have inadvertently contributed. What assessment have our Government made, alongside the international community, of the well-being of civil society and women and their fullest possible participation in the imminent dialogue and future settlement in Libya?

Lord Ahmad of Wimbledon: My Lords, it is an inevitable and tragic consequence of any conflict that the most vulnerable communities, including women, specifically suffer. We continue to make the case. I have already alluded to what I believe is the most appropriate form of resolution engaging women in every part of the peace process.

Lord McColl of Dulwich (Con) [V]: My Lords, I used to visit Libya regularly to help in the setting up of clinical medical schools in Benghazi and Tripoli, and it was much appreciated. When does the Minister

think we should encourage a resumption of these activities? They are in desperate need all over the place.

Lord Ahmad of Wimbledon: My Lords, I pay tribute to my noble friend's work in this area. I would very much welcome a discussion with him to see how best we can make this part of the current discussions.

Lord Purvis of Tweed (LD) [V]: In his report to the Security Council last week the UN Secretary-General decried what he termed as high-level direct foreign interference in the conflict which is contrary to the resolution to which the Minister referred. Over the weekend the US and the Libyan national oil corporation criticised foreign capitals for pressure which has led to the reinstatement of the blockade of oil exports. What actions are the Government taking to ensure the resilience of Libyan institutions such as the national bank, the oil corporation and the investment authority so that they can resist this kind of direct foreign interference and provide support for all people in all parts of Libya which is so desperately needed?

Lord Ahmad of Wimbledon: My Lords, the noble Lord is right to raise the issue of central banks. Both sides need to get together on the two institutions to ensure equality of approach on that. We deeply regret that the oil blockade has been reimposed on oil facilities and we call on all parties, including those engaging in support of either side, to ensure that oil revenues can start flowing and bring some kind of economic rebuilding to the country.

Lord Mackay of Clashfern (Con) [V]: My Lords, to what extent have the Government influence with the various participants directly to persuade them to join the conference that is so greatly needed?

Lord Ahmad of Wimbledon: My Lords, we continue to have strong alliances. Turkey is a NATO partner and, as has already been said, the UAE and Egypt continue to be constructive partners and allies to the UK. We will use our influence bilaterally and through multilateral fora.

Viscount Waverley (CB) [V]: My Lords, what assessment have the Government made of whether Egypt is about to enter the conflict directly and move, possibly with the acquiescence of Russia, in support of Khalifa Haftar? What is HMG's evaluation of the proximity to UK interests, including NATO operations? What is their strategy and approach?

Lord Ahmad of Wimbledon: My Lords, the important thing is that all parties come together, irrespective of which side they appear to be on or have declared their backing for, because this requires support not just from the two parties in-country but from those supporting either side.

Lord Collins of Highbury (Lab): My Lords, at a recent Security Council meeting Stephanie Williams of the UN Support Mission in Libya warned of a

[LORD COLLINS OF HIGHBURY]
massive influx of weaponry, equipment and mercenaries. Can the Minister assure the House that no UK company is indirectly linked to the supply of weaponry and that no UK citizen is involved in the sort of mercenary services provided?

Lord Ahmad of Wimbledon: My Lords, I assure the noble Lord that the UN arms embargo on Libya needs to be respected. We take very seriously any reports of breaches of the embargo. They are considered by the UN sanctions committee, of which the UK is a member.

Lord Wallace of Saltaire (LD) [V]: My Lords, the Government now have some hundreds of British troops in other parts of the Sahel working closely with the French in combating tribal warfare and Islamic extremism. How far does the conflict in Libya, with the explosion in the number of weapons there, spill over to the rest of the Sahel? Do we share the view of the French and the UAE that the Muslim Brotherhood is promoting extremism which may also spill over into the rest of the Sahel?

Lord Ahmad of Wimbledon: My Lords, as the noble Lord knows well, Islamist extremism is a scourge of not just that region but globally, and we should take all the steps necessary to ensure that it does not add to an already very long and bloody conflict in Libya.

Lord Singh of Wimbledon (CB) [V]: My Lords, members of the ironically named Security Council are attracted to regional conflicts in oil-rich parts of the world, such as Libya, in the name of strategic interests and are selling arms that promote and sustain conflict and horrendous suffering. I know I am going to be told that the UK has one of the strictest arms control policies in the world, but will the Government give a lead to move to a new and less 19th-century view of strategic interest?

Lord Ahmad of Wimbledon: My Lords, our intervention in Libya was right because of the humanitarian crisis that was pending in Benghazi. Unlike the noble Lord, I take the view that the UN Security Council does play and will continue to play a very important role.

Baroness Helic (Con) [V]: My Lords, for years the countries of the western Balkans have been major manufacturers of small arms used in Libya with weapons being purchased by foreign Governments, some of them our allies, and supplied to Libya's warring factions. What steps have the Government taken or will take to stop that flow of arms to Libya? Will they seek to impose UN sanctions and travel bans on those who are in clear breach of the UN arms embargo under UN Security Council Resolution 2510?

Lord Ahmad of Wimbledon: My Lords, I assure my noble friend that as penholders on Libya we will continue to make that case. She is right that there have been abuses of the arms embargo in Libya, but I make it clear that all member states must respect international law and call on the Security Council to take seriously

any reports of violations. We must act to ensure that those who are not adhering to the embargo do so and respect international law.

Homelessness

Question

1.27 pm

Asked by **Lord Bird**

To ask Her Majesty's Government what steps they are taking to ensure that there is no increase in homelessness once the ban on evictions is lifted.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): The Government have provided an unprecedented package of support to protect renters. We have provided income protection schemes and have boosted the welfare system by more than £6.5 billion to prevent people getting into financial hardship. These measures will ensure that those most in need will avoid the risk of homelessness once the stay on possession proceedings ends.

Lord Bird (CB) [V]: My Lords, I thank the Minister very much for that encouraging sign. Do the Government know of the Big Issue's ride out recession alliance, which is bringing players together to help the Government and local authorities so that they can keep people in their homes? If they slip into poverty and homelessness, it is very difficult to get them out of it. I also draw attention to the work of Shelter, which is calling for a change in the law so that magistrates will not authorise eviction if it is caused by Covid-19 poverty.

Lord Greenhalgh: The noble Lord is helpful in raising those initiatives by the Big Issue and Shelter. He will be aware that there is ongoing work, through the Master of the Rolls, looking at the guidance on this.

Baroness Blower (Lab) [V]: My Lords, ultimately the way to prevent an increase in homelessness is rent controls and the abolition of no-fault evictions. However, given that Shelter and Crisis have predicted thousands of possible evictions next month, the Government should enable emergency legal provisions to allow judges to prevent evictions where people have complied with reasonable and affordable repayment arrangements or are awaiting decisions on their benefit entitlement. Does the Minister agree? If not, why not?

Lord Greenhalgh: The noble Baroness will be aware that I do not agree with the policy of rent controls. It is far more important to follow the guidance and find solutions other than eviction. Our guidance encourages landlords not to seek to repossess their properties during the period where their tenant may be sick or facing hardship due to Covid-19 and to work with their tenant to agree a plan that works for both parties. That is better than the kind of intervention that she suggests.

Baroness Greder (LD): My Lords, is the Minister aware that, according to the Resolution Foundation, private renters are twice as likely as home owners to have struggled with housing costs due to the pandemic? Why, then, in last week's financial Statement were home owners awarded a stamp duty tax cut worth £1 billion, in addition to all the other previous measures, while the 20 million renters got nothing?

Lord Greenhalgh: I do not agree that renters have received nothing. The noble Baroness will be aware that we have strengthened the welfare safety net with a boost to the welfare system of over £6.5 billion, and that we have increased the local housing allowance rates to cover the lowest 30% of market rents. In addition, a budget of £180 million has been made available for local authorities to distribute in discretionary housing payments.

Baroness Gardner of Parkes (Con) [V]: My Lords, did the Minister see the headline in last Friday's *Times*:

"City landlords fear for future of offices with trains still empty"?

Would not a practical solution be for people who will possibly be made homeless to have an opportunity to rent this type of office? It would have to be with government approval, but it would help to deal with the panic over what will happen to businesses in the future and it would also help homeless people, at least on an emergency basis.

Lord Greenhalgh: I thank my noble friend. She will be aware that over £0.5 billion has been made available to support rough sleepers and get them into longer-term move-on accommodation. We expect local authorities and registered providers to bring forward units of accommodation from a variety of sources, and this could include repurposing buildings such as offices, where appropriate.

Lord Best (CB) [V]: My Lords, I declare my interests as listed in the register. Has the Minister had a chance to consider the arrangements introduced in Spain to prevent evictions? Tenants with rent arrears caused by Covid-19 are entitled to an interest-free government-guaranteed loan to pay the landlord and remove the grounds for eviction, with the loan being repaid over a six-year period.

Lord Greenhalgh: I believe that the noble Lord has raised the Spanish initiative several times. Instead of following that model, our intervention strengthens the welfare safety net, increases the local housing allowance and provides discretionary housing payments to support renters.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I draw the attention of the House to my relevant interests as listed in the register. The Government deserve credit for quickly getting homeless people off the streets in response to the pandemic. Does the noble Lord agree that a return to a situation where people are sleeping rough on our streets would be

tragic and unacceptable, that it must not be allowed to happen, and that it is for the Government to ensure that it does not happen?

Lord Greenhalgh: I agree with the noble Lord that the mission should be to ensure that those whom we have taken off the streets and placed in emergency accommodation, of whom there are some 15,000, are moved into settled accommodation as soon as possible and do not return to the streets. That is the mission of the task force led by Dame Louise Casey and, as a Government, we will strain every sinew to achieve that.

Lord Goddard of Stockport (LD) [V]: I know that the Minister is fully supportive of local authorities. When Andy Burnham was made Mayor of Greater Manchester, his first pledge was to end homelessness there. What consideration has been given to providing an in-year increase in funding for the Government's rough sleepers initiative? This would support our local authorities to boost outreach and get people more quickly into safer accommodation. Time and resources are needed to get this multiagency approach right for people with complex needs and to prevent homeless people being back on our streets.

Lord Greenhalgh: The noble Lord is right to highlight the importance of multiagency working to tackle homelessness. However, I point to the fact that we have made several announcements in the last two months, including £105 million to support the ending of rough sleeping and, in the previous month, £433 million to provide thousands of additional long-term homes for vulnerable rough sleepers. This money can be used for that endeavour.

Lord Taylor of Warwick (Non-Aff) [V]: My Lords, no hero should be homeless. Of 343 local authorities, 252 do not include Armed Forces veterans in their housing strategies. One hundred and seventy-six local authorities fail to even consider the needs of these valiant veterans in their homeless strategy. Indeed, housing allocations for these homeless heroes have declined by nearly 11%. What steps will the Government take to remedy this unjust situation?

Lord Greenhalgh: I note the noble Lord's raising of the issue of support for our Armed Forces and will write to him on the initiatives that we as a Government are taking on that front.

Lord Pickles (Con) [V]: My Lords, given the current uncertainties, would it not make sense to extend the moratorium on evictions beyond September to allow three things to happen: first, for the consequences of the Government's stimulus to the job market to be felt; secondly, for the amendment to the pre-action protocol overseen by the Master of the Rolls to be delivered and understood; and, finally, to give time to amend housing legislation to allow judges greater discretion with regard to eviction cases? Does my noble friend

[LORD PICKLES]

agree that this action is preferable to introducing measures against a rising tide of evictions in the autumn?

Lord Greenhalgh: My noble friend will know that we are exploring a number of options to further protect tenants, including a pre-action protocol for claims for possession by private landlords. This might not be the way to achieve our objective, so our priority is to work with the judicial working group convened by the Master of the Rolls on arrangements, including new rules, that will mean that courts are better able to address the need for appropriate protection of all parties once the stay on possession proceedings ends in August.

Baroness Greengross (CB) [V]: My Lords, with many office spaces and other commercial buildings remaining empty as people work at home and no doubt continue to do so, at least partly, in the future, will the Government consider ways in which, working with local authorities, these spaces can be refurbished initially as temporary homeless shelters but later be converted into permanent homes for a wider range of people needing housing?

Lord Greenhalgh: I refer the noble Baroness to my previous answer. Certainly these buildings could be repurposed where appropriate. We expect local authorities and registered providers to bring forward enough units to deal with the issue of finding longer-term accommodation for the homeless.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We now move to the fourth Oral Question in the name of the noble Lord, Lord Chidgey.

East Africa: Food Security *Question*

1.38 pm

Asked by Lord Chidgey

To ask Her Majesty's Government what assessment they have made of the impact of (1) the COVID-19 pandemic, and (2) desert locusts, on food security in countries in east Africa, and in particular in (a) Sudan, and (b) South Sudan.

The Parliamentary Under-Secretary of State, Foreign and Commonwealth Office and Department for International Development (Baroness Sugg) (Con): My Lords, we are deeply concerned about the food security situation in east Africa. In Sudan, we expect the number of people without access to sufficient food to increase this year by 35% to 9.6 million. In South Sudan, already 6.5 million people suffer acute food insecurity. The UK is working across east Africa to provide life-saving assistance, cash transfers where markets are still functioning, and tools and seeds to build a longer-term ability to respond to shocks.

Lord Chidgey (LD) [V]: My Lords, I thank the noble Baroness for that Answer and I welcome the Government's efforts over the desert locust storms and Covid-19 in east Africa and the Sudans. What UK aid programmes have been cut as a result of moving funding for these urgent projects? The FAO reports that some 19 million people were food insecure in the region last year, so situation is worse than it was 12 months previously. In South Sudan, close to 60% of the population are severely food insecure. Locust swarms present a double crisis for those battling the Covid pandemic, preventing the delivery of locust-control equipment and restricting access to response teams with essential advice and expertise. Will the UK Government commit to maintaining the central purpose of our 0.7% GNI aid programme as ODA compliant to support east Africans with meagre health infrastructure and to ensure access to affordable Covid vaccines, once available?

Baroness Sugg: My Lords, as the noble Lord said, we are committed to 0.7% of our GNI. That commitment continues, and will continue, to work to end poverty. The noble Lord refers to a process that departments are going through at the moment, given the likely reduction in GNI this year. I am afraid I do not have further information about that process but it will be available in due course.

The Lord Bishop of Salisbury [V]: With the economy of Sudan collapsing and inflation rocketing, the Anglican Archbishop of Khartoum said recently that people would rather die of Covid-19 than of hunger. In South Sudan the Anglican Archbishop of Juba said that mortality rates were already high and, in response to the virus, hygiene and social isolation are difficult—indeed, almost impossible. The diocese of Salisbury has a long-standing partnership with the Anglican churches in those countries and we have launched an emergency appeal this month for at least £50,000 for hygiene and food. What are the British Government doing to support the improvement of hygiene and food in those countries? What does the Minister think we are learning about the motivation for our giving aid to these countries?

Baroness Sugg: My Lords, I pay tribute to the right reverend Prelate for his fundraising efforts. I talked earlier about 0.7%; while it is wonderful that we spend that much money overseas, given Covid, locusts and flooding, those needs are very great so people need further help. The UK Government will continue to support countries across east Africa, including Sudan and South Sudan. We will ensure that we are providing healthcare, clean water and nutrition where possible.

Lord McInnes of Kilwinning (Con) [V]: My Lords, given that the UK is a signatory to the Agenda for Humanity's Grand Bargain initiative, which encourages the use of local and regional NGOs in the delivery of aid, what steps are the Government taking to use local and regional NGOs to deliver food aid in Sudan and South Sudan?

Baroness Sugg: We continue to work to improve the effectiveness of the international humanitarian system. In the time of Covid-19, that is more important than ever. The UK is the largest donor to the UN's Sudan humanitarian pooled fund, which aims to advance the Grand Bargain commitments that my noble friend referred to. That works by providing direct funding to national NGOs, as well as building the capacity of local partners to strengthen programmes and deliver results.

Baroness Hayman (CB) [V]: My Lords, I declare my interest as a trustee of the Disasters Emergency Committee. That committee is launching a coronavirus appeal tomorrow to protect refugees and displaced people in some of the world's most vulnerable countries, including South Sudan, Yemen and Syria. Given the devastating consequences of the virus for those already desperately vulnerable people, will the Government encourage the public to give generously to that appeal by doing so themselves in the form of aid matching?

Baroness Sugg: I thank the noble Baroness for highlighting the Disasters Emergency Committee appeal. We will be supporting that appeal; I think we will be making an announcement on it tomorrow. The noble Baroness also referred to support for refugees and internally displaced people. Today we are making an announcement that we are supporting 5,500 teachers to ensure that refugees, over half of whom are young people, will be able to continue their education throughout the crisis.

Baroness Goudie (Lab) [V]: My Lords, the situation in Sudan is so awful that one can hardly imagine it. Women play a crucial role with vulnerable people in the global food system as producers and workers and at processing plants. In the present situation, it is almost impossible to buy food. We have to think about how the right and proper nutritional food is available and can be bought and consumed or given as aid. We know the importance of the right nutrition from gestation for the mother and for the child during the growth of the brain, the lungs and the body, and none of this can wait until later. It is important that there is a proper diet. I want to know how we can ensure that food is getting directly to mothers and children on the ground. We must look at the metrics through a gender lens.

Baroness Sugg: The noble Baroness refers to the situation of women in Sudan. We welcome some of the recent reforms that will support women in Sudan. Gender inequality of course plays a significant role in food security and the nutrition status of individuals. Entrenched sociocultural norms and practices are placing women and girls at greater risk. We are working with the World Food Programme and others to ensure that we are targeting vulnerable groups, including women and girls, as the response continues and as we help to increase food productivity and the diversification of crops and livestock for women farmers.

Lord Oates (LD) [V]: Does the Minister agree that growing food insecurity in Ethiopia, compounded by Covid-19 and the ongoing locust infestation, is placing

further strain on an already fragile political situation? What support are the Government providing to relieve these added pressures and to help ensure that Prime Minister Abiy's reform process is successful?

Baroness Sugg: I agree with the noble Lord that the humanitarian context in Ethiopia is increasingly complex and of concern. The UK supports a safety-net programme to deliver food and small cash transfers to 8 million people in Ethiopia, and we continue to support the welcome reforms, which include supporting the independent electoral board, organised free and fair elections, and the consultations with civil society and media. We are reviewing the impact of the recent political insecurity on these reforms.

Baroness Verma (Con) [V]: My Lords, the pandemic will have multiplied the challenges that the poorest are facing in the least developed countries. Reducing or cancelling debt is only part of the solution. Will my noble friend ensure that the processes for businesses that wish to go and operate in those developing nations are streamlined by the Government, which would benefit not just those countries but our country as well?

Baroness Sugg: My noble friend referred to debt relief. Of course, the UK—together with other G20 countries—suspended debt service payments, making up to £12 billion of additional fiscal space. I agree with my noble friend that we must support UK businesses in investing in developing countries, and we are doing that through our work with UK Export Finance and the CDC, our development finance institution. I agree that we must do more to streamline the process.

Lord Reid of Cardowan (Lab) [V]: My Lords, the United Nations World Food Programme acute food insecurity and malnutrition forecast for this year confirms the terrible figures that the Minister gave in her Answer. Sudan alone will have up to 9 million people facing food insecurity this year as that insecurity worsens after the coronavirus epidemic. That is a potential famine of biblical proportions. Have the Government had any discussions with the UN in respect of that report? If so, what action ensued from those discussions?

Baroness Sugg: Existing humanitarian disasters and conflicts are going to be exacerbated by the impact of Covid-19. We are working hard to urgently redirect programmes right across Africa to respond to these compound risks. We will be working through our country programming and multilateral responses, as well as through the World Food Programme.

The Earl of Sandwich (CB) [V]: My Lords, can the Minister confirm that the combined departments of the FCO and DfID will now provide added value to UK humanitarian work in the Sudans, and to good governance? Can she report on any progress with conflict prevention in the south?

Baroness Sugg: DfID and the FCO already have a joint Sudans unit covering both Sudan and South Sudan. That work will continue and, as the noble Earl

[BARONESS SUGG] says, with the new department we will be able to ensure that we use both our diplomatic and development expertise to the highest effect.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed.

1.49 pm

Sitting suspended.

Arrangement of Business

Announcement

2.01 pm

The Deputy Speaker (Lord Lexden) (Con): My Lords, proceedings will now commence. Some Members are here in the Chamber, others are participating virtually, but all Members are treated equally. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. Microphones will be muted after each speech. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. The usual rules and courtesies in debate apply, and I ask that questions and answers are brief.

EU Coronavirus Vaccine Programme

Private Notice Question

2.02 pm

Asked by Baroness Thornton

To ask Her Majesty's Government whether the United Kingdom will participate in the European Union coronavirus vaccine programme.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, we have had constructive discussions with the EU on this scheme. We have decided not to join since we would not have a say in running it and would not be able to pursue our own negotiations. We will instead continue our own ambitious programme to secure a successful vaccine for the UK public as soon as possible and build collaboration with the EU outside of this framework.

Baroness Thornton (Lab): I thank the Minister for that Answer. I think the noble Lord would not be surprised if some anxiety was not expressed about this issue, for two reasons. First, the Government have form in this pandemic by refusing to take part in the European procurement programme to buy PPE, for example, for which we have paid a price. Secondly, the Health Secretary has said that the Government have rejected the offer to join the EU scheme because they did not want to disrupt the UK vaccines programme, which one understands, and we have secured two deals with

“the two most developed candidates in the world”.

Does the Minister share my concern that the Government may be putting all our vaccine procurement eggs into two baskets? If these two candidates are unsuccessful, what options will be available to the UK, given the aggressive procurement efforts of the United States, China and other countries? What does the Minister think the UK's role should be in what is turning into a vaccine nationalism—a sort of arms race—with significant worldwide political, economic and public health implications?

Lord Callanan: I understand the noble Baroness's reservations and she makes some good points, but the important point about this scheme is that we would not have been able to take part in the governance of it or as part of the negotiation team. We would have had no say in which vaccines to procure and at what price, in what quantity and for what delivery schedule. We could therefore not have been confident that the scheme would deliver for UK needs. Crucially, we would not have been able to negotiate with a company that the EU is negotiating with in parallel. For all these reasons, we took the decision not to participate. We do not rule out participating in future procurement programmes, and the noble Baroness makes a good point about the nationalisation, as it were, of some countries. We will continue to pursue international collaboration, and we have a number of schemes in which we will continue to take part.

Lord Triesman (Lab) [V]: My Lords, I have read what the Government have written to the European Commission saying that involvement with the EU Covid-19 vaccine programme means we would be unable to pursue parallel negotiations with other potential vaccine suppliers. That has come as an astonishing surprise to most of the biopharma industry and it is plainly away from the truth. It is very much like the mistakes that have been made on testing and tracing, and it places the United Kingdom way behind the science curve. Would the Minister agree that, the more vaccines that are created and tested from reliable research, including the EU programme, the more likely it is that a successful research outcome will take place, the more trustworthy the research protocols will be and the more exhaustive the vaccine programme will be in getting a vaccine to people as fast as possible? Would he also agree that ideology must never, in any circumstances, trump the science?

Lord Callanan: I am afraid the noble Lord is wrong on his first point, but on his supplementary points I can agree with him. I can confirm that we are supporting a number of different research platforms and vaccine technologies, both through our discussions with companies and through our global efforts, alongside helping to fund research on a vaccine at Oxford University with the help of AstraZeneca. We have committed £250 million of UK aid to the Coalition for Epidemic Preparedness Innovations, an organisation that is working on a global scale to develop a Covid-19 vaccine.

Baroness Brinton (LD) [V]: In April, the World Health Organization said that countries must work together to develop a number of Covid-19 vaccines that have concluded successful clinical trials and

demonstrate that they can manufacture many millions of doses faster than ever achieved before—none of which is a given. The UK was a signatory to the following World Health Organization declaration:

“We will continue efforts to strengthen the unprecedented worldwide collaboration, cooperation ... and we will work tenaciously to increase the likelihood that one or more safe ... vaccines will soon be made available to all.”

On this basis, why are the UK Government still refusing to collaborate with the EU vaccine scheme?

Lord Callanan: I did not catch all of that question; the audio was a bit poor. If the noble Baroness is saying that we should continue to co-operate on an international level, I would completely agree with her. I set out earlier the reasons why we did not think it was right to participate in this particular EU initiative, but we do not rule out participating in other EU procurement initiatives and we are in discussions on how we might do that.

Baroness Noakes (Con): My Lords, has my noble friend seen the comments of Oxford’s Regius Professor John Bell, who said that the Government’s decision was “sensible”, that the UK has

“a very, very coherent and good vaccine plan”

and that the UK is

“way ahead of Europe in the way we think about vaccines”?

Does he agree that if there is a loser from the UK opting out of the EU plan, it is the EU and not the UK?

Lord Callanan: I had not seen the comments that my noble friend refers to, but I agree with them. We do have a number of promising vaccine production methods going on. However, if there are future international collaborations, either with the EU or with other international partners, then we rule nothing out because we need to work together to find an appropriate vaccine.

Lord Kilclooney (CB): My Lords, since Brexit, which I supported, the United Kingdom has withdrawn from the Galileo satellite project, the Erasmus university programme and now the European vaccine programme. Can the Minister please confirm that, in the context of co-operation, we look forward to much co-operation with our European neighbours?

Lord Callanan: Yes, I agree with the noble Lord. Whilst we have decided not to participate in this particular initiative, we are committed to strengthening our collaboration with the EU and international partners on vaccines outside this framework. I assure the noble Lord that we will indeed continue to work with our European partners in other areas of mutual interest.

Lord Campbell-Savours (Lab) [V]: My Lords, notwithstanding any agreements we could have made with the European Union on vaccine development, what happens if the Chinese get there first with their Sinovac Biotech product or even another Chinese product? Can we have an absolute assurance that we

will reject any pressure, trade threat or anything whatsoever from the Trump Administration or any other American Administration to boycott a Chinese product?

Lord Callanan: The noble Lord asks a number of hypothetical questions. All I can say is that we will continue to collaborate internationally both in the EU and across the world on vaccine development. It is something that we all have a stake in, and we all need to work together to achieve it.

Lord Taylor of Goss Moor (LD) [V]: My Lords, Wellcome’s head of global policy has described the EU policy as “morally right” because it ensures that the priority will be to spread the use and availability of vaccine across all countries according to need, treating those at the highest risk first. If the Government are not to be part of the EU scheme, will they at least commit to ensuring that vaccine is available to all, across borders, by priority and that they will not simply prioritise UK people? The coronavirus is not a respecter of international borders.

Lord Callanan: The Prime Minister has already said exactly that. Of course, we want to collaborate internationally; of course, the virus is affecting virtually every country in the world. We have to work across borders, and the vaccine should go to those who need it most.

Baroness Blackwood of North Oxford (Con) [V]: My Lords, I understand that the Commission’s vaccine programme has yet to complete a deal, while the Inclusive Vaccines Alliance, led by Germany, France, Italy and the Netherlands, has closed an non-exclusive deal with AstraZeneca for 400 million doses at cost. The IVA states that its mission is to enable rapid action on vaccine procurement to create added value for European nations and beyond. On this evidence, the IVA may be a more effective vehicle than the official Commission programme. Have the Government had any discussions with the IVA on collaboration and, if not, will the Minister undertake to do so?

Lord Callanan: I can confirm to my noble friend that we have had discussions with many countries, including those who formed the Inclusive Vaccines Alliance. It is our understanding that the alliance members have now joined the EU procurement initiative, with commercial negotiations being taken forward under that framework. However, as I have said, we will continue to work with the EU and other international partners on development.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, the Minister has been keen to acknowledge the benefit of international collaboration. If a number of vaccines are successfully produced, one of the great challenges we face is that a significant proportion of people will not take them. Will he at least talk to the EU about collaborating on a European-wide effort to encourage our populations to take up the vaccine?

Lord Callanan: We are having a number of discussions with the EU on a whole range of initiatives. As I said, we decided not to take part in this scheme for specific reasons, but we do not rule out any future collaboration or co-operation with the EU.

Baroness Falkner of Margravine (Non-Afl) [V]: My Lords, in this decision, the United Kingdom has made the right call, given that, like the UK, Germany, France, the Netherlands and Italy have moved to make their own provision prior to the European Commission initiating action. Given that we pay into the multiannual financial framework until the end of 2020, why were we not permitted to be part of the governance and negotiation? Is that likely to happen if there are future projects? If so, it would be understandable if we went our own way.

Lord Callanan: Other EU member states would have been able to take part in the governance of the scheme; we would not. Even though the main development is funded from the EU budget, any individual procurement or orders would come from national budgets. Crucially, we would not have been able to negotiate in parallel with other companies with which we already have a good working relationship.

Baroness Bull (CB) [V]: My Lords, new research from King's College London, in which I declare my interest as an employee, suggests that immunity from Covid-19 may last just a few months, indicating that mass, or herd, immunity from the disease is not an effective strategy, that vaccination boosters may be required, and that any cavalier approach to infection on the basis that one might as well get it in order to acquire the protection of immunity is woefully misguided. What assessment have the Government made of the impact of these findings on their vaccination strategy and their approach to vaccine development?

Lord Callanan: The Vaccine Taskforce is of course considering all the academic work being done in this field; it is a rapidly developing sphere of science. I am sure that we welcome the work taking place at the institution mentioned by the noble Baroness, but a lot of other research institutes are already looking into it. There are a number of developing vaccine forms which require different manufacturing processes to produce individual vaccines, and we are of course evaluating all of them.

The Deputy Speaker (Lord Lexden) (Con): Viscount Waverley. No? No connection, I think. I call the noble Lord, Lord Dobbs.

Lord Dobbs (Con) [V]: My Lords, there have been some pretty knee-jerk reactions to this announcement. Can the Minister confirm that this decision is not about being against co-operation—far from it; it is precisely what Brexit and a new policy are about: a new relationship based on co-operation? However, does my noble friend agree that in this crucial step in our battle against the virus it would be entirely inappropriate to hand over decisions about costs, timing

and distribution, and even rationing if it came to that, to a European Commission on which there is not a single British voice?

Lord Callanan: My noble friend makes a good point, but this was an individual decision about this particular programme, which we did not think was well suited to UK needs. We would not have been able to take part in the governance of the scheme or be part of the negotiating team. We would have had no say on what vaccines were procured nor on their price, quantity or delivery schedule, nor even on whether they would be made available to people in this country. It was a pragmatic decision on this particular scheme, but we do not rule out future co-operation with the EU on other schemes.

2.17 pm

Sitting suspended.

Arrangement of Business

Announcement

2.41 pm

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, a limited number of Members are here in the Chamber, respecting social distancing. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. Other Members will participate remotely, but all Members will be treated equally wherever they are. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. I should remind the House that our normal courtesies in debate still very much apply in this new hybrid way of working.

A participants' list for today's proceedings has been published and is in my brief, which Members should have received. I also have lists of Members who have put their names to amendments in, or expressed an interest in speaking on, each group. I will call Members to speak in the order listed. Interventions during speeches or before the noble Lord or noble Baroness sits down are not permitted and uncalled speakers will not be heard.

During the debate on each group, I will invite Members, including Members in the Chamber, to email the clerk if they wish to speak after the Minister. I will call Members to speak in order of request and will call the Minister to reply each time. The groupings are binding, and it will not be possible to regroup an amendment for separate debate. A Member intending to press an amendment already debated to a Division should have given notice in the debate. Leave should be given to withdraw amendments. When putting the Question, I will collect voices in the Chamber only. If a Member taking part remotely intends to trigger a Division, they should make this clear when speaking on the group.

Business and Planning Bill

Committee (1st Day)

2.44 pm

Relevant documents: 17th Report from the Delegated Powers Committee, 9th Report from the Constitution Committee

Clause 1: Pavement licences

Amendment 1

Moved by **Lord Balfre**

1: Clause 1, page 1, line 7, at end insert “, except that no application may be made in respect of premises that fall within a cumulative impact zone.”

Member’s explanatory statement

This amendment seeks to stop premises in cumulative impact zones, which are areas already identified as contributing to community problems because of alcohol availability, from benefiting from this easing of restrictions.

Lord Balfre (Con) [V]: My Lords, I also intend to speak to Amendments 3 and 11 in my name.

This Bill demonstrates exactly why we need to get back to work as a House of Lords. Some 70 Members will speak in different parts of this Committee stage and there is a large number of amendments to what is a highly contentious Bill. This weekend, the Government said that we should go back to work; perhaps we should start by setting an example and getting the House of Lords back to work.

Before I get to the meat of this, I note that Labour is not supporting any Divisions so we will probably have a Division-free day. However, many items in the Bill deserve considerably closer scrutiny. I hope that, before it comes back next week, there will be considerable concessions from the Government; otherwise, I fear that there will be Divisions. Looking at recent history, the Government are not on a great winning streak there.

By way of background, Amendment 1 seeks to provide that premises in an exclusion zone cannot benefit from the provisions of the Bill. Exclusion cumulative impact zones, as they are called, were introduced in the Blair/Brown years after the Government introduced in the early part of this century a number of changes to the licensing laws, which they felt would help to bring about a café economy. Well, they did not; they brought about absolute chaos.

My wife spent four years on Forest Heath District Council, a rural council up here in East Anglia. For most of that time, she and her Labour and Liberal fellow councillors were involved in trying to get a cumulative impact zone imposed on a town called Newmarket, where we were living at the time. The fact of the matter is that the licensing laws were relaxed to such an extent that they caused enormous problems.

They still do. In the town of Cambridge, where I have lived for a good number of years, there is a cumulative impact zone on Mill Road. We have plenty of experience of the problems that excessive alcohol licences can lead to. There are more than 50 licensed

premises in the Mill Road area. We have gone to considerable effort to get alcohol licences either in place or extended. Only a couple of weeks ago, we had an application from Brothers Supermarket. It wanted a licence to sell alcohol from 8 am to 11.30 pm. The person representing it knew all the legal arguments—indeed, they were a good advocate—but it was next door to another premises called Nip-In, where you could nip in at any point and buy alcohol. The problem was that, when this application went forward, it had 76 objections to it and not a single person sent in a representation in its favour because it was widely recognised not that there was anything wrong with Brothers Supermarket but that the area was totally swamped by alcohol licensing.

This Bill seeks to make that even easier, which is why I have tabled this amendment. Where there is a cumulative impact zone, it is clearly already in place and it demonstrates that there are severe problems with alcohol. You do not get a zone declared unless the police are on your side and there is fairly unanimous support from the council. That was the case here. Not only did no one support it; the police were against it and representatives of all three political parties sent in statements opposing this particular licence. After a three-hour hearing, it was rejected.

This Bill seeks to get things decided within seven days. How on earth is that to be done if multiple applications have to be dealt with? It is quite likely that there will be. I seem to remember that the Blair/Jowell Bill was also enacted in August and local authorities were caught off their guard.

I know that the noble Lord, Lord Kennedy, and several other noble Lords are vice-presidents of the Local Government Association. I am not and I have not had anything to do with local government since I left the Greater London Council in 1977, so to put it mildly, I am a bit out of date. What I would like to hear in this debate is an explanation of how the LGA proposes to handle this vis-à-vis its councils. The cumulative impact zone is just one of the problems, but there are others, all of which are highlighted here. A second one that I draw attention to in my Amendment 11 is to ask whether the police will be consulted because, at the moment, the Bill does not say that they should be. That is why the amendment seeks to add after “local persons” the words

“including the local police force”.

Surely the police have a vested interest in whether or not order can be maintained, and they should be consulted.

In Amendment 3 I refer to locked-down premises. In our area, and I dare say in the rest of the country, we have had two very different experiences of the period of lockdown. I have already mentioned the licensed premises close to our house, but there are some premises, one called 5 Blends Coffee House and the other Tom’s Cakes, which were locked down for the whole period. Obviously, they need to get back into business again but some of the other ones do not, and, as will become clear in the debate, there are problems with pavements as well as other issues. The 5 Blends Coffee House has room for tables outside because it is on a corner, but Tom’s Cakes, because of

[LORD BALFE]

the street furniture, has no room, although it does have a garden at the back, which presumably can be used without permission. Further up the road is a health food shop called Arjuna Wholefoods, which has a licence and enough room outside to set up tables. I do not think that the owners will do so, but if they did wish to set up those tables and serve glasses of wine to their customers, that would only add to the problems in the area.

What I am asking the Minister and the Government to do is to agree to take a much closer look at this and, particularly where there are cumulative impact zones, to say, “Right, a problem with alcohol has already been identified in the area and that should be enough for it not to be exacerbated by making it even easier to extend licensing facilities and thus make it easier to buy alcohol.” I also do not think that it is unreasonable to ask that the police should be consulted, and when we consider locked-down premises, is there any reason why the Sainsbury’s shop in Mill Road should not be allowed to open an off licence on the pavement, given that it has a licence to sell alcohol? I do not think that it would wish to open an alcohol vending service, but what if it did? The shop has been open throughout the lockdown and, if anything, its trade has gone up because more people have been tending to shop locally. There is a need to distinguish between a firm that sells alcohol which has been open for the whole time and one that has not. With those words, I beg to move.

Lord Holmes of Richmond (Non-Afl) [V]: My Lords, it is a pleasure to follow my noble friend Lord Balfe on his interesting and in-depth trip down Mill Road. That brings back all kinds of memories from being a student at Cambridge. I will speak briefly, but I ask my noble friend the Minister to address all my points in detail when she sums up the debate because that may be the most expeditious way of resolving them. I shall speak to Amendments 36, 37, 40 and 43 in my name, and I thank other noble Lords who have put their names to them and have agreed to speak.

These amendments all have a clear purpose, one that I believe is in line with the purpose of the Bill, which is to get the economy moving again. We should have done this earlier and we could have done so, but we are doing it now and that is a good thing. I have a few issues with this part of the Bill, where I believe that we could improve the outcome for businesses, for individuals and for society.

The amendments address the position of small independent breweries which find themselves shut out of the provisions of the Bill—and thus the economic restart—as currently drafted. The amendments seek to enable small independent breweries to sell alcohol directly to the public for a temporary period in a safe and measured way that is in line with the other temporary measures being put in place for other sectors of the economy. In the circumstances, I believe that this would be both proportionate and low in risk. It could be done by using the normal licensing procedure in these circumstances and for this to be seen as a minor variation, as set out in Amendment 40.

Similarly, Amendment 43 seeks to allow the use of temporary event notices. Increasing the number of these notices would give the local authority even more control over the situation because it will issue them to businesses that have already been issued with them. There will be a track record and the authority will have a knowledge and understanding of how those businesses operate. That would not be a shot in the dark because HMRC knows these businesses. They will be on the system and they will have passed the fit and proper person test. The notices would be for a temporary period to enable small independent breweries to get back into business rather than potentially going to the wall or, indeed, needing to come cap in hand to the Government. This would resolve those issues.

There is also an important secondary benefit in having more venues open: patrons would be more able to observe social distancing because there will be more places to go to have a drink. Moreover, small independent breweries are not often located in residential areas or in zones such as those described by my noble friend Lord Balfe. It makes sense to spread people out so that they can go out for a drink safely and thus help start up the economy again.

As I have said, I hope that my noble friend the Minister can address all of the specifics raised in Amendments 36, 37, 40 and 43. I look forward to her response and to hearing the comments of other noble Lords.

Lord Addington (LD): My Lords, I shall confine my comments predominantly to Amendment 38, which stands in my name. It is an attempt to bring sports clubs and other similar concerns with licences into line with the rest of the off-sales from the licensed premises sector.

We spoke about this at Second Reading and the Minister, the noble Earl, Lord Howe, said in his usual disarming way, “Oh, don’t worry. You can get a licence or special arrangements can be made.” We are talking here about a short-term move that may last for two or three months. If sports clubs need to get a licence every time they require one, a fast-track system for doing so is needed or they will miss out on many opportunities. Those opportunities are important because sports and other clubs need their bar revenues to continue to function; it is that simple. The model for a sport such as cricket is that the bar is part of how the club ensures that it can maintain the ground, maintain kit and run the juniors programmes. That is why we want this provision in the Bill—we want these clubs to operate on similar terms to those of other businesses.

If there is a way around this that we have not come across before, that is great. It is not about doctrinaire issues but is purely practical. If there is another way of dealing with this, let us hear about it—but if we do not get this and have to have a process of licensing down there, people will miss out. I appreciate that the Government have to act fast with the difference in the two licensing applications, but can we have a practical solution to this? That is all I am really asking for.

We have other stages to go through on this Bill. If we can find one that works, I will be happy and the people who have been nudging me forward will be

happy—at least, I hope so—but we need to make sure it is dealt with. The bars of clubs are important to their function, and their function is generally regarded as a public good. Surely putting them on the same terms for one or two days a week as a pub or anywhere else selling alcohol will not damage society greatly, and indeed may improve it.

3 pm

Baroness Neville-Rolfe (Con) [V]: I will speak to Amendment 44 on digital age verification and thank my noble friend Lord Clement-Jones for his support. I raised this at Second Reading and thank my noble friend the Deputy Leader for his courteous and timely letter. I am especially grateful to him and the Minister for Crime and Policing at the Home Office for publishing on GOV.UK the government response to the call for evidence on violence and abuse toward shop staff. That certainly helps to put discussions today into perspective. I am glad to hear that the Minister for Crime will work with business, the police and other partners to tackle this serious issue, including underreporting. I know the British Retail Consortium is disappointed about some aspects of the government response, but that is for another day.

Today is about emergency measures to deal with life under Covid-19, and they are all most welcome. As my noble friend Lord Holmes said, we need to get the economy motoring again. That includes measures that encourage business to revive and grow, as his amendments have proposed. In that context, I remain concerned about the absence of digital age estimation and verification for sale of alcohol. Our amendment enables the use of such verification, provided that the licensed seller in a shop or pub takes reasonable precautions and applies due diligence to ensure the purchaser is over 18.

The obvious example is the Yoti app used in a number of European countries, such as Estonia—a real digital leader—and some parts of the UK. It means there is no need to show paper ID and wash your hands or resanitise—or perhaps not—or to remove a mask to engage in a physical conversation and a physical check of the customer's ID. It works brilliantly at automatic checkouts, as their videos show, and would help to speed up queues in pubs and elsewhere. Other apps will no doubt be developed, making the technology more widely available. Interestingly, I see from the Yoti website that NHS England and NHS Improvement have begun deploying a secure digital ID card from Yoti to put employees' NHS ID cards on to their phones. The killer argument for this Business and Planning Bill is that this system is already in use in shops to verify sales of knives—arguably much more dangerous than drink—and other age-restricted products such as tobacco, lottery tickets and fireworks.

It has been argued that we cannot introduce a digital system for alcohol outside the Proof of Age Standards Scheme—PASS—which is being developed for card issuers. However, that has got bogged down and delayed by Covid and is not producing the solution required when it is so desperately needed. It is of great significance that the British Retail Consortium, which

set up PASS, no longer has faith in it. It rightly believes that no scheme should be skewed to a particular interest group.

Ours is an open amendment that overnight would improve things hugely and allow more enforcement of the drinking rules than I believe is taking place at present. A sunset clause can be included allowing the opportunity to simply trial these new app-based methods, at the same time avoiding the need for young people to carry passes—and lose them, as they often do. I hope my noble friend the Minister will look favourably at this amendment and be open to agreeing a simple enabling provision before Report.

Lord Berkeley (Lab) [V]: My Lords, I will speak to Amendments 36, 39, 40 and 43, to which I have added my name. I fully support what the noble Lord, Lord Holmes, said in his introduction and will not preface what my noble friend Lord Kennedy of Southwark may say when he introduces his amendment later. While supporting and fully agreeing with the view of the noble Lord, Lord Balfe, that we should all get back to work in the Chamber, I do not really agree that the increased number of outlets will improve the environment of Cambridge. You could then argue that we had better get back to prohibition days, and I do not think anybody wants that.

My amendments are intended to increase the choice of products and balance the smaller number that can be inside a pub or restaurant with more space outside. I commend the Government on allowing many outlets to put more space on the pavements or even roads and increase the space for cycling at the expense of polluting cars. The amendments would also allow a greater choice of suppliers, which I think is important.

My interest is encouraging small brewers and limiting the bullying tactics we have seen over the years from the pubcos, which are very much to the detriment of the small landlord. As the noble Lord, Lord Holmes, said, small brewers have lost a large proportion of their trade during the Covid lockdown, and 65% of breweries have apparently been mothballed because they could not sell their product direct to the public. Some of the smaller breweries do not have premises licensing and without these amendments cannot offer takeaways or deliver direct to the public. I believe that small breweries have really reinvigorated the hospitality sector in recent years. Allowing off-sales on a fair, proportionate and reasonable temporary basis, subject to the various conditions put in these amendments and the existing legislation, is surely a good thing.

I certainly believe that the amendment is not a licence for street raves. It is just a means of providing similar spaces outside due to the shortages inside because of the lack of social distancing space, combined with adding the possibility of much more competition within the brewing industry generally.

Lord Clement-Jones (LD) [V]: My Lords, I speak in support of Amendment 44, so well introduced by the noble Baroness, Lady Neville-Rolfe. As she emphasised, it is a deregulatory amendment that entirely fits within

[LORD CLEMENT-JONES]
the context of this Bill. Given her experience running the Better Regulation Unit and on the board of a major retailer, she should know.

This amendment is designed to give retailers the option of carrying out contactless age verification at a distance and automatically. It is supported not only by those representing and directly providing digital solutions, such as techUK, NCR and digital identity providers such as Yoti, but by the leaders of the key organisations involved in the retail trade, the British Retail Consortium and the Scottish Grocers Federation. It has the twin benefits of keeping retail staff and customers safe by assisting compliance with coronavirus guidelines and social distancing, and preventing the sales of age-restricted goods to minors, upholding the principles of Challenge 25—the retailing strategy that encourages anyone who is over 18 but looks under 25 to carry acceptable ID if they wish to buy alcohol.

The relaxation of coronavirus lockdown measures will now see an increase in in-store footfall, a potential rise in abuse and social distancing challenges with queues. Queues in supermarkets in particular create a point of potential congestion that can put staff at risk. Retailers have noted that almost 24% of baskets contain an age-restricted item. As a result of current rules, many customers wait longer than necessary. It can typically take 63 seconds to alert a staff member and carry out an age check when a basket includes an age-restricted good.

Age verification has a British standard, BSI PAS 1296—*Online Age Checking: Provision and Use of Online Age Check Services*—which has been approved for use for all products apart from alcohol and has received assured advice from the Association of Convenience Stores. The standard has been worked on by age-verification experts and covers all the aspects important for designing and building a robust age-verification system—namely data protection, security, transparency and effective operation. Such a contactless method would take pressure off store staff, at a time when they are busy and pressured, and when wrong decisions can be made and there is temptation not to ask for ID.

The current conditions of customers wearing face coverings and social distancing make checking physical ID documents for age-restricted goods, in a retail context, much harder for staff. Staff have enough problems with aggressive customers without asking them to remove a mask or face covering that they are wearing under government guidance. As a result, there is a heightened risk of increased verbal, physical and racial abuse, increased coronavirus transmission risk when physically examining Challenge 25 approved ID documents, and the difficulty of matching documents to a customer wearing a face covering.

I have, for some time, been a supporter of age verification through digital identity systems, first legislated for in the Digital Economy Act 2017. It is clear that highly accurate digital age-proofing and identity-checking solutions are available off the shelf in the UK today that can significantly help alleviate issues facing retail staff. They are trusted for right to remain without a formal standard for 3 million-plus people and approved by the Joint Money Laundering Steering Group for

financial services in the UK. In-store use of these technologies has been successful in the US and Europe—integrated into self-checkout and automated dispensing machines—but not in the UK, purely due to the current inconsistent regulatory requirements. We are behind other nations as a result, which is ironic given that the UK is playing a leading role in this technology.

In summary, the amendment would protect customers' health, help with the development of a leading UK technology, reduce cost to retail because it reduces time taken at checkout and self-service, and reduce regulatory burden significantly because it removes the need for a second paper check of ID after the digital check. What can the Government conceivably object to in this amendment?

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, I am speaking in favour of Amendment 3 from the noble Lord, Lord Balfe. If anything like the normal timetable had been in existence, I would have added my name to it.

At Second Reading, I asked for clarification over the scope of Clause 1(4)(b), specifically whether it covers supermarkets setting up pavement licences and whether that is good for the hospitality sector. The Minister wrote in reply, confirming that it covers any premises, but I will read into the record some of what the letter says, because of the emphasis it gives:

“This includes shops, such as convenience stores and supermarkets, which you referred to, from which food or drink can be bought. Draft guidance mentions public houses, cafés, bars and restaurants, including other types of food and drink establishments such as snack bars, coffee shops and ice cream parlours, though eligibility goes beyond this. It would include any businesses which sell food or drink, for example theatres and galleries with cafés and bars.

You also raised an important question about whether this is helping the hospitality industry by allowing other premises, such as shops from which food or drink can be bought to apply for pavement licences. Given that indoor space will be limited while social distancing measures apply, we want to provide a temporary process that helps support as many businesses to reopen as possible by allowing them to serve customers outdoors. This process is intended to help give much needed support to the hospitality industry, but given the impact Covid-19 has had on the whole economy, this provision should not be limited just to the hospitality industry when there is an opportunity for other sectors which have also been struggling economically to benefit.”

3.15 pm

Apart from the admission that it covers supermarkets, the letter puts great emphasis on reopening and struggling venues. All the places named in the guidance had been forced to close, but supermarkets have not been closed or struggling; they have had to rise to challenges, but have done well out of people not being able to eat out. Convenience stores have not been closed either and, likewise, many have done well due to people shopping locally during lockdown. But the Bill has been introduced, promoted and publicised as helping the hospitality industry, while containing a hidden bombshell.

At Second Reading in the Commons, the Business Secretary said:

“We want to support the hospitality sector by allowing outdoor dining and off-premises sale of alcohol, helping the sector back on its feet with the promise of al fresco dining for all this summer.”—[*Official Report*, Commons, 29/6/20; col. 51.]

He went on:

“I turn first to the temporary measures in the Bill to step up the recovery of our hospitality sector. Our 127,000 pubs, restaurants and cafés, which employ around 2 million people, are the lifeblood of our high streets and town centres. Social distancing guidelines significantly affect their capacity to accommodate customers, and food and beverage service activity has fallen by nearly 90% in the last quarter. The Bill introduces a temporary fast-track process for pubs, cafés and restaurants to obtain local council permission to place tables and chairs on the pavement outside their premises.”—*[Official Report, Commons, 29/6/20; col. 53.]*

There is no mention of supermarkets. I have looked carefully but nowhere did he explain how it helped the hospitality sector to recover by allowing cheap competition on their doorstep from businesses that are not dedicated to hospitality and have the other advantages of mixed business. How is that preserving the lifeblood of our high streets? This is a devastating blow to pubs and cafés, and the Bill has been sold to them on a false prospectus: hailed as salvation coming down the track, but instead a Trojan horse and the harbinger of further demise.

I understand that local authorities can exercise discretion and apply specific rules, so they may be left with the decision on whether to support pubs or let them close for good, but I would prefer the Government to think again about this. For the avoidance of doubt, will the Minister confirm whether a local authority can make general rules preventing supermarkets from having pavement licences or must it be done case by case? We will come back to some of these points later, but the provision of tables and chairs for consumption of off-sales is contradictory to how licensing is usually interpreted. This wide liberalisation and its implications, at the very least, do not seem to have been properly explained.

Baroness McIntosh of Pickering (Con) [V]: My Lords, I will speak to Amendments 44 and 1. As declared on the register, and as I referred to at Second Reading, I chair the board of PASS, the proof of age standards scheme. I was delighted that my noble friend Lady Neville-Rolfe highlighted this scheme, which has the support of the hospitality and tourism sector, and the retail sector, as represented by the major players. It is true that we are undertaking a consultation at the moment and that there was a slight delay in enabling everyone from whom we had not already heard to respond.

The point I want to make is that obviously I am in favour of a digital verification scheme. However, to me, it is extremely important that any digital scheme should comply with the same standards and meet the same regulatory requirements as any physical provider. I am sure that my noble friend would agree with that.

As my noble friend Lady Neville-Rolfe and the noble Lord, Lord Clement-Jones, pointed out, a physical proof of age scheme—now moving to digital—is government policy. We look to my noble friend the Minister to tell us, in responding to the debate, that the Home Office stands behind the proposals that we are to make in this regard. As my noble friend and the noble Lord rightly said, it will greatly expedite entrance to clubs, bars, nightclubs and all sorts of places if we have a digital verification scheme alongside the physical

scheme. The scheme has been so successful because even the physical scheme offers an alternative to those people—usually young people—who, on a good night out, take their passport or driving licence and come home without it, which obviously incurs a huge expense. So anything that the Minister can do to chivvy things along with the Home Office would be very welcome news.

The fundamental point is that, whichever age verification scheme we use, be it physical or digital, it must meet certain standards. Obviously I would say that PASS is best placed to provide that verification and regulatory role.

I turn briefly to Amendment 1, moved so eloquently by my noble friend Lord Balfe. In most circumstances, it will be environmental health officers who enforce and police these arrangements. But there might be circumstances in which there is an outbreak of public disorder and the police are called. If it is indeed the case that the police have not been consulted, I would be interested to know the reason.

Baroness Kennedy of Cradley (Non-Aff) [V]: My Lords, I will speak in support of Amendment 40, in the name of the noble Lord, Lord Holmes of Richmond. This amendment seeks to insert a new clause, requiring the Secretary of State to make regulations to ensure that small independent breweries can make an application for a temporary premises licence easily and quickly. This is an important addition, as it would allow small independent breweries that would otherwise be excluded from the benefits of the licence measures in the Bill to take full advantage of them.

Like other businesses, independent breweries have struggled through the lockdown. A recent survey of small independent brewers, conducted by the Society of Independent Brewers, showed that 84% expect the pandemic and subsequent social distancing measures to have a lasting negative impact on their business. It is therefore right that the measures in the Bill, which are after all designed to help businesses recover and to protect jobs, can apply equally to small independent brewers. They should not be excluded.

After all, local breweries have a positive effect on local economies. Where I live in south London, Brockley Brewery—the local brewery, which was started in 2013—employs local people and is a London living wage employer. To survive the lockdown, it has been running a beer delivery service, alongside a weekend brewery shop. I am sure that these innovations have been a lifeline for the business. This amendment will allow other small independent breweries to benefit from innovations such as this. It will give them the option to use the measures in the Bill to keep their business going and to protect jobs. It will allow them to develop more innovative ways of getting their business back on its feet.

I can see no reason to exclude small independent brewers from benefiting from the measures in the Bill. I hope that the noble Baroness will accept the need for Amendment 40 and ensure that this vibrant part of the hospitality sector is not overlooked.

Lord Bourne of Aberystwyth (Con) [V]: My Lords, I thank the Minister, my noble friend Lord Howe, for his engagement with the House on this legislation. I also thank him for his very helpful letter confirming to me that convenience stores that sell food and drink are within the ambit of the legislation; I am grateful for that confirmation.

I support this legislation, at least in general terms, and the provisions relating to pavement licences. However, we need the proper protection of certain interests, and I will be listening carefully later when the interests of the blind and the partially sighted are considered, as I think we need proper protection there.

I am also concerned about the dangers of off-licence drinking, particularly in city centres and particularly late at night. I therefore have considerable sympathy with the arguments put forward so ably by my noble friend Lord Balfe. I urge the Government to get a grip on this particular aspect of licensing. We all want to see the opening up of our economy—of course we do—but it is only against a safe background that the measures will be successful. I urge the Government to adopt the same lack of dogma on social measures as they have done on economic measures, with such marked success.

As I say, it is only against a safe background that the measures will be successful. Perhaps I might talk more widely on that for a moment, because I think it is relevant to the whole idea of ensuring that we open up the economy safely. I think that mandatory face masks in shops will be necessary. The Prime Minister's seeming instincts here must surely be right. We came to this late, but correctly in my view, for public transport; we should do the same for masks in shops. A voluntary approach will simply not work: it is rather like switching to driving on the other side of the road and inviting motorists to choose whether to do so or not. It will work only if everybody wears a mask—allowing of course for medical exemptions, which will be few in number.

Coming back to pavement licences, eating and drinking are very different outside and if we have social distancing. But therein lies the rub for late-night drinking and drinking in city centres, as we have seen recently in Soho. That is why we need to ensure that there is proper consultation with the police and to control late-night licences in city centres; otherwise, control of the virus will suffer a very serious setback.

I therefore support the need to work closely with the police, as stated so ably by my noble friend Lord Balfe. I also very much support the amendment on age verification, articulated so effectively by my noble friend Lady Neville-Rolfe and the noble Lord, Lord Clement-Jones; what they said was absolutely right. I will be listening very carefully to what the Minister says, knowing that she will articulate the case very effectively and come up with appropriate answers.

The Deputy Chairman of Committees (Lord McNichol of West Kilbride) (Lab): I call the next speaker, the noble Lord, Lord Naseby. No? We will move on to the noble Lord, Lord Wood, and then come back to the noble Lord, Lord Naseby.

Lord Wood of Anfield (Lab) [V]: My Lords, I shall speak briefly in support of Amendment 40, tabled by the noble Lords, Lord Holmes of Richmond and Lord Berkeley, who have already made the case for this important proposal; I am grateful to them both. This amendment would allow an application for a premises licence for a small brewery to be treated temporarily as a minor variation to existing terms, which would shorten the time for the consultation period and reduce the cost of the application. The aim is to provide desperately needed flexibility, speed and support for Britain's breweries at a time of huge need.

3.30 pm

The start of 2020 saw the UK independent brewery industry in great health. There are over 2,000 breweries in the UK—the most, apparently, since before the Second World War. Boosted particularly by a tax break introduced by Gordon Brown in 2002, the microbrewery industry has boomed in this country; it has become a crucial part not just of the entertainment leisure sector but of our cultural life more generally. However, the brewing industry has been severely hit by the Covid crisis, as my noble friend Lady Kennedy eloquently explained just now. While online beer sales have increased significantly, sales are still down overall by a whopping 82%. Government support in many parts of our country was prompt and extremely welcome, but the decision in April not to defer beer duty payments for the period in March when pubs were forced to shut down overnight has put an additional financial strain on the UK brewery sector. In the light of continuing sluggish demand, anxiety about the future and a litany of stories about late payments from establishments supplied by independent breweries, this is a part of our national life in continuing need of help.

That is why I urge the Government to consider this amendment. It is not costly; it offers regulatory flexibility rather than cash. By its nature it is well targeted—only those breweries that choose to take up the option of on-site licensed premises would benefit. It is time limited, so any unanticipated consequences for other parts of the retail sector would be minimal and short term. As my noble friend Lord Holmes eloquently set out earlier, proprietors are known to regulatory authorities; they have already passed the “fit and proper” test. Overall, from a regulatory point of view the proposal is low-risk and proportionate. In allowing an expansion of the number of venues, it gives more choice to consumers and, as my noble friend Lord Berkeley said, it encourages the small independent sector in the brewing industry to compete in different ways with larger, more established companies. I wholeheartedly support this amendment and I urge the Minister to back it.

Baroness Kramer (LD) [V]: My Lords, I shall be brief. I just want to pick up on a point made earlier by my noble friend Lady Bowles: that the opening up promoted by this Bill—which I support, particularly given some of the safeguards embedded in amendments—should not extend to supermarkets and convenience stores. When pubs reopened just over a week ago in Richmond, I and others observed that licensed premises

managed their customers and alcohol very responsibly. The problems that occurred were caused by people buying discounted alcohol from supermarkets and reading the relaxation of the rules governing pubs as, in effect, a relaxation of the constraints they had been observing during lockdown; therefore, they were out on the streets, frequently exceedingly drunk. As the chair of the Police Federation noted, it is crystal clear that people who are drunk cannot socially distance.

I could not find a way to shoehorn a specific amendment into this Bill, but I hope the Government will take on board that discounted alcohol served or sold by supermarkets and convenience stores late at night is a fundamental cause of problems that, unfortunately, are frequently being attributed to licensed premises. Locally, we find that those with a licence are well embedded in the community, have a strong and well-established relationship with the police and manage their customers exceedingly well. Going out on Richmond Green in the middle of the night, it becomes clear that it is supermarkets providing very cheap alcohol that are fuelling highly risky behaviour.

Baroness Noakes (Con): My Lords, I too shall be brief. I support what my noble friend Lord Balfe said about the House getting back to work. Indeed, I encourage my noble friend to come and join us in the Chamber, where he will find a warm welcome awaiting him.

I hope that he was wrong when he said that he was expecting Divisions on Report. We have to get this Bill on to the statute book as soon as possible. I hope we will not lose sight of the fact that these are temporary relaxations designed to help get the economy working again. Many of the issues raised are problems of normal times; we are not in normal times and we should not judge the relaxation proposals in the Bill by the issues we encounter in normal times. The important thing is to give the benefit of the doubt to premises that want to get going again. There are provisions in the Bill which allow licences to be revoked at a later stage if it does not work out. The most important thing is that we embrace the liberalisation encompassed in the Bill and do not hold it back by trying to make the application process more difficult or by putting more barriers in the way of our economy getting going again.

Baroness Meacher (CB) [V]: My Lords, I need to explain at the outset that, although I am down to talk about this group of amendments, I should be addressing a later group. I hope your Lordships will forgive me; it is probably my fault—I am not sure—but I certainly should be speaking later on. I welcome the pavement licence provisions and have no problem with most of the clauses—apart from Clause 11, on which I should be speaking.

I shall speak to Amendment 26 in the name of the noble Lord, Lord Paddick, and to Amendments 27 and 29. All these amendments restrict off-sales of alcohol to a time limit of 11 pm—an amendment with a 10 pm limit would be even better. I fear that the off-sales provisions are a bit of a panic response by the Government which will cause more problems than

they solve. The Government defend the move by pointing out that changes can be made through an expedited review process if there are problems of crime and disorder, public nuisance or public safety—and of course, we can be sure that there will be. They also point out that the police have the power under Section 76 of the Anti-social Behaviour, Crime and Policing Act 2014 to issue a closure notice if needed. When eventually the correct group of amendments comes along, can the Minister tell the House what the police's reaction has been to the proposal to extend the time limit for off-sales? Presumably, they anticipate a lot more trouble.

The other problem pointed out by local authorities is that the powers do not work at all where there are several premises together, as is the case in most towns and cities. However, the extraordinary point about Clause 11 is that it encourages the excessive use of one of the most dangerous of all recreational drugs: alcohol. As we know, alcohol kills 7,000 to 8,000 people each year; it is one of the leading preventable causes of death in the UK. Some 7.8 million people binge on alcohol on their favourite night out—or favourite night for drinking—no doubt causing problems for their liver. Is it really the Government's job to encourage the consumption of this dangerous and addictive drug? I cannot help also pointing out the illogicality and cruelty of government policy—not just of this Government; I am making a non-party-political point—with respect to a drug which has none of the dangers associated with alcohol. How can the Government on the one hand tell people to take the alcohol drug late into the night—the more the better; yes, it is dangerous, highly addictive and kills people, but never mind—and at the same time criminalise those who are very sick and take an entirely safe drug, cannabis medicine, which is well-balanced and harms nobody?

I know that the Minister understands these issues extremely well and I do not like to ask an awkward question, but how can she possibly justify these contradictory approaches to alcohol and cannabis? It is high time that all political parties aligned their drug policies with a scientific assessment of the risks of individual drugs. Clause 11 of this Bill is just one more ill-judged drug policy.

Lord Sheikh (Con) [V]: My Lords, I support Amendment 11 in the name of my noble friend Lord Balfe. Clause 3(2) states:

“Before making a determination in respect of the application” for a pavement licence,

“the local authority must ... take into account any representation made to it ... consult the highway authority ... and other persons as the local authority may consider appropriate.”

I support having input from the people and organisations stated, but I feel that it is necessary for the local police to be consulted in making a determination.

To reiterate what I said at Second Reading, I welcome the Bill, which will trigger the revitalisation of our businesses and help the well-being of the people. As a businessman, I would like the economy to pick up and create employment for all the people who have been idle for the last few months. However, my concern is the safety of staff and the nuisances and disturbances

[LORD SHEIKH]

caused on pavements and streets and in neighbourhoods. Before the pandemic, we saw young men and women misbehaving and fighting in the streets on Friday and Saturday nights. I used to see this happening when driving through towns at night. My concern is that people have been frustrated over the last few months and that the relaxation of the rules will lead to social problems.

When the problems of anti-social behaviour arise, they will be dealt with by the police on the spot. Local police know the hot spots in their areas where problems are likely to flare up. To alleviate the issues and possible problems, we need consultation and input from local police when an application is made for a pavement licence. I appreciate that the police have powers to issue closure notices, but this is like closing the stable door after the horse has bolted. It is therefore important that the police are consulted before the problems arise.

Lord Harris of Haringey (Lab): My Lords, I draw the attention of the House to my interests in the register and apologise to the Committee for not having been able to speak at Second Reading.

I welcome and accept the Government's objective of getting the hospitality sector moving, and we should not underestimate the wider impact on the economy if that sector does not revive. Speaking personally, despite the strictures of the noble Lord, Lord Balfe, I would welcome a shift towards a café culture society and away from the focus on binge drinking and vertical drinking establishments. However, this move should be achieved with local consent and neighbourhood support, where the parameters can be properly policed and enforced. That is why Amendment 11 in the name of the noble Lord, Lord Balfe, is so important. The views of local police must be sought on whether the proposed arrangements being considered in a locality are in practice workable and sustainable from a policing perspective. This raises a wider question: will the police be adequately resourced to manage what may be a more volatile street scene? What has the National Police Chiefs' Council said about this? I observe that the extra officers the Government have promised will certainly not be available this summer.

An interesting and separate point is raised by Amendment 44, in the name of the noble Baroness, Lady Neville-Rolfe, on digital age verification. It is extraordinary that the Government have been so slow in encouraging digital age verification. I declare that, for a year or two, I was associated with a company developing such a digital solution. The problem was, and remains, that licensees are required to inspect a physical document with holographic authentication. This means that teenagers routinely take their passports and driving licences with them on a night out, many of which are then lost. Digital age authentication, based on mobile phones, is not only possible but far more practical. When will the Government act on this?

3.45 pm

Baroness Pinnock (LD) [V]: My Lords, I draw the House's attention to my interests set out in the register as a councillor and as a vice-president of the Local

Government Association. We on these Benches support the purpose behind this Bill, which is to provide additional flexibilities to businesses in the hospitality sector that have been forced to cease trading for three months and more as a result of government decisions to control the spread of the coronavirus.

As many Members have pointed out through the amendments discussed in this group, alcohol sales and premises are carefully licensed for a reason: undue consumption of alcohol can result in detrimental effects for both the individual and the locality. Although this Bill provides for temporary measures, temporary measures lasting 18 months can still cause considerable disruption for residents, communities and the environment. These factors must be carefully considered.

There are helpful proposals in these amendments to extend the flexibilities to include sports clubs and bars, as proposed by my noble friend Lord Addington. As he described, these provide a significant part of the funding for community sports clubs. I hope the Government will support this extension.

Equally, small breweries that currently do not have licences, as described by the noble Lord, Lord Holmes, and others, also seem a worthwhile addition to the flexibilities provided in this Bill.

My noble friend Lady Bowles made a powerful case for businesses that are not directly part of the hospitality sector, such as supermarkets, to be excluded from being able to apply for pavement licences. I hope the Minister will make it clear that this Bill is not, in the words of my noble friend, a Trojan horse for struggling pubs, cafés and restaurants.

Flexibilities on current regulations can result in unforeseen additional concerns. The amendment of the noble Lord, Lord Kennedy, to assess their impact after three months and to ensure that these temporary changes are indeed temporary is to be welcomed.

On safety concerns, the noble Lord, Lord Bourne, made some interesting comments on the mandatory use of face masks. None of us wants the additional flexibilities to support businesses to result in easier routes for the virus to spread. The amendment in the name of the noble Lord, Lord Kennedy, about the use of cash and provision of toilets is therefore important.

Enabling digital verification, in the amendment of the noble Baroness, Lady Neville-Rolfe, which is supported by my noble friend Lord Clement-Jones, seems eminently sensible.

Temporary event notices are currently used for major local events such as festivals and fêtes. These are currently restricted to protect local communities and other licensees. Greatly expanding the number without a full consideration of the facts and impacts is questionable. With those comments, I pass on to other speakers.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I refer the House to my relevant registered interests as a vice-president of the Local Government Association and as president of Pubwatch.

Group 1 deals with a range of amendments relating to premises and alcohol licensing, including Amendment 39 in my name and that of my noble friend Lord Berkeley

on temporary event notices and Amendment 41 in my name, which seeks to add a new clause on health and safety to the Bill after Clause 11.

The noble Lord, Lord Balfe, referred to there being no votes today. We do not often vote in Committee—I have now been in the House for 10 years. I have made it clear in all my dealings with the Government, at Second Reading and in my meetings with them, which have been very helpful, that I will divide the House on Report if necessary. I have been very clear on that. I hope that we will get some resolution today so that it will not be necessary, but I am certainly not averse to having a vote. I would not be accused of that.

The first amendment in this group, in the name of the noble Lord, Lord Balfe, raises the issue of cumulative impact zones, which are areas defined as contributing to community problems because of alcohol. The noble Lord rightly seeks to stop premises in these zones applying for pavement licences. I look forward to the response from the noble Baroness, Lady Williams of Trafford, explaining how she has consulted with groups such as Pubwatch and other groups representing towns and city centres.

I hope that the noble Baroness will also detail the wider assessment the Government have made of the impact of these changes on crime, and in response to Amendment 11, on police consultation, I hope she will confirm that dialogue with police, local authorities and other interested parties will continue after measures in the Bill are implemented.

The noble Lord, Lord Bourne of Aberystwyth, made the point, which I agree with, about the need for the new street drinking to be controlled and managed safely. People can then relax and support the local economy while doing so safely and helping to avoid a second spike. That is very important.

My Amendment 39, plus two amendments in the name of the noble Lord, Lord Holmes of Richmond, deal with how the provisions can help businesses which do not have the necessary licence presently, as they rely on temporary event notices. This would also help street vendors who have been hit particularly hard in this crisis and have seen their doors close, some for good. Up to 15,000 businesses have lost all their income overnight and many tens of thousands of pounds have been tied up in rent for music festivals and rolled over to 2021.

The amendment would also help small breweries, which have suffered. Many noble Lords have spoken about the support for the small brewery industry. As we have heard, small breweries have seen up to 82% of their sales reduced because of Covid-19. They have not received the same level of financial support as pubs and the hospitality sector, and that is a matter of regret. One in four breweries—about 500 of the 2,000—does not currently have any way to sell directly to the public. The Government should adopt this measure as a way of helping them in the months ahead. The noble Lord, Lord Holmes of Richmond, and my noble friend Lord Berkeley, made a convincing case for the need to help small breweries, as did my noble friends Lady Kennedy of Cradley and Lord Wood of Anfield. As my noble friend Lord Berkeley said, these small breweries have made a fantastic contribution to the

variety and type of beers sold in the UK; they employ local people, and they have been devastated. We need to do something and I hope the noble Baroness will be able to give us a positive response.

My Amendment 41 seeks to highlight the importance of workers' safety in the hospitality sector, which the noble Lord, Lord Sheikh, also referred to. I am grateful to the support I have had from the Bakers, Food, and Allied Workers' Union for its contribution about how to address this issue. I hope the noble Baroness, Lady Williams of Trafford, will address issues such as the handling of cash and how that can be limited. In pubs and other small venues, small amounts of money are handed over. There are payment companies like Worldpay and Shopify, but in many cases if you go into a pub or a small shop and want to pay by debit card, or if you spend less than £10 or £15, they charge you. There needs to be some way in which the companies will not charge the 10p that they presently do. What contribution can they make to ensure that people use less cash and pay by debit card more? Companies would need to step up to the plate and maybe the Government could ask them to do that. It would certainly help reduce the amount of cash being used, with the benefits that that would bring.

It would be interesting to hear about the protection of security staff at entrances to licensed premises. That is very difficult normally, but particularly now that we are talking about social distancing. What support are the Government going to give those staff to ensure they can do their job properly as well as being safe?

How do we ensure that toilets are safe for staff and customers? What discussion has the Minister had with the British Toilet Association including advice on keeping toilets clean and safe? This will be of paramount importance for staff who need to ensure their toilets are kept clean and safe for their customers. Can the noble Baroness also explain what guidance the Government will offer to pubs on these other issues?

Other amendments in the group raise important points, and I hope that we will get a detailed response, particularly on Amendment 44, from the noble Baroness, Lady Neville-Rolfe, and the noble Lord, Lord Clement-Jones. They both made a clear case about allowing better enforcement of the drinking regulations, which would be welcomed. It will be interesting to see whether it is possible to bring that forward quickly. The noble Baroness, Lady McIntosh of Pickering, made it clear that there is support in the sector for bringing these matters in quickly.

I will leave my comments there and look forward to the detailed response from the Minister.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I am grateful to all noble Lords who have spoken in this debate and particularly to the noble Baroness, Lady Meacher, who manages to get cannabis into every debate—I admire her tenacity. If she is agreeable, I will respond to some of her comments in group six.

The general tenor of this debate is that people support the context in which this Bill is proposed, to get the economy moving and, crucially, the fact that it

[BARONESS WILLIAMS OF TRAFFORD]
is sunsetted to next September. As my noble friend Lady Noakes clearly articulated, this is not about the norm but about emergency measures to get the economy moving again. As this mistake has been made a couple of times, it is important to distinguish between pavement licences and off-sales licences, which of course supermarkets have got anyway.

Amendment 1 in the name of my noble friend Lord Balfe seeks to prevent the granting of pavement licences to businesses in cumulative impact zones. It is right that cumulative impact and potential for nuisance and disorder be considered when granting these pavement licences. That is why the Bill gives local authorities the ability to effectively manage risks in their local area. If a local authority thinks problems related to alcohol or anything else could occur, they can refuse an application for a pavement licence. In granting these licences, they may also impose conditions and if these conditions are breached, the local authority may issue a notice requiring the breach to be remedied. Local authorities can also revoke pavement licences in several situations including when the licence is causing risk to public health or safety or causing anti-social behaviour and nuisance. I hope my noble friend will agree it is important to retain local authority discretion in this area and he will feel able to withdraw his amendment.

Amendment 3 is also in the name of my noble friend, and I appreciate the points he has made. We expect the pavement and alcohol licencing measures to benefit cafes, restaurants and pubs primarily. However, it is important that the Government support economic recovery whenever they can, which is why this fast-track route is available to all businesses selling and serving food and drink. It will mean that a range of businesses, including some shops, theatres, and galleries, will be able to apply for pavement licences and off-sale licences, maximising the economic impact of these temporary measures. For the reasons I have set out I am not able to accept this amendment and I hope that my noble friend will not press it to a vote.

Amendment 11 is the last of the amendments tabled by my noble friend Lord Balfe. I assure noble Lords that the Bill requires local authorities to consult such persons as the local authority considers appropriate before determining an application for a pavement licence.

To answer my noble friend Lord Sheikh and the noble Lord, Lord Harris of Haringey, the Government expect that this would include the local police force, but believe that the local authority can and should use its discretion and local knowledge to decide who to consult. To answer the question from the noble Lord, Lord Harris of Haringey, directly: yes, we have spoken to the police. We have engaged with them throughout. The most recent time that I spoke directly to Martin Hewitt was last Friday, just before we went into super Saturday. We will continue to engage with them throughout.

4 pm

Off-sales licences will of course be granted automatically to most premises that already have an on-sales alcohol licence. However, as with pavement

licences, local authorities retain their full ability to review or revoke licences, including in consultation with local police if disorder occurs. I hope that, given my rationale, my noble friend will choose not to press his amendment.

Amendments 36 to 40 and 43 seek to support businesses such as breweries. As my noble friend Lord Holmes said, the Bill intends to do just what he articulates: to get the economy going. I am very grateful to all noble Lords for tabling these amendments and bringing this issue here for discussion. I assure them that I am very sympathetic to the objective of supporting small businesses throughout the pandemic.

As the noble Lord, Lord Kennedy, and my noble friend Lord Holmes know, the Bill's provisions add the permission of off-sales to most premises with an existing on-sales premises licence. However, it would not be appropriate to use this emergency Bill to amend the process by which premises licences are granted. It is vital that the conditions on which a new premises licence is granted receive careful consideration from agencies with the knowledge of local issues and of the licensee. Any business seeking a premises licence can make an application under existing provisions in the Licensing Act 2003. Similarly, we are not currently seeking to increase the number of temporary event notices available for application in one year because these are temporary and limited, and should not be used as a route to a permanent licence.

I will answer the point made by the noble Lord, Lord Addington, on sports clubs. Under the Licensing Act 2003, a club cannot operate off-sales alone and any alcohol supplied for consumption off the premises must be in a sealed container. The Act says that they can sell alcohol by retail to club guests for consumption on the premises only. To give them permission for off-sales would be a significant change and out of the scope of the legislation. Any club without a permission to supply alcohol to its members for consumption off the premises can of course apply for a variation.

Amendment 41 was tabled by the noble Lord, Lord Kennedy. I appreciate the concerns raised that some recommended safer working practices should be enshrined in law to reflect the risk of a second wave of Covid-19 and to lower the likelihood of legal action being taken against employers. I assure him that the Government have worked tirelessly to produce clear safe working guidance. Public Health England and the Health and Safety Executive have helped to create that guidance. An established update and evaluation process is undertaken by officials, where industry—and, indeed, anyone—can contact government with comments and feedback.

The noble Lord asked whether I had spoken to the toilet association. I have not, but I will see whether any of my fellow Ministers, or indeed any officials, have and get back to him. The HSE and local authorities already enforce the Health and Safety at Work etc Act, which clearly sets out an employer's legal obligation. The amendment would create an additional burden and lead to an ineffective use of taxpayers' money during the pandemic. I hope that I have given reassurance regarding the operation of the safe working guidance and that the noble Lord will choose not to move his

amendment. I will add that the toilet hygiene standards of the particular restaurant I went to in Manchester were extremely good.

The Government have carefully considered Amendment 44 from my noble friend Lady Neville-Rolfe and the noble Lord, Lord Clement-Jones. The protection of children from harm is a licensing objective that informs all decisions of licensing authorities and which all licensed premises should promote. Indeed, it is an offence under Section 146 of the Licensing Act 2003 to sell alcohol to a child. Age verification at the point of sale is a key element to prevent children gaining access to alcohol. It is essential that we have confidence in the forms of identification presented as proof of age to promote this licensing objective.

At present it is not possible to use a digital ID as proof of age for the purchase of alcohol in the UK because there is no industry standard for digital ID, although I assure noble Lords that the Government recognise advancements in technology and the need for agreement on what constitutes an acceptable form of digital ID for age-verification purposes. We have long supported this scheme and welcome the alcohol industry's commitment to continue to support the Proof of Age Standards Scheme. We have also commissioned its board to produce a set of standards for digital ID. However, due to the pandemic, it has now been delayed. We look forward to receiving recommendations from the board next year. Until such a standard is agreed, the current restrictions should be upheld. I hope that my noble friend will not press her amendment. I shall finish there.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): My Lords, I have received a request to speak after the Minister from the noble Baroness, Lady McIntosh of Pickering.

Baroness McIntosh of Pickering [V]: My Lords, my noble friend has answered my question and I am absolutely delighted with her answer.

Lord Balfé [V]: My Lords, my noble friend the Minister has very effectively dealt with most of the points that I raised. The key thing is that she has confirmed that local authorities can refuse licences in cumulative impact zones. I am certainly very happy with local authority discretion. I have spent much of my life in politics arguing for devolution of power and for local authorities to be given the right to make decisions in local self-interest. It is clearly now up to Cambridge City Council, in my case, to decide what it wishes to do in the cumulative impact zone. I look forward to it considering things firmly.

As far as my other two amendments go, I am also happy with my noble friend's response, in particular that the police will be consulted. Again, this is up to local authorities. I am sure that they will do so.

I took the points made by a number of noble Lords about the hospitality industry. The Bill goes somewhat further than the hospitality industry, but it is that industry that we seek to help. It will be a long struggle. Many of my friends are very reluctant, shall I say, to go back to restaurants, certainly indoors. If the Minister

has time to read it, last weekend the Office for National Statistics published a very interesting document following a survey of how people regarded lockdown and the consequences thereof. To answer the direct question that I am asked: I beg leave to withdraw Amendment 1.

Amendment 1 withdrawn.

The Deputy Chairman of Committees: We now come to the group beginning with Amendment 2. I remind the Committee that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this or any other amendment in this group to a Division should make that clear in debate.

Amendment 2

Moved by Lord Holmes of Richmond

2: Clause 1, page 1, line 9, after “furniture” insert “safely (including a barrier being sufficiently visible to separate the furniture from the pavement and furniture placed sufficiently away from the pavement to allow for the safe passing of pedestrians)”

Lord Holmes of Richmond [V]: My Lords, it is a pleasure to open debate on this second group of amendments. In doing so I state, as I did for group 1, my general support for the intent of the Bill. I am fully supportive of all and any credible attempts to get the economy not just going but motoring again. There is no reason whatever why, if we really focus on this, we cannot have a sharp and reassuring V-shaped rebuilding and recovery. However, the point in this set of amendments is that, as we do that rebuilding, we either rebuild together or will not rebuild anything particularly worthwhile at all. Everything must be predicated on inclusive design; then everything would be taken care of and sorted at that stage. This is in many ways emergency legislation, and the first real test is: in the crisis, can we hold fast to that concept of inclusive design, even when time is tight and we seek to get our economy motoring again? As I said, I am completely supportive of that.

At Second Reading last Monday the noble Earl, Lord Howe, referred on this issue to “guidance”, “may” and “consider”. If we put them together as “guidance may consider”, that would be far too conditional, whatever issue we were describing. When we look at something as significant as accessibility and whether somebody is able independently to access their local streets and community, we need something far more solid on which to pursue it than “guidance”, “may” and “consider”. Regarding the amendments in my name, I will speak to Amendments 2, 5, 8, 12 and 17. I thank all noble Lords who have signed my amendments and all the other noble Lords who have tabled amendments in this group. It shows how significant these issues are, and how much we need to ensure that the reopening of the economy and its rebuilding is done in an inclusive manner.

Specifically, Amendment 2 simply talks about a potential barrier around seating areas to enable particularly the blind and visually impaired, but in reality all street users, to access the area safely and inclusively. It is about having clear demarcation rather than seating areas potentially strewn across the pavement.

[LORD HOLMES OF RICHMOND]

Amendment 5 makes it clear—and would put it in the Bill—that anything in this needs to comply with the Equality Act 2010. It is absolutely the case that all legislation has to do so but, considering the seriousness of what we are talking about, it is worth probing the Government on this point and having the provisions of the Equality Act understood in the Bill.

Amendment 8 demonstrates how pervasive this question of accessibility and inclusion is. This goes to the means by which local authorities publish notices and enable people even to be aware of a notice, and that a potential change is happening in their local area. If those notices are not published in an accessible format, not least online but considering all potential accessible formats, it would clearly be in breach of the local authority's public sector equality duty. Can my noble friend the Minister give her views on that point?

Amendment 12 not only seeks to ensure that accessibility means that there is a clear pathway through any seating development; it also speaks very much to the need for social distancing. It sets out clearly that not only should it be possible for two persons to pass—be they wheelchair users, white-cane users, guide-dog users such as myself or people who use a walking frame—but that they should be able to pass with a 1-metre distance. Can my noble friend comment on the current guidance on which this distancing is to be based, given pavement width? Has this guidance been updated in the light of Covid-19 or is it still rooted on an understanding of distances to enable passage which take no account in reality of social distancing requirements?

4.15 pm

Finally, Amendment 17 goes to the issue that a number of noble Lords see in the process of the application. The potential needs to be built in for residents and users—not just those with disabilities, but all—to be able to put in a complaint about a development if it has been enabled and a grant has been made, yet in reality that area is not accessible. Amendment 17 would put a requirement on the council to inspect within seven days and have the ability to immediately revoke that pavement licence if it did not fit with the Equality Act on accessibility—the public sector equality duty—and, crucially, that whole concept of predicating everything on inclusive design.

I look forward to hearing the comments from other noble Lords on this group. I also look forward to the Minister's responses to ensure that we move from “guidance”, “may” and “consider” to something that can give real confidence to not just disabled people but all people. This would be an effective, positive move to drive economic activity, but in a way that is inclusive for all.

Lord Lucas (Con) [V]: My Lords, what I want to say on my Amendment 4 will work very well with what I want to say on Amendment 24, when we come to it. If the Minister chooses to reply to Amendment 4 now, that is fine, but I will leave my remarks until later.

Lord Low of Dalston (CB) [V]: My Lords, I will speak to Amendments 6, 7 and 8 in this group—briefly, because the case seems self-evident. These amendments provide that consultation materials should be provided in accessible formats for the benefit of disabled people, particularly those with visual impairments, and that the clock on consultation should be started only once materials have been made available online in an accessible manner. I would be most grateful if the Minister would be willing to take these amendments on board.

Lord Cormack (Con) [V]: My Lords, I sat in your Lordships' Chamber last Monday and heard every speech on Second Reading. Two things came across to me powerfully: the second I will deal with later, when I speak to my Amendment 28. First, I want to address a few remarks to my Amendment 20 and, as it is so short, I will read it for the benefit of your Lordships. Line 7 on page 5 of the Bill says:

“The Secretary of State may publish conditions for pavement licences.”

We should probably change that “may” to “must”. I have added the words:

“and in doing so must take into account the needs of the disabled, including the blind and the partially sighted.”

It came across in speech after speech last week that there was real concern on this issue—a concern most graphically expressed by my friend the noble Lord, Lord Low of Dalston, who has just spoken, and my noble friend Lord Holmes of Richmond, who introduced this series of amendments.

It is one thing to aspire to a café society, which is very pleasant. It is entirely reasonable that we should spill out on to the pavements, if it is safe and suitable to do so. But it is essential that the needs of the disabled—including the blind and the partially sighted—are properly recognised. I very much hope that when the Minister comes to reply, we will have an assurance from the Government that this matter will be explicit and on the face of the Bill. If it is not, I will seek to reintroduce an amendment next week on Report and, if necessary, divide the House, but I am confident that that will not be necessary. I hope that this debate will be brief, and unanimous that on this issue, in those immortal words, “something must be done”.

Lord Blencathra (Con) [V]: My Lords, I will speak to Amendment 21 in my name, but begin by referring to the recommendations of the Delegated Powers Committee, which I have the honour of chairing. It was critical of these conditions, which are legally enforceable but not subject to parliamentary scrutiny. The committee's report last week said:

“In the absence of cogent reasons for not requiring mandatory conditions to be imposed through regulations, we recommend that the power to impose legally enforceable conditions in Clause 5(6) should be exercisable through regulations and that the negative procedure would afford an adequate level of parliamentary scrutiny.”

However, today I am requesting simply that we apply it to the national condition relating to space on pavements for disabled people, because the guidance is absolute nonsense which would not survive proper parliamentary scrutiny.

This is nothing to do with my noble friend the Deputy Leader, or the Minister, who did not invent this guidance published by the Government on 22 June. Paragraph 4.2 refers to

“the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of *Inclusive Mobility*”.

Paragraph 2.2 on page 5 of *Inclusive Mobility* says that:

“Someone who does not use a walking aid can manage to walk along a passageway less than 700mm wide, but just using a walking stick requires greater width than this; a minimum of 750mm. A person who uses two sticks or crutches, or a walking frame, needs a minimum of 900mm, a blind person using a long cane or with an assistance dog needs 1100mm. A visually impaired person who is being guided needs a width of 1200mm. A wheelchair user and an ambulant person side-by-side need 1500mm width.”

So, if I read this correctly—and I apologise to the Minister if I have got it wrong—rather than one simple instruction to café owners to keep a space of 1,500 millimetres, there are six different widths by which they might be guided.

Some noble Lords are old enough to remember two ancient television programmes. I can imagine a Benny Hill sketch—or something like that wonderful “Fawlty Towers” episode in which John Cleese keeps moving his diners from table to table—whereby a café owner sets out his tables at 700 millimetres and sees someone with a walking stick coming and moves them out to 750 millimetres, then I come along in my chair with my wife beside me, and he moves them out to 1,500 millimetres, and closes them back to 1,100 millimetres when my noble friend Lord Holmes comes along with Lottie, his guide dog, or the noble Lord, Lord Low, comes along with his white stick.

These guidelines are unworkable. We must have one simple rule: a minimum of 1,500 millimetres in all cases. That would also go some way towards aiding social distancing.

Baroness Thomas of Winchester (LD) [V]: My Lords, I am bowled over by the research done by the noble Lord, Lord Blencathra.

I am pleased to support the amendment moved by the noble Lord, Lord Holmes of Richmond, and the other amendments in this group. People who do not have mobility problems or sight impairment might wonder why there are so many amendments about accessibility. The answer is simple. So many of us who use wheelchairs or, in my case, mobility scooters, or have a sight impairment, have all had experience of obstructed pavements, which make journeys extremely hazardous.

As my noble friend Lady Pinnock said from these Benches, we support what the Government are doing in the Bill, but there is detail which must be addressed, and I hope that I am pushing at an open door. I too note the national guidance for local authorities over pavement space, but guidance is unenforceable by its very nature, so how much notice of it will be taken by an enthusiastic café owner trying to maximise table space, for example? We need something much more explicit in the Bill, and I urge the Minister to table a suitable amendment on Report if he is not going to accept any of the existing amendments.

Baroness Grey-Thompson (CB) [V]: My Lords, I will speak to Amendments 2, 5, 12, 17 and 25 in this group. Obviously, from personal experience, I feel very strongly about these amendments. Disabled people are often forgotten when we are thinking about access, and perhaps in the last 10 years not much has really changed. I support physical distancing, while balancing it with the need to open businesses in a safe way, but the Bill should reflect the concerns of disabled people and support them.

Not every disabled person is vulnerable; however, when I think about what disabled people experience in real life without Covid-19, having to manoeuvre round dockless bikes, bad footpaths, poorly dropped kerbs and adverse camber, with the additionality of where we are now, with blue badge spaces being closed off, and how difficult it is for a number of disabled people to move around in a safe way, like others, I hope that the Government will support the amendments in this group. If we do not do this properly, disabled people will stay at home and will not be out spending money, and we know the value of the purple pound. Disabled people are an important part of getting the economy going again, but if this is not done properly, it could put disabled people in more danger by moving them to kerbs and slopes which are not safe for them to use.

The noble Lord, Lord Holmes of Richmond, covered well that there must be some urgent investigation regarding Amendment 17, and not just that this will be looked at some time in the future. As noble Lords have mentioned, guidance around disabled people is often forgotten. Also, I would like to see disabled people involved in this change and setting the guidelines and the standards required, because quite often a non-disabled person’s view of what disability access is required is somewhere between interesting and completely unhelpful. A number of people with visual impairments have told me that already in these times, when they have been out and about, they are being bumped into and pushed aside, and wheelchair users are being leaned over, and they cannot just jump out of the way of people coming towards them. That is why a sensible discussion on the amount of space is needed. I congratulate the noble Lord, Lord Blencathra, on looking at all the idiosyncrasies around the guidance. Frankly, they are idiotic. There must be one standard.

My final point is that guidance is a lovely idea, but around disabled people it is ignored because it is seen as “just guidance”. It does not effect change in the way we want. One thing that I hope comes out of this is a more positive way of thinking about how disabled people interact with the built environment, to enable them to move around in a better and safer way.

4.30 pm

Lord Harris of Haringey: My Lords, it is a pleasure to follow the noble Baroness, Lady Grey-Thompson. I wonder what she might have said had she mentioned the Government’s proposals on electric scooters in the context of the problems of disabled people, or of those with visual impairments. It seems to me that they are going to exacerbate some of the problems we are talking about.

[LORD HARRIS OF HARINGEY]

The amendments in this group deal with the nature of public consultation. Amendment 6 in particular, to which I have added my name, tightens up the expectations on local authorities. As I understand the Bill as drafted, it would be sufficient for a local authority simply to put the details on a notice stuck in the window of the town hall. The amendment, however, would require that those details be in a form accessible to the residents affected. I would like to see local authorities expected to consult directly with the residents in the immediate vicinity of some of these proposed licence changes.

Amendment 6 would also properly allow seven days for residents to register their objections or raise concerns. That seems to me to be a minimum. Seven days is a very short time under any circumstances, but, unless these subsections are strengthened, most residents in the immediate vicinity of a premises for which these changes are intended will never hear about them until they have been agreed, and probably not until the extra pavement furniture appears; until the extra noise starts; until the extra singing starts; and until the yobs start urinating and defecating on their properties. I assume that the Minister does not wish to be regarded as the Minister responsible for people doing that in others' front gardens—but that is the danger, unless there is a proper degree of consultation, and people have the opportunity to raise their concerns. Amendment 6 is very modest, and I trust the Minister will accept it.

Amendment 17 is also very modest. If the new pavement use turns out to make it difficult for people with disabilities, or others such as parents with pushchairs and young people, to navigate the pavement, the local authority must speedily visit and assess the situation. If there is a problem, the pavement licence should be revoked. Social distancing already requires people on many pavements to step into the road to get past each other. It is clearly more difficult if you are blind, in a wheelchair, or simply pushing a double buggy with another child in tow. If you have to navigate a group of inebriated and boisterous young men—and it will often be young men—on the pavement, it is far worse. Under such circumstances, not only is consultation needed but an inspection of how the arrangements work in practice. How far do the pavement tables extend? In practice, on whichever model the noble Lord, Lord Blencathra, was talking about, how much leeway do the groups standing around leave for those passing by? Again, I trust that the Minister will accept this amendment.

Baroness Neville-Rolfe [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Harris of Haringey, with his detailed knowledge of local rules. However, I wish to emphasise the importance of balance, and to remind noble Lords that these are temporary measures. We must not get bound up in regulatory amendments, however justified these might be for permanent laws. We have to get the economy and our high streets going again and allow vibrancy to return to our bars and pubs. Our hospitality sector has been decimated and it needs all the help it can get.

There are safeguards: there is scope for suspending licensing conditions for up to three months, or removing permission for sales of alcohol for consumption off

the premises. There are quite onerous requirements for Covid-19 risk assessments prepared in consultation with employees and unions. There are also various forms of guidance which, as we have heard from my noble friend Lord Blencathra, can contain anomalies. But the economy needs to open up. Bars and pubs must be part of the revival and regeneration, whether by young people, tourists or those of us at a more stately stage of life. The Local Government Association has, rightly, supported the Bill, including pavement licensing freedoms, and we need to get on with turning it into law.

Finally, I did not get a chance to say so, but I will be returning to digital verification on Report, as there is more to be done—and quickly.

Lord Carlile of Berriew (CB) [V]: My Lords, it is always a pleasure to follow the noble Baroness, Lady Neville-Rolfe. Like her, I absolutely recognise the economic imperatives behind the Bill, including this part of it. In your Lordships' House we have excellent spokespeople for disabled people and real expertise, ranging from a colleague with enormous Olympic achievements to the noble Lord, Lord Blencathra, who I congratulate on his admirable—if uncharacteristic—feat of pedantry in this debate, showing the absurdity of some of the rules. I support the notion that there should be the best possible uniform standard for enabling disabled people to negotiate our streets and built environment, even when economic imperatives lead to the opening up of those streets for eating, drinking and café society.

I will add a comment on Amendments 6, 7 and 8. There are good reasons for planning restrictions, and we do not want to see our built environment damaged significantly as a result of the economic imperatives that we are following. In particular, we need to protect the peace of places where people live and not see them turned into drinking streets because they happen to have a couple of pubs in the vicinity. I therefore support the requirement set out in Amendments 6, 7 and 8 for a proper consultation period.

Because of the internet, everybody knows that it is necessary at the current time to curtail some of the more officious parts of planning law, I would regard 14 days, rather than a week, as a reasonable period. However, it is important for such applications to be screened on the internet by local authorities, which can do it very easily, and for people to be given a meaningful number of days in which to make their representation. That would enable local authorities to make a quick assessment of the level of objections, if there were any, and to make an empirical judgment, rather than reacting only to the economic imperatives. I will keep back some of the things I want to say on similar issues to the debate on the next group of amendments.

Baroness McIntosh of Pickering [V]: My Lords, I congratulate the noble Lords, Lord Holmes, Lord Blencathra and Lord Cormack, on their amendments. This is a difficult area. On the one hand, we want to proceed quickly as these are temporary measures and we want to make good and recoup some of the losses that the hospitality industry has suffered. On the

other, we want to allow access for those who are visually or otherwise impaired, or who are wheelchair users. When he sums up on this group of amendments, will my noble friend clarify how the Government imagine that the guidelines will be fit for purpose in this regard? Although I can see that there is an argument for consultation, does my noble friend not agree that that could potentially delay the coming into force of these arrangements?

I bow to the good will and common sense of the restaurateurs and bar owners who will seek to use a pavement area only if it is physically safe for the category that falls within the remit of these amendments. It is up to them, working with the environmental health officers and the police, to make sure that these provisions are enforceable.

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, it is always a pleasure to follow my colleague the noble Baroness, Lady McIntosh of Pickering. I declare my interest as a vice-president of the LGA. This is an interesting section of amendments, because this is something we should be doing all the time. We should not have to insert it into legislation: it should be automatic. We have not only a considerable number of disabled people in our society but an ageing population. Speaking as someone who is ageing, I would like to think that such care and planning always happens, particularly with legislation of this kind. Even when it is temporary, it still matters.

It is obvious to us all that coronavirus has put life on hold. It has also given us a chance to change established ways of working. I note that many noble Lords have been talking about getting back to normal, but I argue that normal is not a particularly good place to return to. We should be thinking about how to make things better and not just repeating mistakes made in the past couple of hundred years. Increasingly, of course, given the changes in our population, we need to ensure that we are not imposing disabilities on people who are very active but have sight or movement problems.

The Bill should require that a minimum safe pavement area be left accessible—that is obvious—so that street furniture does not force pedestrians to walk in the road. That safe pavement space could vary depending on how busy the route is. Some high streets, for example, may have no safe encroachment area, which will cause large numbers of people to get too close together, but others might only require a metre or the 500 cm that the noble Lord, Lord Blencathra, spoke about—his was a pretty good speech. In any event, the Bill is currently deficient as it does nothing to address that issue, and the likely problems are obvious. Some councils have taken the opportunity during the coronavirus pandemic to close some streets to traffic and open them to pedestrians. That is obviously a wonderful way forward.

Consultation definitely needs to be improved for the emergency licensing regime. The measures proposed by the noble Lord, Lord Holmes, would maintain rapid licensing while helping to ensure that those who may be impacted can have their say and adapt the licensing accordingly. A system of appeal or

reconsideration should be included in the Bill. It is natural that some mistakes will be made with such a rapid decision-making process, so it would be a good idea to include a provision that would remove these measures quickly as well. Judicial review should not be the only option to put things right. It is very cumbersome and slow.

Tucked into this group is Amendment 4 in the name of the noble Lord, Lord Lucas, which would allow licences for pavement spaces outside empty premises. That would be a worthy improvement to the Bill, making better use of empty premises and their adjacent pavements. It is a simple amendment and I hope that the Minister can accept it.

4.45 pm

Lord Naseby (Con) [V]: My Lords, I very much support the Bill and admire Her Majesty's Government for pushing it forward. I say particular thanks to my noble friend Lord Howe, who wrote me a letter about new towns.

I will speak in favour of Amendment 2. I say to my noble friend that for five years of my life I lived opposite a pub, and if you live opposite, adjacent to or close to a pub you expect noise on Fridays and Saturdays, so there is nothing new about that in relation to the Bill. That point should be considered.

I say to my dear noble friends, Lord Holmes and Lord Blencathra, who is my roommate, well done because they have made people think. But, frankly, the average publican will think. He or she is aware of the disabled and of wheelchairs. Maybe they need reminding, and Amendment 2 does that, but for heaven's sake, this is only a temporary Bill. The only point I would make to my noble friend the Minister is, why do we not review this after six months? After all, the real point of the Bill is the next six months; particularly the summer and autumn. It would be more sensible to review it towards the end of this year, around December, in readiness for next year. The need is self-evident. I support the amendment and wish my Front Bench all possible success with the Bill.

The Earl of Clancarty (CB) [V]: My Lords, I support pavement licences not only for the purposes of the Bill but because, as I said at Second Reading, they have the potential to help knit together communities. But there must—"must" is the operative word—be access for all pavement users. Otherwise, our pavements are not a shared space in the wider sense of the term.

Anyone who knows Berlin and smaller towns in various countries on the continent will see how well this can work. As a pedestrian in Berlin, I do not recall ever having to walk around tables and chairs, which is an important point. The scheme is not working if you cannot walk down the centre of the pavement, and where the pavement is wide enough, there is no reason why café furniture cannot be split into two sections so that it can be right up against the road or fence between for safety.

I am sure that there is a whole art to this, but things such as large wooden tubs with flowers and large umbrellas marking the corners of the café territory

[THE EARL OF CLANCARTY]

can give the area a structure that is both open and rigid, so that pedestrians know precisely where they can walk on a predictable, routine basis. That is extremely important, particularly in the context of the amendment in the name of my noble friend Lord Low. You should be able to walk down a pavement and know precisely where you will be walking on different days.

Lord McConnell of Glenscorrodale (Lab): My Lords, I had the pleasure yesterday afternoon of my first meal out since before the lockdown, at the fabulous Drift Inn in Lamlash, on the Isle of Arran. The young proprietors and members of staff there had been looking forward to their first full spring and summer, with tourists and locals enjoying their hospitality. Of course, the business has had to stand still for several months. For them and so many others, small businesses in particular, I welcomed the Bill last week and I welcome it again today. I hope that, beyond England and elsewhere in the United Kingdom, there will be a bit more enthusiasm for supporting these businesses to get safely back on the rails over the coming weeks and months.

Turning to the amendments, I counsel the Government not to go against the grain when pushing through the Bill and the important powers it will enable. The Government themselves have spoken about building back better after the lockdown and Covid-19. There have been many negatives and terrible impacts of Covid-19 and the lockdown over recent months, but for those of us lucky enough to have had the opportunity to leave our homes, at times it has also been a pleasure to reclaim our streets and parks for walks or runs and relaxation. Many people have commented on that.

On the issue of off-sales, which I mentioned last week and which will come up later in Committee, I think it would be wrong for those to become too readily available in a society where they are already far too readily available. That is a major mistake. Also, we cannot talk about “building back better” if we leave people out of the equation. Without the amendment so ably introduced by the noble Lord, Lord Holmes of Richmond, whose introduction to this group was excellent, and without the consultation that was so well described by my noble friend Lord Harris, we will be, yes, rightly encouraging businesses to become entrepreneurial in this new environment and encouraging customers to go out and enjoy the hospitality of those businesses, but if we do that to the exclusion of sections of our society, whether they are there as customers or are just passing by, that will be a terrible error. We should leave no one behind as we emerge from this lockdown period.

I urge the Government not to go ahead with the Bill in its current form just because it has been through the House of Commons and because it was drafted by Ministers and officials before these debates but to listen to the debates and make the changes. They will get a much stronger welcome in the country for the Bill when enacted, and it will be more successful as a result, if it involves everybody and does not leave anybody behind.

Baroness Uddin (Non-Affl) [V]: My Lords, it is a pleasure to follow my noble friend’s enthusiasm and wise observations. I had signed up to speak on Second Reading and, due to unfortunate technical problems, was unable to do so. I wish to speak to Amendments 6 and 8.

I echo the introductory comments of the noble Lord, Lord Balfe. His concerns may be widely applicable in many areas of our country. I am deeply concerned about the impact of the fast-tracking measures that will allow alcohol to be served outside or off premises. I witnessed first-hand a large event at a venue nearby, on two consecutive weekends, and was shocked to witness large numbers of young people gathered without any social distancing—not a mask in sight—spilling on to the streets, as highlighted by the noble Lord, Lord Bourne. I welcome the points made earlier by the noble Baroness, Lady Neville-Rolfe, about age verification. I question the age of many present at these gatherings and agree with the noble Lord, Lord Clement-Jones, that it is not enough to rely on staff minding the entrance to ensure identity of large numbers of eagerly waiting young persons.

I suggest to the Government that the beneficial income revenue is likely to be seriously compromised by insurmountable amounts of litter, men urinating on the road and against buildings, activity going well into unsocial hours with an unacceptable level of noise and antisocial behaviour and disturbance, inevitably causing concern to nearby family residents. In fact, a group of people came over to my car as I was driving by, who were drunk and aggressive. Witnessing this was my adult son, who lives with autism. He was distinctly alarmed and anxious. I could see no one obviously enforcing rules at this event and no signposting for social distancing rules or for toilets.

Therefore, I am uncomfortable that some licences will be granted for more than a year without review. They are the most significant changes in licensing laws for years, and local authority and police services do not have any additional resources and will not be equipped to take on additional duties to monitor these licences for compliance without extra funding.

The proposal that local councils will have permission to revoke licences is, frankly, not good enough. Can the Minister clarify that local authorities and police forces locally have been allocated the necessary resources? Will these measures embed due regard to the rights of residents nearby, particularly those who are disabled or may be vulnerable young women, including the impact on women staff members? I was pleased that the noble Baroness, Lady Meacher, referred to the danger of excessive availability late at night of cheap alcohol. As a former manager of drug and alcohol services, I agree wholeheartedly.

I am not convinced that communities, local authorities and police have been adequately consulted, particularly on the impact on people with disabilities and the environmental impact on their lives of these measures. Can the Minister say that residents, including those who are disabled, will be consulted—reaching out to all residents, including those for whom English may not be their first language? Will there be opportunities

to express any dissent, and will a public reporting mechanism be established and made available in various locally relevant languages?

Finally, in support of the noble Lord, Lord Holmes, and comments made by the noble Baroness, Lady Grey-Thompson, and other noble Lords, I agree that, even at this time of duress, this House must be assured of adherence to the fundamentals of the public sector equality duty, and thus respect all the prerequisites of ensuring compliance, not just by local authorities but by those who hold a licence. Throughout this pandemic, I have sought assurances from the Government that we heed local conditions and respect local needs, including those based on the population and its linguistic requirements, and consider lack of access to online services for a large section of our populations. I am confident that the Government will continue to honour this duty and ensure that public consultation materials, printed and online, are available in accessible formats—including Braille, audio and translated into some of the relevant languages—and made available on a variety of platforms, including ethnic minority media platforms.

The Deputy Chairman of Committees: My Lords, the noble Baroness, Lady Goudie, has withdrawn, so I now call the noble Lord, Lord Balfe.

Lord Balfe [V]: I am indebted to my noble friend Lady Neville-Rolfe for giving me a new description, which I am proud to have, of having reached a more stately stage of life. I plead guilty to that.

Mention has been made by my noble friend Lady Neville-Rolfe and by others of the need to get the economy moving, that this is a temporary measure and all the rest. I ask noble Lords to remember that we are sending out terribly mixed messages. I happened to be in Cambridge station yesterday, and there people are still being advised not to travel. They are still saying that you should stay at home, at the same time as the Government are saying that you should now suddenly not stay at home.

I do not accept that this will make that much difference. I referred earlier to the Office for National Statistics survey, which shows quite clearly that a very large number of people—indeed, a majority—have no intention of going back to an enclosed restaurant in the foreseeable future. We need to distinguish between a temporary measure and what I am beginning to sense is almost a panic measure—the belief that, if we pass this Bill, suddenly everybody will go back to restaurants; that is not necessarily true.

I make another point about my tour of Mill Road, Cambridge, which I introduced in the first series of amendments. I did a very close survey of it in connection with the alcohol licence I mentioned earlier, which was opposed. There are two, if not three shops in Mill Road which are owned by Muslims, and two of them, at least, do not, on principle, sell alcohol. The idea that seems to be punted around that everybody wants to sell alcohol as a way of getting back to normal is not necessarily true. There are shopkeepers that do not wish to sell alcohol but to make a living selling groceries.

I also welcome Amendment 17, in the name of my noble friend, Lord Holmes, in particular the provision that asks local authorities to visit the area. There is no

real substitute for local people, particularly local councillors, looking at an area where an application has been made and applying some common-sense judgment. I would say that that is common-sense judgment very much bearing in mind the broad guidelines put forward by my noble friend Lord Blencathra. Some people will ask, “How wide should it be?”, so those guidelines are extremely important, but it is also important that local government and local councillors are made accountable for the decisions in their area. You cannot have local democracy if you are constantly falling back on saying, “Oh well, the Minister says this, the Minister has said that”. So I welcome that, and I think “the local authority must” is an important element.

5 pm

I have two questions for the Minister. First, only seven days is given for this process, which has been widely regarded as, let us say, a very short timetable. Will the local authority have the right to reject an application on the grounds that it needs a longer period to consult local people? I am thinking that if an application went in on a Thursday evening and it had to be determined by the following Thursday, that would not give enough time for publicity and for the council to make a decision. So will that be a legitimate temporary rejection where the local authority needs longer to consult?

Secondly, mention has been made of empty premises. Very good—but can the Minister confirm that, if tables are put outside empty premises, it must be with the agreement of the owner of the empty premises? In other words, just because a shop is empty does not mean that the shop next door that happens to be selling alcohol or food can therefore just put tables outside it. Will the Minister accept that, if they are to be put outside an empty premises, the application has to be accompanied by an agreement from the owner or lessee of the premises to have the tables put outside? I look forward to the Minister’s reply.

Lord Shipley (LD) [V]: My Lords, I remind the House that I am a vice-president of the Local Government Association. My name is attached to Amendment 25. The noble Lord, Lord Holmes of Richmond, reminded us of the importance and the meaning of the words “guidance”, “may” and “consider”, while my noble friend Lady Thomas of Winchester reminded us that guidance can be unenforceable and that we need something much more explicit when we reach Report. I agree with them both.

The issue is the safety of pedestrians in two respects: the physical safety of pedestrians to prevent them risking an accident to themselves and the safety of pedestrians against the potential transmission of coronavirus by enabling two pedestrians to pass each other at least one metre distant. So will the Government review the Bill before Report to ensure that the powers really exist for local authorities to maintain public safety on pavements?

Lord Sheikh [V]: My Lords, I support Amendment 25 relating to the two requirements that have been stated. I reiterate what I said when I spoke on Amendment 11: I support the Bill, which will trigger the revitalisation

[LORD SHEIKH]

of our businesses and help the well-being of the people. However, it is necessary for us to implement the changes with caution. My concern is safety of passage and accessibility by blind and disabled persons. In addition, of course, all pedestrians must be able to pass without hindrance where there is a gathering of customers outside a restaurant or pub.

Blind persons have felt less independent since the lockdown rules were implemented and, if there is an increase in street furniture, blind and partially sighted people may be forced to walk in the road, change their route, avoid travelling independently or even stay at home. Street furniture will present additional challenges and should be marked off with an accessible barrier. The idea of marking off the areas will ensure accessibility. Furthermore, if the appropriate distances are maintained, it will help pedestrians to walk without difficulty and prevent the spread of the virus. Adequate spacing will also enable disabled persons to go through without much difficulty.

As a Muslim, my other concern is the passage of Muslim ladies who may be subjected to harassment, particularly if they are wearing a hijab, niqab or burka. Most hate-crime incidents happen in the street and if the accessibility and passage of these ladies are blocked or hindered in any way, my concern is that they may be picked on by customers, especially if they have had a lot to drink. I have been informed by Fiyaz Mughal and Iman Atta of Tell MAMA that, since the lockdown was eased, there has been a spike in the number of cases where Muslim women have been abused and spat at in the street. In fact, I have been told by Tell MAMA that there has been a threefold increase in hate crimes against Muslims, and some of the incidents are unfortunately nasty and aggressive. I hope that the Minister will agree to Amendment 25.

Lord Adonis (Lab) [V]: My Lords, every speaker in this debate so far, from the noble Lord, Lord Holmes, onwards, has emphasised the importance of safe arrangements on pavements both for pedestrians, particularly those who have impairments, and for those sitting outside under the new arrangements, with the new licences allowing tables and chairs to be set up outside places of refreshment.

I do not have anything to add to those points. I simply note that some noble Lords have said that we should be mindful of the fact that these are only temporary arrangements, but we do not know that. It is perfectly possible that they will go on for many months, because we just do not know what the course of the virus is going to be. So I absolutely do not think we should legislate less precisely for the arrangements because we think that they may apply for only a short time. It could well be that in a year's time the arrangements and licences still apply.

However, it is vital that the law is clear about what the licences are going to contain, and it is that which I want to speak on. When the noble Earl, Lord Howe, replied to the debate last week, he said, in response to concerns that were raised at Second Reading about arrangements for pavements, that a national condition would be imposed,

“taking account of ... section 3.1 of the Department for Transport’s *Inclusive Mobility* guidance. This sets out the recommended minimum footway widths and distances required for access by mobility-impaired and visually impaired people.”—[*Official Report*, 6/7/20; col. 969.]

When the noble Earl said that, it rang alarm bells in my mind. I remember when I was Secretary of State for Transport having to deal with an extremely difficult case of an accident, which led to a very serious injury, that was caused by a lack of clarity in the department’s guidance as to what minimum footway widths should be. Indeed, I remember looking at the guidance and believing that it should be updated. Due to the passage of time, I cannot now remember why it was not.

I have been back to look at the guidance and it brought back all the details of the case itself, which of course could happen on many occasions if licences are granted under the *Inclusive Mobility* guidance. It looks to me as if the 2005 guidance has not been updated: perhaps the Minister could confirm that. I could not find any record of it being updated—but if it has, perhaps he could point us to the updating. If noble Lords will forgive me, I will read section 3.1 to the Committee, because it is so important to the point about what is going to be contained in these licences.

The guidance says under the heading “Widths”:

“A clear width of 2000mm allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal circumstances. Where this is not possible because of physical constraints 1500mm could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another.”

That already brings in an ambiguity, on which I would like the Minister to respond. Will local authorities regard 2,000 millimetres or 1,500 millimetres as the minimum? Under the guidance, it could be either. However, the confusion gets greater still. It continues:

“The absolute minimum, where there is an obstacle”—

although “an obstacle” is not defined under the guidance—

“should be 1000mm clear space ... It is also recommended that there should be minimum widths of 3000mm at bus stops and 3500mm to 4500mm by shops though it is recognized that available space will not always be sufficient to achieve these dimensions.”

The guidance is as clear as mud. Five different widths are specified in it but none is given priority. We are told that anything from 1,000 millimetres to 4,500 millimetres might be regarded as appropriate. The Committee should take particular note of the fact that the widest width—4,500 millimetres—is given in respect of shops, which will indeed be the premises that we are talking about almost exclusively in the case of this guidance. To double the confusion, it also says:

“The maximum length of restricted width”—

which of course is also vital; the restrictions apply not just to the width but to the length—

“should be 6 metres”,

and that is given without qualification, but of course many of the premises that we are talking about might be longer than six metres.

Therefore, my question for the Minister is: which of the various potential stipulations in the 2005 guidance will apply in respect of these licences? The noble Earl, Lord Howe, said that the national condition would take account of section 3.1: what exactly is it taking account of? It is now very clear to me that it could be taking account of any one of six different, and in

many respects contradictory, aspects of the guidance. On Report, the Government should come forward with an amendment that specifies the precise widths that will apply, and it should be more precise than the guidance. We must remember that the guidance was intended for exceptional purposes, whereas we are now talking about what will become quite a common occurrence in respect of our high streets and side streets.

The guidance makes no reference whatever to physical barriers—a point raised by the noble Lord, Lord Holmes, in his Amendment 2. If we are talking about the widespread introduction of pavement facilities for customers in cafés, pubs and so on, I think that the case for segregation is very strong, not just to make things safer—although it will do so—but to delineate very clearly the limits of the seating area. If there is not a physical barrier, those will not be clear, and we all know that people will spill out beyond them.

The 2005 guidance makes no reference whatever to barriers. If there is to be a provision in respect of barriers—a point very well made by the noble Lord, Lord Holmes, and others—that has to be a wholly new provision over and above the provisions of the Department for Transport’s existing guidance on inclusive mobility.

I have just asked the Minister a very precise set of questions, which I hope he can respond to when he sums up.

5.15 pm

Baroness Pincock [V]: It is very interesting to follow the noble Lord, Lord Adonis, and his very detailed questions about the distances currently set out in guidance for the highways authorities. I, and I am sure others, look forward to hearing from the noble Lord, Lord Greenhalgh—perhaps in a letter to us all—how these different distances will be handled with pavement licensing.

This group contains a very important set of amendments, to which I hope the noble Lord, Lord Greenhalgh, will be able to give a positive response. The daily difficulties described by my noble friend Lady Thomas of Winchester and the noble Baroness, Lady Grey-Thompson, and others amply illustrate why these amendments ought to be adopted by the Government.

In my own council of Kirklees, pavement licences already include a requirement for barriers. These not only clearly delineate the area in use and prevent a gradual expansion of the site but give a physical barrier for those with sight impairments. They also ensure adequate room for pedestrians, especially those needing space, such as parents with buggies, wheelchair users and people who need walking aids. As the noble Lord, Lord Holmes, said, it is simply not good enough to use words such as “may” and “consider”, as the noble Earl, Lord Howe, did in response at Second Reading. These are vital changes and the words used have to be “must” and “will”. We on these Benches wholeheartedly support the amendment to ensure that barriers are in place around pavement licence areas and that sufficient room is provided for pedestrians, while keeping to social distancing guidelines. There should be no ifs and no buts.

Amendment 25, which stands in my name and those of my noble friends Lord Shipley and Lady Thomas of Winchester and the noble Baroness, Lady Grey-Thompson, is explicit in its requirement for barriers to show the extent of the area and to enable pedestrians to continue to use pavements for their purpose. There is a danger that pavement licences will result in pedestrians being forced into the road. For clarity, I have been asked by my noble friend Lady Thomas of Winchester to point out that electric scooters, as raised by the noble Lord, Lord Harris, are intended to be used only on roads, not pavements, while electric mobility scooters are intended for use on pavements, not roads. The changes set out in Amendment 25 would resolve these issues. They are so important to many of us that, if there is no movement by the Government to address them, we will bring the matter back on Report and will be prepared to divide the House.

We must be careful that consultations to ensure changes that benefit one group do not inadvertently impair the needs of others; hence Amendment 6 in my name would make sure that applications were well publicised. Furthermore, as this legislation could make life even more difficult for disabled people, it is vital that applications are published in an accessible format. People have a right to know and to comment. The amendment in the name of the noble Lord, Lord Holmes, which proposes enabling the revocation of a licence, is important and makes good sense as a means of dealing with the few who fail to act responsibly. I also support the comments of the noble Lord, Lord Balfe, who suggested that government should let go of the control strings and allow councils to take, and be accountable for, local decisions.

Many of us across the Committee are very concerned about these issues and hope that the Minister will be able to indicate a substantial change by the Government in the direction that we propose in Amendments 6 and 25.

Baroness Wilcox of Newport (Lab) [V]: My Lords, I draw attention to my interests as noted in the register. Despite my deep and continuing roots in local government, I am afraid I am not able to say that I am a vice-president of the LGA. Who knows? Maybe one day.

We welcome the clauses in the Bill to allow pubs and restaurants to obtain pavement licences more easily. We have heard a wide range of views from noble Lords in this debate. The hospitality industry continues to suffer from restrictions in its capacity, and I am sure the whole Committee is keen to support steps to allow pubs and restaurants to serve a greater range of customers. However, it is imperative that with the increase of pavement licences, precautions are taken to minimise any adverse consequences. Safety and accessibility are paramount, and I am pleased that the noble Lord, Lord Holmes, has tabled a series of amendments with this in mind. His point regarding inclusive design was extremely well made, as was his question regarding updated guidance in our post-Covid environment.

The noble Lord is not alone in raising these issues, and I note that the RNIB and Guide Dogs for the Blind have raised similar concerns. His expertise in

[BARONESS WILCOX OF NEWPORT]

this area is clearly invaluable, as is that of the noble Baroness, Lady Grey-Thompson, who made the point that guidance is often ignored and legislators must think more positively to allow disabled people to move around safely. I take particular interest in Amendment 5, which stresses the importance of compliance with the Equality Act, and I would appreciate clarification from the Minister of how statute already provides for this.

The noble Lord, Lord Lucas, raised the interesting proposal of allowing outdoor seating outside unused premises. I look forward to hearing the Minister's thoughts on this, but I hope that in doing so he considers the implications of this for the concerns raised elsewhere over safety.

I also take interest in Amendment 12, which raises the point that any changes must allow for social distancing. I am sure the Minister will agree that these issues must be considered together by businesses, local authorities and the Government to ensure that they are resolved. With each of these concerns, it is clear that legislation will not provide all the answers. It is incumbent upon local authorities, as was so clearly put by my noble friend Lord Harris, who has a laser-like focus on what town halls can and cannot do. He made an important point about a seven-day consultation period and the problems that residents have to deal with as a result of not knowing what has changed in their community.

As further premises gain pavement licences, it is crucial that the Government engage with local authorities to consider whether they can offer any support and do not merely issue a diktat from above. A main learning outcome from this dreadful pandemic is the clear dependence that central government has upon local government in carrying out the laws and regulations made by the Governments of the four nations. Without the practical support of local government, much of what happens here simply would not happen. Local authorities will no doubt work, as ever, in partnership with local businesses, disability groups and, as we have in Wales, public service boards, working jointly to improve our areas. As noted in the amendment tabled by the noble Lord, Lord Blencathra, and the detailed elucidation by my noble friend Lord Adonis, Parliament must remain alert to any further issues which may arise, such as the inclusion of 1,500 millimetres apart guidance, thus changing an unworkable solution into a workable solution.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): My Lords, I thank my noble friends Lady McIntosh of Pickering and Lady Neville-Rolfe for the important measures proposed to support the hospitality sector. It employs some 2 million people. However, this group of amendments relates to the need to maintain access on the highway for all users, especially those with a disability. The Government strongly agree that this is an issue of great importance. As the noble Lord, Lord McConnell of Glencorrodale, put it, no one should be left behind and we need to proceed with appropriate caution.

My noble friend Lord Blencathra has done extensive research into the guidance on the different standards, which was noted by the noble Lord, Lord Carlile of

Berriew, and the noble Lord, Lord Adonis, mentioned the *Inclusive Mobility* guidance of 2005 and the different standards included in that guidance. It is very important to retain local flexibilities so that local authorities can assess the distance needed for the location of the premises and the type of street involved. There needs to be that flexibility rather than having uniform guidance.

Amendment 21, tabled by my noble friend Lord Blencathra, would require pavement licence guidance requiring minimum distances as part of a national condition to be subject to the affirmative resolution procedure. My noble friend also raised concerns about inclusive mobility. I am happy to tell the Committee that we have accepted the recommendation of the Delegated Powers and Regulatory Reform Committee that national conditions should be contained in regulations subject to the negative resolution procedure. I hope that my noble friend is comforted that this will help address parliamentary scrutiny. Clause 5(6) gives the Secretary of State power to publish conditions for pavement licences. This is to be replaced with a power for the Secretary of State to make provision about national conditions by regulations subject to the negative resolution procedure. We will also accept the Delegated Powers and Regulatory Reform Committee's recommendation in relation to the powers to extend measures in the Bill to ensure that the effects of coronavirus form part of that consideration.

We have listened to the concerns raised at Second Reading and today in Committee and have noted the strength of feeling in this Chamber that more must be done to address accessibility issues. We intend to table an amendment on Report to address those concerns. We believe that putting this into the legislation will provide an important safeguard to ensure that authorities act in accordance with their legal obligations to protect the interests of disabled people.

Amendments 2, 12 and 25 were tabled by the noble Lord, Lord Holmes, and the noble Baroness, Lady Pinnock, and were spoken to by the noble Baroness, Lady Grey-Thompson, and my noble friend Lord Naseby. Amendment 2 would require the inclusion of a barrier to separate furniture from the pavement to allow the safe passage of pedestrians. Introducing barriers to separate furniture may improve navigation for the visually impaired, but it can also cause further obstructions on the pavement which would inhibit others, including the mobility impaired. The Government are clear that access must be maintained for all users of the highway, including the visually impaired and the mobility impaired. All pavement licences will have an express or, in default, deemed no obstruction condition, along with a condition explicitly requiring clear routes of access, taking into account the needs of disabled persons.

Amendment 12 requires that where possible the minimum pavement width required must be increased to allow two pedestrians to pass each other while socially distancing. We fully support the intention, which is why the pavement licence guidance refers to the government guidance on Covid-19 safe public places. The measures for social distancing set out in the guidance will have to change over time depending on the circumstances. It is important that the legislation

does not restrict businesses' ability to align with it and therefore it is more appropriate to address this through guidance.

For reasons that I have set out, I am not able to accept Amendments 2, 12 and 25. I hope that my noble friend Lord Holmes will withdraw Amendment 2 and that he and the noble Baroness, Lady Pinnock, will choose not to move their amendments when they are called.

Amendment 20, tabled by the noble Lord, Lord Cormack, seeks to establish a specific requirement that the Secretary of State should have to take into account the needs of the disabled, including the blind and the partially sighted, when setting any national conditions. Related to this, my noble friend Lord Holmes, supported by the noble Baroness, Lady Grey-Thompson, has tabled Amendment 5. The intention of this amendment is to require that when applying for a pavement licence, applicants must ensure that the application is compliant with the provisions of the Equality Act 2010 and any relevant regulations or guidance under that Act.

My noble friend Lord Holmes also tabled Amendment 17, supported by the noble Lord, Lord Harris of Haringey, to place duties on the authority to investigate concerns over accessibility where a licence is granted, revoking the licence if necessary. I assure noble Lords that businesses that provide services to the public must comply with their duties under the Equality Act 2010, as must local authorities because they are public authorities. As these parties are already under specific legal duties, it is not necessary to include a specific reference to the Equality Act in the Bill or specifically reference taking into account the needs of disabled people in the setting of any national condition. A local authority will need to have regard to these duties if concerns are raised over the accessibility of a pavement. The legislation already includes powers for local authorities to revoke if a licence holder has breached any conditions of the licence. This includes no-obstruction and clear-access conditions. For the reasons I have set out, I am not able to accept these amendments, and I hope that noble Lords will therefore choose not to move them when they are called.

5.30 pm

I turn to Amendments 6, 7 and 8—tabled by the noble Baroness, Lady Pinnock, and the noble Lords, Lord Low and Lord Holmes—regarding the consultation process. These amendments would require local authorities to publish details of applications online in an accessible format and specify that the consultation period should not start until they have done so. The Government agree that the consultation should be accessible, which is why the Bill requires authorities to publish both the application and the fact that representations can be made. In doing so, they will need to meet the requirements set out in the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018, which are already in force. A public authority will be bound to act fairly and in the public interest, and so publish as soon as possible. Our draft guidance makes it clear that appropriate methods of publication include online methods and that authorities should

consider the needs of those who may find it more difficult to access online publications. We are working with the RNIB and the Guide Dogs for the Blind Association to refine the guidance. I take the point made by the noble Baroness, Lady Uddin, about the importance of linguistic requirements and the use of Braille and audio. For the reasons I have set out, I am not able to accept these amendments, and I hope that noble Lords will therefore choose not to move them when they are called.

I turn finally to Amendment 4, tabled by my noble friend Lord Lucas, concerning pavements outside empty premises; it was supported by the noble Baroness, Lady Jones of Moulsecoomb. As the Bill is currently drafted, applicants can already apply for a licence for premises that are currently empty or apply to put furniture on the highway in front of adjacent empty premises. For the reasons I have set out, I am not able to accept this amendment, and I hope that my noble friend will therefore choose not to move it when it is called.

A number of noble Lords mentioned extending the consultation period from seven to 14 days. I propose to address the points made by my noble friend Lord Balfe, the noble Lord, Lord Harris, and the noble Baroness, Lady Wilcox, during the debate on the next group of amendments. I will leave it there.

The Deputy Chairman of Committees (Baroness Henig) (Lab): I have received a request to speak after the Minister from the noble Lord, Lord Blencathra.

Lord Blencathra [V]: My Lords, it would be churlish of me not to intervene at this stage and thank my noble friend the Minister most sincerely for his excellent concession in saying that these national guidelines will now be subject to parliamentary scrutiny via the negative resolution procedure. I chair the Delegated Powers Committee. This is an excellent and very welcome concession.

We make laws in two ways in this country, or we should do—Acts of Parliament and statutory instruments—but in the past few years we have seen a worrying trend of guidance having legal force and a new invention, which we will come to in a Bill very shortly, of something called “protocols”, which are legally enforceable. These are just clever euphemisms for what should be regulations. I am delighted that my noble friend the Minister will put these on a statutory basis. I also look forward to his amendment next week in time to set minimum guidelines for access on pavements.

In the meantime, I thank my noble friend most sincerely for this excellent change of heart today.

Lord Greenhalgh: I thank my noble friend for his comments. Of course, I noted the points about the need for a minimum access requirement.

Lord Holmes of Richmond [V]: I thank all noble Lords who have taken part in this interesting debate. First, I thank my noble friend the Minister for his change of heart on the footing of the guidance and his commitment to bringing forward an amendment on

[LORD HOLMES OF RICHMOND]

Report; all noble Lords who have taken part in this debate will certainly wait so see the nature and extent of it.

I thank the noble Lord, Lord Blencathra, for his excellent speech. He made his point perfectly clearly: we should make Acts of Parliament and statutory instruments that are clear and to the point. His setting out of how guidance can get into trouble with a whole series of different lengths and distances made the point clearly, to the extent that, if at any stage the noble Lord cared to make that film, I would be happy to take part in it with him; there could be no greater way of demonstrating how not to go about things.

I thank the noble Baronesses, Lady Grey-Thompson and Lady Thomas of Winchester, for their interventions. It has been made clear in the debate that, at their heart, these amendments essentially have nothing to do with disability and disabled people. They have pertinence to disabled people only because we are the individuals on whom this stuff bites if it is not got right. It is no more significant for a disabled person seeking access than for a man pushing a double buggy or a woman from a store down the road pushing a trolley full of goods to get to the other branch around the corner.

I am sure that my noble friend Lady Neville-Rolfe did not intend to make this point, but there is no sense whatever that economic activity, economic growth and economic motoring are any sense diametrically opposed to inclusive design and accessibility. Inclusive design is the bedrock for the best economy and society that we can build. Inclusion is in no sense a clog at the heel of economic activity; it is the basis on which a better, more prosperous economy and a more integrated and prosperous society is built.

To the noble Earl, Lord Clancarty, I say this: my noble friend made perfectly clearly the point as to how inclusive design and economic activity go hand in hand in the specific case of the situation in Berlin. We really need to see from my noble friend the Minister amendments on Report that can have us all saying when it comes to pavement dining and pavement socialising, “Ich bin ein Berliner.”

On the points made by the noble Lord, Lord Harris, his forensic analysis is spot on. With modern techniques, there is absolutely no reason why consultation should be seen and characterised as a laborious process. Things can be done in real time by connecting to the people who are in the vicinity and have particular expertise to bring to bear on the consultation on a specific issue. Similarly, the noble Lord, Lord Adonis, was spot on with his laser focus on exactly the point at hand: ensuring that the guidance is not only fit for purpose but takes into account the current context.

It is interesting that most of the arguments about the need to get on with this seem to fit very well with the previous group, in terms of enabling small, independent breweries to have licences, with an aim to get on with it and drive economy activity in that way. But I will leave that to one side and come back to it on Report.

In conclusion, I thank all noble Lords who have participated in this debate. In essence, none of these amendments asks for anything other than for every

policy practice, procedure and area to be predicated on inclusive design—not because of Covid but because that should have always been the case in every situation. Either we build back together or we do not build back anything that is worth while and sustainable and that optimises social activity and economic growth. With that, I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendments 3 and 4 not moved.

Clause 1 agreed.

The Deputy Chairman of Committees: I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this or any other amendment in this group to a Division should make that clear in debate.

Clause 2: Applications

Amendments 5 to 8 not moved.

Amendment 9

Moved by Lord Low of Dalston

9: Clause 2, page 2, line 32, leave out “7” and insert “14”

Member’s explanatory statement

This amendment extends the public consultation period for pavement licence applications from 7 days to 14 days.

Lord Low of Dalston [V]: My Lords, I wish to speak to Amendment 14 in this group. Applications that have not been decided by local authorities within 10 working days are automatically deemed to have been granted for a period of one year. This is too long and could mean automatic approval for a significant proportion of licences and the volume of applications overwhelming local authorities. Combined with the absence of an opportunity to appeal, the automatic approval process risks allowing hazardous street furniture being permitted inappropriately in inappropriate locations.

If the automatic approval process is to be retained, the period should be reduced to three months in order that licences should not be approved automatically for an excessive period of time and in order to give local authorities the opportunity to revisit licences that have been approved simply due to a lack of resources within a reasonable period of time. Therefore, I would be most grateful for the Minister’s serious consideration of this amendment, and I would be grateful to other noble Lords for their support of it in the course of this debate. I beg to move.

Lord Holmes of Richmond [V]: My Lords, I shall speak to Amendments 13, 15 and 16 in this group, which build on the discussion we have just had. Amendment 13 would put in a right of appeal similar to what was discussed in a previous group but in the context of the situation ably set out by the noble Lord, Lord Low, for his amendment.

Amendment 15 changes the date in the Bill from 2021 to 2020 for precisely the reasons that the noble Lord, Lord Low, set out. We may be in extraordinary times and certain measures can be changed but I do not believe that it is proportionate at this stage to have a wave-through to 2021. It would be more appropriate to set a date of 2020, and that is what Amendment 15 seeks to achieve.

Amendment 16 brings out again the whole question of consultation and its being properly undertaken with the potential to incorporate views as expressed. It echoes many of the points made in the previous group around consultation. These amendments are specific to this group and to this Bill, but the reality is that these amendments are good not just for this time but for all times, in the sense of enabling full participation, full inclusion and full enablement for all across society.

There is precious little wealth in an argument that tries to push through at pace—understandably—and in so doing states that this is only a temporary measure and thus does not matter, and that we can suspend issues around inclusion, accessibility and full participation. If inclusion and inclusive design matter, and I believe they do, as I am sure everybody in your Lordships' House does, then they matter for a second, an hour and a day as much as they matter for a month or a year.

5.45 pm

Lord Lucas [V]: My Lords, Amendments 22 and 23 are intended to offer the Government an opportunity to outline how a district authority can take full advantage of this Bill when the highways are controlled by a county authority. Without any permissions or discussions whatever, I take the example of my native town of Eastbourne. Grove Road has a lot of cafes in it; the pavements are narrow and the traffic is fairly continuous. There is no way in which the cafes can spill on to the pavements. However, if we can close the road, as is easy to do because there are good workarounds for traffic that would not cause any great problem, we suddenly become able to offer all those businesses the opportunity for profitable trade.

However, in doing this, the district has to work with the county. I would like to see workable arrangements that enable the district to say what they want to happen and for the county to enable that without delay and argument.

Baroness Grey-Thompson [V]: My Lords, I have nothing further to add on this amendment at this time.

Lord Harris of Haringey: My lords, I have put my name to Amendments 15, 16 19, 22 and 23. The Bill allows applications for a pavement licence, and it says that they are deemed to have been approved if the local authority has not determined the matter within seven days. That approval then lasts until September 2021. This is not a temporary fix; it is quite a long-term fix. I think most local residents will find it pretty extraordinary that if, by default, something has not been considered or determined by the local authority,

it will stand until September next year. These are the people who will be directly, and potentially, very adversely, affected by the outcome.

Clause 2(7) says that the clock starts from the day on which the application is “sent” to the local authority. I am not sure that many people will send such applications by post, but the difference between the date sent and the date received is potentially significant. Why does the Bill not specify that the time limit runs from the receipt of application?

Amendment 15 in the name of the noble Lord, Lord Holmes, limits such an automatic approval of a licence to September of this year. That would no doubt meet the requirements in the remarks that the noble Baroness, Lady Noakes, is about to make, and it would allow something to happen now. However, it would also mean that the matter could be reviewed in due time, and I would have thought this was a modest amendment that must make sense.

In my view, Amendment 16 goes to the heart of these issues. These determinations should—and, in my view, must—take account of the consultation with those who are going to be affected by them. Like me, the Minister has been a council leader. I doubt whether, in his time in this role, he would have been very happy not to consider or take account of the views of local residents affected by a proposal. I know that, sometimes, matters of high politics might mean that you wish to override them, but most of the time you will want to listen to local residents and to those who are going to be directly inconvenienced by the changes that you are agreeing. You will want to listen to those who are going to be adversely affected by noise or any rowdiness and anti-social behaviour, and to those who are going to be affected because people are—and I will use the phrase that I used in a previous group of amendments—urinating and defecating on their property. Let us not pretend it will not happen; that is what will happen, particularly in the absence of proper policing resources and local authority enforcement resources.

I ask the Minister again: what are the estimated extra costs that local authorities will face in their enforcement role to manage these changes and what will be the cost of extra policing? That is why my noble friend Lady Wilcox of Newport's amendment is so important. Clause 5(6) gives the Secretary of State the power to publish conditions for pavement licences. Will local authorities and their associations be consulted about those conditions? Will they be given the enforcement resources they need? Again, what guarantees are there that the police will have the officers to ensure that suitable order is maintained as a result of the licences?

Finally, I have signed Amendments 22 and 23 in the name of the noble Lord, Lord Lucas, which acknowledge that, as a result of these licences, people will spill over into the highway or be forced to do so to get around those availing themselves of what is provided. Public safety may require that parking and speed limits be adjusted. That would require the highway authority, which may well not be the same as the local authority, to make adjustments. Similarly, transport operators—those running the bus services—may have to alter their schedules or make minor adjustments to routes to ensure that people are safe. The amendments would

[LORD HARRIS OF HARINGEY]

require that such discussions took place. Again, they seem modest, and I hope that the Minister can accept them.

Baroness Noakes: My Lords, I hesitate to be predictable; the noble Lord, Lord Harris of Haringey, has partly predicted what I will say. I am concerned that some of the amendments will make the process of applying for a licence more difficult and the process of getting one unattractive. In particular, if an automatic licence is granted for a very short time, it is of no real use to a hospitality business, which will probably have to invest in further tables and chairs and so on to operate outside, because not all can move outside the tables that they have inside. The amendments work against the spirit of the Bill, which is to try to get the economy going again.

We should not embellish the Bill with lots of extra things that have to be taken into account. There are already significant powers for local authorities to deal with these applications. Local authorities may have to get a bit more agile and deal with applications a bit more quickly than they have in the past. My impression of local government, never having been closely involved in it, is that it is not very agile. I will probably get into trouble with my husband when I get home because he chairs a planning committee, sits on a licensing committee and probably would not recognise my characterisation of lack of agility, but in these difficult times local authorities should be prepared to get a move on and do whatever they need to do to protect their local residents. They do not need any changes to this Bill to do so.

Baroness McIntosh of Pickering [V]: My Lords, I have sympathy with what my noble friend Lady Noakes has just said, but I have lent my support to Amendment 16 in the name of my noble friend Lord Holmes. It is appropriate that a local authority should be able to include conditions when granting pavement licences in line with any concerns expressed in the public consultation—with the proviso that the consultation takes only seven days, so I am afraid that I do not support the amendment in the name of the noble Lord, Lord Low. However, my noble friend Lady Noakes had a point when she said that such conditions should not be so restrictive as to make a nonsense of what is requested in the licence being applied for. I hope that common sense in this regard will prevail.

Lord Balfre [V]: I do not agree with my noble friend Lady Noakes: we are not trying to make it more difficult; as I see it, we are trying to get the balance right. I referred in my initial speech to the changes in the regulations—what I think of as the Blair/Jowell reforms—which opened up our high streets to a wild west of alcohol licensing. One thing those measures had in common with this legislation is that they came into force in August. We are proposing to bring this into force at precisely the time when local authorities are going for their summer break—indeed, at precisely the time when we are going for our summer break. By my definition of local authorities getting “a move on”, extending the consultation from seven to 14 days is

quite reasonable; I do not think that it is difficult at all. If someone sends an application by second-class post and gets their proof of posting at 5 pm on a Friday, it is unlikely to get there before the next Tuesday—particularly in Cambridge—so we are not even giving seven days. Seven days from date of receipt would be bad enough, but seven days from posting is just not enough.

I asked in my previous contribution whether people who wished to extend in front of unused shops would need to get the permission of their lessee or owner. That is an important point, because otherwise we are basically saying that a premises can just expand on to next door's territory without any agreement.

I asked earlier, and did not get an answer, whether a local authority could reject an application because it had not had enough time to consider it. In other words, if it arrived on a Tuesday and was due to be determined on a Friday, and it is August and everybody is on holiday, could the authority say, “No, we reject it. We need another seven or 14 days to consider it”?

Amendment 16 states that conditions may

“incorporate views and concerns expressed in the public consultation under section 2.”

How will those views and concerns be gathered? If the local authority asks for views and concerns, it will effectively be giving the general public 24 or maybe 48 hours and then it will have to meet to decide what to do with the public consultation. We keep hearing about the need to open up the economy, but the majority of people in Britain do not feel safe going into a restaurant as it is. I do not agree that the economy will be opened up by this legislation. What we will get is basically another version of the wild west. We need to legislate at a reasonable pace, because if we do so in haste, we will regret at leisure. That is what happened in the earlier, 2003-04 experiment and it is what we are heading for here. Please let us take this at a reasonable pace.

Lord Carlile of Berriew [V]: My Lords, the points I would have wished to make in this group of amendments have already been made skilfully by others and I see no need to repeat them. All I would say is that I absolutely support and adopt the approach taken and submissions made by the noble Lord, Lord Harris of Haringey. The noble Lord said extremely skilfully what I would have tried to say, so I have nothing further to add.

Baroness Stowell of Beeston (Non-Affl): My Lords, when the noble Lord, Lord McConnell of Glenscorrodale, spoke on the previous group, he said he had visited an establishment over the weekend. I share with noble Lords that I went to four establishments over the weekend and found them all very busy. I was pleased to “eat out to help out” as much as I did.

I do not know whether any noble Lords tuned into local London news last night, but it was interesting that the images of Soho this weekend were much different from those we saw the weekend before. One of the small establishment owners interviewed on “BBC London News” was very compelling in what he said

about the tables and chairs outside his business making a massive difference to whether it would be able to survive.

6 pm

I direct my comments mainly at Amendment 16 in this group, which I have some sympathy with. At Second Reading I said that release of lockdown and the return of some of our liberties was a moment to renew our individual responsibilities and restate some of the standards critical to a good, functioning society. I think it is fair to say that public consultations can often seem a bit meaningless to people, and a seven-day consultation will not provide much scope for people's input.

That said, I am mindful of the comments made by other noble Lords that this legislation is temporary and its purpose is to kick-start our economy, so I do not seek to extend the consultation period in the way that some other noble Lords have suggested. I implore all responsible business owners and local authorities to take every opportunity, during the procedures and processes that will follow once this legislation is enacted, to demonstrate to local people that they care about addressing the potential negatives and nuisances that we know are a real blight for some people, such as litter, noise and the other troubling practices that the noble Lord, Lord Harris of Haringey, referred to. If we are not to extend the consultation, we need to make sure that those who will make it possible for these changes to happen demonstrate to their local communities that they understand what matters to them and that local businesses will very much take all that into account.

As I am sure all noble Lords do, I have huge faith in small business owners, but I also want owners of bigger businesses to recognise their responsibilities and that the managers of their branches and local premises are local leaders in their area too. Big businesses should ensure that their local managers understand their responsibilities and their status in their local communities.

Lord Hayward (Con) [V]: My Lords, I first thank the noble Earl for his letter, which he sent in response to a number of the comments I made on Second Reading. I greatly appreciate the consideration that both he and the officials have given to the variety of points I made at the time.

I pick up on the response the Minister gave on one particular matter in the last group of amendments. I considered putting in to speak on both these groups but decided to concentrate on just one. On the question of marking out, possibly by some form of barrier, I acknowledge that you could create a real difficulty in blocking pavements by putting in another barrier, but in this day and age when you can rope off sections, the vast majority of establishments would not take up a large area by doing so. I ask the Minister not to mandate a requirement, but to encourage all restaurants to give serious consideration to some form of identification or demarcation of an area.

On these amendments and the comments by my noble friend Lord Balfe and the noble Baroness, Lady Stowell, we are talking here about restaurants and

events in the summer. I support her in her observations on the comments made on the radio yesterday about Soho; it was a marked change. On an earlier group, the noble Baroness, Lady Kramer, made the comment that, as far she could assess, the problems in Richmond in most cases arose not specifically from the pubs or restaurants, but from off-sales and people wandering around areas with drink they had bought in an off-licence rather than a restaurant.

On the timescales involved, I have sympathy with the issue of seven to 14 days, particularly at this time of year, and do not necessarily believe that it would be unfair on an applicant. We are dealing with the summer. It is important that we make progress because, after all is said and done, summer in Britain does not last very long. If we delay unduly, the restaurants will not get the benefit, but it is difficult for a council and residents to register concerns.

Having said that, I have a point in relation to what the noble Lord, Lord Harris, said. I have in front of me a letter from one of the central London councils. It is a parking offence and is not mine but my lodger's. It was sent out by the council and says it starts counting from the day it was sent; I think that is standard procedure for notices. My lodger was told he had to make the payment within the set days. Although I disagree with the noble Lord, Lord Harris, about some matters, what is relevant here is that at this time of year it is difficult for residents and councils to deal with matters if an application goes to one or two people who happen to be on holiday. As my noble friend Lord Lucas said, it may involve different local authorities and there may need to be cross-consultation.

Unless there is a strong case for it to be seven days, I certainly support the idea that there should be 14 days of consultation rather than seven. Having said that, as I understand it, many of the obligations imposed as a result of these amendments are already imposed on applicants for such licences and the local authorities giving consideration to them. I am willing to be corrected on that, either by another supporter of the amendments or by the Minister.

Lord Naseby [V]: My Lords, my noble friend Lady Noakes should have been listened to. I say again that I lived opposite a pub; I knew the publican. I knew the local councillor for the ward in Islington. In my own ward, up in Highview, I knew where the pubs were. I cannot believe that in this day and age and at this point in time, the local councillors do not know which of their pubs are considering making use of this legislation. I am certain they do. Furthermore, I suspect all the local residents know exactly which pubs are likely to want to do this pavement extension business, so I say to my noble friends: we need to get on with it.

I listened to the noble Lord, Lord Harris of Haringey. I remember the days when I was the leader of the London Borough of Islington and say that, if anything was stretched out, it was when we were discussing joint issues with Haringey—but that was a long time ago. Seven days is pretty reasonable at this point in time. I say to your Lordships: let us get on with it.

Baroness Pinnock [V]: My Lords, administrative procedures do not necessarily excite interest but they are nevertheless important. If we get the processes right to meet the needs of all involved, there are likely to be fewer adverse consequences, to the benefit of both the applicant and those impacted. These amendments make the consultation process fairer by ensuring that the application provides sufficient time for comments to be made, and then requiring a response to the points made during a consultation. I am pleased to have signed the amendment in the name of the noble Lord, Lord Low, about pavement licences which are deemed to have consent due to the local licensing authority not having responded in the narrow window of time set out in the Bill. This does need to be just a three-month approval; if they are so deemed simply because the local authority is overwhelmed with applications, the local authority will be unable to give each one the consideration it deserves. A three-month deemed approval will be an incentive for applicants to give the local authority time, so that the applicant does not have to reapply within a short period. To give a week initially but gain nine months later would be a good deal for both parties.

There are costs for local authorities involved in these measures, and these need to be fully recompensed by the Government. Local authorities have demonstrated during this pandemic that they are able to make speedy and agile decisions. They also have a duty to consider all their residents, whose issues these measures address.

The safety issues raised by the noble Lord, Lord Lucas, need some consideration, although it is not clear—to me, at least—how the changes he proposes are compatible with the purpose of the Bill to get flexibility for business within weeks, rather than the years it sometimes takes to change things such as speed limits. I hope that the noble Lord, Lord Greenhalgh, will provide a constructive way to address these issues on Report.

Baroness Wilcox of Newport [V]: My Lords, I rise to speak to Amendment 19 in my name, and I will also refer to other amendments in this group. We can all recognise that the granting of pavement licences can have consequences for local communities, and through the application process we can best mitigate any unintended repercussions. A consultation in itself will not suffice—it must be open, accessible, and not merely a tick-box exercise.

The amendments in the names of the noble Lord, Lord Low, and the noble Lord, Lord Holmes, highlight the question of the time limit for pavement licences. The department has been keen to stress during the passage of this Bill that most measures are temporary; but can the same be said for the licences themselves? The intention behind Amendment 19 is to highlight the importance of the UK Government and local authorities working in tandem throughout the process. The Secretary of State must engage with councils while establishing the conditions for pavement licences and be receptive to any feedback received. As my noble friend Lord Harris remarked, local authorities must take account of the residents affected by any changes. Indeed, as a former council leader myself, I agree that if we fail to listen to and act upon the views of our residents, political demise will soon follow.

The enforcement role of local authorities is a similarly important point. Many teams in licensing and trading standards have been decimated by a decade of cuts to public services, and there may be simply not enough boots on the ground to facilitate this effectively. On the same theme, I also ask the Minister to consider how the Government intend to work with the devolved Administrations on these initiatives. While many of the provisions in this Bill do not relate to the whole of the UK, we can all accept that the borders between our nations are permeated by people visiting licensed premises, be it Chepstow in the south or Chirk in the north. Indeed, before the pandemic, more people moved daily between Cardiff, Newport and Bristol for work and leisure than between Liverpool and Manchester. Hence, the idea of the Western Gateway was initiated, and cross-border working for economic gains was developed by Welsh and English local government.

I also refer to the comments made by noble Lords about the time taken by some areas of local government to respond to matters. After dealing with a cut of almost 30% of my total budget, yet maintaining the level of services delivered by my council, I think it nothing short of miraculous that councils are still delivering to such high standards across the UK.

6.15 pm

Lord Greenhalgh: First, I thank my noble friends Lady Noakes and Lord Hayward for asking us to get a move on—or, as my noble friend Lord Naseby put it, “Get on with it”—and my noble friend Lady Stowell for her vociferous eating out to help out over the weekend; it is much appreciated.

The noble Lord, Lord Harris, made several points concerning the importance of listening to residents; as a fellow former council leader, I know that that is of course absolutely critical and key to any consultation. I should point out that any additional costs and burdens which fall upon local authorities are covered by the new burdens doctrine as they arise. As someone who has more recently been a council leader, I know that these days, almost all applications are sent electronically, so the dates sent and received are identical in almost all cases. I also highlight that the Local Government Association is fully supportive of the measures proposed for the issuing of pavement licences.

Let me turn to the amendments in the names of the noble Baroness, Lady Wilcox, and the noble Lord, Lord Harris. This group of amendments addresses a range of issues relating to pavement licences. Amendment 19 seeks to ensure that the Secretary of State consults authorities if he chooses to publish a national condition. As I said to the House when discussing the previous group of amendments, we have already accepted the recommendation of the Delegated Powers and Regulatory Reform Committee that national conditions should be contained within regulations subject to the negative resolution procedure. I hope this addresses the issues raised by both the noble Lord and the noble Baroness.

I now turn Amendments 9 and 10, in the name of the noble Lord, Lord Low, which deal with the consultation process. They would extend the public consultation period to 14 days rather than seven and provide that the period starts after the application has

been published by the authority. The Government welcome the intent behind the amendments, which is that local communities have appropriate opportunity to comment on applications, and this is an important part of the process. Under the Bill, the seven-day consultation period starts the day after the application is made. The Bill requires the applicant, by posting a notice on the premises, and the authority, in such a manner as it deems appropriate, to publicise the fact that representations can be made during that period.

Authorities can choose to publish the application electronically, and this should make it easier to publish the application speedily. Extending the consultation period for more than seven days, however, would undermine a key benefit of this process, which is its speed. This temporary fast-track process strikes a balance between supporting businesses and responding to community interests by equipping authorities with local conditions and robust enforcement powers. For the reasons I have set out, I am not able to accept these amendments, and I hope that the noble Lord, Lord Low, will withdraw Amendment 9 and choose not to move Amendment 10 when it is called.

Continuing the theme of consultation, Amendment 16—in the names of my noble friends Lord Holmes and Lady McIntosh, the noble Lord, Lord Harris, and the noble Baroness, Lady Grey-Thompson—would allow local authorities to include conditions which incorporate concerns expressed in the consultation. As I have previously said, the ability to respond to local issues is important, which is why the Bill allows pavement licences to be granted by a local authority, subject to such conditions as it considers reasonable. Local authorities can already do what the amendment is seeking, and for this reason I cannot accept it.

I turn to Amendment 13, tabled by my noble friend Lord Holmes, which seeks to implement a right of appeal. It is right that authorities have the ability to control the effects of licences, whether deemed or granted. That is why deemed licences are subject to conditions published by authorities. Authorities can require licence holders to immediately remedy breaches of conditions and have the power to revoke licences where needed. For these reasons, I cannot accept this amendment.

Amendment 14, in the names of the noble Lord, Lord Low, and the noble Baroness, Lady Pinnock, seeks to reduce the duration of deemed licences to three months. I believe the intent is to allow greater flexibility to local authorities to manage public spaces and review the suitability of these licences. It is important to allow for local authority discretion, while providing certainty for businesses. This is why the Bill provides that a deemed licence has a duration of a year and robust enforcement powers where there are breaches. Licences can also be revoked if all or any part of the area of the relevant highway has become unsuitable for any purpose for which the licence was granted. We need to provide certainty to businesses, which is why three months is not long enough as a default position. For the reasons I have set out, I cannot accept the amendment.

The same is pertinent to Amendment 15—tabled by my noble friend Lord Holmes and the noble Lord, Lord Harris—to change the expiry date of these licences

to the end of September 2020. For the same reason I gave for Amendment 14, I cannot accept this amendment.

I respond finally to Amendments 22 and 23, tabled by my noble friend Lord Lucas and the noble Lord, Lord Harris. These would provide authorities with duties and powers to make pavement trading safer, and the authority to facilitate successful implementation of a pavement licence. The Government take public safety seriously, which is why there is a range of provisions in the Bill to ensure highways safety. By virtue of the conditions imposed on all licences, licence holders must not do anything that prevents pedestrians passing along the highway. If conditions are breached or public safety risks arise, authorities can revoke licences.

The Government have published guidance on reallocating road space in response to Covid-19, which points to measures that can be taken to reduce speed limits and create pedestrianised zones. The pavement licence guidance makes it clear that, when determining applications, authorities will want to consider whether any such temporary measures are in place. There is already a requirement for the local authority to consult the highways authority. In combination, the requirements I have outlined clearly tackle the issues of road safety. For these reasons, I cannot accept this amendment.

The Deputy Chairman of Committees (Lord Russell of Liverpool) (CB): My Lords, I have received requests to speak after the Minister from the noble Lords, Lord Lucas and Lord Balfe.

Lord Lucas [V]: My Lords, I am grateful to my noble friend for that reply, but I did not gather how he expects the county authority to respond to a request from the district that a particular road should be closed to traffic to enable restaurants to spread on to the pavements and streets. We are looking to do things quickly. As others have remarked, timescales in such requests can stretch into years. We have been asking for permission to put a pedestrian crossing opposite the new conference centre we built. This opened a year and a half ago, but nothing has happened yet. We want these things to happen quickly. What in the Bill will make superior authorities react speedily?

Lord Greenhalgh: There is nothing specific in the Bill on communication between lower-tier authorities and county councils, other than that the intention of it is to move speedily to support the hospitality industry. That is the underlying purpose of the measures we propose.

Lord Balfe [V]: In my contribution, and in the previous one, I asked first about the position of unused shops and whether there is a need for the applicant to have and submit the permission of the owner or lessee of the shop, if they propose to put tables and chairs outside it. I did not hear an answer; I might have missed it. Secondly, I asked whether it would be legitimate for an application to be rejected on the grounds that the seven days provided was not enough time for the

[LORD BALFE]
consultation with local people that is provided under the Bill. I did not hear an answer to that but, again, I might have missed it.

Lord Greenhalgh: For clarification, the definition of adjacent does not necessarily refer to premises. We will write to the noble Lord on his second specific point.

Lord Low of Dalston [V]: My Lords, I beg leave to withdraw the amendment at this stage.

Amendment 9 withdrawn.

Amendment 10 not moved.

Clause 2 agreed.

Clause 3: Determination of applications

Amendments 11 to 13 not moved.

Clause 3 agreed.

Clause 4: Duration

Amendments 14 and 15 not moved.

Clause 4 agreed.

Clause 5: Conditions

Amendments 16 and 17 not moved.

6.25 pm

Sitting suspended.

6.45 pm

The Deputy Chairman of Committees: My Lords, we now come to the group consisting of Amendment 18. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this amendment to a Division should make that clear in debate.

Amendment 18

Moved by Baroness Northover

18: Clause 5, page 5, line 6, at end insert—

“() Pavement licences may only be granted by a local authority subject to the condition that smoking is prohibited.”

Baroness Northover (LD): Amendment 18 is in my name and those of the noble Lords, Lord Young of Cookham and Lord Faulkner of Worcester, and of the noble Baroness, Lady Finlay of Llandaff. We all want to get the hospitality sector moving again. I remind noble Lords that over 85% of people do not smoke. There is a public health issue here, but there is also the issue of making pubs and restaurants appealing

to the vast majority of people. The UK hospitality sector will not recover if we cannot make it an enjoyable experience for the majority of its clients—that includes all those non-smokers and their children—as well as safe and enjoyable for the staff who may already be worried about returning to work.

The Bill proposes that restaurants and pubs should be able to use outside spaces for their customers to spill out into. People are safer from Covid-19 in the fresh air than inside buildings and, given the restrictions on numbers inside, this enables more customers to be catered for. The Government seek to balance economic with public health needs. Thus, in effect, the footprint of the pub or restaurant is expanded outside. We have already debated how these new needs and demands must be balanced with other considerations—the vital need to be inclusive, as the noble Lord, Lord Holmes of Richmond, and others so passionately put it.

Amendment 18 specifies that pavement licences may only be granted by a local authority subject to the condition that smoking is prohibited in such spaces. It is a simple and straightforward proposition. We all worked together, across all parties and none, on banning smoking in public places. That was transformative for public health, for the prevention of illness through second-hand smoke, for those working in these environments, and for the benefit of families and pregnant women. It is now widely accepted as a benefit and few people seek to turn back the clock.

However, under this Bill, the footprint of pubs and restaurants will, as I said, extend outside. If such an extension, for which there are good reasons, is to be granted, then these newly defined public places must also be smoke free for all the same public health and other reasons that the interiors of pubs and restaurants are smoke free.

The noble Earl, Lord Howe, who shared Second Reading with the Minister, has contributed significantly over many years as we have sought to combat smoking. I hope that both Ministers know that the words that they might have been given to reply to this amendment to the effect that local authorities “can” take such action is a world away from a provision saying that they “must” take such action. As the noble Earl will remember, prior to the introduction of smoke-free enclosed public places in the Health Act 2006 the hospitality trade did not support legislation that was simply local. It wanted a level playing field, provided by national legislation that covered all hospitality venues. That is why we need national action and “must” not “can”.

I first noticed this issue when I saw a petition organised to try to persuade the City of London and Westminster City Council to do this. A number of local businesses support it, but the council has not agreed, and therefore no progress is being made. As soon as I flagged this issue up at Second Reading, only one week ago, with ASH’s help and to my delight but not to my surprise, I secured support from every Bench in this House, as represented by the amendment. I am delighted to say that we also have the support of a former Secretary of State for Health, the noble Lord, Lord Lansley.

In the space of a week, we have also secured support for this amendment from the 10 local authorities that make up Greater Manchester, including the cities of Manchester and Salford, and from Liverpool and Newcastle, Oxfordshire County Council, and the Local Government Association itself. I am extremely grateful to them all in their clear concern for the pubs, restaurants and citizens in their area. This needs to be national.

The Government have said that they want to achieve a smoke-free England by 2030. There is a danger in this Bill of things going backwards and not forwards. For those who think that the urgent measures taken in the Bill should not be impeded, such as perhaps the noble Baronesses, Lady Noakes and Lady Neville-Rolfe, I remind noble Lords of the numbers: 85% of people do not smoke. If we are to encourage them back to using pubs and restaurants, let us make it easy for proprietors to implement this measure, so that they can make their establishments as attractive as possible.

I hope therefore that the noble Lord will see the case and has already heard the strength of feeling on this issue in the House. We banned smoking in interior public places, and that ban must be sustained as we redefine in the Bill what public places are. I beg to move.

Lord Young of Cookham (Con) [V]: My Lords, I put my name to the noble Baroness's amendment to indicate cross-party support, and I now add a brief footnote to her excellent speech.

Winding up the Second Reading debate last Monday, my noble friend Lord Howe said, in connection with another section of the Bill:

"The Government are clear that workers should not be forced into an unsafe workplace and that the health and safety of workers should not be put at risk."—[*Official Report*, 6/7/20; col. 970.]

One of the principal reasons for the Health Act 2006, which banned smoking in pubs, was to protect employees from the health risks of passive smoking, as well as from the irritation and smell of the smoke. Under the Bill, employees of pubs will have to deliver drinks and collect glasses from the pavements, and they should be entitled to continue to work in a smoke-free atmosphere, as set out in the Health Act 2006.

In response to the case made last week by the noble Baroness, my noble friend Lord Howe said that

"the local authority can impose locally-set conditions on licences ... that ... can include restricting smoking in areas not designated for smokers."—[*Official Report*, 6/7/20; col. 971.]

I do not believe that this is good enough. When Parliament considered banning smoking in pubs, it rejected the policy of leaving it to local discretion. It was to be a clear, national public health policy, and so should this be. As the noble Baroness said, the Local Government Association does not want local discretion. Doing that would blunt the public health message and lead to uncertainty among customers. From the industry's point of view, it is right that there should be a level playing field.

I urge my noble friend to think again and give a positive response, otherwise I fear that, for the first time since I joined your Lordships' House, I may be obliged to vote against my party on Report.

Lord Faulkner of Worcester (Lab) [V]: My Lords, it is a pleasure and a privilege to follow the noble Lord, Lord Young of Cookham. His record in fighting for public health and achieving sensible tobacco control is probably greater than that of any other Member of your Lordships' House. It goes right back to the early 1980s, when, as a Health Minister, he was fired from Margaret Thatcher's Government for taking a tough line on sports sponsorship and advertisements with those whom he described as the "tobacco barons". In a blog post, he said:

"I banned smoking at the meetings I held with them, and tried to get a health warning not just on the cigarette packs, but on the cigarettes themselves. The barons resisted this; the ink, they asserted, contained substances that could damage the smoker's health".

I am delighted that he has put his name to this amendment; I was very pleased to do the same. I congratulate the noble Baroness on the speech she made at Second Reading and on the very persuasive way in which she moved the amendment so ably just now.

This is the latest step on the journey to the smoke-free country which Ministers say they want to achieve by 2030. It is also consistent with the approach we have adopted in your Lordships' House since we approved a succession of tobacco control measures, going back to the early years of this century. The most important of these, referred to by the noble Lord, Lord Young, was the measure to make pubs and clubs smoke-free after the free votes in 2006. There can be hardly anyone, in this House or outside, who wishes to go back to the days when pubs were full of smoke and patrons needed to change their clothes and wash their hair to get rid of the stench when they got home. Those laws were the most significant contribution to public health since the clean air laws of the 1950s and the Victorians' improvements to the quality of drinking water.

In 2013, I was pleased to be part of a cross-party group which moved amendments to the then Children and Families Bill that were designed to protect children and help prevent them starting to smoke. Those required cigarettes and other tobacco products to be sold in standardised packaging and made it an offence to smoke in cars where children under 18 are present. By the happiest of coincidences, the Health Minister who accepted the arguments in those amendments tabled in Committee was none other than the noble Earl, Lord Howe. He will therefore appreciate how entirely appropriate it is to improve legislation such as this in the interests of public health.

As the noble Baroness, Lady Northover, has said, this amendment enjoys significant public support. Particularly striking is the evidence from Greater Manchester. Over 70% of its population said that they wanted the areas immediately outside public buildings to be smoke-free environments. As she said, all 10 local authorities in the area support this amendment.

I should also mention a friend of mine, Ian Hudspeth. He is a Conservative councillor and chair of the Local Government Association's community well-being board. In a message to me he writes: "As leader of Oxfordshire County Council, which supports Oxfordshire's ambition to be the first smoke-free county in five years' time, by

[LORD FAULKNER OF WORCESTER]

2025, I want to express my support for this amendment. It is important to ensure that public spaces where people congregate and socialise do not present a health hazard from cigarette smoke. By giving local authorities the mandate and tools to protect their residents' health, it ensures a level playing field for businesses and demonstrates the Government's commitment to its ambition for England to be smoke free by 2030".

I hope that your Lordships will accept this amendment when, presumably, it is moved on Report—unless the Minister is able to indicate tonight that he is able to accept it now. I wholeheartedly support it.

Baroness Finlay of Llandaff (CB) [V]: My Lords, I am delighted to support this important amendment. We have come a long way in public health on harms from smoking and passive smoking. Our ban on smoking in public places has resulted in proven improvements in rates of heart disease among workers in such environments. As well as protecting workers in pubs, we must not put at risk the public, who have in recent years enjoyed pubs. Unfortunately, the evidence around Covid damaging the heart and lungs is rapidly mounting. We know that those with cardiovascular disease and lung disease—direct consequences of tobacco smoke exposure—have a worse prognosis and a higher post-infection morbidity.

For people's mental health, and for the country's economy, it is essential that venues are supported to open safely and inclusively, and to provide a pleasant experience outdoors that is as safe as possible. Commercial pressures from the tobacco industry will, of course, want to resist this. This amendment, to which I have my name, supports hospitality venues to reopen, maintains consistent messaging to decrease smoking and encourages people to enjoy going out and socialising, with mental health benefits. This amendment supports our public health gain on decreasing tobacco smoke exposure, which must not be abandoned now; it would be irresponsible to throw it away. I urge all noble Lords to think about what they will throw away if they do not support the simple measure proposed in this amendment.

7 pm

Baroness Neville-Rolfe [V]: My Lords, I rise to express my doubts about this amendment, because the Bill contains temporary measures. We should put liberalisation to the fore, as argued by my noble friend Lady Noakes on an earlier amendment, and should not be using this Bill to make major policy changes.

My grandmother was a smoker and died of lung cancer shortly before I was born—a great sadness, as she was a founder of the CPRE and a great cook. However, this has made me very aware of the right way to encourage the reduction in smoking. I do not believe in total bans, which drive smoking underground. The truth is that smokers are still able to smoke in the open outside some pubs and bars, so they come, sit outside well away from others and support the hospitality sector—as I saw on Saturday outside the coffee shops in Salisbury marketplace. A proper study and assessment of what this measure would mean cannot be done for a temporary Bill. It would certainly affect pubs and

other outlets, but we do not know what the possible impact would be, given that we are talking about people gathering together in the open air.

More generally, I feel that noble Lords have not grasped the gravity and immediacy of the economic disaster enveloping this country as a result of Covid. The various measures and amendments before us could make things worse—for example, by hitting pub numbers and, indeed, driving smokers away from the open air that is better for their health. I believe that this should be a matter for local authorities and that we should not be embarking on a major change in this temporary Bill.

Lord Clement-Jones [V]: My Lords, I am speaking very strongly in favour of Amendment 18, so cogently introduced by my noble friend Lady Northover. This debate takes me back almost 20 years to the passage of my Private Member's Bill, which became the Tobacco Advertising and Promotion Act 2002. It had cross-party support and the very effective backing of Action on Smoking and Health, as does today's amendment.

My noble friend Lady Northover was extremely helpful then, as were the noble Baroness, Lady Finlay of Llandaff, the noble Lord, Lord Faulkner, and the late Lord Peston, who we all remember so fondly. The noble Lord, Lord Naseby, was a lot less constructive. The noble Baroness, Lady Noakes, was on patrol. The noble Earl, Lord Howe, kicked the tyres on the Bill very hard but was persuaded of its merits—as I hope he and his ministerial colleagues will be by this amendment today.

Our culture and, in particular, the balance between smokers and non-smokers, has changed dramatically since those days. I remember visiting Ireland with the noble Baroness, Lady O'Cathain, shortly after the passage of the Bill. The scales fell from our eyes about the possibility of smoke-free pubs and restaurants—and now, as a result, our health benefits hugely.

Clause 5 already sets out that conditions can be put on pavement licences by local authorities or the Secretary of State. As the LGA says, this amendment “sets a level playing field for hospitality venues across the country”.

It wants national action. This is crucial, as my noble friend Lady Northover explained, to ensure consistency and clarity of regulation across the country for the hospitality trade. It also has the public health benefit of protecting people from unwanted second-hand smoke.

As ASH says, Covid-19 has changed the context completely. Access to indoor smoke-free areas in hospitality venues is limited and riskier as a result. Prohibition of smoking in enclosed areas has displaced it outdoors, particularly to areas around the entrances and exits to public buildings. If smoking is not prohibited, pavement areas will not be family-friendly spaces. They will exclude non-smokers from enjoying the benefit of eating and drinking outside. Neighbouring premises, particularly in cramped, inner city areas, will also be exposed to second-hand smoke.

This is a chance to ensure that the health gains of the 2002 Act and the Health Act 2006—which has had great public support, as my noble friend said, with smoking declining significantly among young people

in particular—are not squandered and that the Government can realise their stated ambition for England to be smoke-free by 2030.

Lord Ribeiro (Con) [V]: My Lords, I apologise for not speaking at Second Reading. Given the restrictions imposed on restaurants and pubs to maintain social distancing during this Covid-19 crisis, it is understandable and welcome that this Bill makes it possible for food and drink to be served on the pavements outside pubs and restaurants.

We have regulations that prevent smoking in pubs and restaurants because of the effects of second-hand smoke on other customers. We have all seen the graphic Covid health warning films about the effects of coughing and sneezing, and how droplets large and small can be projected over several metres and potentially infect those within range. Most smokers exhale the smoke from their lungs through pursed lips and can project smoke beyond the government guidelines of social distancing of one metre plus. So the risk of second-hand smoke, even in an open environment, can affect those seated close by. In effect, the pavement licence takes the pub or restaurant outside. Therefore, any regulation relating to smoking in public places such as pubs and restaurants should be extended to pavement areas until such time as the designated period outlined in the Bill ends in September 2021.

All the evidence points to a second wave of Covid-19. We expect something to happen as we approach winter. The sporadic outbreaks we have recently witnessed in Leicester and Herefordshire should be a warning to us all to be careful in controlling the spread of the virus. Given the horrendous effects of coronavirus, particularly on patients' lungs—many requiring long-term ventilation—it is all the more important to ensure that the air around us is as unpolluted as possible. That includes air from second-hand smoke. As the noble Baroness, Lady Northover, and others observed, the Government have expressed a desire to make England smoke-free by 2030. Let us start now, by prohibiting smoking on pavements outside restaurants and pubs, and in doing so protect those who may contract coronavirus in the coming year and thus be at risk of serious lung complications.

I strongly support this amendment and hope that it will be accepted, albeit as part of a temporary measure.

Baroness Sheehan (LD) [V]: My Lords, I will speak in support of Amendment 18 in the name of my noble friend Lady Northover, which I am pleased to say enjoys support across the House. Before I do so, I apologise for not being able to speak at Second Reading last week. I thank my noble friend Lady Northover for the comprehensive way in which she introduced her amendment, and her co-signatories the noble Lords, Lord Young and Lord Faulkner, and the noble Baroness, Lady Finlay of Llandaff, for their support.

The amendment seeks to ensure that in our attempt to find new and different ways of allowing our cafés, pubs and restaurants to survive, we do so in a way that is sustainable and safe for as many members of the public as possible, including staff. It will also make family-friendly areas safer for young children, who are particularly susceptible to toxic second-hand smoke.

I heard a few people say that extending non-smoking areas to licensed pavements should be left to local authorities to decide on an ad hoc basis, but, as in 2016, most proprietors of pubs, restaurants and cafés support extending the non-smoking area to licensed pavements. They know they will be on the front line when it comes to enforcing rules and, not surprisingly, they want the clarity and the safety from disappointed and sometime aggressive members of the public. They want the clarity that comes from everybody having to adhere to the same rules. Anything other than a national regime, underpinned by legislation, would cause confusion and, I fear, sometimes conflict.

I agree what other noble Lords have said in support of the amendment and I do not want to repeat what has already been said. However, there is one last point I would like to make. To introduce pavement licensing without the attendant safeguards from exposure to second-hand smoke would fly in the face of the Government's own rationale for reducing the two-metre safety distance to one metre-plus. The plus refers to a physical barrier such as a screen or a face covering. Allowing smoking outdoors will mean the removal of face coverings and masks, therefore more exposure for the smoker and for anyone sharing his or her airspace. If only for the sake of consistency with their own policies, the Government should accept this amendment tabled by my noble friend Lady Northover.

Lord German (LD) [V]: My Lords, when the smoking ban was first introduced in 2007, it had followed years of campaigning and research to demonstrate the negative effects. Second-hand smoke affects everyone. The research studies then showed breathing in second-hand smoke increased an adult non-smoker's risk of lung cancer and heart disease by a quarter, and of a stroke by 30%. I had been chair of a committee in the then National Assembly, which is now the Welsh Parliament, investigating the case for and the effects of a smoking ban in public and workplaces, and it was introduced before the ban in England. But that case is now well established and agreed across all parts of the United Kingdom, and 10 years after the 2007 Act, in 2017, the Welsh Parliament went even further, introducing restrictions on smoking in outdoor care settings for children, school grounds, hospital grounds and public playgrounds.

The current smoking ban in England is meant to be one of a series of moves to discourage smoking. The ban is part of a trend towards policies that de-normalise smoking and it has helped create a shift in culture. Around the world, Governments are considering or instituting bans on outdoor smoking. Just last summer, Sweden banned smoking in many outdoor places, including playgrounds, train platforms and restaurant patios. Following the Welsh example, smoking has been banned in the grounds of most NHS hospitals in England. The case for preventing the breathing in of other people's smoke is proven. It is beyond doubt; it is harmful. Given there is a ban in workplaces, moving the workplace outside on to the pavement extends the boundary of the workplace, and thereby extends the need for banning smoking within that boundary if for no other reason than for those who work within those establishments.

[LORD GERMAN]

One of the arguments used in 2007 was that a smoking ban would damage the business of pubs, but there has been no direct negative effect on pubs. People, as has already been commented, just go outside to smoke. Therefore, if the experience of 2007 is anything to go by, and the smoking ban is introduced on the pavement facility provided by the Bill, the new and temporary outside for smokers will be an outside space away from others who are eating and drinking. In reality, not having a smoking ban may well be the bigger deterrent here. Not being able to eat or drink in a non-smoking environment, to which the public have been accustomed, may well keep them away from eating out.

Breathing in other people's smoke is harmful. The Government have indicated that they want to go further. The experience thus far is that a ban on the pavement facility will not damage business; smokers will move away from those eating and drinking. So why not use this limited opportunity to provide an environment which is not just smoke free but is healthy for diners and staff alike? The Government can demonstrate that they mean business in the challenge to tackle the harm that smoking does to the health of the nation. I am pleased to support the amendment.

7.15 pm

Lord Carlile of Berriew [V]: My Lords, I start by congratulating the noble Baroness, Lady Northover, on having the courage to present this important amendment, and on doing it so well—[*Connection lost.*]

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): Lord Carlile, are you still there? We had better move to the noble Lord, Lord Rennard, and we may try to get the noble Lord, Lord Carlile, back later.

Lord Rennard (LD) [V]: My Lords, the principle of providing pavement licences is welcome, and I believe that this amendment will help to encourage more businesses in the hospitality sector to open. It has been put forward superbly by my noble friend Lady Northover and other noble Lords.

Over the weekend, I was able to visit excellent cafés on the Eastbourne sea front which were all following sensible and necessary precautions in relation to social distancing et cetera. However, as an asthmatic who has never enjoyed having to suffer other people's tobacco smoke, I would not have enjoyed the experience if I had been subject to smoke blowing across from nearby tables. I was also mindful that staff in these establishments could not be protected from second-hand smoking if it had been permitted in these outdoor areas. Where I went would not have seemed so family-friendly, and passers-by would have been at risk, as pavement licences will apply to areas close to where people will be walking.

There is some misunderstanding over this amendment. It is about smoking immediately outside premises, where smoke drifts in and staff and customers are heavily exposed. It is not unlike the prohibition on smoking, agreed in 2007, in relevant parts of railway

stations. These regulations cover concourses, ticket halls and platforms. Smoking is at present banned in public places. That ban has wide support, and it should be banned where pavement licences are now granted. If we do what the tobacco companies want, we will be undermining the Government's own aim of creating a smoke-free country by 2030.

The Earl of Shrewsbury (Con) [V]: My Lords, I congratulate the noble Baroness, Lady Northover, on tabling this excellent amendment and for articulating it so well. I happen to be a former smoker. I now have COPD and the best thing I have ever done in my life was to give up smoking. I am extremely pleased to support the amendment. I cannot add to what noble Lords have already said so powerfully, except that second-hand smoke is dangerous to the health of all, obnoxious to the majority of those who have to suffer and inhale it and, socially, totally unacceptable. The smoking litter left behind is a health hazard. I urge the Government to accept this sensible amendment.

Lord Sheikh [V]: My Lords, I will speak in favour of this amendment, which I wholeheartedly support.

I remind noble Lords that smoking causes lung cancer, heart disease, strokes and other illnesses. Smoking causes harm to smokers as well as being a danger to others. When a person smokes, most of the smoke does not go in his or her lungs but is in the air, meaning that anyone can breathe it, with dire consequences. It was therefore decided not to allow people to smoke indoors, but this rule should now be followed by customers who are outside the premises.

If smoking is allowed on the pavement outside the premises, there will be a danger, not only to smokers but to other customers and pedestrians passing by. There will also be a danger to the staff who are serving the customers, as they will be affected by second-hand smoke. Over 85% of the British population are non-smokers. They do not like others to smoke near them, as they feel that they will be subjected to passive smoking. I hope that this amendment is accepted.

Baroness Noakes: My Lords, I have not smoked for nearly 40 years and I loathe cigarette smoking, so I gently say to the noble Lord, Lord Clement-Jones, that he has misremembered my involvement in earlier anti-smoking legislation.

Nevertheless, like my noble friend Lady Neville-Rolfe, I do not think that the Bill is the right place for this amendment. The amendment would affect the granting only of new licences and would therefore discriminate against any premises granted a temporary licence under the Bill. Echoing what my noble friend Lady Neville-Rolfe said, I think that there is a massive danger to our economy of not getting it going again. It is not an overall concept of the economy; these are individual businesses that will go under if they cannot find a way of becoming viable. We should not lumber them with a competitive burden not borne by other businesses that already have pavement licences.

I do not know whether this is a real problem. The *Health Survey for England 2017* had only around one-quarter of people self-reporting exposure to second-hand smoke, and only around 15% saying that it was smoke from outdoor areas outside pubs and restaurants.

The majority appear not to be bothered. Be that as it may, we should cover that in a consultation and an evidence base that is sought on the normal basis before taking primary legislation to deal with this, if indeed it is an issue, rather than trying to squeeze it into the Bill, which is about trying to make things easier for some businesses to get going again.

Lord Lansley (Con): My Lords, I congratulate the noble Baroness, Lady Northover, on bringing forward this amendment and I support it. If I may presume to say so, we were together as part of the health team in the coalition Government. I am very proud of the fact that we implemented the display ban on tobacco in shops and brought in the ban on vending machines, which was particularly important in restricting the access to tobacco and cigarettes for young people. I also initiated the consultation that led subsequently to standardised packaging.

Between 2011 and 2018, the proportion of adults in this country who were smoking went down, as the noble Baroness suggested. It has gone down from nearly 20% to below 15%. Most encouragingly, among 18 to 24 year-olds the reduction has been largest: from 25.8% down to 16.7%. There has been a reduction of more than one-third in the number of young people smoking—the 18 to 24 year-olds. That is one of the reasons why the impact of this issue in relation to pubs, clubs, restaurants and the like is particularly important for young people who are out and about.

I want to make three points. First, we are in the midst of a health crisis. In a health crisis, which is probably demonstrating to us that one of the underlying factors that has not helped us is the poor underlying health of many people in this country, we must do everything we can to try to improve population health in this country. We have not done enough and need to do more. We must prioritise public health and, by extension, if this amendment were taken on board this measure—modest as it may be in the overall scheme of things—would move us in the right direction.

My second point comes to the point made just now by my noble friend Lady Noakes. It is an important one. This is a temporary measure and would be specific in relation to new licences, but the essence of this Bill is that it will give an opportunity for premises which have previously been licensed for indoors to move outdoors; it gives an opportunity for licensed premises to operate on pavements and the like. In effect, what it says is, “We are extending the public space.” In my view, as we extend the public space, so we should extend the protections for the public that go with it. That means a ban on second-hand, passive smoking for those people who are enjoying that opportunity.

I shall make a third point. I am reminded of when my noble friend Lord Young of Cookham and I worked together on a little conspiracy of our own when we were in the other place: the ban on smoking in public places. I was the shadow health Secretary at the time. The nature of our conspiracy was that we secured the agreement of the whips that there would be a free vote. So I very much hope that neither my noble friend nor I will have to vote against a government whip on this matter. The Government could adopt exactly the same approach and give noble Lords in

this place a free vote on the amendment. They might also do the same in the other place, and we shall see where we end up on the basis of the arguments. We implemented a ban on smoking in public places on a free vote and, in these circumstances, I think that we might well extend that ban on the same basis for this measure.

Lord Naseby [V]: My Lords, this is not a health Bill, as my noble friend Lady Noakes pointed out; it is a temporary measure. I am sorry to say this, but I think that this is an emotional amendment—and I speak as someone who is a non-smoker. I would remind your Lordships that tobacco is a legal product that is marketed with awareness packaging. Moreover, we need to take on board that we are talking about the nearly 7 million people in our population who still smoke, plus the 3.6 million who are vaping.

A great deal has been said about smoke curling around people who are eating and so on, but in an outdoor situation, tobacco smoke is highly diluted and dissipates very quickly in almost every atmospheric condition. It is absolutely right that smokers have a responsibility to behave properly towards the people around them, particularly when they are accompanied by children.

The proposal being put forward in this amendment to force pubs and cafés to ban smoking outside their premises—otherwise they will be refused permission to serve drinks—is wholly disproportionate. At a time when all our small businesses are on their knees, struggling to survive under the pressure of coping with Covid-19, I suggest that the last thing they need is further restrictions that will drive away desperately needed customers.

I am not saying that this measure would not be appropriate in a proper health Bill at some point, as soon as the authorities deem it to be relevant to take a particular action one way or another—but to hang this ban on to a temporary Bill that is designed to help every small business, not just those whose customers are not smokers, is entirely wrong in my view.

The Deputy Chairman of Committees: Can we get the noble Lord, Lord Carlile, back?

Lord Carlile of Berriew [V]: My Lords, I apologise—just as I was speaking, there was a power cut in my home. I was saying that in 2015, some 115,000 people died of smoking-related diseases in the UK alone, at a time when knowledge of the dangers of smoking was complete. Since at least 2006, when a significant report was published by Stanford University, it has been known that exposure to tobacco smoke outdoors is less damaging but still potentially very damaging. The noble Lord, Lord Ribeiro, who is a considerable medical expert in your Lordships’ House, described clearly how the effects of tobacco can be transferred outdoors.

Let us turn to the nature of the venues that we are discussing. We are not talking about people smoking cigarettes in a field or in a park, or walking along a pavement and making steady progress. The nature of many of the venues that we are discussing here involves canopies, umbrellas and, by definition, proximity. We need only look at the courtyard of every public house.

7.30 pm

The one compromise that we should not make in the present circumstances is over health. In the balance between rights and duties, it is not much to ask that smoking should not be permitted in these circumstances. I have listened to two or three noble Lords describe what they suggest is the economic impact of the ban on smoking in outdoor venues that is under consideration, but I do not accept that for one moment. There is not a single piece of evidence that there would be any economic impact to the leisure trade from the ban on smoking proposed by the noble Baroness, Lady Northover; indeed, evidence has already been provided in this debate to support that view.

So I ask the Minister to accept the inexorable logic and merits of this amendment. I thank noble Lords for allowing me a second go at this speech after my unfortunate power cut.

The Deputy Chairman of Committees: The noble Lord, Lord Adonis, has withdrawn, so I call the noble Baroness, Lady Pinnock.

Baroness Pinnock [V]: My Lords, we have heard powerful and eloquent contributions, led by my noble friend Lady Northover, on the imperative to ensure that by extending ways in which pubs and cafés can serve customers, we do not also inadvertently extend opportunities for smoking. All the arguments have been made. I wholeheartedly support this amendment. It has cross-party support. I look forward to the Minister indicating that the Government accept that this amendment is essential for public health.

Baroness Wilcox of Newport [V]: My Lords, the sole amendment in this group seeks to prevent customers from smoking in areas covered by the new pavement licences. The noble Baroness, Lady Northover, is right to alert the House to the dangers of second-hand smoke. This is a pertinent issue, considering that respiratory health is at the forefront of everyone's mind.

The House will be aware that for some time there has been a wider campaign for smoking in beer gardens to be banned, and that any proposals for further restrictions should be considered only in consultation with the hospitality industry, especially at a time when businesses are struggling to survive. On a similar note, I would welcome the Minister clarifying the guidance to pubs on the exact regulations relating to smoking in outdoor areas. The Minister may be aware that a bar in Belfast was fined earlier this year because its beer garden, which allowed smokers, was too enclosed.

Also on the dangers of smoking, can the Minister explain why the Government are still planning to cut smoking cessation services across England by £4.9 million in 2019-20? The noble Lord, Lord Young, reminded the House of the Health Act 2006, which helped employees in the hospitality industry deal with the perils of passive smoking, since they are entitled to work in a smoke-free atmosphere. My noble friend Lord Faulkner alerted the House to the Government's intention to make pubs and clubs smoke-free by 2030—the most significant contribution to public health since the Clean Air Act of the 1950s.

I pay tribute to local government colleagues in Manchester who, through consultation, have found that an overwhelming majority of Mancunians support the creation of permanent smoke-free zones in the city and wider region, to “make smoking history”. Perhaps the Minister should look instead to Wales, where the Labour-led Welsh Government have made enormous achievements in de-normalising smoking and protecting non-smokers from exposure to second-hand smoke. Last summer, Wales was the first country in the UK to ban smoking in outdoor school spaces, playgrounds and hospital grounds, and—as noted by the noble Lord, Lord German, who was an Assembly Minister at that time—we were ahead of the curve when we banned smoking in indoor public places in Wales in April 2007, ahead of England.

Lord Greenhalgh: My Lords, the amendment tabled by the noble Baroness, Lady Northover, and supported by the noble Baroness, Lady Finlay of Llandaff, my noble friend Lord Young of Cookham and the noble Lord, Lord Faulkner of Worcester, seeks to ensure that pavement licences may only be granted by local authorities subject to the condition that smoking is prohibited. The Government recognise the vital importance of health and safety concerns but we do not believe that imposing a condition to prohibit outdoor smoking would be proportionate. I shall explain why.

We are helping our pubs, cafes and restaurants to safely reopen, and we are securing jobs by making it quicker, easier and cheaper to operate outside. The Government's priority is protecting public health against the transmission of the coronavirus while ensuring that venues can remain open and economically sustainable. The Government have no plan to ban outdoor smoking. Excessive regulation would lead to pub closures and job losses. Smokers should exercise social responsibility and be considerate, and premises are able to set their own rules to reflect customer wishes.

The Bill allows local authorities to set their own conditions on licences and makes it clear that those authorities will want to consider public health and public safety in doing so. Therefore, local authorities can exercise their condition-making powers to impose no-smoking conditions. Where there is a breach of the condition, the local authority can serve a notice to remedy the breach and even remove the licence, so local authorities have the power to revoke licences where they give rise to genuine health and safety concerns.

Businesses can make their own non-smoking policies for outside space, which can include restrictions on smoking near food. There is a need for social responsibility, as I have already said, and smokers should be considerate to others. The amendment would have unintended consequences, pushing drinkers on to pavements and roads away from licensed trading areas. It would also cause confusion with existing outdoor areas that would still permit smoking.

I have to say that it is great to see the reformation of the dream team of my noble friend Lord Lansley and the noble Baroness, Lady Northover, given what they have achieved in public health terms—the display ban,

the ban on vending machines—and to hear of the work between my noble friends Lord Lansley and Lord Young in cooking up a free vote on banning smoking in public places. However, I reiterate that this is a temporary emergency form of legislation and it should not be a backdoor route to try to ban smoking in public places, as pointed out by my noble friends Lady Neville-Rolfe, Lady Noakes and Lord Naseby.

As the son of a surgeon, I appreciate the contribution of my noble friend Lord Ribeiro and the points made by the noble Lords, Lord German and Lord Carlile of Berriew, and my noble friends Lord Shrewsbury and Lord Sheikh. The case is now incontrovertible that there are dangers from second-hand and passive smoking. I can say that as the son of a vascular surgeon who has published extensively on the impact of smoking on arterial disease. The Government are committed, as has already been stated, to achieving a smoke-free England by 2030. We are already taking steps to get there, as was referenced by the noble Lord, Lord Rennard. England's smoking levels continue to fall and are currently at 13.9%, the lowest rate on record. We will publish the prevention Green Paper consultation response in due course and set out our plans at a later date to achieve a smoke-free England. So we support the implementation and evaluation of smoke-free policies in line with the evidence as it emerges.

The noble Baroness, Lady Wilcox, made the important point that any changes of this nature should be made in consultation with the hospitality industry, so amending this Bill is not the way to implement such changes. I note her points about specific places and I will write to her on those matters. For the reasons that I have set out I am not able to accept the amendment, and I hope the noble Baroness will therefore withdraw it.

Lord Robathan (Con) [V]: My Lords, I was moved to speak on this amendment because it seems to negate the purpose of this part of the emergency Bill, which is to allow people out on to the pavements to smoke and drink. I have not smoked a cigarette since I was about 11. I had a reputation at school as a prefect and in the Army of being virulently anti-smoking, which I am. I welcome the fact that I can go to pubs and come out without my jersey stinking of cigarettes.

I am delighted to say that neither of my children, who are in their early 20s, have taken up smoking. I would be very upset if they had. We all know how unwise it is. It is a foolish habit, but it is legal and lots of people smoke. Furthermore, many people only smoke with a drink because they like smoking with a drink.

We are talking about being outside. If, as the noble Baroness, Lady Northover, said, it is safer to be outside because of the threat of the virus, it is also safe to be outside when it comes to passive smoking. Of course, we will also have social distancing, which makes it that much more difficult to breathe in someone else's smoke. As it happens, I would support this amendment if it referred only to restaurants and places where people were eating, but it is illogical because if people are just having a drink it is rather like the outdoor smoking areas that were much talked about during the passage of the Bill that banned smoking in pubs.

We are trying to encourage people to visit bars, but this would deter some people from going to bars. I see it as a somewhat illiberal amendment, which is why I am not surprised to see so many Liberal Democrats supporting it. It seems to be driven by a personal dislike of smoking—a dislike which I share. I will welcome the time when everyone gives up and we have a smoke-free England but, at the moment, if people are allowed to smoke they should be allowed to smoke with a drink outside if they are not harming anyone else. I am delighted to hear that the Government are likely to resist the amendment.

Lord Greenhalgh: I am delighted that my noble friend Lord Robathan has a smoke-free family and to hear about his ill-spent youth as an 11 year-old smoker. But as I said previously, this is emergency and temporary legislation and should not be a backdoor route to ban smoking in public places.

Baroness Northover: My Lords, I thank the Minister for that response and especially for grouping me with the noble Lord, Lord Lansley, as part of this dream team. There is no reason why the Minister would know this, but when the noble Lord, Lord Lansley, was the Secretary of State, I was a mere Whip in the coalition, and deputising for part of that dream team—the noble Earl, Lord Howe. I understand why the noble Earl might have felt it difficult to give the speech that the Minister was given by his department this evening. It would have been immensely difficult for part of that real dream team to do that.

I am very thankful to noble Lords for their contributions. I thank the noble Baronesses, Lady Neville-Rolfe and Lady Noakes, and the noble Lord, Lord Naseby, for their comments about moving fast, but they did not seem to get the point that I was making which is that we need to get this sector up and running. Given that almost 90% of us do not smoke, the amendment would make establishments more rather than less attractive, more viable rather than less so, as well as tackling the public health challenge that everyone has laid out. The fact that so many cities have expressed support to me in the space of a few days shows that people can move fast on this. I trust that, in fact, while we have been speaking, the Government are sending the write rounds on the concession that I think is needed on this amendment. I know that the Department of Health and Social Care has been in touch with ASH today and we are very happy to work with the Government on this.

I am, as the Minister will see, disappointed in his response. I realise that he is constrained and that he will be perhaps less familiar with the history of this House and the cross-party involvement in this issue, although I think that he has probably gathered that from the range of people who have spoken. At this stage, I will withdraw the amendment, although we will return to it next week.

The ideal situation is that the Government come forward with their own amendment so that we do not have to have a vote on it next week. I hope very much that the discussions with the Department of Health and Social Care—I am looking at the Box at the moment—will bear fruit. I also look at that part of the

[BARONESS NORTHOVER]
dream team sitting on the Bishops' Benches. I hope that next week we can come to a resolution that we are all happy with.

Amendment 18 withdrawn.

Amendments 19 to 21 not moved.

Clause 5 agreed.

Clause 6 agreed.

Clause 7: Effects

Amendments 22 and 23 not moved.

Clause 7 agreed.

7.45 pm

The Deputy Chairman of Committees: My Lords, we now come to the group consisting of Amendment 24. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this amendment to a Division should make that clear in the debate.

Amendment 24

Moved by Baroness Bowles of Berkhamsted

24: After Clause 7, insert the following new Clause—
“Outdoor space licences

- (1) A person whose use or proposed use of any premises in England is or includes relevant use may apply to the appropriate local authority to extend the licence for relevant use to outdoor areas within the curtilage of the licensed premises (an “outdoor space licence”) and such applications are subject to the provisions specified in paragraphs (a) to (f) that apply to pavement licence applications with “an outdoor space licence” substituted for “a pavement licence”—
- (a) application provisions under section 2 except for subsection (2)(a), (b) and (e);
 - (b) determination of applications under section 3(1) to (4);
 - (c) duration under section 4;
 - (d) conditions under section 5;
 - (e) enforcement and revocation under section 6 except for subsection (3)(a);
 - (f) effects under section 7(2).
- (2) Where a person has applied to a local authority for a variation of a licence in respect of relevant use and before that licence is granted the person applies for an outdoor space licence under this section, the person may express to the local authority that they want to withdraw their earlier application when applying for an outdoor space licence, and if the person has paid any fee in connection with that application the local authority to which the outdoor space licence application is made may not require a fee for the outdoor space application.”

Member's explanatory statement

This new Clause creates a fast-track procedure similar to that for pavement licences to provide ‘outdoor space licences’ for areas within the curtilage of licensed premises but not already covered by the existing licence, eg car parks or courtyards.

Baroness Bowles of Berkhamsted [V]: My Lords, this amendment follows up the point that I raised at Second Reading about the use of outdoor spaces within the curtilage of premises that are not spaces covered by the definition of relevant highways and pavement licences. I did not get a reply, which I am sure is an oversight, as the Minister wrote on another matter. I wrote back on Friday, so at least there has been some advance notice about this somewhat fuzzy issue.

Newspapers have been proclaiming that this Bill allows pubs to turn their car parks into beer gardens. One such article was in the *Sun* on 23 June, headlined:

“Pubs and hotels allowed to turn car parks and grounds into beer gardens to boost economy as lockdown eases”,

and the *Mirror* said:

“What pubs will look like with beer gardens in car parks as lockdown is eased.”

Even the trade magazine *Morning Advertiser* said:

“This means pubs and restaurants will be able to use car parks and terraces as dining and drinking areas using their existing seating licences ... thanks to the Business and Planning Bill”.

There are other articles—indeed, so many that it looks like there must have been a briefing.

If that is correct then I am content, but I am confused as to how this is achieved by the Bill if car parks are not part of a relevant highway. So my first question is: are they covered as a “relevant highway” under Part 7A of the Highways Act? I know that they are public places in relation to some driving offences but, as I understand it, they are not highways. A simple look at Part 7A implies that they are not, but who knows what terms one might uncover with more research. In any event, I am also interested in patios, courtyards and other places that might be within the curtilage and not already under the licence. They are clearly not highways. So where is the general new provision? I have proposed one in my amendment just in case it is not there.

Next is the question of whether a licence is needed anyway. My starting point was an awareness that various pubs have already applied for licence variations for car parks and patios. I have also had some emails sent to me on the subject. Some people have the understanding that off-sales cover car park use—on the basis that it is the sale and not the drinking that is licensed—and that the extended off-sales therefore bring them into play if they were not in play already.

However the FAQs about off-sales on the Stafford Borough Council website make the situation clear:

“Q: Can I provide seating for customers of the business, for the purposes of consumption?”

That is for the consumption of off-sales.

“A: No. Seating cannot be made available (and this can include areas not under the control of the premises) and this is not restricted to seating within the premises such as beer gardens and adjoining smoking areas, but would include areas adjacent to the premises which also might include public benches.”

It rules that out: no providing of seating for drinking your off-licence purchases, although local authorities can vary significantly in their levels of strictness.

Then there is the matter of where the sale is made. If there is a bar in the car park, it is clear that the sale is made there. If a table order is taken and paid for in

the car park or the beer garden, some people think that is the point of sale, but in the 2002 Valpak packaging case the judge held that the purchase of a bottle of beer was a contract for the sale of unascertained goods, which meant that the actual sale took place when the goods became ascertained or identified, which was by taking the bottle off the shelf ready to serve. Thus the sale is at the bar inside, which would mean that the sale comes under the on-sales licence.

An article in 2018 about pubs and gardens in the trade magazine *Morning Advertiser* notes that it is necessary to consider: whether the pub's outside area is already part of the licence and what rules apply, as restrictions are common, often on time; if it is unlicensed and it is wished to include it then bear in mind there can be objections during the application procedure; that it can be used anyway if it is accompanied by the service of hot food between 5 am and 11 pm as that does not require a licence; and whether it is part of a public highway as then both planning and a pavement licence may be required.

All that, and indeed a lot more, is the background to my amendment, which in simple terms just says that open-space licences should be available on similar terms to pavement licences to cover cases where such a provision is needed. In most instances, non-pavement outdoor spaces are less likely to cause obstruction, and that is a valuable consideration, although they would still need to be treated sensitively with regard to noise and nuisance, especially in residential areas, and for that purpose I have copied in all the parts of the pavement licences referencing such matters. I beg to move.

Lord Lucas [V]: My Lords, I am delighted to support this amendment. I hope the Government will consider allowing councils considerable freedom as to what land they allow premises to use, obviously subject to the permission of the council and the landholder. If you look at a rather complicated town such as Eastbourne, there are few places where you can use the pavement, but not that far away there may well be spaces you could allow a premises to use. It gets quite difficult to negotiate the Bill as it is written, but with a bit more freedom for a local council to apply common sense to where they are prepared to allow tables to be put, we could get to a useful outcome. I encourage my noble friend to look at widening the scope of the permissions that the council is allowed to give so that we can find within the confines of a convoluted town the space that our businesses need.

The Earl of Clancarty [V]: My Lords, I will be very brief indeed. I support the amendment from the noble Baroness, Lady Bowles. It seems a matter of common sense that, certainly in the shorter term, there might be a need to use other spaces. The LGA supports such measures, and I hope the Government take notice and clarify the position.

Baroness Thornhill (LD) [V]: My Lords, I support my noble friend Lady Bowles of Berkhamsted's Amendment 24. Her speech shows that there is much confusion around aspects of the licensing laws. This is also abundantly clear from contributions by other

noble Lords today, which is why I echo what the noble Baroness, Lady Kennedy of Cradley, said at Second Reading: a review of our licensing laws is long overdue.

It seems very likely that there will be areas not currently within the so-called red lines of the licence that may be better used for external drinking than the obvious pavement areas, for reasons outlined by the previous speakers. I absolutely agree with the noble Lord, Lord Lucas, that local authorities, which know their area, pubs and landlords best, should have maximum flexibility.

This amendment seeks to expand the opportunities for creating such outdoor spaces. For example, can the Minister clarify whether councils can license parking bays that have been suspended—naturally, subject to safety and local considerations, as always? This would enable businesses to take advantage of pavement licences that they otherwise would not be able to because of the limited width of the pavement, for example. Can the Minister also clarify whether new pavement licences are exempt from the public space protection orders in the same way that licences under the Highways Act 1980 are—or are the powers already there but not explicit, in which case can guidance be amended?

Baroness Pinnock [V]: My noble friend Lady Bowles has raised detailed issues about the use of alternatives to pavement licences that may be of more value to pubs and cafés and less disruptive to residents. This is eminently sensible and promotes business. I am confident that the Minister will be constructive about the way forward in response to this thoroughly sensible amendment.

Baroness Wilcox of Newport [V]: My Lords, the amendment in the name of the noble Baroness, Lady Bowles, highlights the need for outdoor space licences to be easily granted for areas such as courtyards and car parks. The noble Baroness is right that many premises will not benefit from pavement licences but have space elsewhere for which they may wish to explore the addition of seating. She asked an important question: where is the general new provision? Is the licence needed at all?

The knock-on impact for residents may be lessened should these options be considered rather than pavements. I assume they will also lessen the consequences for those with disabilities who may struggle on pavements blocked by seating. I hope the Minister will consider whether it is possible and desirable to allow more outdoor spaces to be utilised. The noble Baroness, Lady Thornhill, noted what my noble friend Lady Kennedy of Cradley said at Second Reading about the licensing laws needing real revision.

Lord Greenhalgh: My Lords, the new clause proposed by the noble Baroness, Lady Bowles of Berkhamsted, would introduce a fast-track procedure to provide outdoor space licences for areas within the curtilage of premises not already covered by the existing licence—for example, car parks or courtyards. Given that indoor space will be limited while social distancing measures apply, we want to provide a temporary process that helps us support as many businesses to reopen as possible by allowing them to use outdoor space to serve customers, which I believe is the intention of the noble Baroness's amendment.

8 pm

This amendment would allow premises to apply for a licence to use outdoor spaces such as car parks or courtyards; however, the pavement licence process already allows premises to do this to the extent that adjacent highways can be used. Where it does not, we have put in place temporary permitted development rights that could be used. The Government accepted an amendment in the Commons to allow any businesses whose premises are adjacent to areas pedestrianised through a coronavirus-related temporary traffic restriction order to apply to place furniture on those areas, bringing more businesses within the scope of the pavement licence provisions.

Temporary traffic restriction orders can be made on on-street parking bays and, in cases where an order is made, businesses can apply to use these areas. Temporary traffic restriction orders will not generally cover off-street areas such as car parks; however, to assist the recovery of businesses and to limit the spread of coronavirus, we have introduced two new permitted development rights. The new rights allow

“a market to be held by, or on behalf of local authority on an unlimited number of days”

until 23 March 2021. We have also separately doubled the allowance for the temporary use of land for this year—2020—from 28 to 56 days. As I said, this right runs until 31 December 2020 and also allows

“the erection of moveable structures such as stalls or a marquee on that land.”

These measures will enable the provision of additional space for markets for the sale of food, drink and other goods, and for holding outdoor events, helping businesses to operate safely. Both of these relaxations could apply to land currently used for car parking purposes and other types of land such as courtyards, and support economic activity in town centres.

In summary, the pavement licence process would already allow premises to use adjacent highways, and where it does not we have put in place temporary permitted development rights that could be used. On this basis, I believe the Government have provided sufficient mechanisms to allow businesses to use outdoor spaces, and I therefore hope that the noble Baroness will withdraw her amendment.

Baroness Bowles of Berkhamsted [V]: My Lords, if what the Minister says is accurate—and I am sure it is intended to be accurate—I am very happy that my amendment is indeed superfluous. When I looked at the temporary permissions, it seemed to me that they referenced back to the highways, but I am prepared to have another look and to continue the dialogue, just to be absolutely certain that that is the right interpretation. If it is and that is the end of the matter, then we all know a little bit more about the present situation. I am happy to withdraw my amendment.

Amendment 24 withdrawn.

Clause 8 agreed.

Amendment 25 not moved.

Clauses 9 and 10 agreed.

The Deputy Chairman of Committees: I remind noble Lords that anyone wishing to speak after the Minister should email the Clerk during the debate. Anyone wishing to press this or any other amendment in this group to a Division should make that clear in the debate.

Clause 11: Modification of premises licences to authorise off-sales for limited period

Amendment 26

Moved by Lord Paddick

26: Clause 11, page 8, line 33, leave out from “must” to end of line 35 and insert—

“(a) be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises; and

(b) be made at a time no later than 11.00pm.”

Member’s explanatory statement

This amendment would mean that off-sales could not take place after 11pm, regardless of whether the premises can sell alcohol on the premises after 11pm.

Baroness Williams of Trafford: Do not worry, my Lords, this is not going to be a long statement. I thought it might assist noble Lords to know that I intend to table an amendment on Report to introduce a standard cessation time of 11 pm for operators to trade under the new off-sales permissions.

Lord Paddick (LD) [V]: My Lords, I thank the Minister for her promise of an amendment but, regrettably, we have a series of amendments in this group: Amendments 26, 30, 32, 34 and 35. I will briefly put on the record what they are, although they are set out in the Marshalled List.

In addition to the amendment promised, the Government need to think about amendments that aim to prevent street drinking and disorder, particularly late at night, where late-night licences are in operation for on-licence premises in the vicinity of residential premises, as the Minister has suggested she will do. If revellers who have already consumed a lot of alcohol are allowed to purchase alcohol to take away just before premises close, sometimes just before 3 am, there is a danger that they will simply party in nearby streets, to the detriment of local residents. The Minister’s suggested, albeit completely last-minute, promise of an amendment is welcome to that extent, but, whatever the hour, if alcohol is sold in open containers such as pint beer glasses, there is every incentive to consume it in surrounding streets rather than take it home or to the office. If alcohol is sold without restriction as to the kind of container—such as pint beer glasses—in which it can be supplied, as allowed under the Bill, there is a danger of injury either by assault or by accident; for example, were someone to fall while carrying a beer glass. The potential for both assault and accident increases with consumption of alcohol.

At Second Reading, the noble Earl, Lord Howe, tried to allay these concerns by pointing to the provisions in the Bill to review and revoke off-sales if premises were causing problems, and the power under Section 76 of Anti-social Behaviour, Crime and Policing Act 2014 to close down premises. Those provisions are

largely unworkable as they require the particular premises responsible for the problem of street drinking, violence and disorder to be identified. In central London, for example, there are hundreds of on-licence premises within short distances of one another, and it would be practically impossible to identify from which premises the revellers causing the problems had bought their alcohol. There are more than 100 premises with post-1 am licences in Soho alone.

Some of those most likely to be affected, represented by the West End Community Network, will support what the Minister has promised because they support an 11 pm end time for off-sales and have not asked for a restriction on when off-sales can begin. Can the Minister explain why the Government have left it until tonight to give even the slightest indication that they are prepared to bring forward their own amendment? Will she agree to meet me and other interested Peers between now and Report to discuss both the Government's proposed amendments and the other amendments in my name in this group? In the meantime, despite what the Minister has said, I move Amendment 26 in order for her to respond at the end of the debate.

The Deputy Chairman of Committees: Several speakers have withdrawn from this part of the proceedings: the noble Lords, Lord Harris of Haringey, Lord Randall of Uxbridge, Lord McConnell of Glenscorrodale, Lord Naseby and Lord Hayward.

Lord Cormack [V]: I am glad to take part in this, I am sure, brief debate. I am delighted with the statement made by my noble friend at the beginning but I want to hear more about it.

I was persuaded to table my Amendment 28—incidentally, I am delighted that the noble Lord, Lord Harris, has signed it; I am grateful to him—for three reasons. One was a speech made by Meg Hillier, the chairman of the Public Accounts Committee in another place, in which she talked about the terrible squalor created by binge drinkers in her constituency. The second was the speech made at Second Reading by the noble Lord, Lord Paddick, which was equally graphic and very persuasive. Thirdly, when I was in London last week, I talked to two taxi drivers who had been first-hand witnesses to some appalling scenes.

Selling in open containers is really rather silly. The timing should be restricted. Personally, I would not sell before noon or after 10 pm—the times that I have put in my amendment—but I accept completely that any times are arbitrary, to a degree. It is important that we protect people living in areas where binge drinking at night is a real social evil and menace. I therefore look forward to hearing what my noble friend the Minister says when she winds up. I thank her in anticipation but hope that she will fill in a few details.

The Deputy Chairman of Committees: Lord Whitty? The noble Lord, Lord Whitty, is muted so I call the noble Lord, Lord Robathan.

Lord Robathan [V]: My Lords, I am sure that the Committee will be pleased to know that I will be extremely brief, not least because—I should declare this—the Chief Whip has asked me to be. I should also declare that I have not a financial but a family interest,

in that my wife is the leader of Westminster City Council, which has been exercised on behalf of its residents about the idea that people might be able to buy off-sales until six o'clock in the morning.

The other people who are exercised are the traders, as well as the residents, of Soho and elsewhere. They and I welcome the commitment from the Minister, for which I thank her. I will not move my amendment.

Lord Whitty (Lab) [V]: I will also be brief. The Minister has successfully taken the wind out of our sails on this one. I look forward to what she will say at the end of the debate. This is strictly about off-sales. It is not an anti-pub move; it is a way of avoiding the kind of disorder that the police have experienced and many of us have seen on our screens. It is solely to do with off-sales beyond 11 pm; obviously the noble Lord, Lord Cormack, goes to bed slightly earlier than the rest of us. If the Minister comes up with an 11 pm cut-off, I will listen to the details, but I certainly do not want to detain the Committee any longer.

Baroness Thornhill [V]: I, too, have been asked to be brief. It is worth saying that obviously there are serious concerns about the cumulative impact of these issues where premises are gathered together. Certainly, from my experience of running a local authority with, at times, too lively and vibrant a nightlife, saturation must be looked at.

I am grateful that we had a good response on the timing but the overriding principle for me is that, in collaboration with operatives—often through good Pubwatch schemes and the local police—local authorities have come up with conditions to put on these licences. The Bill suspends those and throws them out the window, when they have been put on for good reason and through good collaboration. In principle, I feel that this is an unwelcome move.

My daughter was glassed in the face as a 27 year-old when out with her friends on a normal Saturday night. It can, and does, happen. If only that glass had been plastic. I still think that we have to have that debate on Report.

Amendment 45 in the name of my noble friend Lord Shipley is about the late night levy, which is a curious anomaly that he will expand on. I totally support any change that will allow a local authority to refund pubs for services that they have not received during lockdown while they have been obliged to pay this additional tax. I call my much-shortened remarks to a close.

8.15 pm

Baroness McIntosh of Pickering [V]: My Lords, subject to what my noble friend Lady Williams has to say, I lend my support to Amendments 27 and 31, to have a cut-off period for the sale of drink at 11 pm. I hope that is something that she will support.

Baroness Stowell of Beeston: My Lords, I welcome the Minister's statement and the Government's decision to table an amendment on Report. I have one question to ask the Minister: would it be possible for any

[BARONESS STOWELL OF BEESTON]

premises that wanted to introduce an earlier finish time for off-sales to do so? It is very hard to see from reading the Bill whether there is any flexibility in that regard.

Lord Blunkett (Lab): My Lords, I touched on this very briefly in the limited time available at Second Reading, so I will not keep the House long tonight, but I will try to put this into some sort of perspective. I cannot for the life of me see what this has to do with recovery and regeneration. I do not get at all what this proposal is supposed to achieve. I get what it will do. I understand entirely, as all those who spoke this evening and at Second Reading did, that whatever the cut-off time for every outlet to be an off-licence—I welcome the proposal of restricting it to 11 pm—the drinking will continue afterwards with drink that has been purchased and therefore is to be consumed. No one should get the idea that this will be fine after 11 pm, because it will not be. That is why, if I was in favour of the measure at all, I would err on the side of the noble Lord, Lord Cormack.

I rest my principal case on the speech made by the noble Lord, Lord Paddick, at the beginning of this brief debate. Frankly, until the December general election the police did not at all have the capacity to deal with this. They are still trying to recruit. Local authorities' environmental health functions have been totally decimated over the past 10 years because of the deep cuts and austerity measures, which local authorities have suffered from most. But there is also the absurdity of not leaving this to local discretion, where people know exactly what would and would not work, even if this measure had any justification in terms of deregulation on the grounds of stimulus and recovery.

Are we really saying that, to provide local stimulus and recovery and to help those in the sector who have been devastated, people should have the ability to buy from any licensed outlet, treat it as an off-licence and go on drinking? I am the first to enjoy a drink, but I know from bitter experience, including having been a local authority leader for seven years, just what devastation this can cause. It is not possible for it to be policed, in the widest sense, and age authentication will be more difficult.

However, I rest my case on a very simple fact. When we are faced, as we are now, with withdrawing from the third-largest trading bloc in the world, about to accelerate a trade and economic war against the second-largest trading bloc in the world, and at the mercy, for the time being, of the President of the United States and his attitudes as the leading trade bloc in the world, is deregulating off-licence drinking late into the night anything whatever to do with the recovery of our economy?

Lord Shipley [V]: My Lords, I want to speak to Amendment 45. I referred to the same issues raised by this amendment on the late night levy at Second Reading. On 8 June, I noticed an article in my local newspaper, the *Journal*, headed: "Campaigners Say Levy Should Be Cut To Save Pubs". It said that fee levels, having been set by the Government, could be

changed only by the Government and that the council was having to seek their permission. It was pointed out by CAMRA, the Campaign for Real Ale, that even though pubs registered to trade after midnight in Newcastle had been closed for 10 weeks, they were still being charged the late-night levy. The council claimed it had no power to change that situation but had asked the Government for additional powers to reduce or waive the fees. In Newcastle, some 240 premises pay the levy, which helps to fund extra policing, street cleaning, taxi marshals and the Street Pastors; I should declare that I am patron of Newcastle Street Pastors. There needs to be local flexibility. I hope that the Minister will look very carefully at this issue and recognise that fee-setting should be a devolved area of policy.

I suspect the problem may have arisen unintentionally at the time that the Bill was passed. This is not about the level of alcohol consumption, nor about how alcohol is served. It is about a charge being levied for a service that is not being provided. Maybe there has been some movement on this matter between government and local authorities. There are three principles at stake: we need clarity on the level of fees levied when pubs are required to close, and the rules for remission of those fees ought to be clear to them; we need clarity on the powers that local authorities have, and will have, on this levy; and we need a full review of licensing legislation to re-examine which powers should be held centrally and which locally. I hope very much that the Minister will understand this problem and will agree with my suggestions.

Lord Balfe [V]: My Lords, I welcomed the Minister's statement at the beginning. I am glad that she made it then; it has saved a lot of argument, has it not? I have two major points. The first follows up on the point made by the noble Baroness, Lady Stowell. In Cambridge, where I live and from where I cite things, the local authority has multiple problems with alcohol. One of the ways it has tackled this is that there has been a tendency in the case of stores near the centre of town—in other words, those situated on the way in to the clubs where drinking takes place—to say that they can sell alcohol on an off-licence basis only until 10 rather than 11 pm. Although the store can stay open until 11 pm, the alcohol licence permits it to sell only until 10. Can the Minister tell us whether this power will remain with a local authority so that, in certain areas and in certain circumstances, the alcohol licence has to cease before 11 pm, with the decision made obviously on a case-by-case basis?

My second point is in support of the amendments about open containers and beer glasses, which really are—or can be—pretty lethal weapons. I hope that the Minister will agree either to accept the principles of these amendments or to bring forward a government amendment. The potential for open containers or beer glasses to cause damage is, I am afraid, quite considerable; there is a very strong case for saying that closed containers should be used for the sale of alcohol. I invite the Minister to say either that she will accept an amendment at the next stage, or that the Government will bring forward an amendment to cover these points.

Baroness Noakes: My Lords, I am happy to wait to hear what my noble friend the Minister has to say.

Lord Sheikh [V]: My Lords, I was going to speak in favour of Amendment 27 but, in the light of what my noble friend the Minister said earlier, I will speak in favour of Amendments 30, 32 and 35. The issue that worries me is how alcohol is sold to be taken away. It should be sold in sealed containers. If it is sold in glasses, these should be plastic, not beer or wine glasses. I am worried that glass can be used to cause injury to others.

We have seen how people behaved in the streets on Friday and Saturday nights before the lockdown. There were fights at night which police, ambulance staff and hospitals had to deal with. It is not only men; women also misbehave when they have too much to drink. I used to go to the City of London, as I had an office there. I used to see business and professional people who were sober and well-behaved during the day but who behaved badly after consuming alcohol. I therefore support the amendments which I referred to.

Baroness Pincock [V]: My Lords, the noble Baroness, Lady Williams of Trafford, has given the Committee an assurance that the Government will bring forward an amendment about restricting the time at which off-sales can be made to a limit of 11 pm. This is most welcome and deals with some, but not all, the issues raised in the amendments in this group. However, we need to see the detail of such an amendment, including the start time of off-sales under the Bill.

Noble Lords have heard the wise words of an experienced professional. My noble friend Lord Paddick knows what he is talking about. He knows at first hand the horrible injuries that can come from mixing too much drink with broken glass. He knows that this has to be curtailed. The arguments are powerful. All noble Lords who have previous or current experience in local government know how vitally important it is that these concerns are dealt with. I added my name to the amendments in the name of my noble friend Lord Paddick and look forward to them having a positive response from the Government.

My noble friend Lord Shipley asked about reducing the late-night levy for businesses whose premises were closed under the coronavirus restrictions. This is eminently sensible, and I hope that the Government can agree to the content of the amendment.

Lord Kennedy of Southwark: My Lords, I thank the Minister for the announcement she made to the Committee at the start of this debate. I appreciate this and look forward to seeing the amendment which the Government will bring forward. I also thank the noble Lord, Lord Greenhalgh, the noble Earl, Lord Howe, and the noble Baroness, Lady Penn. When we met online they were very kind and listened to the issues raised, as they did at Second Reading when there was genuine concern around the House about the consequences of this additional permission. I am pleased that the Government have listened and look forward to seeing the amendment.

I also thank my noble friend Lord Whitty, the noble Baroness, Lady McIntosh of Pickering, and the noble Lord, Lord Robathan, for supporting the amendments I have put forward. There was also a formidable team in the leaders of the London Boroughs of Southwark, Camden and the City of Westminster, and the Royal Borough of Kensington and Chelsea—four boroughs with the vast majority of these licences, all saying that this would cause huge problems for them—who all came together to write a joint letter. It is good that the Government have listened to the points they made. I also have to thank the Covent Garden Community Association which was rightly vociferous about the problems this would cause—they accept that they live in a very lively area, but this would be a step too far. We began to receive support over the last few days from other local authorities and community groups, and we thank them all.

8.30 pm

We all want to see the hospitality sector get back on its feet, and we fully understand the Government's intent here. But of course we were all concerned at what we saw in Soho and also in Shoreditch. In the other place, my friend Meg Hillier, the MP for Hackney South and Shoreditch, raised in the debates there the huge problems they already have in London Fields without these amendments. They have problems with people drinking, and urinating in the bushes—and doing worse in the bushes—and it is just not fair that residents have to put up with that. Again, I am pleased that the Government have listened. We need to ensure that, as my noble friend Lord Blunkett said, while we want to support the local economy, we have to recognise the role of residents. The case for these amendments was reasonable, sensible and proportionate.

I will also make a few comments on Amendment 45, in the names of the noble Lord, Lord Shipley, and the noble Baroness, Lady Thornhill, which would add a new clause to the Bill to deal with the very separate issue of reducing the late night levy for premises shut during the coronavirus pandemic. That seems a good idea to me, and local authorities should have a say in determining the levies and applying a reduction. The Government should clarify how they are engaging with councils in the process of determining these levies. It seems only reasonable that you get some reduction in the levy you pay, if you have been shut during the pandemic and unable to actually trade. I will leave my comments there, I thank the Government again and I look forward to the response from the noble Baroness.

Baroness Williams of Trafford: I thank all noble Lords for their comments, and their discipline in not repeating the same remarks over and over again.

The noble Lord, Lord Blunkett, made a very good point about how local areas and local partners will cope with all this and their capacity to cope if things go wrong. We have been very clear from the outset that, if things do go wrong, if licensees do not enforce their obligations and the public start to behave in a reckless manner, these places will be closed. The licensing authorities are quite clear about that and have already

[BARONESS WILLIAMS OF TRAFFORD]

started to close premises when things have gotten out of hand. Over lockdown, I have spent a lot of time talking to the police on their operational calls. They are very clear that this is a multi-stakeholder approach and that everyone—not only the police, not only the local authorities, but the public and the licensees themselves—has a responsibility to make this work well.

On how this will help the economy, the night-time economy is a very vibrant one, and footfall in town centres can only enhance it. The Government have, however, listened to and sympathised with the concerns around the possibility of associated noise, nuisance, and anti-social behaviour that might occur when a late licence is in existence.

The noble Lord, Lord Blunkett, asked about off-sales. The noble Lord, Lord Hogan-Howe, tells me that in the olden days off-sales were a common occurrence at pubs and are nothing new, but with the advent of off-licences and supermarkets selling alcohol they are not so common anymore.

The noble Baroness, Lady Thornhill, asked about cumulative impact areas. I covered that in my earlier comments.

To recap, the alcohol licensing provisions will allow all licensed premises with an on-sales licence to sell alcohol for consumption off the premises, provided they have not previously been refused permission for off-sales. In the draft of the Bill before the House, licensed premises which are eligible will be bound by a temporary licence condition which limits the hours of trade to the existing hours of operation as the premises' on-sales licence permits, which can include late licences beyond 11 pm.

However, we recognise the concerns of noble Lords who have spoken to these amendments, and obviously local authorities have had concerns too. That is why we intend to table an amendment on Report to introduce a standard cessation time of 11 pm for operators to trade under new off-sales permissions.

Both my noble friends Lord Balfé and Lady Stowell of Beeston asked about earlier finish times. If that is the wish then those earlier finish times will certainly be permitted.

The noble Lord, Lord Paddick, asked me why tonight and why at the last minute. I say to the noble Lord that I have worked really hard to make this statement tonight, so to have had it done ahead of Report is an achievement.

The new provisions defined in the amendment that the Government will bring forward will not affect the underlying licences of premises or their conditions. It will provide for new permissions that will apply to the holders of only on-sales licences, as well as to holders of more restrictive dual licences that allow for off-sales for a more restrictive period. The effect of the amendment will be that new permissions will apply only up to 11 pm or when the current licensing hours for that premises end. I reiterate for the benefit of my noble friend Lord Cormack that if it is wished that that will finish earlier—say, 10 pm—that is up to the individual premises concerned.

Crucially, the forthcoming amendment will build on the current set of safeguards previously heard by the House, which can be used to address concerns about crime, disorder and disruption caused by premises operating irresponsibly—to go to the point of the noble Lord, Lord Blunkett. That includes the new expedited review process that I have talked about previously, which allows a local authority to suspend or modify the new off-sales permission within 48 hours and then hold a hearing to decide whether to revoke, suspend or modify the permission within 28 days.

In addition, the police are already empowered under Section 76 of the Anti-social Behaviour, Crime and Policing Act 2014 to issue immediate closure notices to premises if there are reasonable grounds to believe that the use of a particular premises has resulted or is likely to result in nuisance to members of the public or that there has been or is likely to be disorder near the premises which is associated with the use of those premises. I spoke to the Metropolitan Police the other day and they stand ready to use Section 34 and 35 dispersal notices if necessary.

We also intend to publish guidance alongside the Bill that will set out the details of how the new provisions, including the details of the amendment, will apply to premises and local authorities. I hope that addresses the concerns raised by the noble Lords who tabled the amendments and that the noble Lord, Lord Paddick, will be content to withdraw his amendment.

I turn to Amendments 32 and 35, tabled by the noble Lord, Lord Paddick, and the noble Baroness, Lady Pinnock. They relate to the sale of alcohol for consumption in open and glass containers. The Government agree that premises must be responsible for the manner in which they serve alcohol in all circumstances, and that includes minimising the risk of any associated disorder. We will therefore be including recommendations to address issues regarding glassware in the guidance for local authorities and premises that will accompany these provisions. The guidance will encourage the use of closed or non-glass containers such as reusable plastic cups. However, we also recognise that restaurants in particular will benefit from being able to serve alcohol in open containers in outdoor areas that they may use under the provisions in the Bill relating to pavement licences. Premises may have different serving equipment and preferences, and the provisions need to remain flexible to meet business and customer needs. Requiring that alcohol sold in these circumstances must be in a closed container could hinder premises that might want to take advantage of the aims of the Bill. I therefore determine that it would be too prescriptive to specify in the Bill restrictions on the type of containers that can be used for the off-trade permission, and I hope the noble Lord will be content not to move his amendment.

Lastly, the Government are sympathetic to the concerns behind Amendment 45, tabled by the noble Lord, Lord Shipley, and the noble Baroness, Lady Thornhill, regarding the late-night levy. That is why, in April, the Minister for Crime and Policing wrote to the chairs of the licensing committees to ask them to take a more flexible and pragmatic approach during the coronavirus outbreak, while ensuring that the licensing objectives

are safeguarded. I am grateful to the licensing authorities for ensuring that the system has continued to operate during this trying time.

Local authorities of course have discretion when considering non-payment or late payment of an annual premises licence fee or a late-night levy charge. While the Licensing Act 2003 requires that the licence be suspended, it is possible to delay when that suspension takes effect. I hope and expect that businesses experiencing difficulties will make the licensing authority aware and that the licensing authority will treat such businesses sympathetically. In his letter, the Minister for Crime further advised authorities to consider delaying any suspension of the licence where the delay in payment or non-payment was related to Covid-19. I hope that that is a reasonable explanation and that the noble Lord will be content not to move his amendment.

Baroness Finlay of Llandaff [V]: My Lords, I am most grateful to noble Lords for allowing me to intervene. The speech of the noble Lord, Lord Paddick, was very powerful and I welcome the Minister's statement. I declare that I chair the Commission on Alcohol Harms.

The chair of the Police Federation of England and Wales recently said that it was "crystal clear" that drunk people were unable to socially distance. But let us not forget that the price of beer in the off trade has fallen by 40% relative to the price of other goods since 2000, and pubs have been unable to match the low price. Publicans see cheap supermarket alcohol as a grave danger both to their commercial interests and to the country's health, and 83% of publicans believe that supermarket alcohol is too cheap. So what happens about off-sales from supermarkets? If these very cheap, highly promoted sales are not tackled, the plan to revive pubs as social meeting places and for the support they can provide in terms of integrating people and supporting our economy will just fail.

Baroness Williams of Trafford: My Lords, the off-sale of cheap alcohol is not a novel concept in terms of the Bill. I totally concur with the noble Baroness's concerns about the harms of alcohol and about the accessibility of cheap alcohol attracting people who might not have enough money to go to the pub. Ironically, that is why I support pubs: because drinking is done in a much more controlled way. Licensees have an obligation to chuck people out of the pub if they are behaving irresponsibly. Therefore, landlords are prohibited from selling off-sales as well as on-sales to someone who is clearly drunk. It is a good safeguard.

Lord Paddick [V]: My Lords, I thank the noble Lords, Lord Balfe and Lord Sheikh, for supporting Amendments 30, 32 and 35. There appears to have been a mis-communication over the extent of the amendments that the Government were going to bring forward on Report, which took me slightly off guard—so, with the leave of the House, I will say something more.

I thank the West End Community Network, the Soho Society and the Covent Garden Community Association for their briefings on these issues. I am grateful for the Minister agreeing that new off-sales should be limited to 11 pm. But the Minister does not

appear to have heard my reasoning as to why the measures she set out to vary off-sales licences and the power that the police have to close on-licence premises are not effective. I will not repeat them again; I will allow her to read them in *Hansard*.

8.45 pm

Whatever the hour, however, if alcohol is sold in open containers such as pint beer glasses there is every incentive to consume the alcohol in surrounding streets, rather than taking it home or to the office. Serving alcohol under a pavement licence on the pavement is not, as the Minister suggested, about off-sales in open containers. It is an on-sale—therefore that argument is completely spurious.

It is not permitted to carry alcohol in open containers on many forms of public transport, such as TfL buses, tubes and trams. This would bring the provisions of the Bill into conflict with other laws. I do not want to distress noble Lords by describing in too much detail my own experience, as a police officer, of conveying to hospital a young man who had a broken beer glass pushed into his face. Suffice to say that his injuries were horrific and his blood loss considerable. The shock caused him to shake uncontrollably. Some experiences you never forget; the life-changing injuries that he received would have made it even worse.

Amendments 30 and 32 seek to prohibit off-sales in open containers and Amendment 35 seeks, albeit imperfectly, to ensure that off-sales are restricted to sales of alcohol in robust containers that are resistant to being deliberately broken and used as weapons, or accidentally being broken and causing injury; and, in particular, preventing off-sales in beer glasses. Nothing that the Minister has said this evening reassures me on any of those other amendments, but I look forward to discussing them with her between now and Report. For the moment, I beg leave to withdraw Amendment 26.

Amendment 26 withdrawn.

Amendments 27 to 39 not moved.

Clause 11 agreed.

Amendments 40 and 41 not moved.

The Deputy Chairman of Committees: We now come to the group beginning with Amendment 42. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this amendment, or any other amendment in this group, to a Division should make that clear in debate.

Amendment 42

Moved by Baroness Anelay of St Johns

42: After Clause 11, insert the following new Clause—
"Support for the tourism and hospitality sector

(1) The Secretary of State must—

- (a) carry out a review of the effect of Part 1 of this Act on the tourism and hospitality sector in England and Wales;

- (b) set out the conclusions of the review in a report;
 - (c) publish the report; and
 - (d) arrange for copies of the report to be laid before both Houses of Parliament before 31 January 2021.
- (2) The report under subsection (1) must also make an assessment of the effects of this Act on the tourism and hospitality sector in England and Wales compared with possible further and complementary measures, including, but not limited to, extending through to 2021 the period of operation in that sector of—
- (a) the furlough scheme,
 - (b) Bounce Back loans, or
 - (c) other grants or financial support from public funds.”

Baroness Anelay of St Johns (Con) [V]: My Lords, Amendment 42 stands in my name on the Marshalled List and I am grateful to the noble Earl, Lord Clancarty, for adding his name in support. I strongly support the Bill and hope that it reaches the statute book quickly, and without too much difficulty next week on Report.

My proposed new clause would ensure that there is a review to examine the effect of the Bill’s proposals for the tourism and hospitality sector through to the end of January 2021. They would be compared with other measures, such as extending the furlough scheme, the grants currently available, and the assistance to the sector announced by the Chancellor of the Exchequer just last Wednesday. My objective, however, is to probe how and when the Government plan to review the operation of these proposals in a manner which facilitates proper parliamentary scrutiny.

The Government have moved quickly over the past few weeks to extend support for the hospitality and tourism industry beyond the end of October, when much of the support for wider areas of the economy will either end or be amended. I therefore welcome the Government’s policy paper *Plan for Jobs*, which recognises that:

“Pubs, restaurants, cafés, and bars are mainstays of the nation’s high street ... while the accommodation sector ensures that visitors can enjoy the sights, experiences and attractions the country has to offer.”

The paper acknowledges that they have

“been among the hardest hit by the pandemic and necessary restrictions.”

It is clear that the tourism and hospitality industry has planned carefully to welcome visitors back as quickly but as safely as possible in these pandemic times. They have invested in and installed Covid-19 sanitary and distancing practices, but some businesses have indicated that they simply will not be able to reopen in time to benefit from the summer season.

The added challenge the sector faces is that, in many parts of the country, tourism and hospitality sectors operate on a seasonal basis. My family holidays are to Cornwall in the summer and sometimes in the winter, and I have seen the severity of the impact on businesses, at the end of the summer season, across that beautiful county. Hotels mostly remain open in some of the major resorts, but there tends to be strong competition for their winter visitors and they struggle even to cover their overheads. The impact of Covid-19 is set to make that even worse.

Some major events have already been cancelled this summer and that will affect local economies at what should be their best money-making time. To give just one example, the Tour of Britain cycle race was due to start in Penzance in Cornwall, in September, but has been postponed until September next year. That event would have given a major boost to the tourism industry across the whole county.

We all fervently hope that there is not going to be a second spike of Covid-19, but we have also seen reports that medical experts believe there is likely to be one during winter. The potential impact on tourism and hospitality should be considered when the Government prepare policy initiatives throughout the rest of this year.

In selecting the date of 31 January 2021, by which the Secretary of State would be required to lay a report before Parliament, I had regard to the following factors. It would cover the winter season, including the partial increase in visitor numbers over Christmas and the new year. It would also cover the period of support that the Government have already promised. It would also be as light touch as possible, since it requires one report six months after this month. I beg to move.

The Earl of Clancarty [V]: My Lords, I support the amendment of the noble Baroness, Lady Anelay, and I also support the amendment of the noble Lord, Lord Kennedy. The amendment of the noble Baroness, Lady Anelay, would enable us to take a wider and longer-term view, beyond the narrow confines of the Bill. It is important that a careful eye is kept on the hospitality sector, particularly its workforce. Worryingly, we are now hearing of job losses, which will surely increase if the furlough and self-employed schemes end before tourism can properly get going again. It is worth noting that the self-employed are becoming an ever more significant component of the workforce in the hospitality sector.

The noble Baroness, Lady Anelay, talked about Cornwall. My wife and daughter are intending to go to Cornwall for a week, next weekend. It will be the first time anyone has made a serious move outside our house for a long time. I am staying home to be near the Lords Chamber, aka our repurposed front room. I do not think my family want the Lords down in Cornwall for the week but, as for anyone taking a holiday anywhere this summer, these decisions could be changed at a moment’s notice, because of the fear of a local lockdown or even a second wave that affects much of the country. Areas such as Cornwall, which have not been hit badly, will nevertheless be on tenterhooks. They do not want the virus of course, but they need the tourism.

The noble Baroness also mentioned events. My family was also looking at whether it would be possible to visit the Minack Theatre, which is one of the venues around the country that is starting to open. They will be back home before Tate St Ives opens on 27 July. Opening dates and whether events happen will, for some, affect whether a trip to Cornwall or anywhere else is viable. Arts and cultural events, alongside the hospitality sector, are hugely important to tourism

and, with hospitality, form a whole commercial ecosystem significant apart from its cultural value. The *Plan for Jobs*, referred to by the noble Baroness, Lady Anelay, does not recognise this ecosystem.

As the noble Lord, Lord Cormack, pointed out at Second Reading, tourists from abroad come here primarily for our arts and heritage, but of course they book into hotels and go out for dinner as well. We will be discussing the arts later with regard to the amendment tabled by the noble Lord, Lord Hunt of Wirral, but do the Government intend to introduce analogous regulations for the arts along with perhaps some creative temporary measures as that sector opens up? In terms of these amendments, every part of the wider ecology will contribute to successful tourism when it gets going properly again, so in this respect it needs to be understood that the whole is greater than the parts.

The Deputy Chairman of Committees: The noble Baroness, Lady Neville-Rolfe, has withdrawn from the list so I now call the noble Baroness, Lady Doocey.

Baroness Doocey (LD) [V]: My Lords, I shall speak briefly to support Amendment 42, which articulates an excellent idea and one that I hope the Government will take up. A similar amendment was moved in the Commons by my colleague, Tim Farron MP, whose constituency in Cumbria is very much at the heart of the tourist industry. His constituency has seen the biggest increase in unemployment in the country—up by 314% since March. Meanwhile, 37% of the entire workforce in that area has been on furlough. His constituency is just one of those in which the income from tourism has been decimated.

I believe that there is a special case for additional sectoral support for the industry, which would instil much-needed confidence in the many seasonal businesses and in the seasonal workers who depend on them. Most of these businesses operate on a profit margin of just about 10%, so many of them will not even be viable because, as a result of social distancing, they can operate at only 50% or less of their capacity. By signalling now that the industry's safety net will not be cut away just when thousands of businesses and jobs may need to rely on it, the Government can avoid many damaging job losses.

Baroness Uddin [V]: I am pleased to follow the detailed observations made by the noble Baroness, Lady Anelay, and the noble Earl, Lord Clancarty. I shall speak in support of Amendments 42 and 78.

Extraordinary business support schemes have been put in place. I am mindful of the fact that these provisions make it easier for businesses to access government support in the form of, among others, bounce-back loans and the furlough scheme, alongside other forms of financial support. The review being suggested in the amendment is necessary to ensure the most impactful use of public funds. It is equally imperative that the Government should take this opportunity to make an impact assessment of these measures on the living standards of those working in this low-paid sector, as well as considering ethnic and gender differentials. They can then reassess the measures that

will be required to mitigate the disproportionate effect on these groups, particularly among those who have not been able to access successfully many of the Government's funding regimes. As a result, some otherwise successful business owners became unemployed overnight during the lockdown and they are now having to resort to applying for universal credit. It is a safety net, yes, but it is not adequate to meet the needs of any family.

I take heart from the fact that at its core, the Bill is about kick-starting the economy while keeping in sight all the prerequisite safety restrictions. The business owners I have spoken to welcome the support given by the Government to the hospitality sector and the economy more widely. The discretionary schemes which have been delivered through local authorities may have helped save thousands of companies from bankruptcy and thus will have protected jobs. However, I am duty bound to remind the Government about the large number of businesses which have not accessed any support at all because they have fallen outside the policy parameters.

Three-quarters of businesses operating in the accommodation and food service sectors have paused or stopped trading in response to the Covid-19 outbreak. It would be remiss of me not to say that I have witnessed at first hand how many curry houses have put aside their own pain while trying their best to survive by becoming the first source of free food supplies for first responders in the NHS and for the many food banks across our country.

9 pm

Economic output in the food and beverage sector fell by nearly 90%. Many did not experience the security of the furlough schemes, and the job retention bonus will not assist hospitality, particularly the curry sector. Many restaurants will not survive until then, while a significant number of others will struggle to remain viable under the 30% reduction in capacity required by social distancing conditions.

UK hospitality organisations point out that, in addition to reduced turnover, they face the consequences of deferred rents and bills as they reopen. The Chancellor's new announcement brings the wider sector into the fold, but unless we secure this sector in the purview of the Bill, others are likely to be impacted by the domino effect. The Chancellor's new Eat Out to Help Out discount scheme, providing a 50% reduction for sit-down meals in restaurants, cafés and pubs and cutting VAT on most tourism- and hospitality-related activities from 20% to 5%, is a welcome relief for many in the curry industry.

I have spoken to Dr Sanawar Choudhury from the British Bangladesh Chamber of Commerce & Industry, Pasha Khandaker, former president of the Bangladesh Caterers Association, and its current president, Mohammed Abdul Munim. They lead a membership that is nearly 5,000 strong, with approximately 12,000 restaurants responsible for the livelihoods of over 150,000 families. According to many of these member-led organisations, while they agree that the business grants are helpful, cash flow remains a significant burden. Some have found it challenging to obtain the required

[BARONESS UDDIN]

support and are at breaking point. The little help that has come has been discretionary and without any appeal processes. There is great appreciation and relief about the recent announcement of VAT reduction, and the removal of the application requirement for the loans not to be subjected to affordability tests is a great source of respite.

I hope the Government will consider working with these industry leaders and exploring the type of assistance that may be helpful for their members in this sector to protect and harness a £4 billion industry with significant employers across the whole UK. Can the Minister say whether the Government have undertaken any discussions with the Bangladesh Caterers Association and the British Bangladesh Chamber of Commerce & Industry? These organisations are in an excellent position to act as a hub where specialist SMEs and the curry businesses can go for help and advice in accessing government initiatives. Will the Minister consider meeting me and a number of leaders and representatives from this sector to consider how best to assist the curry industry?

Baroness McIntosh of Pickering [V]: My Lords, the amendments in this group have much to commend them. I support Amendment 42 in the name of my noble friend Lady Anelay in particular. It is important that the provisions before us today are carried out effectively and that the balance we all wish to achieve between the hospitality and tourism sector and the rights of residents and other users is maintained. By the end of January 2021 is a good reporting period. Amendment 78 in the name of the noble Lord, Lord Kennedy, also has much to commend it, but I fear that a monthly report is a very tall order. I look forward with interest to my noble friend the Minister's response to this group.

Baroness Pinnock [V]: The amendment of the noble Baroness, Lady Anelay, lays bare the deep concerns of the tourism sector. The Government's response will be crucial. As my noble friend Lady Doocey said, the tourism sector is on a knife-edge. The example she gave from the Lake District is no doubt being felt elsewhere in regions dependent on tourism. In replying to the debate, I hope the Minister can give hope and help to these regions.

Lord Kennedy of Southwark: My Lords, this group contains two amendments: Amendment 42, in the name of the noble Baroness, Lady Anelay of St Johns, and the noble Earl, Lord Clancarty, and Amendment 78, in my name. These probing amendments seek to highlight wider issues surrounding support for the hospitality sector. As we heard in the debate, the industry desperately needs government backing to see it through the coming months, which is why this House is supporting the Bill and why it is seeking improvements to make it even better.

I welcome Amendment 42 and entirely agree with the comments of the noble Baroness and the noble Earl. The amendment introduces the requirement for a review of support. Given that these are labour-intensive

businesses, we should bear in mind that there is an enormous unemployment risk if businesses in this sector collapse.

Amendment 78 in my name aims to start a debate on two issues plaguing the hospitality sector, the first of which is lack of consumer confidence. Many people are still cautious about visiting hospitality venues, and the Government must play an active role in encouraging customers to return safely. The second issue is rent disputes. One large pub chain told us that disputes between tenanted pubs and their owners are still unresolved and there is no effective mechanism to fix this. I hope the Government can explain how they will encourage consumer confidence to help people return to pubs.

Obviously, this is a probing amendment that highlights these issues and seeks a government response regarding how they see these points being resolved in a satisfactory way that keeps businesses open, staff working safely and customers coming through the doors, reassured that they can enjoy themselves and spend money safely. I look forward to the Minister's response.

Baroness Penn (Con): My Lords, I thank my noble friend Lady Anelay, the noble Earl, Lord Clancarty, and the noble Lord, Lord Kennedy, for their amendments. Through her amendment, my noble friend Lady Anelay raised the question of how the Government will review its measures to support the hospitality and tourism sector, and the parliamentary scrutiny of those measures. She also said that the date she had chosen for that review was the end of January. However, although some of the Government's measures will have come to an end by then, because we are going through different phases in our response to coronavirus, many will be ongoing, not least some in the Bill such as pavement licensing and those that allow for a second summer of support, should we still be in a world of social distancing by then.

The coronavirus job retention scheme bonus will be paid from the end of January, so while we will have seen the end of the summer and potentially a more tricky autumn and winter period for the hospitality and tourism industry, we will only be part of the way through the Government's response to the pandemic, and may be in a new phase of it.

There will be measures in place on 31 January and beyond to support the sector. Many noble Lords have spoken of the importance of the sector and how particularly hard hit it is. That is why measures are in place to support it—not only those in the Bill but the business grants that have been given to the retail, hospitality and leisure sectors, the business rates holidays now in place and the Bounce Back Loan Scheme grant. That grant is an example of our looking back at how these measures have worked after the event, and of our constantly reviewing and adapting our policy response. The bounce-back loans were a response to smaller businesses struggling to get access to the finance they need, many of which are in the hospitality and tourism sector.

Turning to the support we have provided for the tourism and hospitality sector, there is a £1.3 million destination management organisation resilience fund

to support local tourism organisations in England, and the £10 million kick-starting tourism package, which gives small businesses and tourist destinations grants of up to £5,000 to help them adapt their business following Covid. The noble Lord, Lord Kennedy of Southwark, mentioned giving people confidence to go out and enjoy our tourist destinations; the kick-starting tourism package and allowing people to become more Covid-secure will contribute to that. We also have an “enjoy summer safely” campaign to market all the attractions available for people to enjoy in a safe and Covid-secure way.

I would also like to reassure the House this is not the end of the story. The DDCMS will continue to engage with stakeholders, including through the Cultural Renewal Taskforce and the Visitor Economy Working Group, to assess how we can effectively support tourism’s recovery across the UK.

I turn now to Amendment 78, which addresses various aspects of data protection. The Government publish relevant data on the Covid business lending schemes weekly, including the number of applications received and the number and value of facilities approved. Since 11 June we have been publishing monthly data on the Coronavirus Job Retention Scheme, broken down by employer size, sector and geography. That has allowed us to design measures more targeted at those that are struggling. For example, the Job Retention Bonus, set at a flat rate, will benefit those in the lower paid jobs and lower paid sectors more, because it will act as a greater incentive in those sectors. Furthermore, Visit England publishes a great deal of research, including regular surveys on visitor attractions, accommodation occupancy, day visits and Great Britain tourism. The ONS publishes fortnightly surveys on the business impacts of coronavirus which include sector-specific information. We will continue to engage with the sectors in the ways I have already mentioned.

The noble Baroness, Lady Uddin, mentioned some of the further measures announced last week that we have put in place to support the hospitality sector, including the “eat out to help out” scheme. Again, that discount is not just a financial incentive; it is about getting people out there to see that it is safe and secure to be out and about.

The noble Lord, Lord Kennedy of Southwark, raised the issue of premises that cannot afford to pay their rent because of Covid-19. They are currently protected from eviction. That protection was extended once already to the end of September 2020 and there is the option to extend it further if necessary.

The Government also published a code of practice for the commercial property sector. This will facilitate discussions during the moratorium over rent arrears and future payments between landlords and tenants to ensure best practice across the sector.

For the reasons I have set out, I hope my noble friend Lady Anelay and the noble Earl, Lord Clancarty, will be able to withdraw their Amendment and that the noble Lord, Lord Kennedy, will not move his Amendment 78 when it is reached.

Baroness Anelay of St Johns [V]: My Lords, first, I would like to thank all those who have spoken in this relatively short debate, especially, of course, the noble

Earl, Lord Clancarty, for signing up to the amendment. I would normally refer to the contributions of all speakers, but I am keenly aware that certain groups of amendments have yet to be considered. I will therefore simply say a few words of thanks to my noble friend the Minister. I am grateful to her for recognising that although the measures in this Bill are intended for the most part to be temporary, it is set against a much wider background of a longer period in which the Government will continue to consider the necessary policies. They must consider the outcome of the policies to ameliorate the impact of Covid-19 now, and consider the longer-term impact—not only if there is a second spike—going forward. I particularly welcomed her saying—I paraphrase—that DCMS would continue to engage with stakeholders in the hospitality industry.

My only request for the Government is to consider that the hospitality industry’s investment in preparation for its major summer season next year—which will need to be really good to recover from this—will start early in the year. It will therefore be important for the Government to consider engaging early in the new year to be able to give some confidence to those in the hospitality industry that it is worth them continuing to invest, at what for them will be a very difficult time to do so. In the meantime, I beg leave to withdraw Amendment 42.

Amendment 42 withdrawn.

Amendments 43 to 45 not moved.

9.15 pm

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this or any other amendment in this group to a Division should make that clear in debate.

Clause 12: Removal of powers of court in relation to unfair relationships

Amendment 46

Moved by Baroness Bowles of Berkhamsted

46: Clause 12, page 21, line 8, at end insert “insofar as such an order would relate to affordability or terms of the credit agreement required by the Bounce Back Loan Scheme.”

Baroness Bowles of Berkhamsted [V]: My Lords, I have two amendments in this group and thank the noble Lord, Lord Stevenson, the noble Baroness, Lady Altmann, and my noble friend Lord German for their support. These amendments follow up on points I made at Second Reading about whether it was right to suspend all of Section 140B of the Consumer Credit Act or, as my Amendment 46 suggests, only where it is related to affordability and terms required by the Bounce Back Loans Scheme.

In this context it is important to note that neither Section 140B on court remedies nor Section 140A defining the scope of an unfair relationship is limited to, or specifically mentions, matters of affordability.

[BARONESS BOWLES OF BERKHAMSTED]

The court can take all matters into consideration and, if truth be told, there should be no need for any waiving of the section as the government terms for bounce-back loans would be taken into consideration.

We know that the banks want belt-and-braces protection and I would give them that on affordability, but it is wholly wrong to remove every protection, giving banks belt and braces while stripping small businesses naked against other overbearing activity; charges and default procedures immediately spring to mind.

The Minister explained in reply at Second Reading—I can agree with this—that the Government have put conditions to the loan that are intended to ensure it is sustainable, limiting to 25% of turnover with fixed, affordable interest as well as the 100% guarantee. I also agree that the businesses need to take responsibility. Despite that, defaults will inevitably happen because it is unpredictable what the effects of coronavirus will be.

The question then becomes: what governs subsequent behaviour? On the one hand—I am sure this worries the Treasury—what incentives are there for banks to try very hard to get repayment, especially if they get too tough and people like me make a fuss and cause them reputational harm? Is it not easier for them to just rely on the government guarantee? On the other hand, the relationship between a lender—or a lender pressed by government—and a small debtor is inherently one of the powerful against the weak and can be abused.

In the Commons, Kevin Hollinrake said that as co-chair of the All-Party Group on Fair Business Banking he supported

“the suspension of the Consumer Credit Act 1974 with regard to bounce-back loans due to affordability issues,”

and asked:

“but does the Secretary of State agree that it is vital that lenders still comply with the requirement to treat customers fairly in the collection process or if there are debt issues later on and that forbearance is applied?”

The Business Secretary replied:

“my hon. Friend raises an incredibly important point. Yes, forbearance is part of these measures, and we would expect that very much to apply.”—[*Official Report*, Commons, 29/6/20; col. 52.]

At Second Reading last week the noble Lord the Minister said that the Government were convening workshops with lenders to discuss how they will seek to recover loans where feasible, but none of that guarantees or restrains what lenders will do.

Although the lender cannot require security over personal property, security over the assets of the business is still possible, which may well be the essential tools of the trade, so carefully put out of reach during moratorium in the recent insolvency Act. What is to stop that at the first sign of default? As noble Lords have frequently reminded the Government, it is not the friendly local bank manager who deals with defaults; they go to the hard-nosed recovery units, where even the existing consumer protections seem to have held little sway, because small businesses cannot afford to take the matter to court and the FCA is reluctant to intervene in contracts, one-sided though they may be.

None of this, however, justifies removal of the last-stand method of redress of the courts for matters that are an improper use of unequal power: no protection against gouging behaviour over charges as soon as there is any default; no protection for excessive demands over security of a business’s assets; no preventing the use of the bounce-back loan default to trigger other eventualities, perhaps to force unfavourable loans or restructuring, which might then include instances where personal guarantees have been given. All those possible actions, of types seen in the past, seem to be outside the spirit of the bounce-back loans and the assurance given by the Business Secretary in the Commons, but how will they be prevented or rectified?

Disapplying the court remedy is removing a safety net available in all other circumstances. Why should it not apply here? Further, it seems that corresponding FCA discipline may also be disappplied, and other consumer credit matters have already been disappplied through statutory instruments. Returning to the matter of the workshops with lenders, will the outcome of those workshops be shared with Members of this House or the public?

It is not that I am necessarily expecting the worst behaviour, but the law must be able to address the worst. Therefore, I have put forward two amendments. Amendment 46 is exactly what Kevin Hollinrake said, and states that the disapplication should apply only

“insofar as such an order would relate to affordability or terms of the credit agreement required by the Bounce Back Loan Scheme.”

Amendment 47 says that:

“Repayment, rearrangement, fees or other new requirements may not be imposed on Bounce Back Loans in consequence of terms in or trigger events in other financial agreements with the lender.”

This is to prevent the kind of reach-through that I have mentioned previously.

Finally, I must mention that I understand Amendment 48, in the name of the noble Lord, Lord Stevenson, and his anxiety to get at the statistics of bounce-back loans. I add that, in a year’s time, I will start to become anxious to have statistics on repayments, defaults and forbearance. I beg to move.

Baroness Altmann (Con) [V]: My Lords, I support Amendment 46, to which I have added my name, and congratulate the noble Baroness, Lady Bowles, on her vigilance with respect to small businesses that are in a weakened financial state due to the Covid-19 restrictions; and her efforts to assist them in facing the large banks that may be trying to recover bounce-back loans, or penalise struggling firms in ways that were never intended by emergency legislation. I also congratulate the Government on their bounce-back loans initiative. However, I believe that this amendment is necessary to potentially address the asymmetry of power, which is a significant potential threat to the future of many hard-hit SMEs.

SMEs could face draconian recovery tactics, such as were employed by the infamous Global Recovery Group after the 2008 financial crisis, whether in the form of excessive fees or the taking over of business assets. The noble Baroness, Lady Bowles, is right that

a court remedy is essential, not least to avoid giving a potential *carte blanche* to some of the less scrupulous bank executives.

Many banks wish to behave well, but this amendment is aimed at those who may not do so and is trying to anticipate and deter some of the practices that we have seen before. Bounce-back loans are surely intended to help as many businesses as possible bounce bank, especially SMEs, rather than to offer a heads-you-win, tails-you-lose opportunity to lenders at the expense of business owners who were forced by the Government to suspend or curtail their business's activity.

I also support the aims of Amendments 47 and 48 and hope that the Minister will listen carefully and agree to bring back amendments on Report that address this potential issue.

Lord German [V]: My Lords, I, too, support these amendments and have added my name to them. Section 140A of the Consumer Credit Act provides protections for borrowers in loans except where they are regulated mortgages or home purchase matters. The Act protects borrowers in connection with any credit agreement, except those related to home purchases, through court orders which may be awarded where the lender has gone beyond the terms of an agreement, applied the rules inappropriately or otherwise behaved inappropriately. The powers of the courts in this Act are drawn very widely and are designed to ensure that loopholes and lacunas which lenders might use to secure repayment have been covered off.

In their amendments to that Act in this Bill, the Government seek to remove the protections provided by the Consumer Credit Act where bounce-back loans have been provided. The Act provides broad powers to the court to bring lenders into line, including requiring lenders to repay moneys to a borrower, stopping lenders undertaking actions against the borrower in relation to their loan, requiring lenders to set aside any measures the court thinks are inappropriate and enforcing changes on the lender. This Bill, if unamended, would remove those protections in their entirety, except for in two circumstances.

Amendment 46, in the name of my noble friend Lady Bowles, limits the powers of these protections to the strict terms of the bounce-back loan and removes lenders' ability to weave in other conditions, which the borrower has in respect of other loans and credit facilities, into the bounce-back loan arrangement. Adding such additional conditions is precisely the sort of hurdle which the Consumer Credit Act is designed to avoid—for example, using the terms of an existing loan with the bank to apply to the bounce-back loan, such as the level of security needed, the number of signatories required, the applicability of the borrower and so on. My noble friend has outlined the consequences of enacting this clause in the Business and Planning Bill and, in supporting her, I wish in particular to emphasise the need for Amendment 47.

At Second Reading, I spoke of the problems that many small and medium-sized enterprises are having in securing bounce-back loans with major lenders where hurdles which are not part of the bounce-back scheme are being placed in the way of companies

seeking a loan. These loans may not save every company from going out of businesses, but they are certainly going to be a lifeline for some, and let us hope many.

Add to this the difficulties which challenger banks have in being able to find the cash to provide bounce-back loans, in part caused by the reluctance of high street banks to funnel funds through them at the Bank of England's near 0.1% interest rate, and companies—particularly small and medium-sized enterprises seeking these loans—are facing increased difficulty. The Bank of England's most recent snapshot of financial conditions in the UK raised particular concerns about the availability of non-bank finance, partly due to tight funding conditions for providers, so with high street banks giving priority to their own customers and the availability of funding making it difficult for challengers to lend, we have factors which make protection of the borrower all the more important. We have to remember that many small and medium-sized enterprises are surviving on a thread.

9.30 pm

The Government have reworded the eligibility requirement for these loans to simply that businesses must have

“a borrowing proposal which the lender would consider viable, were it not for the current pandemic”.

That definition still gives significant power to the lender to impose conditions, with the judgment of viability open to a lender's interpretation, particularly where they are through a bank holding other credit to that company. My noble friend's amendment would retain affordability as the reason for setting aside the Consumer Credit Act protections, as it would for the specifics of the Bounce Back Loan Scheme. The amendment in all other circumstance would retain borrower protection against overzealous interpretation and conditions.

The Government must do all they can to remove barriers to the very existence of our companies, particularly SMEs, so that we can retain the jobs that they provide. Their ambition, which I support, is for a loan facility that is low-cost and simple. Without these amendments, the scheme would lose its simplicity, since lenders would be free to weave in extra hurdles, making the scheme less secure for the borrower and thereby less well-suited to the job. I urge the Government to stick to their ambition and retain the protection in law that other forms of lending now have.

The Deputy Chairman of Committees: The noble Baroness, Lady Goudie, is not with us, so I call the noble Baroness, Lady Uddin.

Baroness Uddin [V]: My Lords, I support Amendment 48 in the name of the noble Lord, Lord Stevenson of Balmacara. I have just a few brief points. I shall speak specifically about data collection and the reporting requirement for the Bounce Back Loan Schemes. Despite the pandemic, we cannot overlook the need for transparency, open government and a robust process of reporting to Parliament. Current data relating to the total number of applications and the number of loans granted does not make allowances for how well

[BARONESS UDDIN]

the scheme is working to help businesses through the crisis, including SMEs, as the noble Baroness, Lady Altmann, referred to. There is inadequate data on the number of businesses that could not access loan schemes and why they were refused. This should be addressed in the reporting mechanism.

The curry industry, which I referred to earlier, has reported that its members are experiencing a great deal of difficulty in accessing this financial support. I am deeply concerned about eradicating any inequity that they might be experiencing. Therefore, I would like more detailed reporting to include the number of successful applications from SMEs led by BAME communities, particularly in the curry industry, and, more specifically for the curry industry itself, the actual number of applications that have been successful and those that have been rejected.

Baroness Kramer [V]: My Lords, I support Amendments 46, 47 and 48 and regard all three as exceedingly important. I will start by picking up on an issue described by my noble friend Lord German. We know now that the major banks, which have been able to participate in the bounce-back scheme because they have been provided with cheap funding from the Bank of England under its term funding scheme, have failed in what I was told was an obligation to also pass that cheap money through to the fintech industry and other alternate lenders, so that a broad and diverse coterie of lending institutions would be involved in bounce-back schemes and a mechanism to ensure that qualifying small companies would be able to find a source, even if it was not from one of the major banks. We now know that that funding process has not taken place and that relatively few bounce-back loans are being provided by alternate lenders because they cannot find cheap enough funding, since they have no direct access to the Bank of England scheme.

The reason I mention this is that it describes to us the culture of major banks today. Many of us had hoped that after the 2008 crisis we would see a dramatic change in culture among the major high street banks. We have certainly seen some changes, and some are better than others, but we are still dealing with a group of institutions that, frankly, if given a loophole will use it. Amendments 46 and 47 are designed to close off two major sets of loopholes to make sure that proper consumer protection continues to be provided to SMEs that use the bounce-back schemes and to make sure that these do not become mechanisms that enable them to be taken advantage of in ways that they never anticipated. Therefore, Amendments 46 and 47 are vital to limit any potential for abuse.

Amendment 48 is important because it will help us track exactly what is happening under the Bounce Back Loan Scheme arrangements. We have all heard anecdotally that the big banks are cherry picking those to whom they make bounce-back loans. Some of them choose only existing customers because they do not want to overexpand their balance sheets; others pick from within those customers. As I understand it, the whole spirit of the bounce-back scheme is anathema to cherry picking, but it is taking place.

Amendment 48, in the name of the noble Lord, Lord Stevenson, would very rapidly make clear how many people are applying and who is rejected, and it would give us the ability to try to track exactly what is happening under this scheme. I know that something like £30 billion has already been lent through bounce-back loans but, frankly, that is well below the level that the Government expected. Those loans are a lifeline for many companies and we really cannot allow this scheme to be abused. If we are not careful, by the time we intervene, many businesses will already have closed their doors.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I have added my name to Amendments 46 and 47, moved and spoken to respectively by the noble Baroness, Lady Bowles of Berkhamsted, and I support the points that she has made. I also welcome the expert contributions from the noble Baroness, Lady Altmann, the noble Lord, Lord German, and the noble Baroness, Lady Kramer.

The Consumer Credit Act 1974 has long been criticised because of its extensive, complex information disclosure requirements. These are a problem in their own right but they can make it problematic for lenders to be flexible in cases where they might, for example, wish to offer forbearance to consumers experiencing difficulties in making repayments or to those suffering from unmanageable personal debts, as many do. Clearly, if small businesses are being affected by Covid-19 issues, it makes sense to ensure that their access to bounce-back loans is not hampered by requests for unnecessary evidence and detail or by extensive time delays in processing such data.

However, as the Explanatory Notes make clear, SI 2020/480 changed the rules for small loans to individuals and small partnerships so that they are no longer regulated credit agreements. However, as the noble Baroness, Lady Bowles, pointed out, the SI does not affect Sections 140A to 140C of the Consumer Credit Act 1974—the so-called unfair relationship provisions. The problem identified by the noble Baroness seems to be important. In a laudable attempt to simplify the processes, the Government might, perhaps inadvertently, have removed the statutory underpinning of Sections 140A to 140C, which, for example, through the courts protect borrowers from any subsequent attempts by lenders to act unfairly. That can often be the case, as we have heard this evening.

I believe that this issue might need to be reviewed separately once we are through the pandemic. Perhaps when she comes to respond, the Minister will agree that it needs further work. I hope that she will also be able to reassure us that our concerns are unfounded. I have my doubts but am willing to be convinced. The change in law needs to be securely attached only to bounce-back loans and the Covid-19 pandemic. We also need to know that the application of this disregard is proportionate and appropriate to lenders.

Turning to Amendment 48 in my name, I am grateful for the support of my noble friend Lady Uddin and the noble Baroness, Lady Kramer. I hope that the Minister recognises that the amendment covers ground raised in the powerful comments made at Second

Reading by the noble Earl, Lord Shrewsbury, who shared his personal experience of the wide variability of responsiveness by the individual banks and lending institutions authorised by the British Business Bank to issue bounce-back loans.

My amendment calls for regular reports. I appreciate that there are confidentiality issues here, but this is also about transparency. If a private company such as MoneySavingExpert can do a survey which reveals that a substantial number of bounce-back applicants suffer delays, rejections and unrelated credit checks, surely the Government can do better. It is true that the MSE report is based on a sample, albeit a large one, but it shows that consumers have had variable responses from the major banks, and some of the smaller challenger banks had very high rejection rates. The transparency which the amendment looks for may improve that situation. I hope that the Minister can offer some movement on this issue, which would help with the task of getting bounce-back loans out to those who can use them. She said in her response to an earlier group of amendments that the Government were constantly reviewing and improving the Bounce Back Loan Scheme. I hope that she recognises that to do that without the sort of information that my amendment proposes might be otiose.

Baroness Penn: I thank the noble Baroness, Lady Bowles, my noble friend Lady Altmann and the noble Lords, Lord Stevenson and Lord German, for tabling these amendments.

On Amendments 46 and 47, the noble Baroness, Lady Bowles, made important points around the ongoing treatment of borrowers by lenders under the bounce-back loan scheme. My noble friend Lady Altmann and others referred to memories of previous unscrupulous practices by lenders. It is important to acknowledge the significant changes that the industry has been subject to over the past decade. All the major lenders have now signed up to the Lending Standards Board's standards of lending practice, ensuring that banks treat their customers fairly and responsibly. The Financial Conduct Authority can now take enforcement action against individuals through the senior managers and certification regime and the new conduct rules, which apply to all employees of those firms and not just to senior managers.

I assure the noble Baroness, Lady Bowles, and all noble Lords who have spoken on the amendment that, while the Bill removes bounce-back loans from the Consumer Credit Act provisions, it does not remove protections from borrowers under the scheme. Under the terms of the guarantee agreement entered into by lenders with the British Business Bank that backs the bounce-back loans, lenders must provide clear information to borrowers before the credit agreement is entered into and during the lifetime of the loan. Lenders must make it clear to borrowers that the loans are not subject to the usual protections under the Consumer Credit Act. However, under the agreement entered into by lenders with the British Business Bank for the guarantee, there are other protections.

Where a borrower encounters financial difficulty, lenders must provide information on assistance available, including sources of free, independent advice. Where a

borrower misses payments under the scheme, the lender will give them a reasonable period to remedy any breach of the agreement and will not treat that breach as a default if it is remedied within that period. Finally, lenders must not require borrowers to pay any lender-levied fees of any description, including on default, or any default interest. If a borrower defaults on the loan, the guarantee agreement prevents their primary residence and primary vehicle forming part of the debt recovery. Should a lender not comply with these terms, they risk not being able to call on the guarantee. This provides a strong incentive for lenders to treat borrowers fairly.

Furthermore, the Government have retained Financial Conduct Authority oversight for debt collection, meaning that lenders must comply with the Financial Conduct Authority rules on arrears, default and recovery. Recovery procedures must also comply with the Lending Standards Board's standards of lending practice. As the noble Baroness, Lady Bowles, mentioned, the Government are working with accredited lenders under the scheme to ensure that they understand the requirements on collections and recoveries for the loans. I will write to her on whether the result of those discussions will be published.

Finally, the jurisdiction of the Financial Ombudsman Service has been maintained for bounce-back loans, meaning that eligible borrowers are able to access this convenient and effective means of resolving disputes with their lender without having to go to court.

9.45 pm

I also want to explain why the provisions in Clause 12 of the Bill are so important. The Government's commitment to disapply the "unfair relationships" provision in the Consumer Credit Act 1974 for bounce-back loans was essential for giving lenders the confidence that they needed to lend at scale and pace. By 5 July over 1 million loans had been made under the scheme, with a total value of £30 billion. If the amendment were accepted, there is a risk that lenders would cease lending under the scheme, depriving small businesses of the finance they need to weather this crisis.

The noble Lord, Lord German, and the noble Baroness, Lady Kramer, raised the issue of challenger banks' access to funding and alternative lenders being able to issue bounce-back loans. I reassure them that there are now 24 accredited lenders for the Bounce Back Loan Scheme, including challenger banks. I reassure the noble Lord, Lord German, in particular, that, while the Government do not provide funding to lenders that are participating in the government loan schemes and lenders must source their own funding, the Government have made changes to allow the transfer and assignment of government guarantees for bounce-back loans and CBILS and CLBILS loans, which is something that non-bank lenders have asked for to support their ability to access funding and then issue these loans. I hope that has given the noble Baroness and the noble Lord the reassurance that borrowers will be protected under the scheme and that the noble Baroness will feel able to withdraw her amendment.

Amendment 48 concerns the publication of data around the Bounce Back Loan Scheme. The Government have been publishing relevant data on the Covid business

[BARONESS PENN]

lending schemes on a weekly basis since 12 May. This includes data on the number of applications received, the number and value of facilities approved to date for the Bounce Back Loan Scheme, the Coronavirus Business Interruption Loan Scheme and the Coronavirus Large Business Interruption Loan Scheme. The figure for the total number of applications received includes approved applications, applications that are still to be processed, applications that have been declined or turned out not to be eligible, and withdrawn applications where the borrower decides not to proceed.

The noble Lord, Lord Stevenson, raised the issue of delays due to unnecessary detail being requested, while the noble Baroness, Lady Kramer, raised the issue of cherry-picking among existing customers and said that further transparency on this data might help us to address these issues. It is the case that it will be faster for many lenders to issue loans to existing customers first, and they may be processing those, but that does not mean that, where a customer is not an existing customer of the lender or bank, they cannot access the loans. Furthermore, as I said, we have 24 accredited lenders. One reason why it may be faster to issue loans to existing customers is that for new customers banks have to go through other checks that have not been withdrawn through this process, including know-your-customer checks and other anti-money laundering regulations.

In publishing the data on bounce-back loans, we aim to support the information needs of society, parliamentarians and stakeholders. I have listened very carefully to the arguments made today by noble Lords, and the Government are considering what further data may be made available in future while balancing the sensitive commercial nature of this information for lenders. Releasing scheme-wide lender-by-lender data would involve the publication of sensitive commercial information that has been shared in confidence with Her Majesty's Treasury. This could reveal information such as the market share of lenders and is not suitable for the public domain.

For the reasons that I have set out, I am not able to accept the amendment. I hope that the noble Lord will therefore choose not to move it when it is called.

Baroness Bowles of Berkhamsted [V]: My Lords, I thank all noble Lords who have spoken in this debate. In the interests of time I will not go through everything, but the noble Baroness, Lady Altmann, reminded us of the whole GRG saga and that the Consumer Credit Act and provisions for the courts are the ultimate insurance against bad behaviour from banks, which has been witnessed.

My noble friend Lord German reminded us that Section 140A, 140B and 140C, and indeed the Consumer Credit Act in general, are intended to cover loopholes and lacunae and to stop banks being able to get away with inappropriate things, and in particular to stop the weaving in of other conditions.

My noble friend Lady Kramer reminded us about the culture of banks today, and the way they are failing to pass on funds to alternate lenders. So, despite the Minister's words about how banks have reformed,

there remains a question mark over their culture because of that current behaviour in the context of coronavirus and the bounce-back loans. They appear to be putting themselves first. As my noble friend Lady Kramer said, give them a loophole and it will be used. I fear that that is too true. The noble Lord, Lord Stevenson, also indicated his concern about removing the statutory underpinning and questioned whether it was proportionate.

One or two things that the Minister said were reassuring: that the lender cannot apply any fees, which may mean that gouging cannot happen; and regarding assistance and free advice. However, looking at the detail, some other things become more worrying. It tends to be said that there are no personal guarantees, but it seems that that is not actually true: it covers only the primary residence and primary vehicle. There could be other things that would appear not to come under the guarantee. The Government would seem to have made a commitment to disapply the Consumer Credit Act as part of the terms of bounce-back loans. This means that they have promised to disapply primary legislation before any legislation has been passed to allow that. That is an extraordinarily worrying precedent, no matter that we are in an emergency situation. The Government have already disapplied primary legislation and are effectively saying: "We cannot go back on what we have promised". As a matter of principle, I think that that is something to which I quite profoundly object.

I will have a look at other things that the Minister said. I acknowledge that there are some things in there that show how the Government have tried to fill in for the action that they have taken. So maybe businesses are not quite so naked as I suggested, but it is still a very worrying situation. I will withdraw my amendment now, but I may wish to return to this matter on Report.

Amendment 46 withdrawn.

Amendment 47 not moved.

Clause 12 agreed.

Amendment 48 not moved.

Clause 13: Certificates of temporary exemption for public service and goods vehicles

Debate on whether Clause 13 should stand part of the Bill.

The Deputy Chairman of Committees: We now come to the group beginning with the Question that Clause 13 stand part. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this, or anything else in this group, to a Division should make that clear in the debate.

Lord Tunnicliffe (Lab) [V]: My Lords, I gave notice to oppose Clauses 13 and 14 because I did not understand them and felt that their meaning needed clarifying.

This is an opportunity for the Minister to explain how they work in simple language. I thank the Minister and her team for the time they have taken explaining the clauses to me. Providing the Minister's explanations are in line with our discussions, and she reads them into the record for the enlightenment of industry practitioners, I am optimistic that I will not need to take my concerns any further.

The Deputy Chairman of Committees: I call the noble Earl, Lord Attlee. We cannot hear the noble Earl. We will move on to the noble Baroness, Lady Kramer, and come back to the noble Earl later.

Baroness Kramer [V]: My Lords, I will be exceedingly brief. I only wanted to address Clause 14(2)(b), which is basically about HGV licence applications. The Government have, in effect, temporarily waived the requirement for medical certificates, which I find entirely appropriate in light of the pandemic and the difficulty of requiring the medical profession—distracting them, if you like—to carry out the various tests and fill out the various forms that would provide those certificates.

My question is this: having made the decision that it is possible to grant HGV licences on this basis, are the Government willing to agree to do the same for other applicants for drivers licences? I am particularly concerned about others who, like me, are about to turn 70. We, of course, have to obtain new licences as we reach 70. I have been able to do it very easily online because I have the right sort of picture-based identity and passport, and because I did not require a medical certificate.

However, I have received a number of letters from various people who have not been in that position and are now finding that their licences are expiring at a time when they really do need to be able to use their cars. Being over 70, they are quite anxious about going on public transport; I think most people would think that that was entirely appropriate. Having made a decision that it is going to temporarily waive that medical requirement for HGV drivers, will the Government now consider doing it particularly for the over-70s?

The Deputy Chairman of Committees: Have we got the noble Earl, Lord Attlee, back?

Earl Attlee (Con) [V]: Yes, I am here, my Lords.

I have Amendment 49 in this group and it may be convenient to speak to it now. Before doing so, I should declare an interest in that I operate heavy goods vehicles in a private capacity and present them for testing. The Committee will be pleased to hear that the last one I prepared passed first time, despite being of some age.

In a modern society we utilise, or go near, a wide range of equipment, facilities and infrastructure that, if not properly maintained, could be extremely hazardous. Think about electrical systems, trains, lifts, aircraft, the underground system—once run by the noble Lord, Lord Tunnicliffe—pressure vessels, steam boilers and the like. Disasters are very rare because the systems

are subject both to regular and statutory inspections performed by what is termed a “competent person”—an individual who has the necessary experience, training and independence from the operator and the owner of the equipment, so that he or she can inspect the system or equipment without fear or favour. The competent person is not normally employed by the state but by private industry or commerce.

The Committee will be painfully aware that motor vehicles are a serious safety hazard if not properly maintained. Private motor cars are annually inspected by an MOT garage and the inspector is authorised by the Secretary of State but employed by the garage or testing station. There is no difficulty in securing a test date because the motor trade ensures there are a sufficient number of testing stations and authorised testers.

The situation with heavy goods vehicle testing is very different. What are termed authorised testing facilities—ATFs—are provided and funded by industry but authorised by the Driver and Vehicle Standards Agency—the DVSA. The vehicle inspectors are employees of, and provided by, the DVSA. Levels of remuneration are screwed down by the Treasury to such an extent that the DVSA is always underresourced, with only just enough inspectors to meet demand—at best. Even in normal times, one would expect to wait six weeks for a new test date. This is not a short-term Covid problem.

10 pm

ATF centres are a significant investment on the part of the operator and have high operating costs. Operators have therefore been exceptionally frustrated by the DVSA's management of the testing regime, which seldom has the resources to meet testing demand when it is needed. FOI requests revealed that, in 2017, a lack of DVSA testing availability resulted in a shortage of 25,000 testing hours, rising to just under 60,000 hours in 2018, up to 30 September that year.

The Covid-19 outbreak has demonstrated that the current testing model is out of date and out of pace with the modern logistics sector, which is a 24-hour industry. Between late March and early July, HGV testing was suspended almost entirely, meaning that many HGVs on British roads are operating without having taken their annual safety test. The industry is now faced with a significant backlog which, under the current regime, is likely to take between nine and 12 months to clear. My guess is that there must be at least 100,000 heavy goods vehicles running with extended MoTs. This is not as much of a safety risk as the Committee might fear because, in addition to the annual statutory MoT test, operators are obliged to subject their vehicle to a six-weekly safety inspection, but the period may be longer or shorter, depending on the nature of the work. A safety inspection is very similar to an MoT, except without the necessary bureaucratic checks. In fact, exactly the same AFT facilities may be used but without using a DVSA inspector.

My amendment proposes that industry employs the vehicle inspector, rather than the Secretary of State and the DVSA. This is termed delegated testing, and

[EARL ATTLEE]

this arrangement would be very similar to how the potentially extremely hazardous heavy equipment that I have already referred to is inspected to meet statutory requirements. In terms of safety inspections, a goods vehicle is a relatively simple system compared to an aircraft or railway system, so can the Minister explain what is special about a goods vehicle and why we need a completely different model with a state-employed inspector?

The Freight Transport Association, while supporting the first part of my amendment, cannot support the second, and it is correct. However, there is no question of an individual inspector having a sheaf of test certificates in his back pocket. The second part of my amendment is designed to protect the individual inspector. The amendment was also intended to cover PSV testing, but does not. Given more time, I would have used the drafting of Section 45 of the Road Traffic Act 1988 to provide the effect desired. This amendment is also supported by the Road Haulage Association, the National Franchised Dealers Association, the SMMT and the ATF Operators Association.

It may be that the traffic commissioners are briefing the Minister against delegated testing. I urge my noble friend to take this with a pinch of salt. At least one of them appears to be a career DfT civil servant, and I do not mean that pejoratively. The argument about DVSA inspectors being independent is not a good one. First, my noble friend should look at the whole relationship between the DVSA—comprising inspectors, witnesses and prosecutors—on the one hand, and the traffic commissioners, the tribunal, on the other. They often all live in the same office block. Surely, an independent ATF of the operator's choice, but supervised by the DVSA, is much more independent and reliable. If this concept is not good enough, how come the concept of a competent person, already referred to, is sound?

I am not suggesting that individual DVSA inspectors do not do a good job; I have always had confidence in them. In any case, the DVSA's excellent goods vehicle testers manual is very clear and lays down objective test standards. Importantly, inspectors will be better remunerated under my proposal. One operator in south Wales told me that he would not be able to find any inspectors or technicians to work for him at the rate the DVSA pays.

Even if my proposal was accepted by the Government, the DVSA would still directly employ vehicle examiners. These would be needed to undertake well-targeted spot checks on the road. They would exercise intrusive, policing-style powers, including prohibiting a dangerous vehicle moving. This is a good and valid use of a state employee; I do not support moving away from this. Given the shortage of DVSA inspectors, it is obvious that the DVSA will prioritise inspectors for use at ATFs over spot checks on the road. If not, it will face financial penalties. This must surely mean that the DVSA is wasting limited resources testing compliant vehicles at ATFs rather than pursuing the few remaining rogue operators. Can the Minister confirm that, if the DVSA had more inspectors available, more roadside spot checks would be undertaken?

When I first arrived in your Lordships' House 28 years ago—and given my direct experience of the road transport industry—I would have opposed my Amendment 49, but that industry has changed out of all recognition. There simply are not horrible old wrecks of trucks on the road now. We should use state employees to exercise intrusive roadside powers and leave routine technical inspections to industry, where they belong.

Baroness Pinnock [V]: My noble friend Lady Randerson is unable to speak on this group as she has caring commitments that she is unable to change. She has been in contact with the Freight Transport Association, which provided her with an extensive briefing. I know that she has also spoken with the noble Baroness, Lady Vere.

My noble friend asked me to highlight one of the issues in the Freight Transport Association's briefing: certificates of temporary exemption. These may now result in the required test falling within the busiest period for many operators. The FTA is confident that this is not what the Government are seeking to achieve. It has therefore asked for the certificates of temporary exemption to be issued for a full 12 months so that HGV licences are not subject to change at a time when the vehicle needs to be on the road to catch up with transport issues that have fallen by the wayside due to the coronavirus changes.

With that rather inept briefing—I am sure that my noble friend would have done so much better—I hope that the Minister will be able to give some answers to the questions that have been asked.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, this group concerns Clauses 13 and 14, which seek to manage road safety risks as we move into recovery from the pandemic. I am very grateful for the discussions that I have had with the noble Lord, Lord Tunnicliffe, and the noble Baroness, Lady Randerson, who is unable to be in her place. I will put on record further details to address the concerns that have been raised.

First, noble Lords will be aware that draft regulations referred to in Clause 13 are now available, but the essence of this clause is as follows: at this time, the Driver & Vehicle Standards Agency can issue certificates of temporary exemption from roadworthiness testing on a blanket basis for vehicles during exceptional circumstances. It has issued such exemptions to all heavy vehicles that are due a test in the period from March to August 2020. Clause 13 allows the DVSA to exempt vehicles from testing based on road safety risk factors rather than on a blanket basis. These powers are not intended to manage business as usual and will not be used to manage normal test demand unconnected to exceptional circumstances.

When determining whether a CTE should be issued for a particular vehicle, the new regulations will allow the following relevant safety factors to be considered: the age of the vehicle and its technical characteristics; the findings of any examination or inspection of a vehicle; enforcement action against the vehicle's operator or

against the driver of a vehicle used under that operator's licence; the operator's membership of the DVSA's earned recognition scheme; and any action, direction or order in relation to an operator's licence, held by the operator, taken or made by a traffic commissioner within the previous five years under specific relevant provisions.

Where exceptional circumstances necessitate, the new power will be used to prioritise older vehicles for testing—most likely those over two years old—and take into consideration membership of the DVSA-run earned recognition scheme and operator compliance risk scores calculated by the DVSA, based on historic evidence of compliance. The regulations will permit the issue of CTEs during, prior to, or subsequent to disruption attributable in whole or in part to an exceptional event which falls within the existing definition. This is in recognition of the fact that disruption to test availability may extend beyond the boundaries of an event. An exceptional event such as accident, fire or epidemic is included in this definition. The regulations will also set out the duration for which these CTEs can be issued. Given that these revisions reduce the road safety risk inherent in the existing powers and are to be used only infrequently and in exceptional circumstances, we do not propose to add a sunset clause.

I turn now to Amendment 49, tabled by my noble friend Lord Attlee, which seeks to permit the Secretary of State to qualify any individual to undertake road-worthiness tests of heavy goods vehicles. At present, heavy vehicle testing is undertaken by the DVSA, typically with staff working from a third-party site. This amendment would open the door to the private sector undertaking such testing; this is often referred to as delegated testing. I understand my noble friend's views on this point and recognise his expertise in the area, as so ably demonstrated in his contribution. I express my gratitude to him for his constructive approach, particularly in discussions with departmental officials.

However, allowing delegated testing of heavy goods vehicles would represent a fundamental change in our long-standing approach. This amendment would require us to conduct that change during a time of immense pressure on the testing system, on stakeholders and on the DVSA. Establishing a new system of testing without carrying out careful consideration and extensive consultation would be unwise and would create risks to all road users. However, I am extremely willing to continue constructive discussions with the noble Earl, and indeed with industry, particularly as to how we can improve the current system. For these reasons, I hope that my noble friend will feel able to support the Government's approach.

I turn finally to Clause 14. I am grateful to the noble Lord, Lord Tunnicliffe, for giving me an opportunity to provide further details. Lorry and bus drivers must apply to renew their driving licence every five years and annually from the age of 65. From the age of 45, a medical report signed by a doctor must be provided with the renewal application. Under an existing power in secondary legislation, the Secretary of State for Transport can waive the requirement for a medical report. However, the Secretary of State for Transport currently cannot mitigate the associated risk by issuing shorter licences.

As a result of the pandemic, NHS GPs have not been available to meet the demand for medical reports. To help keep drivers on the road, we announced a temporary scheme to waive the medical report requirement and issue one-year licences back in April 2020. The provision in this Bill is retrospective. It limits to one year the duration of licences already issued under that scheme without a medical report, as well as those that will be issued in the future. Even though the medical report will not be required at renewal, the driver must still fill out the standard DVLA medical questionnaire, and confirm whether or not they suffer from one of the medical conditions relevant to fitness to drive. If a medical condition is declared, the DVLA will investigate the condition, and decide whether it is appropriate to issue a licence. The provision for one-year licences to be issued where there is no medical report will last for the duration of the Bill. However, this scheme does not have to be used. The DVLA is keeping the scheme under review, and in consultation with NHS authorities will reinstate the requirement for a medical report, and return to issuing five-year licences, as soon as medical resources are available to meet demand.

I thank the noble Baroness, Lady Kramer, for her questions on the issuance of other licences and their renewal, and I will write to her. On the basis of these explanations and clarifications, I hope that the noble Lord, Lord Tunnicliffe, will feel able to withdraw his intention to oppose the Motion that the clause stand part.

10.15 pm

Lord Tunnicliffe [V]: My Lords, perhaps I could say a few words about the Freight Transport Association's concerns. Essentially, if exceptions or exemptions are permitted for six months rather than 12 months, it will disrupt the regime of testing and maintenance for some of the larger and better-maintained fleets. The limitation of six months is actually in the draft regulations, which are being consulted upon with the industry at this moment. I hope that the Minister will give careful attention to the representations it makes. There is nothing in primary legislation to stop appropriate easement if the department were to take that view.

I am content with the Minister's explanations for Clauses 13 and 14, and no longer wish to oppose the Motion that Clause 13 stand part of the Bill.

Clause 13 agreed.

Amendment 49 not moved.

Clauses 14 and 15 agreed.

The Deputy Chairman of Committees (Lord Russell of Liverpool) (CB): We now come to the group beginning with Amendment 50. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this or any other amendment in this group to a Division should make that clear in the debate.

Amendment 50

Moved by Baroness Doocey

50: After Clause 15, insert the following new Clause—

“Amendment of the Package Travel and Linked Travel Arrangements Regulations 2018

- (1) The Package Travel and Linked Travel Arrangements Regulations 2018 (S.I. 2018/634) are amended as follows.
- (2) In regulation 2(3) leave out “at least one other at least two different types of” and insert “the carriage of passengers with”
- (3) In regulation 2(5) leave out “at least one other at least two different types of” and insert “the carriage of passengers with”

Member’s explanatory statement

This amendment seeks to amend the Package Travel and Linked Travel Arrangements Regulations 2018 make transport a mandatory component of package travel. This would allow small local businesses to make a combined offer without incurring the responsibilities of a package holiday operator.

Baroness Doocey [V]: My Lords, in moving Amendment 50, I will speak also to Amendments 74 and 75 in my name.

Amendment 50 seeks to modify the regulations introduced in 2018 around package travel, in order to support the recovery of small domestic tourism businesses and destinations. The intention of these regulation was to provide additional protection to those taking package holidays abroad, so that they do not lose their money if the tour operator goes bust, and so they can be repatriated to the UK. However, a sort of reverse loophole has emerged, where small domestic businesses working together to produce a value-added offer are caught up in the regulations and deemed to be tour operators.

The consequence is that if a B&B, for example, offers a deal to customers where meals at a local pub or a round of golf at a local course are included, that B&B finds itself legally responsible if the customer has an accident while visiting the other business. No insurance company will give a B&B insurance to cover that. This prevents the sort of constructive enterprise between small local businesses that is needed if the domestic tourism industry is to recover from coronavirus. The industry estimates that remedying this anomaly would boost domestic tourism by about £2.2 billion.

Unfortunately, there is a drafting error in my amendment, for which I apologise. It inadvertently seeks to leave out the words “at least one other”, which do not actually appear in the existing regulations. However, the important part of the amendment is about the carriage of passengers, and it is to those words particularly that I am speaking this evening.

The purpose of the amendment is to ensure that package travel should include the carriage of passengers—in other words, actual travel. That means that if you are offering a coach holiday with hotel accommodation included, that would of course count as a package because you are taking the customer on holiday and must be responsible for them. However, if a small business offering accommodation co-operates with another small business that is offering food, it is not taking someone on holiday. It is providing the customer with a value-added product while they are on holiday. With no actual travel involved in the

transaction, under the terms of the amendment, it would not count as a package. This small measure of deregulation could save 47,000 jobs in the sector.

I know that the Government believe that the current regulations should not be prohibitive for small businesses because there is a rule of thumb which says that any tourism service providing accommodation must make up at least 25% of the total for the regulations to apply. This is unsatisfactory for two reasons. First, it is only a rule of thumb, so businesses do not have certainty about their obligations. Secondly, a small B&B could offer weekend accommodation for, say, £70 a night, and the food on offer at a local restaurant or pub might well have a value of £70 or more. So as things stand, co-operating on meals and accommodation for two people can easily trespass into regulated territory.

In considering this amendment, it is also important to note that the benefits it would provide come at no cost to the consumer as there is no erosion of consumer protection by removing value-added products as I have described from the package travel regulations. All that would happen is that two businesses would become separately liable for their component of the product. The principle that I have articulated, and what is intended in the amendment—making packaging hinge on whether an actual travel component is sold—is a better and clearer position which I hope the Government will consider carefully between now and Report.

Amendment 74 has been inspired by and closely follows the Government’s own proposal to expedite planning applications by varying planning conditions on construction hours. The amendment would speed up applications to lift planning conditions where they restrict campsites and caravan sites from being used for holidays in the winter months. After months when so many sites have been unable to operate, this would enable many of them to extend the holiday season, subject to a final but expedited say on the part of the local authority.

The present situation is quite unsatisfactory in that the Government say that local planning authorities can choose not to enforce their local regulations. This puts businesses in a very invidious position. My amendment would clarify the position because it would mean that in straightforward cases, an extension to this year’s season could be agreed quickly without the need to require an applicant to produce numerous documents. Crucially, however, local authorities would retain control over more complex cases. Where a council has concerns about an application to extend, it would have 14 days either to refuse or to agree modifications with the applicant. This seems proportionate and fair, and again it would make the regulations around domestic tourism much more equal to the task of helping businesses out of the Covid crisis.

Amendment 75 would give property owners and local authorities the same flexibility to remove planning conditions that prevent the use of their holiday accommodation for lets over the winter months, but it would give local authorities control. It would allow properties that are presently used for short-term lets over the summer to be let on a longer-term basis in the winter. The most common planning restriction at the moment is the 28-day maximum stay that is applied to

permissions. Many of the properties affected are converted farm buildings where the farmer has sought to diversify his or her business. Industry figures suggest that up to 25,000 properties are limited in this way. Removing the 28-day limit would allow these businesses to operate longer-term winter lets, typically to temporary or seasonal workers, or to students.

For these businesses, gaining valuable winter income would go some way to levelling the playing field with their competitors in the sharing economy, such as Airbnb, while helping to make up for so much lost income this year. But without this support, many holiday cottages will be obliged to close only a few months after their reopening on 4 July. It is surely right to expedite these applications now to extend the season and, in doing so, to help good but struggling businesses to survive.

The tourism industry generates £155 billion per annum for the UK economy, but this contribution is in peril because 92% of these businesses say that their revenue has at least halved during the coronavirus crisis. I hope that the Government will give a helping hand by modernising the regulations on packages and allowing domestic businesses to extend their usual season into the winter months. Without these changes, many businesses simply will not survive and thousands of jobs will be lost. I beg to move Amendment 50.

Lord Redesdale (LD): My Lords, I refer to my interests in the register and will speak to Amendment 74 because I have just been appointed as an officer of the new all-party group on holiday parks and camping sites. My noble friend Lady Doocey has covered many of the points that I was going to raise and at this hour, of course, brevity is much to be commended so I will raise only one point. It is to hope that the Government could agree to write a letter to local authorities, setting out the benefits of relaxing planning laws. This is something that many local authorities have undertaken, including East Lindsey District Council in Lincolnshire. Its local development order for the coastal zones authorises 12 months' operation for the next two years.

To be brief, the problem that many campsites across the country face is that while they are starting to reopen, at the moment there is a degree of caution among those undertaking camping. So, they are running at about 40% of the capacity they were expecting; the season will therefore be quite short for them. Extending the season would make a great deal of difference. It would also show some clarity, because the Scottish Government have already advised their local authorities that a

“temporary relaxation of planning controls will help businesses to re-start.”

They cited enabling

“seasonal businesses such as holiday parks to continue to operate beyond any conditioned limits to their seasons”

on 29 May, under the heading “Changing business practices during physical distancing restrictions”. The Welsh Assembly is also looking to write a letter. I hope that the Minister can give us an assurance that the Government will raise this issue with local authorities as being beneficial to their local economies.

House resumed.

Supply and Appropriation (Main Estimates) Bill

First Reading

The Bill was brought from the Commons, endorsed as a money Bill and read a first time.

Stamp Duty Land Tax (Temporary Relief) Bill

First Reading

The Bill was brought from the Commons, endorsed as a money Bill, read a first time and ordered to be printed.

House adjourned at 10.28 pm.