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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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The abbreviation [V] after a Member's name indicates that they contributed by video call.

The following abbreviations are used to show a Member's party affiliation:

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

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

House of Lords

Tuesday 18 July 2023

2.30 pm

Prayers—read by the Lord Bishop of Bristol.

Introduction: Lord Gascoigne

2.38 pm

Benjamin Alexander Gascoigne, having been created Baron Gascoigne, of Pendle in the County of Lancashire, was introduced and took the oath, supported by Lord Goldsmith of Richmond Park and Lord Udny-Lister, and signed an undertaking to abide by the Code of Conduct.

Introduction: Lord Bailey of Paddington

2.43 pm

Shaun Sharif Bailey, having been created Baron Bailey of Paddington, of Paddington in the City of Westminster, was introduced and took the oath, supported by Lord Polak and Baroness Fox of Buckley, and signed an undertaking to abide by the Code of Conduct.

Prison: Support for Dependent Children

Question

2.48 pm

Asked by ***Baroness Hussein-Ece***

To ask His Majesty's Government what consideration and support they give to dependent children when their mothers are given a custodial prison sentence.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, sentencing is entirely a matter for the courts. However, my noble friend Lord Farmer's review made it clear that pre-sentence reports should identify dependent children. *Working Together to Safeguard Children* sets out local area responsibilities to provide support and services. It highlights dependent children of incarcerated parents as a cohort of which practitioners should be particularly aware and to which they should provide appropriate, needs-based advice and support where needed.

Baroness Hussein-Ece (LD): I thank the Minister for that reply; I am sorry that she has a bit of a sore throat. As we know, maternal imprisonment affects every aspect of a child's life, including their housing, education, health and well-being. An estimated 17,000 children experience their mum being sent to prison; we do not know the exact figures, so perhaps the Minister can fill us in on them. Only one in 20 of the children whose mothers are sent to prison each year can stay in the family home. What are the Government doing to improve criminal justice outcomes for women with dependent children, working with the Minister's department for a reduction in women's imprisonment? What efforts are being made to protect children's rights to family life by ensuring in the sentencing framework that, where the defendant is the primary carer of a child, the best interests of the child must be the primary consideration?

Baroness Barran (Con): The noble Baroness is right, of course, that the welfare of the child should be paramount. There has been a significant reduction in the number of women receiving custodial sentences, but the figures that she cites on the number of children who are then unable to stay in the family home are striking. We are working very hard, with our review of *Working Together to Safeguard Children* and our review of children's social care, building on the important work of my noble friend Lord Farmer and the review of women in prison.

Lord Laming (CB): My Lords, I am sure that the Minister will recognise that innocent dependent children should not also experience something like a prison sentence. That being so, will she use her good offices to ensure a statement of assessment about the arrangements that will be made to ensure that young dependent children are suitably cared for while their mother is in prison?

Baroness Barran (Con): Obviously, part of the pre-sentence report focuses on whether there are dependent children in the family, as the noble Lord knows very well. In all too many cases, when women end up in prison their children are already known to children's services. That also presents an opportunity for earlier intervention and continuity of support and care. This also ties in with our strategy around kinship care and the support that a woman offender's wider family can offer to her children.

Baroness Hodgson of Abinger (Con): My Lords, some women in prison are there on remand, and a high percentage of them do not go on to receive custodial sentences. Can we ensure that, wherever possible, if these women on remand have children they are looked after by other family members and that, if the children are taken into care, they are returned immediately if their mother does not receive a prison sentence?

Baroness Barran (Con): We are working very hard at every stage of the process, at the point of bail decisions versus remand and at every stage beyond, to make sure that the rights and interests of the child are held paramount. Obviously, the ability to reunite a child with her mother will need to be decided on the basis of a number of issues, most importantly her capacity to safeguard her child as well as practical issues such as accommodation.

The Lord Bishop of Bristol: My Lords, following the response given to my right reverend friend the Bishop of Gloucester on 15 December 2021 about pre-sentence reports, can the Minister say what impact the pilot in 15 magistrates' courts has had on the

[The Lord Bishop of Bristol]
take-up, taking into account the devastating impact of parental imprisonment, when sentencing a primary carer?

Baroness Barran (Con): The work with the pre-sentence reports is being rolled out more widely. Your Lordships will agree that the fact that a woman before them is a mother feels like quite a basic thing that the courts should take into consideration, but that is not where we have stopped. We are looking at working more with women's centres that can offer support, including residential women's centres, and at the conditions in which women and babies can benefit from mother and baby units.

Baroness Wilcox of Newport (Lab): My Lords, we already heard that around 17,000 children's mothers are sent to prison every year. How do we know the impact of separating mothers and children when the Government collect no clear data on pregnant women and mothers in the criminal justice system?

Baroness Barran (Con): As the noble Baroness understands very well, on one level we know the impact of separation, which is a very traumatic event, particularly for the child. We also know that separation is likely to be associated with a number of other very serious traumas for a child, including maternal mental health issues and substance misuse. We look at addressing those in the round, which is why we are working on a fundamental reform of children's social care, to make sure that these children get the support they deserve.

Lord Bird (CB): Can we also look at the fact that 68% of children whose parents go to prison end up in prison themselves later on? Where is the prevention? We really need to prevent it happening again in 10 or 20 years.

Baroness Barran (Con): Of course, we need to focus on supporting those children and trying to mitigate some of the terrible scarring effects of the trauma that they will have suffered. That is why there is an increasing focus on early help and making sure that we get consistency in that help. That is what we will be testing in the pathfinder projects, which we will launch shortly, following our review of children's social care.

Lord Farmer (Con): My Lords, support for carers of children whose parents are in prison can make all the difference between stable and unstable home arrangements. Hence, Spurgeons has opened a family hub in Winchester prison visitor centre, linking families to all the support available to them in their local area. How is the Department for Education's terrific family hubs team working with the Prison Service to encourage this innovation in other prisons?

Baroness Barran (Con): I take this opportunity to thank my noble friend for all his extraordinary work in this area, and for his generosity in acknowledging the work of my colleagues in the department. This is a great example of local innovation, and one that we will share with the National Centre for Family Hubs, which seeks to share examples of best practice. I will make sure that it is also taken back to our work with the Prison Service, and more broadly the Ministry of Justice.

Lord Winston (Lab): My Lords, I am sure we all wish to congratulate the Minister on her sympathy for such children in this situation and the long-term effects that can occur. Does she not feel that what we voted for last night somehow has a kind of parallel in this House, when we see that children who have been affected terribly by various tragedies in their families may be separated from their parents? Do the Government not need to consider every care for those children, particularly when they may be effectively incarcerated in a kind of prison on a boat?

Baroness Barran (Con): The Government have sought to explain just how seriously they take the safety and well-being of those children. Being complicit in some way with people traffickers is not the way we plan to do it.

Lord Selkirk of Douglas (Con): Will the Minister accept that in some places in the United Kingdom where there have been a lot of problems, drugs are an element that needs to be dealt with thoroughly?

Baroness Barran (Con): A lot of women in prison have substance use issues. That is why we are doing work in those settings to make sure that they get the therapeutic and, if necessary, addiction services they need.

Baroness Deech (CB): My Lords—

The Lord Speaker (Lord McFall of Alcluith): My Lords, there was a one-minute delay to the clocks starting, and the 10 minutes have elapsed.

Ultra-processed Food

Question

2.59 pm

Asked by ***Baroness Boycott***

To ask His Majesty's Government what assessment they have made of the latest research into the effects of ultra-processed food on the mental and physical health of children and adults; and whether they plan to introduce any further restrictions on these foodstuffs.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): The Scientific Advisory Committee on Nutrition did not find evidence for a causal link between ultra-processed food and mental and physical health. It is unclear whether ultra-processed foods are inherently unhealthy, or whether it is more that those foods are typically high in calories, saturated fat, salt, and sugar. Therefore, the

Government's priority is continued action to reduce the consumption of foods high in calories, salt, sugar and saturated fat.

Baroness Boycott (CB): I thank the noble Lord for his Answer, but I beg to disagree. The latest scientific evidence indeed shows that ultra-processed food, which is, in essence, not really food given that ordinary foodstuffs have been put through industrial processes that render them chemically different from what they were when they began, has had a massive impact on the nation's health, especially in the past 30 years. Some 66% of our diet is ultra-processed food, and 16% of everything we eat every day goes to our brain. It seems to be no coincidence that instances of heart disease, cancer, obesity and many other illnesses, as well as mental illnesses, might have something to do with the food that we are eating, the fuel that we are putting in our cars. No noble Lord in this House would put Coca-Cola in his Rolls-Royce and expect it to do its best. I beg the Government to come back and have another look. I would be very happy to set up a meeting for the Minister with the newest experts in neuroscientific research to see whether we can take this forward.

Lord Markham (Con): First, I thank the noble Baroness for the work she does and has done in this space for a number of years. The problem is the definition of "ultra-processed food". It includes things such as wholemeal bread, baked beans and cereal. It is not a helpful definition. There are certain ultra-processed foods which are high in fat, salt and sugar. We completely agree that those things are bad for us and that we should do everything we can to discourage people from eating them. The label "ultra-processed food" is not helpful.

Baroness Manzoor (Con): My noble friend will know that one-third of baby and infant foods contain ultra-processed food which, in effect, is leading to obesity, and he will know that obesity can lead to cardiac problems and hypertension in later life, which costs the NHS significant sums of money. There is evidence in recent research that firms' marketing is providing misleading information. What are the Government doing to ensure that this aspect, particularly with baby and infant food, is better regulated?

Lord Markham (Con): I thank my noble friend. We are focused on the sugar, salt and saturated fat content. It is not the fact that food is called ultra-processed, per se. We would not discourage people from eating wholemeal bread, but wholemeal bread is considered to be a processed food. The action we are taking is for a reduction in sugar, salt and saturated fat.

Lord Brooke of Alverthorpe (Lab): The Minister is focusing on reducing fats, salt and sugar in meals. When are the Government going to reduce those elements in school meals for children?

Lord Markham (Con): Absolutely. That is why we are at the highest level of free school meals for children ever. More than a third of children are now receiving free school meals, including all infant schoolchildren. The noble Lord is correct that a healthy start to life is vital, and if we can make sure that children are getting a good, nutritionally balanced school meal, that is a good start to life.

Lord Allan of Hallam (LD): My Lords, as the Online Safety Bill works its way through this House, we see how interventionist the Government can be in the interests of public health and well-being when they put their mind to it. Learning from that effort, does the Minister agree that the phrase "legal but harmful" is quite an accurate description of some of the kinds of ultra-processed food that are sold and marketed in the UK?

Lord Markham (Con): Absolutely. Some of the foods are not healthy at all, and we totally want to discourage them. We have taken a lot of steps in that space. The whole product positioning strategy, whereby you cannot now put such foods in places where there will be so called pester-power influences, is beginning to have an effect. We are already seeing healthier foods outgrowing non-healthy foods from that. Those sorts of actions were modelled to show that they were effective for 96% of the things that we are trying to target to reduce in terms of calories.

Lord Krebs (CB): My Lords, I declare my interests as listed in the register and I hate to disagree with my noble friend Lady Boycott but, on this occasion, I do. Does the Minister agree with the conclusions of the nutritional advisory committee of the five Nordic countries, published on 20 June 2023? It says:

"The … committee's view is that the current categorization of foods as ultra-processed foods does not add to the already existing food classifications and recommendations".

Does he also agree with the Brazilian scientists who coined the notion of ultra-processed food when they say that their classification is a good way to understand the food system, but not individual foods?

Lord Markham (Con): Yes, the noble Lord is absolutely correct and makes the point that I have been trying to make but far more eloquently; I thank him. That is precisely the point. Some ultra-processed foods are very unhealthy and we should be doing everything we can to discourage them. Others, such as wholemeal bread or baked beans, are totally fine.

Lord Hannan of Kingsclere (Con): My Lords, I am very grateful for my noble friend's reply to the noble Lord, Lord Krebs. The definition of ultra-processed foods to which I think noble Lords on all sides are referring comes from the recent book, *Ultra-Processed People*. It is food that is

"wrapped in plastic and has …one ingredient that you wouldn't find in your kitchen".

I suspect that is true of the contents of almost all of our cupboards, including, as my noble friend the Ministers says, sliced wholemeal bread. Is it not time that we stood up against moral panic, focused on the actual empirical data and followed the science?

Lord Markham (Con): I thank my noble friend; that was excellently put. Again, it is the content of the food that matters and not what it is called.

Baroness Merron (Lab): My Lords, to follow on from the Minister's comments about the definition of ultra-processed foods, can he confirm what work is taking place to nail down a definition and, upon this definition, will the Government carry out the research that scientists believe to be necessary?

Lord Markham (Con): As I have said, the fact that something is processed is not a helpful definition. I would recommend that we focus all our activity on the contents of the foods—whether they are high in saturated fat, sugar or salt—and not on whether they are processed.

Baroness Jenkin of Kennington (Con): My Lords, will my noble friend the Minister let us know what assessment the Government have made of food industry links with the Scientific Advisory Committee on Nutrition and whether this might have influenced the evidence and recommendations of the review?

Lord Markham (Con): On any advisory body you clearly want to get experts in the field. Necessarily, they will often be experts from companies as well. It is vital that they abide by the principles of conduct in public life and make sure they declare any conflicts. As such, we are content that we have a proper expert panel.

Baroness McIntosh of Hudnall (Lab): My Lords, may I take the Minister back to the question from my noble friend Lord Brooke, who asked about the content of school meals? The Minister replied that school meals are a good thing and more people should have them, with which I do not suppose anybody would want to disagree. However, I did not hear him say in what way the Government are ensuring that the content of those school meals is appropriate and free from salt, sugar and fat in the way that my noble friend Lord Brooke was asking for.

Lord Markham (Con): My understanding is that those guidelines are there; it is absolutely the right question. The Department for Education, working with the Department of Health, makes sure that a nutritionally balanced diet is there. There is also a joint DfE/DHSE programme in respect of nursery milk and fresh fruit and vegetables for young children, to give them a good start in life.

Lord Forsyth of Drumlean (Con): My Lords, is it not the solution to this problem not to ban things but to improve education so that people understand what they are eating and make rational and clear choices? Is it not the case that many of these processed foods are bought by people because they are cheaper? If we could encourage people in schools to learn what used to be called domestic science—cooking skills and so on—so they can use fresh ingredients, then we would advance this case far more effectively than by banning things.

Lord Markham (Con): I absolutely agree with my noble friend about education and teaching people how to cook a decent meal. The other crucial thing is the industry reformulating foods to take out sugar and fat content. That is where some of the restrictions are working. Advertising and product placement really do work, so if you make it harder, the industry is incentivised to take sugar and fat out of those meals to make them healthier so that they can still be marketed.

Counter Disinformation Unit

Question

3.10 pm

Asked by ***Lord Strasburger***

To ask His Majesty's Government what assessment they have made of the work of the Counter Disinformation Unit and its impact on freedom of speech.

Lord Strasburger (LD): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In so doing, I draw the House's attention to the fact that I chair Big Brother Watch, which recently reported on the Counter Disinformation Unit.

The Parliamentary Under-Secretary of State, Department for Science, Innovation and Technology (Viscount Camrose) (Con): The role of the Counter Disinformation Unit—CDU—is to understand disinformation narratives and attempts to manipulate the information environment. This has included disinformation threats relating to the Covid pandemic and the Russian invasion of Ukraine. Freedom of speech and expression are important principles that underpin the work of the CDU, including the fact that it does not monitor individuals or political debate, or refer content from politicians, political parties or journalists to social media companies.

Lord Strasburger (LD): My Lords, I thank the Minister for that reply. Research by Big Brother Watch has revealed that Members of both Houses of Parliament, including prominent Conservatives, have been included in the dossiers of the Counter Disinformation Unit and the rapid response unit for doing nothing more than criticising the Government and their policies. Does the Minister agree that the CDU's monitoring of political dissent, under the cover of countering disinformation, has serious ramifications for freedom of expression and our democracy more broadly?

Viscount Camrose (Con): I thank the noble Lord for that question but do not accept the characterisation that he gives. I am indeed familiar with the Big Brother Watch report that he refers to. The CDU does not monitor individuals or politicians. It does not refer politicians, journalists or elected officials to social media companies. It looks instead for overall narratives that attempt to interfere with or pollute our information environment.

Lord Singh of Wimbledon (CB): My Lords, as I understand it, the Orwellian-sounding Counter Disinformation Unit was set up to counter disinformation

threats to our democratic way of life. Can this unlikely-sounding unit—if it really exists—be used to counter the Government's appeal to latent racism, with their suggestion that hordes of refugees are coming to our shores in small boats, threatening our way of life, when in reality they constitute less than 5% of annual immigration?

Viscount Camrose (Con): The CDU has not been deployed on any side of the small boats debate.

Lord Stevenson of Balmacara (Lab): I accept the point made that the Counter Disinformation Unit sounds rather suspicious. The unit tracks narratives and trends using publicly available information. We all like a good story, so where can we find these narratives and trends. Are they published? Where is the unit established, and what is its budget and its staffing level?

Viscount Camrose (Con): The unit is established within the Department for Science, Innovation and Technology. Its existence and mission, and indeed the legal basis for its activities, are posted on GOV.UK. Because the great majority of its activities are now directed at overseas state actors hostile to our interests, we do not share in a public forum any operational details pertaining to its activity, simply for fear of giving an advantage to our overseas adversaries. However, I recognise the importance and seriousness of the question. To that end, while I cannot in a public forum provide operational details, if the noble Lord or any other noble Lords would like an operational briefing, I would be happy to arrange that.

Lord Clement-Jones (LD): My Lords, the CDU outsources its surveillance activities to opaque companies such as Logically and Faculty. It does not respond to Freedom of Information Act requests. Its budget is not public. Is it not quite unacceptable that there is no parliamentary oversight by any Select Committee, and is the place for that not the Intelligence and Security Committee?

Viscount Camrose (Con): I am delighted to reassure the noble Lord that it is subject to parliamentary oversight. The DSIT Secretary of State is accountable to Parliament, and indeed to the relevant parliamentary Select Committee.

Baroness Chakrabarti (Lab): My Lords, I declare an interest as someone who featured in that Big Brother Watch report as a result of Freedom of Information requests. I seem to have been—goodness knows why—a subject of investigation by this unit, despite having played no role in pro-Russian or anti-vaccine activity. I am a little nervous about this. Perhaps I could take up the noble Viscount on his offer, with a group of any others who feel a little uncomfortable about what we are hearing.

Viscount Camrose (Con): As I say, the work of the CDU does not target any individual, and specifically it does not refer to any social media company the publications and writings of any Member of Parliament or any journalist. It does not go after political debate in any way. Inevitably, we are blessed in this House to have a number of prominent thinkers and writers, and their thinking and writing would end up in all kinds of departmental media summaries, as you would expect. Any subject access request would necessarily pick those up. That is not to suggest that the noble Baroness or any other Member of this House have been targeted individually by the CDU.

Baroness Fox of Buckley (Non-Afl): My Lords, is the Minister able to assure us that the Counter Disinformation Unit never pressurised anyone in big tech to censor by proxy? The public are owed that explanation, not just parliamentarians. Can the Minister comment on the danger of weaponising phrases such as misinformation and disinformation to discredit inconvenient truths and to silence dissent? These are serious concerns that members of the public have, and the Minister should answer the Freedom of Information requests when they are given to him, as requested.

Viscount Camrose (Con): I recognise the concern—I really do. I suggest that the greatest threat to our freedom of speech and freedom of expression is in fact disinformation itself, because however good or true a post might be, if nobody believes it, it is absolutely useless. To answer the first part of the noble Baroness's question, the CDU does not place pressure on social media organisations and cannot oblige social media organisations of any kind to remove posts. What it can do is advise them that certain bits of content might or might not adhere to their terms of service.

Lord Lilley (Con): My Lords, surely it is the job of politicians to put forward the truth and dispute what they consider to be unreasonable or disinformation with facts, reason, logic and ridicule, not to have a secret institution—which should be closed down.

Viscount Camrose (Con): I do not accept the characterisation of the institution as secret.

Noble Lords: Oh!

Viscount Camrose (Con): Well, its existence is being debated here. I have lost the thread of my answer but I will provide a more satisfactory answer to my noble friend.

Lord Newby (LD): My Lords, a moment ago the Minister talked about the relevant Select Committee. Could he tell us what the relevant Select Committee is for this unit and when it last conducted an investigation into its work?

Viscount Camrose (Con): The DSIT Select Committee—or, formerly, before the machinery of government changed, the DCMS Select Committee—keeps the unit's performance under constant review, as with any group or team in government.

Lord Clark of Windermere (Lab): My Lords, the Minister forgot—I think inadvertently—to answer the request from my noble friend. Would he be prepared to meet a delegation, as she would like him to?

Viscount Camrose (Con): I apologise to the noble Baroness. Yes, of course I would.

Lord Purvis of Tweed (LD): My Lords, we went through considerable consideration of foreign state threats during the passage of the National Security Act, during which the Government did not present any information about this unit. We now have an independent reviewer of national security legislation for foreign state threats. Why is this unity not within the remit of the independent reviewer?

Viscount Camrose (Con): The purpose of this unit is to monitor information threats, whether state-backed or otherwise. While it would certainly engage with all the necessary other parts of government, its work is not necessarily seen as a part of that body.

Nuclear Test Veterans

Question

3.20 pm

Asked by ***Lord Watson of Wyre Forest***

To ask His Majesty's Government what steps they are taking to support nuclear test veterans.

The Minister of State, Cabinet Office (Baroness Neville-Rolfe) (Con): The Government are dedicated to acknowledging and honouring the contribution of nuclear test veterans. The Government hosted an event at the National Memorial Arboretum in November 2022, at which a new commemorative medal to mark the contribution of nuclear test veterans was announced by the Prime Minister. We also introduced the £250,000 oral history project to help tell their life stories and a £200,000 community fund, enabling organisations to deliver bespoke programmes that build further understanding and support veterans and their families.

Lord Watson of Wyre Forest (Lab): I thank the Minister for the great progress being made, but I raise the issue of veterans who have been given conflicting statements on the availability of blood and urine sample records. In 2018 the MoD acknowledged its inability to locate that information, yet in 2022 the Atomic Weapons Establishment confirmed possession of a limited number of test results. However, in March a Minister contradicted that, saying that the AWE no longer has those records. Veterans' families have lodged appeals with the Information Commissioner's Office for more answers. What test data exists for the veterans and in what format and how many does it cover? Will the Government promptly resolve this issue and ensure that affected veterans have access to their rightful medical information, without the need for legal intervention?

Baroness Neville-Rolfe (Con): The noble Lord was kind enough to mention to me that he had written to the Government on this matter. His letter has been passed to the Ministry of Defence, which will reply to the detailed points that he has raised. However, there is one certainty: the nuclear test veterans can apply to the Ministry of Defence for access to any personal information. That request can be for any relevant health records or blood data within their service record.

Lord Robathan (Con): My Lords, a dozen years ago, when I was working in the Ministry of Defence, the nuclear test veterans' organisation brought a case against the Ministry of Defence for compensation. It went to the Supreme Court, which included, at the time, our late and much-respected colleague Lord Brown of Eaton-under-Heywood. After some deliberation, it found that there was no case to answer. Indeed, our investigations at the time found that, if one had watched a nuclear test in the South Pacific in the early 1950s, against a cohort of one's peers, one was more likely to be alive than they were, for whatever reason. That was quite extraordinary. I say to my noble friend the Minister: let us respect those who did their work and duty in the South Pacific but please let us not be led down a blind alley by people who, for some reason, believe that they were harmed. Actually, they were doing their duty, but they were not harmed.

Baroness Neville-Rolfe (Con): I thank my noble friend for that history, of which I was not aware. I point out that any veteran, including those of the nuclear tests, who believes that they have suffered ill health due to service has a right to apply for no-fault compensation under the War Pensions Scheme. War pensions are payable in respect of illness or injury as result of service in the Armed Forces and with the benefit of reasonable doubt always being given to the claimant, which I regard as very important.

Baroness Stuart of Edgbaston (CB): My Lords, I declare an interest as the chair of the Royal Mint's advisory committee on coins and medals. I am grateful to the Minister for mentioning that the medal was announced for the veterans, but can she assure the House that the medal will be available for Armistice Day this year?

Baroness Neville-Rolfe (Con): The noble Baroness is right that the rollout of the medals has been a little slower than we had expected. We were keen to make progress on this, and we announced last November that the medal would be given to these brave veterans. Others will know that it takes time to design, improve and manufacture a new medal. However, I am absolutely determined—and Johnny Mercer, the Veterans Minister, who everybody will no doubt know, is determined—that we will do everything we can to make those medals available on the chests of veterans on Remembrance Sunday.

Lord Allan of Hallam (LD): My Lords, further to the Minister's exchanges with the noble Lord, Lord Watson, will she clarify that the Government believe that nuclear test veterans have an absolute right to access any records of tests from samples they have given over the years? Will the Government assist those individuals who are having to follow up the claims themselves, when they believe that medical records are being withheld?

Baroness Neville-Rolfe (Con): I can certainly confirm that no information is withheld—transparency is very important in this area. Any medical records taken before, during or after participation in the nuclear weapons tests would be held in individual military records in the government archives. Where a veteran is still alive, they can request personal data relating to them as a subject access request. In relation to the Atomic Weapons Establishment, veterans may need to make a freedom of information request, which has been the subject of questions—but nearly all or most of the information is readily available, and it is key to make a subject access request to the MoD.

Lord Tunnicliffe (Lab): The way in which the Minister is answering these questions leaves me very uncomfortable. Is there a member of the Government to whom a veteran can turn and be guaranteed that they will be helped through the process of gaining this information? They were exposed to dangerous radiation, not of their own choice but because they were soldiers at the time—quite properly, but they must now be aided. Many of them are quite old and really need forceful help to solve these problems.

Baroness Neville-Rolfe (Con): I very much agree that the veterans, because they played such a valuable role in developing our nuclear deterrent, which has kept Britain safe for decades, need to be helped. That is why I have given the assurances that I have in relation to my colleagues at the Ministry of Defence—and, of course, work in the veterans area is co-ordinated by Johnny Mercer, the Veterans Minister. It depends a little on what colleagues require, but of course the Government are here to help on these important issues.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, I can never resist a Question with "nuclear" in its title. Perhaps my noble friend the Minister will join me in congratulating the Government on the successful launch of the properly funded Great British Nuclear body this morning, led by a Welsh chairman and chief executive, and in welcoming a renaissance of Great Britain's nuclear industry, which led the world only 40 years ago.

Baroness Neville-Rolfe (Con): In the circumstances, I forgive my noble friend for the breadth of her question, and certainly join her in welcoming this event today. It is very important for the future of this country. Nuclear energy and nuclear weapons are very important to our stability, resilience and safety.

Baroness Bennett of Manor Castle (GP): My Lords, to return to the issue of nuclear tests, I am sure that the Minister is aware of the Montebello Islands off the coast of Western Australia, which are at the centre of a 60,000-hectare marine park. Three tests were conducted there, and there is increasing research and concern about residual radioactivity. There are areas where tourists are told not to stay for more than one hour. While the Government rightly focus on the circumstances of British nuclear veterans, are they also keeping a close watching brief on those sites and on the fallout—literally—that continues from those tests and will they make sure that they take any remedial action or provide any remedial support or information that they can to help other countries deal with the leftover situation?

Baroness Neville-Rolfe (Con): I look forward to discussing the point that the noble Baroness raised in more detail. That is another question of breadth. Clearly, the nuclear test medal was designed specifically to recognise the unique contribution of the personnel who served in the locations, such as Australia, which she mentioned, and who served with UK forces as part of the testing of the vital deterrent.

Darfur: Risk of Genocide

Private Notice Question

3.30 pm

Asked by ***Lord Alton of Liverpool***

To ask His Majesty's Government, following the discovery of mass graves and an increase in crimes targeting non-Arab ethnic groups in Darfur, what assessment they have made of the risk of genocide in that region.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, the UK strongly condemns the abhorrent attacks on civilians across Sudan. Reports of atrocities, including the UN report of a mass grave in Darfur, are, of course, deeply disturbing. These atrocities need full and thorough investigation. Those responsible must be held accountable. The evidence suggests another crime against the people of Sudan. Our immediate priority is to stop the violence in Sudan, to ensure that civilians are protected, and to secure immediate safe and unfettered humanitarian access. We remain seized of the importance of investigating these attacks.

Lord Alton of Liverpool (CB): My Lords, I am grateful to the Minister for that reply. Reports of mass graves come from Geneina, a place I visited during the genocide in Darfur, when hundreds of thousands died and 2 million people were displaced, many of them fleeing to Chad. The Minister will recall the recommendations in the All-Party Group on Sudan and South Sudan's report, which was published in April following the inquiry that I chaired, warning of the risk of a new genocide in Darfur.

How are we fulfilling our duties, in this 75th anniversary year, under the convention on the crime of genocide, which places on us and on the international community the duty to predict, prevent and punish those responsible for atrocities, targeted in this case at non-Arab ethnic groups in Darfur? How are we assisting the prosecutor of the International Criminal Court, Karim Khan KC, who told the United Nations Security Council last week that we are

"in peril of allowing history to repeat itself"?

He said that Darfur is

[Lord Alton of Liverpool]
"not on the precipice of a human catastrophe but in the very midst of one. It is occurring".
Are we collecting the evidence? Are we protecting those at risk? Are we stopping that catastrophe unfolding?

Lord Ahmad of Wimbledon (Con): My Lords, I agree with Karim Khan, the ICC prosecutor. That is why we are working very closely with him. He gave that evidence last Thursday, during the UK presidency. It is also important that he recognised that the ICC has a continuing mandate during this conflict and in Darfur. As the noble Lord will know, it is directly investigating whether genocide, crimes against humanity and war crimes generally have occurred. We are very much focused on that.

On evidence collection, we have a central unit within the FCDO that allows us to collect some of the evidence remotely. There are issues of access in Darfur. I remember visiting Darfur myself, and the challenges were still immense when there was access. However, as I said, the first step must be a resolution on a cease-fire between the two warring sides to allow for a full assessment to be made.

Lord Collins of Highbury (Lab): My Lords, what Karim Khan said at the Security Council was about impunity. He gave the historical cases; court cases are still continuing. One plea he made to members of the Security Council was: what pressure would be put on the Government of Sudan to co-operate fully with the ICC? Can the Minister tell us what we are doing to put pressure on Sudan so that people cannot act with impunity in the future?

Lord Ahmad of Wimbledon (Con): My Lords, as I have already said, we are working very closely with the prosecutor. As the noble Lord will be aware, various avenues are being pursued in Sudan to resolve this conflict. The first thing is having a ceasefire. We are working with regional counterparts in IGAD and the African Union. We are also working as part of the quad, including with the Kingdom of Saudi Arabia, the UAE and the US, and of course we have troika responsibilities historically to Sudan. All of these avenues are focused first and foremost on stopping this conflict and, secondly, as the noble Lord articulated, ensuring that these crimes are fully investigated and that there shall be no impunity for those who have committed them.

Lord Cormack (Con): My Lords, we are all in the debt of the noble Lord, Lord Alton, for raising this matter. Is it not deeply disturbing that the Security Council, mentioned by the noble Lords, Lord Alton and Lord Collins, has two permanent members which are themselves implicated in crimes against humanity, and that it is very possible that those could be defined as genocide as well.

Lord Ahmad of Wimbledon (Con): My Lords, importantly, since the establishment of the United Nations the UN Security Council has sought to provide a forum. It continues, notwithstanding the challenges we face from certain members, to play an important role and to provide a way to address the issues of conflicts present and to avert future conflicts. I hear what noble Lords say, and of course we pursue all issues and concerns raised by any member of the international community and any member state in a forceful manner through bilateral representations, and we address them through multilateral fora.

Lord Purvis of Tweed (LD): My Lords, I declare an interest; I am actively involved in supporting dialogue with Sudanese civilians, including last week in Addis Ababa. Will the Minister agree that there is now a very real risk of ethnic and tribal conflict across the whole of Darfur? But there is a chink of light, as the civilians resisted calls by Minni Minnawi and other leaders to arm themselves. All efforts should be focused on supporting the current talks in Chad, which are multi-ethnic and could offer an opportunity for wider talks in Sudan. Some 200,000 Sudanese have fled into Chad. This is a crisis that, as the noble Lord, Lord Alton, said, we can see ahead of us, but it is one that can be prevented.

Lord Ahmad of Wimbledon (Con): My Lords, I recognise the important work that the noble Lord is doing and I very much appreciate the strong engagement we continue to have outside the Chamber. I also recognise the importance of civilian engagement at this crucial time. The noble Lord and I have discussed this matter, and we will be pursuing it to see what role the UK can play in strengthening that voice. As I said, we are engaged at all levels with all key negotiations. Ultimately, what is required is that both sides cease their current crimes. Both generals believe that their reason for being is to beat the other into non-existence, which, ultimately, means that civilians suffer. On the humanitarian crisis, it was eye-watering to see the displacement both internally and externally prior to the conflict. Tragically, this continues, running not into the hundreds or thousands but into the millions.

Lord Curry of Kirkharle (CB): My Lords, as the Minister is aware, the impact Darfur has on neighbouring countries is very serious. Many people are fleeing to neighbouring countries, particularly South Sudan, where the humanitarian crisis is already a major concern. Given that many are already in famine circumstances and the UN aid programme is stretched to the limit, can the Minister explain what we are doing to assist those who fled Darfur?

Lord Ahmad of Wimbledon (Con): First, as the noble Lords, Lord Alton and Lord Purvis, said, those who are fleeing are often targeted, including many minorities. Early evidence from the mass grave shows that it contains 87 ethnic Masalit people. On the noble Lord's specific question, we recognise the importance of South Sudan but the supply chain to it is through Sudan, and there have been reports of supplies being held up or seized by the warring factions. That is why we need to ensure that all the different diplomatic channels are fully explored. A key message needs to be given to both sides that they need to cease warfare now, so that humanitarian aid can reach the people of Sudan and, as the noble Lord said, the people of South Sudan as well.

Lord Howell of Guildford (Con): My Lords, my noble friend mentioned the African Union and of course we are going to need the support of the African Union consistently in addressing this horror and, indeed, similar horrors that are likely to occur in future. Is he aware that the African Union as a whole has recently applied to join the G20, arguing that Africa has no adequate voice in geopolitical affairs or in gaining the support of the wider world with the problems we are discussing now? Is that something that he and the Government would look on favourably? Is there a way forward in which we can work more closely with the African Union anyway, 21 members of which happen to be members of the Commonwealth?

Lord Ahmad of Wimbledon (Con): My Lords, I have noted this very carefully. During the Indian G20 presidency, this was pursued by India in both the invitations extended and the role of the African Union. I think there is a case to be made, as we see the different movements of power and power centres, that it is not just the European Union or western blocs: the African Union is equally important in what it presents, in terms of both conflict resolution and the empowerment of communities across the continent.

Baroness Uddin (Non-Afl): My Lords, what is happening in Sudan saddens me greatly, like other noble Lords in the House. I have had the privilege of working with women parliamentarians and civil society in Sudan: it is a country of great potential. Can the Minister assure us that he is also taking on board what is happening to the women of Sudan? In particular, how are we making sure that in this conflict, the rape and pillage of women and families is not being used as a weapon of war, given the worsening situation?

Lord Ahmad of Wimbledon (Con): My Lords, I assure the noble Baroness that we continue to focus on the terrible tragedy that is unfolding in Sudan, with a particular focus on the plight of women and girls, as she points out. It is not just in Sudan; it is a tragic fact that wherever conflicts occur, the most vulnerable are attacked, and that includes women and girls. That is why only on Friday I chaired a session of the UN Security Council focused on preventing sexual violence in conflict, where we introduced a new guidebook, working with the Dr Denis Mukwege Foundation, on what action states can take in terms of prevention, not just in addressing live conflict. I agree with the noble Baroness and I assure her that my right honourable friend the Foreign Secretary, the Development Minister and I, as the multilateral Minister, are focused on delivering those exact messages.

This is a simple case of human values. The kinds of abhorrent crimes we see against women and young girls are shocking, to say the least. When we see victims as young as four, five or six, if not younger, being attacked, raped and pillaged in conflict, including in the conflict in Sudan and elsewhere in Africa—for example, in the DRC—we must act. We will continue to work collectively to ensure that we can put these abhorrent practices into the history books.

The Lord Bishop of Bristol: My Lords, as we have already heard from the noble Lord, Lord Alton, the situation in Darfur is dire, and I am grateful for this opportunity to be reminded of that. At least six towns and villages have been burned to the ground, alongside numerous cultural sites. We have heard a little about the effect on girls and women, and boys over fighting age are being shot. Understandably, many of the targeted Masalit ethnic group are fleeing to surrounding countries. We have heard about those going to South Sudan, but the vast majority are going to Chad. What steps will the Government take to provide Chad with support for the refugee crisis as a result?

Lord Ahmad of Wimbledon (Con): My Lords, the right reverend Prelate raises the important issue of the displacement of refugees. We have already made a series of announcements of support for the stability of Sudan and its near neighbours. At the moment, alongside our £5 million commitment to help the urgent needs of refugees and returnees in South Sudan and Chad, we have, through the Development Minister, made a further commitment of £21.7 million, which we announced specifically for humanitarian aid for Sudan as part of our contribution at the UN Horn of Africa conference. We will continue to assess the key issue but, going back to other questions, the challenge is not just about providing money and support, it is about ensuring that humanitarian aid reaches those most in need.

Baroness Helic (Con): My Lords, two decades ago in Darfur, systematic rape was used as a weapon of war as part of ethnic cleansing and genocide. No one has been held accountable and those same crimes are being repeated today. Can my noble friend tell the House what concrete steps we are taking so that this time around documentation is sufficient so that we reach accountability, not as an aspiration but as a reality?

Lord Ahmad of Wimbledon (Con): My Lords, I agree with my noble friend. I am sure she will acknowledge the steps that we have taken to ensure that the testimonies of those who have survived sexual violence in particular, but other crimes too, are fully documented. Often there are representatives of well-intentioned INGOs in the field, but their collection of evidence can sometimes negate the impact of allowing a successful prosecution.

The concrete steps that we have taken include, as my noble friend knows, the Murad code, which allows not for a time-limited period but ensures that evidence can be collected and sustained, to allow for successful prosecutions. Indeed, that is why we are working closely with international courts such as the ICC, and the prosecutors specifically, to ensure that the connection between testimony collection and prosecution is very live.

Lord Stirrup (CB): My Lords, we are aware of the extensive involvement of the Wagner Group in this conflict and its associated criminal activities but, if one is to believe the messages coming from Moscow—I admit that is a bit of a stretch—the Russian Government are taking direct control of the Wagner Group and its activities. What assessment have His Majesty's Government made of the direct involvement of the Russian Government in the conflict in Sudan, which of course is hardly likely to simplify the challenge of achieving a lasting peace?

Lord Ahmad of Wimbledon (Con): The noble and gallant Lord raises a key point. Of course, we are fully aware of the growing influence of the Wagner Group in many conflicts across Africa. On the question of Russian state and non-state activities in Sudan, we are making repeated representations to and raising our concerns with others, both near neighbours and other countries that have influence. We are particularly focused on Russian activities in Africa, which include reports of Wagner Group involvement in gold mining specifically and in disinformation campaigns in Sudan. The noble and gallant Lord is right: it is a key concern at the moment, with the growing influence of, and instability caused by, the Wagner Group. As we have seen, it is not a reliable partner, and even the Russians are learning that lesson.

Levelling-up and Regeneration Bill

Report (3rd Day)

Relevant documents: 24th and 39th Reports from the Delegated Powers Committee. Scottish, Welsh and Northern Ireland Legislative Consent sought.

3.48 pm

Amendment 67

Moved by ***Baroness Taylor of Stevenage***

67: After Clause 78, insert the following new Clause—

"Bus companies: powers of authorities in England

In the Bus Services Act 2017 omit Section 22 (Bus companies: limitation of powers of authorities in England) and insert—

"22 Bus companies: empowerment of authorities in England

(1) A relevant authority may form a company for the purpose of providing a local service.

(2) Subsection (1) applies whether the relevant authority is acting alone or with any other person.

(3) A relevant authority may request further powers in relation to local bus services, including but not limited to the franchising of local bus services and the power to consult local residents over fares, routes and funding.

(4) If the Secretary of State receives a request under subsection (3), they must introduce regulations subject to affirmative procedure to transfer the powers requested.

(5) The Bus Directorate in the Department for Transport has a duty to provide advice to authorities in relation to this section.

(6) In this section—

"company" has the same meaning as in the Companies Acts (see sections 1(1) and 2(1) of the Companies Act 2006);

"form a company" is to be construed in accordance with section 7 of the Companies Act 2006;

"local service" has the same meaning as in the Transport Act 1985 (see section 2 of that Act);

"Passenger Transport Executive" , in relation to an integrated transport area in England or a combined authority area, means the body which is the Executive in relation to that area for the purposes of Part 2 of the Transport Act 1968;

"relevant authority" means—

(a) a county council in England;

(b) a district council in England;

(c) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;

(d) an Integrated Transport Authority for an integrated transport area in England;

(e) a Passenger Transport Executive for—

(i) an integrated transport area in England, or

(ii) a combined authority area.""

Member's explanatory statement

This amendment would remove the current ban on establishing new municipal bus companies and would expand the powers required to franchise bus services, which are currently only available to Combined Authorities, to all local transport authorities.

Baroness Taylor of Stevenage (Lab): My Lords, I remind the House of my interests as declared in the register, which are that I am a serving councillor at both district and county level and a vice-president of the District Councils' Network.

My Amendment 67 would permit local authorities which wished to do so to establish bus companies and would expand the powers that local authorities currently have to franchise bus services, which are currently available only to combined authorities. We have tabled this amendment to highlight the recommendations drawn out of the Select Committee report *Public Transport in Towns and Cities* and subsequent discussions of that report in your Lordships' House in April. Fundamental to the recommendations of the report was that a firm link be established between local plans and transport plans. Our amendment would give local authorities the powers that they need to enable that link.

Last week I attended a select committee meeting in my local authority on bus provision. It was a long session in which members were keen to point out the considerable difficulties caused to our constituents by the combination of unreliable, infrequent or non-existent bus services. The Conservative county councillor who holds the cabinet responsibility for transport was open in saying that the privatisation of bus services that happened in the 1980s had not helped local authorities to ensure that there were efficient and effective bus services provided for their areas. I have no doubt that such scrutiny of bus services happens across the UK, because bus users are utterly fed up with the level of service they receive.

Your Lordships' House recently published a very detailed report on *Public Transport in Towns and Cities*. During the debate on that report, the noble Lord, Lord Moylan, described the Government's performance, measured against their pledge to bring public transport up to standards in London. The Government had done:

"The brief answer is, not terribly well".—[*Official Report*, 17/4/23; col. GC 147.]

He set out some mitigating factors as to why that would be the case, but surely we must all ask ourselves whether in the current circumstances, and with bus services failing passengers in so many places across the country, we can carry on with the vague expectation that eventually—they have already had four decades to do it—the private sector will start to deliver the level of service we know is needed to persuade far more people to leave their cars at home.

As Manchester has been able to go further with this than other local authorities, it was interesting to read Andy Burnham's evidence to the Select Committee. In advocating franchising, he pointed out that his case was strengthened

"because large subsidies are being paid at the moment to various operators in the deregulated model, which in my view delivers very limited returns for the public".

He also asked whether public operators would be allowed to take part in the franchising schemes as well. We agree that they should be able to do so.

During the debate on the report, it was pointed out, as it has been many times in this Chamber, that buses provide two-thirds of public transport trips in this country. The evidence shows that passenger numbers grow where services are of sufficient frequency and reliability to mean that passengers can just "turn up and go" without consulting a timetable. This is common practice in London but very unusual outside the capital, where sometimes the very fact a half-hourly bus has turned up at all can be subject to comments on social media. Councillors often take the brunt of these failures when services are late or cancelled at short notice or routes are taken out with no notice or consultation.

I also have to say a word about rural bus services, which are rapidly falling into extinction. Telling people who may have only one bus a day—or in some cases one bus a week—that the aim is to provide London-style bus services will most likely be greeted with derision. Some good work is being done to pilot on-demand bus services for rural areas, but these may prove too expensive for many users. Most rural users like those in towns just want to know that there will be a bus service and that buses will turn up on time.

There is such a simple solution to this, and that is to extend the powers currently granted to combined authorities, which can both establish bus companies and franchise services to meet customers' needs, to all transport authorities. If we do not hear from the Minister that some movement has been made from the Government, I would like to test the opinion of the House on this. I beg to move.

Baroness Bennett of Manor Castle (GP): My Lords, having attached my name to Amendment 67 in the name of the noble Baroness, Lady Taylor of Stevenage, I will speak briefly while noting my position as a vice-president of the Local Government Association.

The noble Baroness, Lady Taylor, has overwhelmingly made the case for this, but I want to reflect on a number of things. She referred to the importance of reliability, and I can share her reflections on how rare that is. I was in Gloucester on Friday with Learn with the Lords and I waited for a bus—and it turned up at the time it was supposed to. I was quite shocked. It is such a rare occurrence, particularly when you are in a town that you do not know and you hope to rely on the timetable but you have no idea whether it is going to work. We cannot continue to have that situation.

Of course, that is an issue for visitors and for tourism but, overwhelmingly, it is an issue for local people. It is about reliability. I know of many people who have not been able to take jobs. We are greatly concerned at the moment about the shortage of labour supply in some areas, but you cannot take a job if you are not sure whether there is a bus or that the bus is not going to turn up reliably. You tell your employer, day after day, "Well yes, I was at the bus stop at the right time, but the bus did not turn up". That is simply not a sustainable position.

On the idea of having local control, buses are a public service. They are essential to the operation of our communities. They should be controlled and run by local hands for the public good, not for private profit. There is no doubt. I do not believe that anyone can get up and say that the situation we have now, with buses being run for private profit, has been anything but a disaster. It is time to give back and—dare I borrow a phrase?—allow local communities to take back control of their bus services.

I can certainly assure the House that the Greens are firmly behind this amendment. I urge the noble Baroness, Lady Taylor, to push it through if we do not get a strong response from the Minister because I think that, were we to hold a referendum—dare I use that word?—across the country, we would get an overwhelming win for this amendment to the levelling up Bill.

Baroness Randerson (LD): My Lords, I wish to state our strong support on these Benches for this amendment; indeed, had I been confident in advance that I was going to be able to be here to speak this afternoon, I would have added my name to it.

In 2017, I put down a similar amendment to what was then the Bus Services Bill. The similar issue was one that we raised from these Benches in Committee. This levelling up Bill gives us an opportunity to halt and reverse the decline in bus services outside London, which has been evidenced since the so-called deregulation of bus services in the 1980s. I will not repeat the points made by noble Baronesses, but it is clear to us all that urgent and radical action is needed to stem the crisis.

The problem in 2017 with the Bus Services Act was that the Government could not bring themselves to concede that deregulation had played a key role in the decline of bus services. The Act allowed franchising and other forms of additional control for local authorities but only for larger authorities; it did not trust smaller authorities to do this. With support, there is no reason why they should not be able to do this. Further, the Act did not allow local authorities to set up their own bus companies, which is totally contrary to the evidence. Some of the very best bus companies in Britain are those heritage bus companies that are still owned and run by local authorities.

Let me give one example of the sort of thing that might happen if local authorities had this power. If a local authority of modest size finds that its local commercial company is going to cut the vital bus services that enable links between the town centre and the local further education college, it might set up its own bus company specifically to enable young people going to that college, as well as shoppers going into the next town, to use those services—it does not always have to be on an enormous scale. Who understands better than the local council what will work in local neighbourhoods? The local council is the organisation that understands local traffic patterns, the best routes, where to find most people with no access to a car and

[Baroness Randerson]
so on. If we truly want to level up, we have to improve bus services, which are disproportionately used by the oldest, the youngest and the poorest in our society, in order to enable them to access work, education, health and other vital social services. I support the amendment.

Earl Howe (Con): My Lords, I am grateful to the noble Baroness, Lady Taylor, for introducing her amendment. I am happy to say that the sentiment behind it is one with which we agree. What is more, the kind of powers that the noble Baroness is seeking already exist.

All local authorities are required to improve their local bus services through the delivery of a bus service improvement plan, BSIP, to qualify for government funding. Local authorities must decide whether to deliver improvements on the ground via a statutory enhanced partnership with their local bus operators or to pursue a franchising assessment that would allow them to operate their buses through local service contracts, in the same way that Transport for London operates buses in the capital. The Transport Act 2000, brought in by the last Labour Government, provides automatic access to franchising powers for all mayoral combined authorities in England.

4 pm

Other types of local authority can also request access to franchising powers. They will need to satisfy the Secretary of State that they have the capability and resources to do so and that it will better deliver service improvements for passengers than an enhanced partnership. No local authority has yet requested these powers or, indeed, made any inquiries about accessing or using them.

Department for Transport guidance on BSIPs is clear that local authorities must develop them in collaboration with operators and other stakeholders, including bus users. The legislation on enhanced partnerships also requires a separate consultation exercise. For those authorities developing franchising assessments, the 2000 Act requires them to carry out a consultation with key stakeholders, including organisations representing local passengers.

We recognise that there are challenges facing the bus sector, and the effects of the Covid-19 pandemic are still being felt. I do not want to attribute all ills to the pandemic, but there is no doubt that it has had a fundamental impact on travel patterns, which has resulted in lower levels of patronage than before the pandemic. We have announced a long-term approach to support and improve bus services and an additional £300 million to support services from July 2023 until April 2025, with £150 million provided between July this year and April 2024 and £150 million between April 2024 and April 2025. The funding will be delivered through the creation of two new funding streams: £160 million will be provided to LTAs through a BSIP-plus mechanism, and a further £140 million will be provided to operators through a bus service operators grant mechanism. This funding will help to protect vital bus routes and ensure that passengers who rely on these services every day can continue to get to work and education and access local services such as healthcare.

I hope that this information is helpful, but I would be more than happy to arrange a meeting between the noble Baroness and officials if she would like further clarification of the arrangements that local authorities are able to avail themselves of in this area.

Lord Bradshaw (LD): My Lords, does the Minister agree that one of the major problems with the bus industry is the lack of adequate reimbursement of concessionary fares? The burden of reimbursement has fallen on local authorities, which have virtually no money. This is a very important point, and it undermines the viability of the bus industry.

Earl Howe (Con): My Lords, I am grateful to the noble Lord, but I think several factors have impacted on the use of buses and the ability of local authorities to run satisfactory services. I shall certainly ensure that the point he has made is registered in the Department for Transport, and I am grateful to him.

Baroness Taylor of Stevenage (Lab): My Lords, I am grateful to noble Lords who have taken part in this debate and thank the noble Baroness, Lady Bennett, for co-signing the amendment. She referred to the link between bus services and people's economic activity, and the noble Baroness, Lady Randerson, referred to the link with education and skills training; both are very important points. I am grateful to the noble Baroness, Lady Randerson, for her support in this. She also said that the Bill gives us the opportunity to reverse the decline in bus services, and I genuinely believe that this is the quickest way to go forward with that.

It requires a deal of trust between the Government and local authorities, and on many occasions in the debates on the Bill we have had evidence to suggest that we need to demonstrate the new relationship needed between the Government and local government before we can go forward and make real progress on devolution. To me, good public transport is axiomatic with levelling up. We have to have it to make levelling up work at all.

I am grateful to the noble Earl, Lord Howe, for his usual thorough reply, but there is clearly a disconnect between what powers the Government think they have given to local government and what local government is experiencing. The councillor I referred to was the transport portfolio holder for Hertfordshire County Council. He clearly does not think it has the powers to deal with transport in the way that he would want to. Something is clearly not right somewhere with all this. I understand the points about BSIPs and statutory enhanced partnerships, but it seems that the powers are conditional on approval from the Government, and we would like a relationship of trust in which these powers are given to any council transport authority that wishes to have them.

The noble Lord mentioned the important issue of fares. Funding comes into this, of course. The cuts to rural services bus grants, for example, make the provision of bus services in those areas very difficult.

For all those reasons, I am not convinced that we have a clear link to local authorities setting up their own bus companies or franchising services themselves, so I would like to test the opinion of the House.

4.06 pm

Division on Amendment 67

Contents 195; Not-Contents 216.

Amendment 67 disagreed.

Division No. 1

CONTENTS

Addington, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Anderson of Stoke-on-Trent, B.
Anderson of Swansea, L.
Armstrong of Hill Top, B.
Bach, L.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley, L.
Bichard, L.
Blackstone, B.
Blake of Leeds, B.
Blower, B.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradshaw, L.
Brinton, B.
Bristol, Bp.
Brooke of Alverthorpe, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Burt of Solihull, B.
Cameron of Dillington, L.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Carrington, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Clancarty, E.
Clark of Windermere, L.
Clement-Jones, L.
Coaker, L.
Collins of Highbury, L.
Crawley, B.
Cunningham of Felling, L.
Davidson of Glen Clova, L.
Davies of Brixton, L.
Desai, L.
Dholakia, L.
Dodds of Duncairn, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
Dubs, L.
Eatwell, L.
Falconer of Thoroton, L.
Faulkner of Worcester, L.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Goddard of Stockport, L.
Golding, B.
Grantchester, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hacking, L.
Hamwee, B.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Haskel, L.
Hayman of Ullock, B.
Hayman, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Howarth of Newport, L.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Janke, B.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L. [Teller]
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Khan of Burnley, L.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Layard, L.
Lennie, L.
Leong, L.
Liddell of Coatdyke, B.
Lipsey, L.
Lister of Burtersett, B.
Livermore, L.
Londesborough, L.
Ludford, B.
Mackenzie of Framwellgate, L.
Mallalieu, B.
Mann, L.
Maxton, L.
McAvoy, L.
McCrea of Magherafelt and Cookstown, L.
McIntosh of Hudnall, B.
McNally, L.
Mendelsohn, L.
Merron, B.
Morgan, L.
Morris of Yardley, B.
Murphy of Torfaen, L.
Newby, L.
Nye, B.
Oates, L.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Primarolo, B.
Purvis of Tweed, L.
Quin, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Rennard, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Rooker, L.
Royall of Blaisdon, B.
Russell, E.
Sahota, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Sikka, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Newnham, B.
Somerset, D.
St Albans, Bp.
Stansgate, V.
Stevenson of Balmacara, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Taylor of Stevenage, B.
Teverson, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tope, L.
Touhig, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L.
Turnberg, L.
Twycross, B.
Wallace of Saltaire, L.
Walmsley, B.
Warner, L.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Wheatcroft, B.
Wheeler, B. [Teller]
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Willis of Summertown, B.
Winston, L.
Wood of Anfield, L.
Wrigglesworth, L.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Aberdare, L.
Ahmad of Wimbledon, L.
Altmann, B.
Altrincham, L.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Attlee, E.
Bailey of Paddington, L.
Balfe, L.
Barran, B.
Bellamy, L.
Bellingham, L.
Benyon, L.
Berridge, B.
Bethell, L.
Blackwell, L.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Bourne of Aberystwyth, L.
Brady, B.
Bray of Coln, B.
Bridgeman, V.
Brookeborough, V.
Browne of Belmont, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Camrose, V.
Carrington of Fulham, L.
Cathcart, E.
Chartres, L.
Clarke of Nottingham, L.
Colgrain, L.
Cormack, L.
Courtown, E. [Teller]
Craigavon, V.
Crathorne, L.
Davies of Gower, L.
De Mauley, L.
Dobbs, L.
Duncan of Springbank, L.
Dundee, E.
Dunlop, L.
Eaton, B.
Eccles, V.
Effingham, E.
Evans of Bowes Park, B.
Evans of Rainow, L.
Evans of Weardale, L.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Faulks, L.
Fellowes of West Stafford, L.
Finlay of Llandaff, B.
Fleet, B.
Forsyth of Drumlean, L.
Foster of Oxton, B.
Framlingham, L.
Fraser of Craigmaddie, B.
Frost, L.
Garnier, L.
Gascoigne, L.

Geddes, L.
Glenarthur, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Goschen, V.
Green of Hurstpierpoint, L.
Greenhalgh, L.
Greenway, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hailsham, V.
Hamilton of Epsom, L.
Hannan of Kingsclere, L.
Harding of Winscombe, B.
Harlech, L.
Harrington of Watford, L.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hintze, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hogan-Howe, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Johnson of Marylebone, L.
Jopling, L.
Kakkar, L.
Kamall, L.
Keen of Elie, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Laming, L.
Lamont of Lerwick, L.
Lancaster of Kimbolton, L.
Lansley, L.
Lawlor, B.
Lea of Lymm, B.
Leicester, E.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Loomba, L.
Mancroft, L.
Manzoor, B.
Markham, L.
Marland, L.
Marlesford, L.
Maude of Horsham, L.
McGregor-Smith, B.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
McLoughlin, L.
Mendoza, L.
Meyer, B.
Minto, E.
Mobarik, B.
Montrose, D.
Morris of Bolton, B.
Mott, L.
Moylan, L.
Moynihan, L.
Murray of Blidworth, L.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
Offord of Garvel, L.
O'Neill of Bexley, B.
Parkinson of Whitley Bay, L.
Patel, L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Ranger, L.
Rawlings, B.
Reay, L.
Redfern, B.
Risby, L.
Robathan, L.
Roberts of Belgravia, L.
Roborough, L.
Rock, B.
Sanderson of Welton, B.
Sandhurst, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Sewell of Sanderstead, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Smith of Hindhead, L.
Soames of Fletching, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Stroud, B.
Sugg, B.
Suri, L.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Tyrie, L.
Udny-Lister, L.
Vere of Norbiton, B.
Verma, B.
Wakeham, L.
Waldegrave of North Hill, L.
Warsi, B.
Wasserman, L.
Wei, L.
Weir of Ballyholme, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wilson of Dinton, L.
Woolf, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

4.17 pm

Clause 129: Infrastructure Levy: England

Amendment 68

Moved by ***Baroness Pinnock***

68: Leave out Clause 129

Baroness Pinnock (LD): My Lords, before I start, I repeat my relevant interests as a councillor and as a vice-president of the Local Government Association.

This group of amendments concerns the Government's proposal to introduce the infrastructure levy as a replacement for the existing community infrastructure levy—CIL—and Section 106. My Amendment 68 seeks to leave out Clause 129, which establishes the infrastructure levy, and Amendment 90 would delete the relevant Schedule 12.

My reasons for this dramatic action are these. The infrastructure levy as currently proposed is contrary to the purpose of the Bill, which is to enable the levelling up of areas that are defined in the White Paper. The IL fails to contribute to that levelling-up mission because the amount that it will be possible to set as an infrastructure levy rate will be dependent on land values. Land values are much lower in the very areas that are the focus in the White Paper of levelling up. Using the existing community infrastructure levy as an example, land is zoned according to land values. At the independent examination of CIL in Kirklees, where I am a councillor, the planning inspector reduced the CIL charge to nil pounds—nothing—per square metre for a zone which includes the allocated site for 2,000 houses. This is not levelling up.

One of the criticisms of the infrastructure levy is that it will not be site specific. That means that communities that have large housing developments will not necessarily benefit from improved facilities, such as open green space, play areas, and funding to support school places as well as affordable housing on site. Any infrastructure levy can be spent anywhere in the council district.

Another of the major criticisms is that the charge will be paid by the developer only towards the end of the construction period, which may be a number of years. Meanwhile, it is expected that local authorities will have to borrow to build the new facilities needed in the expectation of funding at a sometimes much later stage.

It has also been argued that developers avoid funding infrastructure because of claims about the financial viability of a development. My noble friend Lord Stunell's Amendment 94 aims to shine a strong light of transparency on viability. I agree with him.

The main contention during the debate on the infrastructure levy was on the provision of so-called affordable housing. There are amendments in the name of the noble Lord, Lord Best, and of the noble Baroness, Lady Taylor of Stevenage, that have the worthy aim of linking the income from the infrastructure levy to the building of houses for affordable sale or rent. We support those aims, but one of the downsides of this approach is that the infrastructure levy is designed to fund affordable housing and local facilities. There is a

risk that, in some areas, it would all be spent on housing, which is positive but to the detriment of important local facilities.

Such is the level of concern about the infrastructure levy proposals that representations have been made by more than 30 organisations, including the County Councils Network, the Royal Town Planning Institute, Shelter, the Local Government Association and the National Housing Federation. The concerns expressed are about complexity, upheaval and uncertainty.

Finally, the Government have stated that the infrastructure levy will be in a test and learn state. This creates further uncertainty. Further, because the infrastructure levy is to be phased in, developers will be dealing with different charging regimes in different parts of the country for many years to come. That clearly adds to uncertainty and complexity for developers. Perhaps the Government have lost confidence in the scheme as proposed.

The difficulty with the infrastructure levy is that this is not the right time to change developer charging systems, nor will it provide sufficient funding at the appropriate time to fund affordable housing and local facilities for developments. It is time for a total rethink. I will listen very carefully and closely to the Minister's response. If I am not entirely satisfied with the response she provides, I will be minded to test the opinion of the House. I beg to move.

Lord Stunell (LD): My Lords, I rise to speak to Amendments 70 and 94 in my name in this group. I want to add my strong support to Amendment 68, moved by my noble friend Lady Pinnock, which aims to get rid of the IL altogether. She has spoken very powerfully to that point, saying not least that it is contrary to the central purpose of the levelling up White Paper and to the whole substance of the mission statements, which are set out—or rather, the skeletons of which have been laid—at the front end of the Bill.

The complexities and the unintended consequences of the infrastructure levy were explored in depth in Committee. The Government are now reduced to saying that it will be piloted first on a "test and learn" basis, and that it may be introduced piecemeal over the next decade rather than as a big bang, which I suppose is the beginning of some sort of reality check. The Government's own amendments, which are in this group and which we shall hear about shortly, are an attempt to water it down a bit further. As my noble friend said, the Government seem to have rather lost confidence in the infrastructure levy providing the solutions that they originally imagined.

Well, we are a little bit ahead of the Government. We have completely lost confidence in the infrastructure levy as a vehicle for positive change on the delivery of affordable homes or indeed decent infrastructure associated with new development. The infrastructure levy is beyond repair. This duck is dead. I certainly hope that, if my noble friend Lady Pinnock does not get the assurances that she is looking for and a vote is called, noble Lords will go into the Content Lobby with her.

I wait to hear what the noble Baroness, Lady Taylor of Stevenage, has to say about Amendment 69 and what the noble Lord, Lord Best, has to say about Amendment 71. I would say that what they are offering is palliative care rather than resuscitation of the levy. Either or both of those amendments would be definite improvements on anything the Government have tabled, so I will wait to see what is said about that.

The noble Lord, Lord Lansley, has tabled Amendment 311, which is an admirable setting out of preconditions—preconditions which are so obvious and sensible that I fear the Government will reject them out of hand. Instead of seeing this for what it is—an attempt to introduce sound legislative principles into the Government's Bill management, which I would have thought they would welcome—I suspect they will just see it as some kind of amendment to kick the whole project into the long grass. But in default of anything else, will the Minister please give the noble Lord, Lord Lansley, some help with getting those preconditions written into this model?

I turn to my Amendment 70. This returns to the vexed issue of what is affordable when we talk about affordable homes. Affordability is used in legislation at present based on the idea that, provided that there is a discount on the going market rate, a home in the private sector is thereby affordable. It is currently a standard discount, which takes no account at all of incomes in the locality, nor does it pay any attention to price differentials between similar homes. For instance, similar homes in an outer London borough such as Sutton, where I was born, are a factor of two more expensive than those in the metropolitan borough of Stockport, where I live. So for "affordability" to mean the same in the two boroughs, incomes in Sutton would need to be double those in Stockport to match the ratio of incomes to the discounted sale prices in the two boroughs.

4.30 pm

In fact, average incomes are indeed higher in Sutton than in Stockport—around 33% or a third higher—but average house prices are over 100% higher. For a family in Stockport, discounted home buying is a real stretch. There are plenty of people in my locality who would say that even affordability in Stockport is not real for them. If that is true then in Sutton it is simply impossible. For government planning policies to be based on a claim that current affordability rules give equal accessibility to families in the two boroughs is verging on the fraudulent.

I have not chosen the worst mismatches that there are between one place and another. I could have chosen inner-London boroughs, which compared to almost anywhere else would be worse than my examples. Of course, the contrast between property prices in popular second-home tourist areas and local average incomes in those areas is stark as well. The Lake District and the south-west peninsula, especially Cornwall, are often quoted.

I understand that my Amendment 70 could be open to criticism. For instance, as drafted, it is limited to the calculation of affordability in relation to the IL. It does not cover homes delivered by the existing Section 106 mechanism. I would be very happy to withdraw Amendment 70 in favour of a government amendment at Third Reading which included Section 106 as well, because clearly the affordability question is one that is relevant in both funding streams.

[LORD STUNELL]

It could be said that I have failed to specify exactly what the relationship should be between median household pay and the sale price on offer in that district. Just for once, I think that is a matter for secondary regulation rather than being in the Bill.

More serious criticism might be that such a constraint would mean that the supply of affordable homes would dry up. The supply of affordable homes has dried up. In Sutton, to buy a so-called affordable home you need a household income well above the local average. The homes may be being sold at a discount, but they are not meeting the acute housing needs of that borough. It is time to recognise the reality that, in many parts of England, the technical planning policy definition of affordable is a sad illusion. In fact, it just feeds the general perception that we in this Parliament and this Government have no idea what is happening out there to real people, desperately seeking a home.

To boast about the numbers of affordable homes built, as I am sure the Minister will be inclined to do, is to taunt those without a home. Shortage of bread led Marie Antoinette to recommend eating cake, and it did not end well. Deeming a home to be affordable does not make it affordable. Now is the time—and the levelling-up Bill is the right place to do it—to put that right, by accepting the principle set out in my amendment. I commend it to the House.

The second amendment I have in the group is a simple one, aimed at tearing away the veil of secrecy that surrounds the calculation of viability in the negotiations between developers and local planning authorities. Thousands more homes could have been built with a discount if developers had been required to tell the truth when seeking approval to recalculate the proportion of homes they pledged to build when they first sought planning approval. Of course, it would be an act of fraud to knowingly tell lies to gain commercial advantage. My amendment does not suggest for a moment that this has ever happened in any case—well, not very often anyway. If it never happens, there can be no detriment to an honest developer in having his submission and his supporting case being in the public domain. If there is, very occasionally, a temptation to exaggerate, then transparency is the best deterrent.

My amendment simply seeks to remove the veil of commercial confidentiality which is drawn, without exception, over the negotiations taking place between developers and planners, and which result in a reduction in the number of affordable homes to which they are committed. My amendment would disapply Section 43 of the Freedom of Information Act, so that commercial confidentiality cannot be used as a cloak of concealment. I very much hope that the Minister can see that this too is in exact alignment with the Government's own objectives of securing more affordable homes, and that he will therefore willingly accept my Amendment 94, which I also commend to the House.

Lord Best (CB): My Lords, I will speak to Amendment 71 in my name and those of the noble Lord, Lord Young of Cookham, and the noble Baronesses, Lady Thornhill and Lady Warwick of Undercliffe. I declare my interests as a vice-president of the Local Government Association and chair of the Devon Housing Commission, as well as my various housing interests as set out in the register.

Following the speeches of the noble Baroness, Lady Pinnock, and the noble Lord, Lord Stunell, your Lordships will note that some doubt hangs over the future of the infrastructure levy. We have heard that representations have been made to the Secretary of State from some 30 significant organisations, which all feel that it would be better to stay with the current Section 106 regime. Those bodies argue that it would be better to stay with the devil we know, even though the system is not perfect—after all, the current system has been achieving half the affordable housing built each year, and no one wants to reduce the numbers. However, our Amendment 71 supposes that the infrastructure levy persists, and it seeks to ensure that the new arrangements do not lead to fewer genuinely affordable homes. Before saying more about Amendment 71, I offer support to Amendment 77 in the name of the noble Lord, Lord Lansley, and Amendments 70 and 94 in the name of the noble Lord, Lord Stunell.

I am grateful to the coalition of housing bodies that constitutes Homes for the North for their expert help in drafting Amendment 71. In Committee, we considered a range of amendments which all had the objective, in effect, of holding the Government to account for their own promise that the new infrastructure levy arrangements will lead to

"as much—if not more"

affordable social housing.

In Committee, the Government responded to our proposed amendments with various counter-arguments, the first of which was that this issue would be better dealt with in the regulations that will follow enactment and appear in the revised version of the National Planning Policy Framework. However, the affordable housing element is a fundamental part of the planning system. Currently, 78.5% of the funding via Section 106 obligations on housebuilders goes to affordable housing. This current priority needs legislative protection in the face of endless competing claims for the new levy proceeds.

Secondly, it can be argued that local authorities should be entirely free to decide for themselves how to spend infrastructure levy proceeds, with no obligation to give priority to affordable housing. However, the infrastructure levy represents a significant new tax-raising power for local authorities, and it would surely be expected that the Government would impose some limitations on its use.

Thirdly, the Minister told us that the relevant clause in the Bill already protects affordable housing provision. We responded that the relevant clause simply required local authorities to

"have regard … to the desirability of ensuring that"

the provision of affordable housing

"is equal to or exceeds"

the output achieved under the Section 106 system. This is a very weak provision, enabling funding for affordable housing to be used instead for any number of other spending opportunities.

Amendment 71 addresses these points and substantially strengthens the wording of the Bill, covering both the way the levy is set and how the money is subsequently spent. It removes the lightweight

"have regard to the desirability of",

leaving "must ensure", thereby prioritising affordable housing as identified in the local development plan and the infrastructure delivery strategy.

The Minister has followed through from Committee stage in an exemplary manner. She has reconsidered the position, held meetings with interested Peers and brought forward amendments that address the same issue as our Amendment 71. Her Amendments 72, 73, 74 and 75 alter the offending words in the original version, leaving out

"to the desirability of ensuring"

and inserting the much more direct "seek to ensure". I am grateful indeed to the Minister for bringing forward these changes in wording, which tighten up the requirements on local authorities to do the right thing in respect of social housing provision.

However—is there not always a "however"?—the new Amendment 76 provides the local authority charging the infrastructure levy with a "get out of jail free" card. It allows the charging authority to drop the obligations on developers where compliance with its requirements for affordable housing would make the development in this area "economically unviable". It lets developers off the hook where, not for the first time, they plead the case that they cannot achieve the affordable housing identified in the local plan. It is these arguments about viability that have made Section 106 so fraught, usually with local planning authorities losing the argument against the developers and their consultants and solicitors.

This extra clause, which promotes viability on the face of the Bill, undermines the good work being done by the four preceding amendments from the Minister. I may be interpreting this unkindly, but the amendment seems to provide the opportunity for the powerful volume housebuilders to claim—probably because they have paid too much for the land—that providing affordable housing will reduce their profits excessively.

We now have the report of the Levelling Up, Housing and Communities Select Committee of the House of Commons, which looks at planning policy and comments on the Levelling-up and Regeneration Bill. The Select Committee welcomes these government amendments, which would strengthen the duty on local authorities to deliver at least as many affordable homes; but the committee warns that the additional proviso that this duty would be redundant if it could make the development "unviable" puts fulfilment of the Government's ambition at risk.

The Commons committee concludes that the new infrastructure levy

"may not deliver as many affordable homes as the current regime".

That outcome would be a disaster. We desperately need more, not fewer, affordable homes. This leaves me welcoming the government amendments, which attempt to do the same job as our Amendment 71, which need not now be pressed. But I will oppose the new government Amendment 76 unless it can be justified by the Minister when she responds.

This country desperately needs more housing for those on lower incomes. We must do everything we can to ensure that the new infrastructure levy regime does not diminish supply from the all-important obligations on housebuilders. There is a clear and present danger here, and I look forward to the Minister's comments.

Lord Lansley (Con): My Lords, I am glad to follow the noble Lord, Lord Best, who has rightly commended my noble friend the Minister for the careful way she has responded to some of the points made in Committee on the infrastructure levy, and indeed on some of the further discussions we have had and the responses to the technical consultation on the infrastructure levy. That is rather important to take into account.

I confess that, listening to the noble Baroness, Lady Pinnock, I felt that she was making a speech that would have been relevant at the time the technical consultation was published but not at the point at which the Government had clearly responded to that consultation, brought forward amendments and written to us, as the Minister did on 4 July, about those amendments and other factors.

4.45 pm

I will speak to Amendments 77, 311 and 312, which are in my name. As I go through them, I will explain where they come from. I remind noble Lords of my interest as chair of the Cambridgeshire Development Forum.

In Committee, I shared with many noble Lords considerable reservations about the infrastructure levy in principle, but we should recall that at that point we had recently seen the technical consultation the Government had published. For our purposes, we were effectively assessing that levy as if the technical consultation proposals were being implemented. We have moved on from that and I want to explain, from my point of view, how I made a number of points in response to the technical consultation.

It is very important to the development community, and probably from the public's point of view, that they are able separately to identify the contributions made by developers related to a site, with integral infrastructure and on-site affordable housing, and how those relate directly to the development itself. Separately, I understand and accept—indeed, I support this—that the Government intend that the community infrastructure levy, which has been discretionary for local authorities, should effectively become mandatory, unless Ministers choose to disapply it, and that this will give additional resources from developer contributions to fund an infrastructure delivery strategy. I have always said that the infrastructure delivery strategy is in itself a significant advantage of the Bill. We do not presently have it and if Schedule 12 were to be done away with, we would lose the infrastructure delivery strategy as well.

Developer contributions should be in two parts: first, like a Section 106 provision, but called in future the delivery agreement; and secondly, through the infrastructure levy, which is like the community infrastructure levy but, unlike the CIL, will include affordable housing. Affordable housing is, in a sense,

[Lord Lansley]
at the heart of this debate and there is a serious risk that by shifting it into the infrastructure levy, we may lose the scale of affordable housing provided through Section 106 contributions and on-site delivery. That is the bulk of affordable housing presently provided. We will not necessarily get the infrastructure levy funding the volume of affordable housebuilding we are looking for because, as the noble Baroness, Lady Pinnock, rightly said, there are many other calls on that levy. Some of those may be really quite attractive to councillors when they consider how to use those receipts.

We therefore have to be clear on this, and that is where Amendment 77 comes in. From what I could see in the amendments the Government have tabled, I think the Government intend that the delivery agreement and on-site affordable housing delivery should continue, be substantial and be taken fully into account in meeting the right to require for affordable housing. We need both, not one or the other; that route might achieve the increase in affordable housing we are looking for.

That, essentially, is the bulk of my comments. However, the charging schedule should not only be mandatory; as the noble Baroness, Lady Pinnock, said, there is a problem in that gross development value may not exist in some places. Of course, we cannot magic up land value where it does not exist. We can, however, give local authorities the flexibility to choose whether to have the bird in the hand, as it were, with a sometimes modest charging schedule based on floor space, varied according to the nature of the development—and to have that money upfront—or to have a share of gross development value to fund infrastructure, while recognising that that is less certain and may come after a period of time, and that they may have to fund it. They absolutely have to have that choice.

The noble Baroness, Lady Pinnock, appeared to suggest that they would not have that choice and the technical consultation implied they would not, but the Bill as we have it gives that choice. It includes charging by reference to both floorspace and gross development value. I ask for an assurance from my noble friend that this is deliberate, so that if Ministers choose to make those choices, they can give local authorities the option to go for the bird in the hand or the two in the bush. That would answer one of the central objections that the noble Baroness made to the present Bill.

My final point touches on my Amendments 311 and 312, which I tabled before we had the letter from my noble friend on 4 July. I wanted to see what the Government's proposals looked like before we brought the Bill into force—but now I think that we are in a position where we know that Ministers are going to make further fundamental design choices about the structure of the infrastructure levy, so change is coming. At this stage, the point is whether the provisions of the Bill allow Ministers to make the kinds of design choices about the infrastructure levy and the delivery agreements in future that make sense to us. Actually, the Bill does allow that—and what my noble friend said in her letter on 4 July was not just about the helpful amendments. It said that she commits

"to consult further on fundamental design choices before publishing draft infrastructure levy regulations".

So many of the things that I am looking for can be done by the Bill as it is now, and my noble friend is, in effect, committing to further consultation—with us, too—and in due course to laying the regulations before us before the infrastructure levy comes along.

Even in Committee, I do not think we looked at this issue properly. On page 431, in Schedule 12, under general regulations, the Government included a new provision that says that they may make provision treating the community infrastructure levy as if it were the infrastructure levy. All the flexibilities that are required are available in this Bill. We do not know yet what the infrastructure levy and new delivery agreements will look like, but they could incorporate many of the best features of the community infrastructure levy and the best features of Section 106—but they absolutely will require local authorities to have a charging schedule and require those additional developer contributions substantially to increase the availability of affordable housing. On that basis, it would be very remiss on our part at this stage to remove Clause 129 or Schedule 12 rather than giving us the opportunity to have those improvements in the structure of developer contributions. So I am afraid that I shall not support Amendment 68.

Lord Young of Cookham (Con): My Lords, I add a brief footnote to what the noble Lord, Lord Best, said in speaking to Amendment 71, to which I have added my name, and to what my noble friend Lord Lansley has said about Amendment 311. I endorse what the noble Lord, Lord Best, and my noble friend said about the willingness of Ministers to listen to us throughout the process. The government amendments respond to the concern that we all expressed in Committee about the potential loss of affordable homes.

I shall pick up the point made by the noble Lord, Lord Best, about the so-called viability loophole. What has been happening is that well-resourced developers, half way through a scheme, have turned to the local authority and said, "It's no longer viable—and, by the way, we cannot build the affordable homes which were due to be built right towards the end of the scheme". That left the local planning authority with the nuclear option of pulling the plug on the whole scheme or allowing it to go ahead and at least getting the open market houses. At the time, Shelter did some research, which showed that the use of viability assessments in 11 local authorities across England contributed to 79% fewer affordable houses being built in urban areas than would have built if the original agreement had been adhered to. Following that controversy, the Government introduced guidance and tightened up the rules in 2018; the new rules limited the use of viability assessments to reduce affordable housing to exceptional circumstances, such as a recession or similar economic changes. That was a step in the right direction.

My concern, which was echoed by the noble Lord, Lord Best, is that government Amendment 76 seems to go back on the 2018 changes and revert to the position that generated all the criticism about viability. I note in passing that the technical consultation criticised the current Section 106 agreements by saying that the

"planning obligations are uncertain and opaque … they are subject to negotiation (and can be subject to subsequent renegotiation), can create uncertainty for communities over the level of infrastructure and affordable housing that will be delivered".

Is that not exactly what Amendment 76 does in referring to a development being economically unviable? It seems that what the Government are doing is virtually guaranteeing that no development will ever lose money, while the developer benefits from any gains above expectation. The levelling up Select Committee's report expressed the same doubts last week.

I want to say a final word on Amendment 311, to which my noble friend Lord Lansley spoke. On 17 March, the Government published their technical consultation. It ran to 91 pages and asked 45 questions; it is not an easy read. The consultation ended on 9 June and the document said:

"Following the closure of this consultation, the government will assess responses. In doing so, a response will be issued that summarises the themes that emerged, before issuing a final consultation on the draft regulations after the Levelling Up and Regeneration Bill achieves Royal Assent".

This means that we are debating Schedule 12 in a vacuum because we do not know what its structure will be. I am afraid that this is a feature of too much in this Bill.

When it published its report, *Reforms to National Planning Policy*, the Select Committee in another place picked up the same point. It also said that we are going to have real issues if we run the infrastructure levy and Section 106 in tandem, leading to arguments and complications. I was not wholly reassured by what the Minister in the other place said in response to the Select Committee's query:

"If they say that it is too complicated and ask to change things, we will consider that".

I am not sure that that is a great step forward.

So, on both issues—viability and the absence of the structure of Section 12—I hope that my noble friend the Minister will be able to provide the House with some reassurances.

The Earl of Lytton (CB): My Lords, I will intervene briefly. I declare an interest as a chartered surveyor with some involvement in the development process.

I want to speak to the factor that links Amendments 71 and 94 and follows on from what the noble Lord, Lord Young of Cookham, has just said. I have been in the past a technical operator of the dark arts of development appraisal. I would be much less charitable than the noble Lord, Lord Stunell, in my comments about exactly what goes on here; for instance, how land values under option agreements are arrived at and how, with a click of a mouse on a proprietary development appraisal computer package, the matter can then adapt to a viability test for the local authority's community infrastructure levy or Section 106 contribution purposes. Noble Lords would be astounded at the way in which a yield change here and a cost base there, as well as the adaption of a timeframe or the alteration of a contingency allowance—I mention just a few means—can be used to alter significantly the entire outcome and colouration of what is claimed on the back of it. Further, all this is done by using the same primary data inputs and, unsurprisingly, there are two factors that developers will never reveal to you if they can get away with it. One is the land value that they paid, coloured as it is by all sorts of associated costs before it gets as far as a planning consent; the second is their construction costs, which are entirely opaque.

Alongside all this and of much longer standing is what I describe as the commoditisation of residential property, which started in the 1990s. It has since financed ever more of the items society wishes to have, in terms of affordable housing, infrastructure, schools et cetera. But that policy has created a consistent and ever more bankable asset within an enhanced lending sector. This results in the very unfortunate situation of driving up house prices and creating a model that is less than satisfactory. Core to this is the issue raised by the noble Lord, Lord Stunell—transparency. Without it, none of this will be demonstrable to anybody, at any time.

5 pm

Baroness Taylor of Stevenage (Lab): My Lords, I hoped we were hearing the voice of future generations up in the Gallery when the noble Baroness, Lady Pinnock, was speaking. Perhaps they were reminding us to think about affordable housing. The noble Lord, Lord Lansley, said that affordable housing was at the heart of some of this debate, and that is certainly the view of our Benches.

The noble Baroness, Lady Pinnock, set out the issues relating to the infrastructure levy that are causing such great concern across the sector. As she mentioned, this has resulted in an unprecedented step in my time in local government, with over 30 key organisations writing jointly to the Secretary of State to set out their concerns. They are united in saying that the introduction of the infrastructure levy could

"make it harder, not easier, for local leaders and communities to secure the benefits of new development".

They point to the developer contributions that are being generated by the community infrastructure levy and Section 106 systems, which generated £7 billion in 2018-19 to support housing, infrastructure and services. I share their concerns that this new levy has the potential to reduce this amount.

I take the point made by the noble Lord, Lord Lansley, about the discussions that we have already had in Committee, but these views have been expressed by powerful bodies in our sector. His points about the design of the system are well made, but that should have been considered before the Bill came to the House. Points from the noble Lord, Lord Young, about trying to operate this discussion on a key part of the Bill in a vacuum are also well made.

The main concern of the organisations that wrote to the Secretary of State is the potential for this reform to

"leave communities with fewer new social and affordable homes, mixed and balanced developments and less of the infrastructure they need".

They fear that the "upheaval" of introducing a new system would build delays and uncertainty into the planning system at a time when there is an urgent need to deliver affordable housing quickly, and that CIL and Section 106 would

"not be improved by these reforms"

and would need to be managed alongside the new levy. They welcome the principle of allowing authorities to borrow against developer contributions, but point out that the financial risk of doing so, when the final assessed amounts are "uncertain", would probably be too great for local government finance officers.

[Baroness Taylor of Stevenage]

In addition to the risks flagged by these key representatives of the sector, it is not yet clear what impact the infrastructure levy will have on permitted development. At present, developers engaging in permitted development make little, if any, contribution to infrastructure, in particular to affordable housing. This anomaly also needs to be resolved in any new infrastructure levy system.

I am grateful to many of the organisations that signed that letter which have also been kind enough to send us briefing material, and to the office of the Mayor of London, which has provided us with very strong evidence about the potential detrimental impact this would have on building more affordable housing in London. Its figures suggest that, had the levy been in place over the last five years, it would have resulted in between 4,500 and 10,000 fewer affordable homes, and could have made up to 30,000 homes of all tenures unviable.

We completely understand the need to ensure that developments provide the infrastructure to support them, but this proposed new levy adds layers of complexity, because it is being grafted on to an already complex system. The money that developers will have to pay to support transport, schools, health centres, open and play space, and, critically, affordable housing will be calculated once a project is complete instead of at the planning stage, as it is currently. This has resulted in concerns that the funding will be delayed or, potentially, lost altogether. The charging system will be complex and labour-intensive, putting further pressures on the local authority planning departments that we know are already at breaking point.

The reply to the organisations that wrote to the Secretary of State from the Minister responsible, Rachel Maclean, said that she would be looking at the issues they raised in detail and would be organising a round table very shortly. I believe that round table may have taken place in very recent days. However, as the sector has been raising these concerns since the infrastructure levy was first mooted, it is a shame the round table did not take place many months ago.

We accept that the Government have made some concessions on the infrastructure levy clauses, but they do not meet the basic challenge of explaining to the sector just how this new proposal will deliver more resources more effectively than the current system. For that reason, if the noble Baroness, Lady Pinnock, wishes to test the opinion of the House on her amendment, she will have our support. We understand that Amendment 90 is consequential to Amendment 68.

Turning to other amendments in this group, we hope the Government recognise the importance of the infrastructure levy supporting the delivery of the levelling-up missions. Our concern all through the passage of the Bill has been what mechanisms there are to link the missions to planning, funding and the infrastructure levy. My Amendment 69 to Schedule 12 is intended to address this, as well as ensuring that there is a commitment to the infrastructure levy being shared between tiers of local government in non-unitary areas.

My Amendment 70A wound enshrine in the Bill that the application of the infrastructure levy is optional. I am very grateful, as others have said, to the Minister for the many discussions we have had in relation to the Bill, in particular this part of it. I believe, and hope she will confirm, that it is the Government's intention that infrastructure levies should be optional, and that government Amendment 82 enshrines this in the Bill.

Amendment 71, in the name of the noble Lords, Lord Best and Lord Young, and my Amendment 71A have similar intentions of ensuring that the level of affordable housing funded by developers in the local authority area will meet the needs of that area as set out in the local development plan. I referred to the critical links that need to be built between planning and the infrastructure levy earlier on. When it comes to affordable housing, this is absolutely essential. We recognise the very significant concessions the Government have made on affordable housing, so, rather than pushing Amendment 71A to a vote, perhaps we can have further discussions before the planning and housing sections of the Bill to build that link between the provision of affordable housing through the infrastructure levy and the local plan.

The noble Lord, Lord Stunell, gave clear evidence of the principle behind the current definition of affordable housing. We agree that the current definition is wholly deficient, as much of the housing included in it is absolutely not affordable to many of those in desperate need of housing. We feel that the Government should take an inclusive approach to developing a new definition by working with the sector and housing charities to reach an agreed, appropriate definition of affordable housing. We would support the proposal in the amendment from the noble Lord, Lord Stunell, that a link with the median income in the relevant local planning area would be a good starting point for this definition.

As mentioned by the noble Lord, Lord Best, we are very grateful to the Minister for tightening up the wording she introduces in Amendments 72, 73 and 75 to ensure that developers must now "seek to ensure" the affordable housing funding level is maintained. We are also grateful for her clarification in Amendment 74 that funding of affordable housing is to be provided in the charging authority's area and, in Amendment 79, that charging authorities can require on-site provision of affordable housing through the infrastructure levy. We believe this change will encourage the development of mixed housing and hopefully mixed tenure communities, which have proved over time to be far more sustainable and successful.

We are also pleased to see government Amendment 80, which requires a report to be laid before Parliament on the impact that the infrastructure levy is having on the provision of affordable housing. It perhaps does not go as far as our Amendment 81, which would have made provision for a new levy to be introduced where IL was shown not to be successful, but we recognise that the Minister has listened to our concerns and we hope that placing a report before Parliament on the success, or otherwise, of IL will encourage further thinking if it is shown not to be delivering.

We have some concerns, which we have shared with the Minister, in relation to Amendment 76 on the thorny issue of viability. Our concern is that this clause, which allows the infrastructure levy to be disapplied where the charging authority considers the application

of the levy, including its provision for affordable housing, would make the development unviable. The process of negotiation on infrastructure contributions between local planning authorities and developers can be very long and complex, especially when major developments are involved. We would not want to see any further pressure being put on local authorities in that negotiation process by having this clause dangled in front of them as an incentive for developers to proceed. It has been hard enough in the existing system to resist the weight of financial and legal expertise that the developers have put into these discussions, as mentioned by the noble Lords, Lord Best and Lord Young. We do not want to give them another weapon in their armoury—we do not think that is necessary.

I am grateful to the noble Lord, Lord Young, for setting out the potentially devastating impact the viability get-out clause can have on affordable housing. The noble Earl, Lord Lytton, referred to the inclusion of contingencies in that viability calculation. When you start to pick apart that contingency—I have done it—it is very interesting to see what sits underneath it, which is often some very wild assumptions in my experience. I am sure that that is not always the case, but it can be.

The noble Lord, Lord Lansley, is right to flag up in his Amendment 77 the question of the relationship between Section 106 contributions, which have been most effective in securing affordable housing through planning contributions, and the infrastructure levy. Lastly, we welcome the amendments in the name of the noble Lord, Lord Lansley, which would require a response to the technical consultation on the infrastructure levy before it comes into force.

In summary, we feel that an opportunity has been missed by introducing IL to be grafted on to an already complex system instead of using this Bill for a new, simplified and comprehensive approach to the provision of infrastructure developed with and for the sector, and with an implementation plan to smooth the transition so that it would not disrupt local authorities from the urgent work of solving the housing crisis. However, I once again thank the Minister for the amount of her time she has given to meet noble Lords on this subject and for the amendments that have subsequently come forward. It is the best of this House that the expertise we have here is used to improve legislation, and I am sure today's debates are a good example of that.

The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con): My Lords, Amendments 68 and 90, tabled by the noble Baroness, Lady Pinnock, seek to remove the provisions in the Bill which provide the imposition of the new infrastructure levy in England. I regret that these amendments have been proposed, but I recognise the need for serious and open debate on this subject.

We covered the shortcomings of the existing system of developer contributions at length in Committee. There is a clear case for reform. Since 2010, average new-build house prices have risen by more than £250,000, and land prices have also risen substantially. This increase in value must be captured within the levy system, allowing for more local benefit, but we recognise the need to get these significant reforms right. That is why I can commit to the House today that the Government will undertake a further consultation on fundamental design choices before developing infrastructure levy regulations. Through further consultation and engagement, and the test-and-learn approach, which we discussed in detail in Committee, we will seek to ensure that the levy achieves its aims and that it is implemented carefully. I hope the noble Baroness, Lady Pinnock, will feel able to withdraw Amendment 68 and will not press Amendment 90.

My noble friend Lord Lansley has tabled Amendments 311 and 312, which seek to prevent the introduction of the infrastructure levy until the Government have published proposals for its implementation. I know that my noble friend has formally responded to the recently concluded technical consultation, which we are carefully reviewing. I can confirm that we will not commence the levy provisions in Part 4 until we have responded to that further round of consultation. The regulations themselves will be consulted on in future as well. I hope my noble friend Lord Lansley is therefore content not to press his Amendments 311 and 312. I assure him that he is correct: there is scope in the Bill for us to vary the approach set out in the technical consultation, and I reiterate that, if we do that, we will be consulting further.

5.15 pm

The Government have tabled several amendments to the Bill that seek to address concerns raised in relation to the new infrastructure levy during Committee. A priority for the new levy is that it delivers at least as much onsite affordable housing as the existing system of developer contributions, if not more. For the purposes of the new levy, within the context of this part of the Bill, "affordable housing" is defined as social housing in the Housing and Regeneration Act 2008, but there is flexibility to add other definitions through regulations. This ensures that low-cost rental and low-cost home ownership products are covered by the definition, but also provides flexibility and allows definitions to be updated over time.

As part of our recent consultation on our draft National Planning Policy Framework prospectus, we consulted on changes that would make clear that local planning authorities should give greater weight to planning for social rented homes when addressing their overall housing requirements in their development plans and when making planning decisions. The government response to that consultation will be published in the autumn.

Amendment 70, tabled by the noble Lord, Lord Stunell, would restrict the flexibility to be able to adapt the delivery of affordable housing for rent to match different local circumstances. We therefore consider that the amendment proposed by the noble Lord is not needed.

Government Amendment 79 makes an express commitment in the Bill to introduce a new right to require, whereby local authorities will be able to require developers to pay a portion of their levy liability in kind in the form of onsite affordable housing. It will require provision to be made in infrastructure levy regulations to that effect. I reassure noble Lords that we are retaining a restricted form of Section 106 agreements under the levy that can be used to secure matters such as affordable housing in perpetuity.

[Baroness Scott of Bybrook]

Amendment 94, from the noble Lord, Lord Stunell, is concerned with the disclosure of information relating to developer contributions. The right to require is designed to replace site-specific negotiations of affordable housing contributions. While viability assessments may be used in rate setting, any developer that wishes for information to be taken into account must submit it to be examined in public. Levy rates and charging schedules will be matters of public record. I hope noble Lords agree that this removes the need for the amendment.

Government Amendments 72, 73, 74, 75 and 76 strengthen the requirement set out in new Section 204G(2) inserted by the Bill so that, when setting their levy rates, local authorities must seek to ensure that the level of affordable housing that is funded—and the level of such funding provided by developers—can be maintained or exceeded as compared with existing levels. The only exception to that requirement is when the local authority concludes that setting its rates to achieve that end would make the development of its area economically unviable. I stress that it is the local authority that is the decision-maker here: it is its responsibility to consider all relevant evidence and material matters when setting its rates, which will be examined in public. Under the proposals that we have consulted on, once rates are set, developers will not be able to negotiate their contributions downwards.

I want to repeat this, because I know this issue is very much in the minds of the noble Baroness, Lady Hayman of Ullock, and the noble Lord, Lord Best. To reiterate, once the charging schedule has been approved, developers will be required to pay the levy. This means that they will not be able to submit viability assessments further down the line to renegotiate their levy payments downward.

We believe that these amendments avoid potentially adverse consequences; namely, that charging authorities may need to set their rates at such a level that the development becomes unviable. That would be the consequence if we accepted Amendment 71, proposed by the noble Lord, Lord Best. I was pleased to see that the National Housing Federation described our amendments as "hugely welcome".

I turn to Amendment 71A, tabled by the noble Baroness, Lady Taylor of Stevenage. I want to say at this stage that I am more than happy to meet any noble Lords, but particularly the noble Baroness, to discuss affordable housing delivery before we get to two further groups that will probably come up in September. The amendment would require infrastructure levy rates to be set at such a level as to meet the level of affordable housing need specified in a local development plan. However, there are places in England where the need for affordable housing is very high and land values are relatively low. In these places, a requirement to set levy rates at a level which would meet the level of affordable housing need would make development unviable.

I give the example of Pendle Borough Council, where the 2013 strategic housing market assessment identified that Pendle would need between 74% and 84% of its total annual housing requirement to comprise affordable housing if it was to meet all of its affordable housing need. The local plan, adopted in 2015, recognised that this would not be viable. The plan aims instead for 40% affordable housing as a long-term aspiration, accepting that it will secure less in the near term.

If we were to require charging authorities to set rates in order to meet need, a borough such as Pendle would have to set incredibly high rates. These rates would not be viable, and the result would be that no housing at all would be built. While I completely understand the intention behind the amendment, if we aim too high we will get no market housing and therefore no affordable housing alongside it. That is why the government amendments ensure that charging authorities must also consider viability when setting rates.

Government Amendment 74 also makes it clear that the references to the funding of affordable housing in that duty include funding by means other than the infrastructure levy. We feel that this means that Amendment 77, proposed by my noble friend Lord Lansley, is not needed.

Government Amendments 78 and 80 place a duty on the Secretary of State to lay a report before each House of Parliament setting out the effect of the infrastructure levy on the provision of infrastructure and affordable housing. This includes whether charging the infrastructure levy has resulted in more or less affordable housing being available than would otherwise have been the case. This will allow for the scrutiny of the levy as part of our test and learn approach.

The noble Baroness, Lady Taylor of Stevenage, is rightly concerned about the relationship between the levy and our commitment to levelling up, as well as how the levy will benefit different tiers of local government. The Bill introduces a legal duty for the Government to publish an annual report on progress towards delivering the levelling-up missions. This will give Parliament and the public an important opportunity to debate and scrutinise progress.

Provision will also be made in the infrastructure levy regulations for consultation in connection with new infrastructure delivery strategies. This will empower local leaders across the country, ensuring that all tiers of local government can engage with and benefit from the new levy when allocating proceeds and determining local priorities. I hope that this reassures the noble Baroness, Lady Taylor of Stevenage, and that she will not move Amendment 69.

Some local authorities that we have spoken to have recognised the potential of a levy based on gross development value but expressed concerns about the risk; for example, around the challenges of setting appropriate rates. Therefore, government Amendments 82 to 89 provide the ability for the Secretary of State to disapply the levy. This will help give such local authorities confidence that unforeseen risks can be managed, after they first implement the new levy.

Amendment 70A, proposed by the noble Baroness, Lady Taylor of Stevenage, seeks to make application of the levy optional. However, this would further fragment the system of developer contributions in England rather than help to streamline it. I should also add that the Government will have the ability to disapply the levy for a particular area or charging

authority, as already stated. Moreover, the aim of a test and learn approach is that the system can be adapted to reflect early learning. It would not be appropriate to commit to a course of action, as the noble Baroness proposes in Amendment 81, without first assessing the evidence. Therefore, I hope that she will not move these amendments.

Lord Lansley (Con): I apologise for interrupting my noble friend but, among the powers that have been taken, is she anticipating that the design choices yet to be made will include whether local authorities may set their charging schedule by reference to gross development value or, in certain circumstances, may choose to use floorspace charging, as they do under CIL at present?

Baroness Scott of Bybrook (Con): My noble friend is absolutely right: these will come out as we go through the consultation and further design stages.

Government Amendment 93 is consequential on legislation which is already on the statute book; namely, the Judicial Review and Courts Act 2022. It brings the enforcement provisions relating to the community infrastructure levy in line with the enforcement provisions relating to the new levy, which in turn reflect the provisions in the 2022 Act, creating a consistent, coherent cross-government policy on sentencing law.

We believe that we have a strong case for proceeding with the new infrastructure levy and have built in safeguards to ensure that development can progress with vital mitigations in place. We recognise that introducing the infrastructure levy is a significant change to the existing system. That is why we propose to introduce the levy via a test and learn approach. If the levy is found to have negative impacts in the context of one particular local authority, the Secretary of State will have the flexibility to disapply the levy in that authority for a specified time period.

In any system of developer contributions there are trade-offs between seeking simplicity and at the same time enabling individual site circumstances to be catered for. These are tricky balances to strike, and if our initial policy design leans too far in one direction or another, it may impact on the pace at which development can come forward. It is likely that revisions will be required of the initial levy regulations, as occurred with the community infrastructure levy, as the system beds in. While we do not expect these to be substantial, it will give local authorities confidence that the system will be flexible and able to be adjusted to experience on the ground. We do not expect the power to disapply the levy to be used often—if at all. However, it is a sensible, inbuilt precautionary power to cater for all circumstances.

5.30 pm

Baroness Pinnock (LD): My Lords, I thank all noble Lords for their contributions and challenges to what I have said during this important debate. I particularly thank the Minister for being so generous with her time prior to Report in order to discuss these issues and to respond so constructively to the elements raised in Committee about affordable housing concerns, as well as for having spoken so persuasively—although maybe not quite persuasively enough—in response to this debate, giving as always a full reply to all the issues that were raised.

I come back to the fact that this is not about reforming a planning system; it is a levelling-up Bill, part of which will have to look at how we build more social and affordable housing, and communities that are healthy, safe and ready for the future. However, I come back to the fact that was raised by the Minister: these regulations could be disapplied by some local authorities if the development was deemed economically unviable to raise the funding. Those are the very same places which this Bill and the Government's own White Paper wanted us to focus on, to raise up those communities so they can enjoy the same level of prosperity as other parts of the country. I repeat that the CIL level in a large part of the authority which I represent was set by the planning inspector at zero. That is the problem with the infrastructure levy. The example that the Minister gave of Pendle demonstrates that some authorities will not be able to build enough affordable housing under this system.

The organisations that wrote to the Secretary of State retain many of the concerns about the infrastructure levy. The system remains complex and very uncertain, for developers and for local authorities. It will be expensive to operate, and difficult to set the levy at the right level. I accept there is a need for reform of the existing CIL and Section 106, but this is not it. This is adding on something, as we have heard, so that we will have three different systems running side by side. People and developers will be confused, and local authorities will not be sure how much money they will be able to raise.

I hear the strength of feeling the Minister expressed in her response to the debate. Nevertheless, given all those worries that I have—fundamental concerns—I beg leave to test the opinion of the House.

5.33 pm

Division on Amendment 68

Contents 185; Not-Contents 221.

Amendment 68 disagreed.

Division No. 2

CONTENTS

Addington, L.
Allan of Hallam, L.
Anderson of Stoke-on-Trent, B.
Anderson of Swansea, L.
Armstrong of Hill Top, B.
Bach, L.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley, L.
Birt, L.
Blackstone, B.
Blake of Leeds, B.
Blower, B.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradshaw, L.
Brinton, B.
Bristol, Bp.
Brooke of Alverthorpe, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Burt of Solihull, B.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Clancarty, E.

Clark of Windermere, L.
Coaker, L.
Collins of Highbury, L.
Crawley, B.
Cunningham of Felling, L.
Davidson of Glen Clova, L.
Davies of Brixton, L.
Dholakia, L.
Dodds of Duncairn, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Dubs, L.
Falconer of Thoroton, L.
Faulkner of Worcester, L.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Glasman, L.
Goddard of Stockport, L.
Golding, B.
Grantchester, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hacking, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Hayman of Ullock, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hollins, B.
Howarth of Newport, L.
Humphreys, B. [Teller]
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Janke, B.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Khan of Burnley, L.
Kilclooney, L.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Layard, L.
Lennie, L.
Leong, L.
Levy, L.
Liddell of Coatdyke, B.
Lipsey, L.
Lister of Burtersett, B.
Livermore, L.
Londesborough, L.
Ludford, B.
Mackenzie of Framwellgate, L.
Mallalieu, B.
Mann, L.
Maxton, L.
McAvoy, L.
McConnell of Glenscorrodale, L.
McIntosh of Hudnall, B.
McNally, L.
Meacher, B.
Mendelsohn, L.
Merron, B.
Morgan, L.
Murphy of Torfaen, L.
Newby, L.
Nye, B.
Oates, L.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Primarolo, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Rooker, L.
Royall of Blaisdon, B.
Russell, E.
Sahota, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Shipley, L.
Sikka, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stoneham of Droxford, L. [Teller]
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Taylor of Stevenage, B.
Teverson, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tope, L.
Touhig, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L.
Turnberg, L.
Twycross, B.
Uddin, B.
Vaux of Harrowden, L.
Wallace of Saltaire, L.
Walmsley, B.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Willis of Summertown, B.
Winston, L.
Wood of Anfield, L.
Woolley of Woodford, L.
Wrigglesworth, L.
Young of Old Scone, B.

NOT CONTENTS

Aberdare, L.
Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altmann, B.
Altrincham, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Bailey of Paddington, L.
Balfe, L.
Barran, B.
Bellamy, L.
Bellingham, L.
Benyon, L.
Berridge, B.
Bethell, L.
Blackwell, L.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Brady, B.
Bray of Coln, B.
Bridgeman, V.
Browne of Belmont, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Cameron of Dillington, L.
Camrose, V.
Carrington of Fulham, L.
Carrington, L.
Cathcart, E.
Clarke of Nottingham, L.
Colgrain, L.
Colville of Culross, V.
Cormack, L.
Courtown, E. [Teller]
Craig of Radley, L.
Craigavon, V.
Crathorne, L.
Davies of Gower, L.
De Mauley, L.
Deben, L.
Dobbs, L.
Duncan of Springbank, L.
Dundee, E.
Dunlop, L.
Eaton, B.
Eccles, V.
Effingham, E.
Evans of Bowes Park, B.
Evans of Rainow, L.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Faulks, L.
Fellowes of West Stafford, L.
Fleet, B.
Flight, L.
Forsyth of Drumlean, L.
Foster of Oxton, B.
Framlingham, L.
Fraser of Craigmaddie, B.
Frost, L.
Gascoigne, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Godson, L.
Goldie, B.
Goschen, V.
Green of Hurstpierpoint, L.
Greenhalgh, L.
Greenway, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hailsham, V.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Harlech, L.
Harrington of Watford, L.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hintze, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hogan-Howe, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Janvrin, L.
Jay of Ewelme, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Johnson of Marylebone, L.
Jopling, L.
Keen of Elie, L.
Kerr of Kinlochard, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lampard, B.
Lancaster of Kimbolton, L.
Lansley, L.
Lawlor, B.
Lea of Lymm, B.
Leicester, E.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lucas, L.
Mancroft, L.
Manzoor, B.
Markham, L.
Marland, L.
Marlesford, L.
Maude of Horsham, L.
McCrea of Magherafelt and Cookstown, L.
McGregor-Smith, B.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
McLoughlin, L.
Mendoza, L.
Meyer, B.
Minto, E.
Mobarik, B.
Montrose, D.
Moore of Etchingham, L.
Morris of Bolton, B.
Mott, L.
Moylan, L.
Moynihan, L.

Moyo, B.
Murray of Blidworth, L.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Nicholson of Winterbourne, B.
Noakes, B.
Norton of Louth, L.
Offord of Garvel, L.
O'Neill of Bexley, B.
Parkinson of Whitley Bay, L.
Peel, E.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Ranger, L.
Rawlings, B.
Reay, L.
Redfern, B.
Remnant, L.
Risby, L.
Robathan, L.
Roberts of Belgravia, L.
Roborough, L.
Rock, B.
Rogan, L.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Sewell of Sanderstead, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Smith of Hindhead, L.
Soames of Fletching, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Strathclyde, L.
Stroud, B.
Sugg, B.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trenchard, V.
True, L.
Tugendhat, L.
Tyrie, L.
Udny-Lister, L.
Vere of Norbiton, B.
Verma, B.
Waldegrave of North Hill, L.
Warsi, B.
Wasserman, L.
Wei, L.
Weir of Ballyholme, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wilson of Dinton, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

5.46 pm

Schedule 12: Infrastructure Levy

Amendments 69 to 71A not moved.

Amendments 72 to 76

Moved by ***Baroness Scott of Bybrook***

72: Schedule 12, page 410, line 32, leave out "have regard"

Member's explanatory statement

This amendment, taken together with the amendments to Schedule 12 in the Minister's name at lines 34 and 38 on page 410, change the duty in subsection (2) of new section 204G of the Planning Act 2008 from one of having regard to the desirability of ensuring that the level of affordable housing funding provided by developers is maintained to one of having to seek to ensure that level can be maintained.

73: Schedule 12, page 410, line 34, leave out "to the desirability of ensuring" and insert "seek to ensure"

Member's explanatory statement

This amendment, taken together with the amendments to Schedule 12 in the Minister's name at lines 32 and 38 on page 410, change the duty in subsection (2) of new section 204G of the Planning Act 2008 from one of having regard to the desirability of ensuring that the level of affordable housing funding provided by developers is maintained to one of having to seek to ensure that level can be maintained.

74: Schedule 12, page 410, line 37, leave out "the funding provided by the developers" and insert "funding provided by developers of affordable housing provided in the authority's area"

Member's explanatory statement

This amendment makes it clear that the funding referred to in paragraph (b) of new section 204G(2) of the Planning Act 2008 is funding of affordable housing provided in the charging authority's area.

75: Schedule 12, page 410, line 38, leave out first "is" and insert "can be"

Member's explanatory statement

This amendment, taken together with the amendments to Schedule 12 in the Minister's name at lines 32 and 34 on page 410, change the duty in subsection (2) of new section 204G of the Planning Act 2008 from one of having regard to the desirability of ensuring that the level of affordable housing funding provided by developers is maintained to one of having to seek to ensure that level can be maintained.

76: Schedule 12, page 410, line 40, at end insert—

"(2A) Subsection (2) does not apply if the charging authority considers that complying with it would make development of the authority's area economically unviable.

(2B) The references in subsection (2) to the funding of affordable housing by developers are to its funding by developers through IL or by any other means."

Member's explanatory statement

This amendment disapplies the duty in new section 204G(2) of the Planning Act 2008 where the charging authority considers that complying with it would make development of the authority's area economically unviable. It also makes it clear that the references to the funding of affordable housing in that duty include funding by means other than infrastructure levy.

Amendments 72 to 76 agreed.

Amendment 77 not moved.

Amendments 78 and 79

Moved by ***Baroness Scott of Bybrook***

78: Schedule 12, page 417, line 20, leave out "and 204Q" and insert ", 204Q and 204YA"

Member's explanatory statement

This amendment is consequential on the amendment in the Minister's name to Schedule 12 at line 9 of page 431.

79: Schedule 12, page 423, line 9, at end insert—

"(4A) So long as affordable housing falls within the meaning of "infrastructure" given by section 204N(3), regulations under subsection (4) must permit charging authorities, in the circumstances and to the extent specified in the regulations, to require IL to be paid by providing affordable housing on the development site.

(4B) In subsection (4A) "development site" means the site on which the development in respect of which the IL is charged takes place."

Member's explanatory statement

This amendment requires IL regulations to permit charging authorities to require payment of infrastructure levy through the provision of on-site affordable housing (provided that affordable housing is "infrastructure" for the purposes of the levy).

Amendments 78 and 79 agreed.

Amendment 80

Moved by ***Baroness Scott of Bybrook***

80: Schedule 12, page 431, line 9, at end insert—

"204YA Parliamentary scrutiny: affordable housing

(1) The Secretary of State must prepare a report which—

(a) provides information, in relation to each charging authority which charges IL in respect of development in its area, about the amount of affordable housing provision that has been funded by IL charged by that authority,

(b) assesses whether the charging of IL has resulted in more or less affordable housing being available in areas in respect of which IL is charged than would otherwise be the case, and

(c) sets out such other information as the Secretary of State considers appropriate in connection with the effect of IL on the provision, improvement, replacement, operation or maintenance of affordable housing or other infrastructure.

(2) The Secretary of State must lay the report before each House of Parliament before the end of the period of 5 years beginning with the date on which the first charging schedule takes effect under this Part.

(3) The Secretary of State must publish the report as soon as is reasonably practicable after it has been laid before each House of Parliament."

Member's explanatory statement

This amendment places a duty on the Secretary of State to prepare a report relating to the effect of infrastructure levy on the funding and provision of affordable housing (and certain other matters), lay that report before Parliament and publish it.

Baroness Scott of Bybrook (Con): I beg to move.

Amendment 81 (to Amendment 80) not moved.

Amendment 80 agreed.

Amendments 82 to 89

Moved by ***Baroness Scott of Bybrook***

82: Schedule 12, page 431, line 15, at end insert—

"(ba) may disapply any provision made by or under this Part in relation to an area, or a charging authority, specified or described in the regulations,"

Member's explanatory statement

This amendment enables new Part 10A of the Planning Act 2008, and any regulations made under it, to be disapplied in relation to an area or charging authority, so that infrastructure levy does not have to be charged in that area or (as the case may be) by that authority.

83: Schedule 12, page 432, line 19, leave out "for"

Member's explanatory statement

This amendment is consequential on the amendment in the Minister's name to Schedule 12 at line 19 of page 432.

84: Schedule 12, page 432, line 19, at end insert—

"(za) in consequence of, or to supplement, provision made under section 204Z(1)(ba),"

Member's explanatory statement

This amendment enables provision to be made under section 204Z1(1) to (3), and guidance to be given under subsection (4) of that section, in consequence of, or to supplement, provision made under section 204Z(1)(ba) (which is inserted by the amendment in the Minister's name to Schedule 12 at line 15 of page 431).

85: Schedule 12, page 432, line 20, at beginning insert "for"

Member's explanatory statement

This amendment is consequential on the amendment in the Minister's name to Schedule 12 at line 19 of page 432.

86: Schedule 12, page 432, line 22, at beginning insert "for"

Member's explanatory statement

This amendment is consequential on the amendment in the Minister's name to Schedule 12 at line 19 of page 432.

87: Schedule 12, page 432, line 24, at beginning insert "for"

Member's explanatory statement

This amendment is consequential on the amendment in the Minister's name to Schedule 12 at line 19 of page 432.

88: Schedule 12, page 432, line 26, at beginning insert "for"

Member's explanatory statement

This amendment is consequential on the amendment in the Minister's name to Schedule 12 at line 19 of page 432.

89: Schedule 12, page 432, line 30, at beginning insert "for"

Member's explanatory statement

This amendment is consequential on the amendment in the Minister's name to Schedule 12 at line 19 of page 432.

Amendments 82 to 89 agreed.

Amendment 90 not moved.

Amendment 91

Moved by ***Earl Howe***

91: After Schedule 12, insert the following new Schedule—

"Schedule

Regulations under Chapter 1 of Part 3 or Part 6: restrictions on devolved authorities

No power to make provision outside devolved competence

1 (1) No provision may be made by a devolved authority acting alone in regulations under Chapter 1 of Part 3 or Part 6 unless the provision is within the devolved competence of the devolved authority.

(2) See paragraphs 5 to 7 for the meaning of "devolved competence".

Requirement for consent where it would otherwise be required

2 (1) The consent of a Minister of the Crown is required before any provision is made by the Welsh Ministers acting alone in regulations under Chapter 1 of Part 3 or Part 6 so far as that provision, if contained in an Act of Senedd Cymru, would require the consent of a Minister of the Crown.

(2) The consent of the Secretary of State is required before any provision is made by a Northern Ireland department acting alone in regulations under Chapter 1 of Part 3 or Part 6 so far as that provision would, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State.

(3) Sub-paragraph (1) or (2) does not apply if—

(a) the provision could be contained in subordinate legislation made otherwise than under this Act by the Welsh Ministers acting alone or (as the case may be) a Northern Ireland devolved authority acting alone, and

(b) no such consent would be required in that case.

(4) The consent of a Minister of the Crown is required before any provision is made by a devolved authority acting alone in regulations under Chapter 1 of Part 3 or Part 6 so far as that provision, if contained in—

(a) subordinate legislation made otherwise than under this Act by the devolved authority, or

(b) subordinate legislation not falling within paragraph (a) and made otherwise than under this Act by a Northern Ireland devolved authority acting alone,

would require the consent of a Minister of the Crown.

(5) Sub-paragraph (4) does not apply if—

(a) the provision could be contained in—

(i) an Act of the Scottish Parliament, an Act of Senedd Cymru or (as the case may be) an Act of the Northern Ireland Assembly, or

(ii) different subordinate legislation of the kind mentioned in sub-paragraph (4)(a) or (b) and of a devolved authority acting alone or (as the case may be) other person acting alone, and

(b) no such consent would be required in that case.

Requirement for joint exercise where it would otherwise be required

3 (1) No regulations may be made under Chapter 1 of Part 3 or Part 6 by the Scottish Ministers, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Scottish Ministers acting jointly with a Minister of the Crown, unless the regulations are, to that extent, made jointly with the Secretary of State.

(2) No regulations may be made under Chapter 1 of Part 3 or Part 6 by the Welsh Ministers, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers acting jointly with a Minister of the Crown, unless the regulations are, to that extent, made jointly with the Secretary of State.

(3) No regulations may be made under Chapter 1 of Part 3 or Part 6 by a Northern Ireland department, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by—

(a) a Northern Ireland department acting jointly with a Minister of the Crown, or

(b) another Northern Ireland devolved authority acting jointly with a Minister of the Crown,

unless the regulations are, to that extent, made jointly with the Secretary of State.

(4) Sub-paragraph (1), (2) or (3) does not apply if the provision could be contained in—

(a) an Act of the Scottish Parliament, an Act of Senedd Cymru or (as the case may be) an Act of the Northern Ireland Assembly without the need for the consent of a Minister of the Crown, or

(b) different subordinate legislation made otherwise than under this Act by—

(i) the Scottish Ministers acting alone,

(ii) the Welsh Ministers acting alone, or

(iii) (as the case may be), a Northern Ireland devolved authority acting alone.

Requirement for consultation where it would otherwise be required

4 (1) No regulations may be made under Chapter 1 of Part 3 or Part 6 by the Welsh Ministers acting alone, so far as they contain provision which, if contained in an Act of Senedd Cymru, would require consultation with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.

(2) No regulations may be made under Chapter 1 of Part 3 or Part 6 by the Scottish Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Scottish Ministers after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.

(3) No regulations may be made under Chapter 1 of Part 3 or Part 6 by the Welsh Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.

(4) No regulations may be made under Chapter 1 of Part 3 or Part 6 by a Northern Ireland department acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by a Northern Ireland department after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.

(5) Sub-paragraph (2), (3) or (4) does not apply if—

(a) the provision could be contained in an Act of the Scottish Parliament, an Act of Senedd Cymru or (as the case may be) an Act of the Northern Ireland Assembly, and

(b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.

(6) Sub-paragraph (2), (3) or (4) does not apply if—

(a) the provision could be contained in different subordinate legislation made otherwise than under this Act by—

(i) the Scottish Ministers acting alone,

(ii) the Welsh Ministers acting alone, or

(iii) (as the case may be), a Northern Ireland devolved authority acting alone, and

(b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.

Meaning of devolved competence

5 A provision is within the devolved competence of the Scottish Ministers if—

(a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, or

(b) it is provision which could be made in other subordinate legislation by the Scottish Ministers.

6 A provision is within the devolved competence of the Welsh Ministers if—

(a) it would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (including any provision that could be made only with the consent of a Minister of the Crown), or

(b) it is provision which could be made in other subordinate legislation by the Welsh Ministers.

7 A provision is within the devolved competence of a Northern Ireland department if—

(a) the provision—

(i) would be within the legislative competence of the Northern Ireland Assembly, if contained in an Act of that Assembly, and

(ii) would not, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State,

(b) the provision—

(i) amends or repeals Northern Ireland legislation, and

(ii) would be within the legislative competence of the Northern Ireland Assembly, if contained in an Act of that Assembly, and would, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State, or

(c) the provision is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority.

Interpretation

8 In this Schedule—

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;

"Northern Ireland devolved authority" means the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department;

"subordinate legislation" has the meaning given in section 20(1) of the European Union (Withdrawal) Act 2018."

Member's explanatory statement

This amendment inserts a new Schedule (Regulations under Chapter 1 of Part 3 or Part 6: restrictions on devolved authorities) which contains various provision about the restrictions on devolved authorities when making regulations under Chapter 1 of Part 3 or Part 6.

Earl Howe (Con): My Lords, I shall speak also to the many other government amendments in this group. Let me start by expressing my thanks to noble Lords who have debated and laid amendments relating to devolved matters. The government amendments in this group reflect the discussions with the devolved Administrations in respect of this part of the Bill and speak to the substance of the other amendments that have been laid on this topic.

The Government's amendments provide the devolved Administrations with concurrent powers to replace strategic environmental assessments and environmental impact assessments with environmental outcomes reports in devolved areas, and make corresponding amendments to Part 3 in respect of planning data associated with environmental outcomes reports.

In providing concurrent powers across the four nations, the Bill would allow each Administration to tailor environmental assessment to their needs, while retaining the ability to manage interaction and interoperability going forward. The amendments do not introduce a requirement for devolved Administrations to bring forward environmental outcomes reports, but they would see to it that each Administration has the necessary powers to ensure the existing system can continue to function as regimes reform over time.

In light of the growing need for collaboration across the four Administrations on pressing matters like climate change and energy security, and to ensure that the UK remains an attractive place to invest and deliver major infrastructure projects, the UK Government feel that there are significant benefits to maintaining an effective framework of powers across the UK. The current clauses contain a limited power for the UK Government to legislate in areas of devolved competence where the devolved Administrations of Scotland, Wales and Northern Ireland have been consulted. We have been clear since introduction that this was a placeholder clause to reduce the risk of a harmful legislative gap while negotiations with the devolved Administrations were under way. Therefore, these amendments also amend the powers in Part 6 to ensure that the Secretary of State will need the consent of Wales and Northern Ireland where EOR regulations affect matters of their devolved legislative competence.

At this stage, following discussions with the Scottish Government, the provisions for Scotland do not include this same consent mechanism for matters relating to devolved legislative competence, and the UK Government retain the ability to legislate in areas of devolved competence for Scotland, subject to a duty to consult. It is absolutely vital for the UK Government to preserve, in limited circumstances, the ability to legislate UK-wide to ensure assessments can continue to work across our different regimes. Unfortunately, the Scottish Government currently do not wish to support the necessary legislative framework for this to function. We are continuing to engage with the Scottish Government and stand ready to bring forward further amendments once these discussions have run their course.

As is currently the case, the Government would only ever legislate in areas of devolved competence where absolutely necessary, and only after careful consideration and consultation with the Scottish Government. I therefore hope the House will support these amendments and beg to move Amendment 91 in my name.

Baroness Ritchie of Downpatrick (Lab): My Lords, I rise to speak in favour of Amendments 111, 115, 120 and 121, in my name, which relate directly to devolved competence. I thank the Minister and his ministerial colleague, the noble Baroness, Lady Scott, for their very helpful meeting last week. Obviously, as I indicated to them, I still have residual concerns, particularly in relation to Northern Ireland, about which I will ask a couple of questions at the conclusion.

As the Minister said, Clause 148 requires the UK Government to consult with Ministers of devolved Administrations should EOR regulations fall within their competence. This is a weak requirement which could lead to EOR regulations being imposed on devolved nations without the consent of their Administrations. This provides a further risk of environmental regression, should EOR regulations impose weaker requirements than those put in place by the devolved Governments.

The wording of Clause 148 is particularly problematic for Northern Ireland as it requires the Secretary of State only to consult with a Northern Ireland department, potentially bypassing elected representatives in Northern Ireland. As a former Minister in the Northern Ireland Executive, I fully recognise and acknowledge that this requirement to vest powers in a department rather than a Minister goes back to 1921, when the original Northern Ireland Parliament was established. I will be asking that both the Minister and his ministerial colleagues have immediate and ongoing discussions with the Secretary of State for Northern Ireland and his Ministers to see if they can find an all-encompassing way of addressing that and ensuring that power is restored to Ministers, even though we do not have a devolved Administration at the moment. That is not the fault of this provision, but I do recall that this was problematic when we were Ministers in the Executive, because it is unlike what happens in other Administrations.

As the Minister has said, in Committee on 18 May the Minister stated that the UK Government were having discussions with the devolved Governments. I think the Minister has already underlined today how these powers should operate. These discussions and

the continued concern expressed by parliamentarians should lead to a swift amendment of the Bill to uphold devolved competencies and prevent environmental regressions. Amendments 111, 115 and 120 in my name would achieve this by requiring Ministers to secure the consent of a devolved Administration before setting those EOR regulations within the competence of that Administration, rather than merely consult it. Amendment 121 would also require consent for EOR regulations to be given by Ministers of the Northern Ireland Executive, rather than by a Northern Ireland department, providing a closer link between elected representatives in Northern Ireland and the regulations.

I recognise that the Government have tabled a series of amendments to respond to the concerns raised in Committee and by the amendments I have tabled, but the government amendments do not go far enough. No concession, for example, has been made on Scotland. I realise from the supplementary document we received today from officials that Wales seems to be relatively content, but there are still problems in relation to Northern Ireland. I repeat: what happens in the case of Northern Ireland, where we do not have a devolved Government and Assembly in place? Who do those consultations take place with, and who is the decision-maker in that instance? On the wider power vested in a Northern Ireland department, rather than a Minister, will the Minister undertake to look at this with the Secretary of State for Northern Ireland and to address the anomaly presented by the legislation back in 1921 to ensure that is corrected, and to vest power in Ministers?

In conclusion, I honestly believe that the Government should resolve the inconsistencies created by this suite of government amendments and fully adopt the approach proposed in my amendments. It constitutes a similar approach to all the devolved settlements and the democratic choices made by the people of Scotland, Wales and Northern Ireland.

Baroness Finlay of Llandaff (CB): My Lords, I will speak briefly from the perspective of Wales. First, I thank Ministers for the meeting they held earlier with me and my noble and learned friend Lord Thomas of Cwmgiedd; it was extremely helpful to go through the issues. If I have understood the position correctly, in introducing the amendments the Minister, I am glad to say, stressed that the Government would be "seeking consent" from the Welsh Government. That goes beyond the previous concept of "having regard to" and would mean that should consent not be given and the Government then act, that would be ultra vires, because they must seek consent from the Welsh Government.

However, I think this applies in only a limited area. I do not want to detract from the good work that has been done in consulting with the Welsh Government and the discussions that have been had, because I see that as a way forward and a great improvement on what might have happened in the past. Working together for the common good is really important.

6 pm

There are some slightly broader concerns, but I do not think they relate to these amendments. They are simply where missions might intersect with areas of devolved competencies more generally, and there is a concern that the original promise of replacing EU funds in full and no power being lost to Wales does not seem to have come through in terms of funding. Welsh Ministers continue to seek a co-decision-making role in agreeing the outcomes and how the levelling up agenda will be achieved, including through what was the shared prosperity fund and how it should be spent to ensure policy coherence and avoid duplication, because some of the areas really cut across legislative competence.

But there is a common aim of making sure that the country is more prosperous, fairer and greener. The Welsh Government want to make sure that Wales is an attractive place to live, study, work and invest, with a good quality of life for its citizens, and recognise that some of the really big problems facing us are ones that affect the whole of the UK and cannot be isolated within one country's boundaries.

It is reassuring to understand that the Government are binding themselves to consult and to seek legislative competence. At this point, I certainly would not oppose the amendments, I welcome the discussions that have occurred and am grateful for the briefings that have been held.

Baroness Hayman of Ullock (Lab): My Lords, I want briefly to comment on the amendments in the name of my noble friend Lady Ritchie of Downpatrick. She talked about her concerns about Clause 148 and its weak requirement regarding the devolved nations. She particularly talked about the fact that it is problematic for Northern Ireland, and we note that there are concerns about the regression risk that this part of the Bill could bring. She also mentioned the fact that the Scottish Government have expressed their opposition to the Bill on those grounds. In Committee on 18 May, the noble Earl stated that the UK Government were having

"discussions with the devolved Governments on how these powers should operate".—[Official Report, 18/5/23; col. 447.]

We believe that the amendments tabled by my noble friend help to resolve the concerns expressed by requiring Ministers to secure the consent of a devolved Administration before setting EOR regulations within the competence of that Administration, rather than simply consulting them. We very much support the amendments in the name of my noble friend.

It is worth pointing out that this means that there has still been no movement regarding Scotland, and it would be good to know that those discussions are still ongoing to try to make some progress.

A concern to mention briefly on the government amendments is around those that relate to the habitats regulations. The Bill allows for changes to the existing regulations with only a vague non-regression commitment in Clause 147. I just point out that this is why I have Amendment 106 in group 5, which creates a robust non-regression test, and that is one reason I tabled that—just to tie the two groups together, so that the noble Earl has some frame of reference on where we are coming from on that. Having said that, if he can provide further clarity on the issues raised by my noble friend, I am sure we will be very grateful.

Earl Howe (Con): My Lords, I am, as ever, grateful to noble Lords who have spoken and, in particular, to the noble Baroness, Lady Ritchie, for the way in which

[Earl Howe]
she spoke to her amendments and for her experience in devolved matters generally. She will have heard that we consider that the Government's amendments speak to the substance of her amendments and, in fact, go further in extending the powers to make EOR regulations for all of the devolved Administrations.

The Government consider it crucial that these powers are made available across the United Kingdom to allow for continued close co-operation and interoperability between environmental assessment regimes across the UK. Securing this ability to work together across the different jurisdictions reduces the risk of harmful divergence. This is particularly crucial for areas such as offshore wind, where minimising delay and cost is vital if we are to meet our environmental commitments and achieve energy security.

The noble Baroness, Lady Ritchie, spoke of these powers being imposed on devolved Administrations. The first point to make in that context is that there is no obligation or time limit under the powers for the devolved Administrations to use the powers that Part 6 would grant them. The powers would be exercisable at the discretion of the devolved Administrations if they chose to use them. However, these are powers that would allow devolved Administrations broad scope to implement their own new system of environmental assessment.

In addition, the model would mean that, where assessment is needed under both EOR and an existing EIA/SEA regime, whether in Scotland, England, Wales or Northern Ireland, the development or plan need satisfy only one of the regimes, avoiding the need for duplication. Without the ability to adopt EOR, the UK Government and the devolved Administrations would have no interoperability and gradually increasing divergence, and that could mean certain projects or plans requiring assessment under two separate regimes far into the future, which, as is obvious, could lead to a chilling effect on development of certain types and in certain locations, as well as cross-border plans. Devolved Administrations adopting these powers would not completely remove the risk of divergence, as the current powers model would allow devolved Administrations complete discretion on what their system of environmental assessment looks like, but it would retain the potential for continued alignment where this is considered beneficial.

The noble Baroness raised a number of points and questions about Northern Ireland, and I shall ensure that these are taken up at departmental level and that the department keeps in touch with her about the action being taken. I just pick up the issue she raised of the absence of an Executive in Northern Ireland. In the current situation, with the Assembly not sitting, Northern Ireland is clearly not in a position to provide legislative consent for the Bill, so in respect of Part 6, the UK Government propose to extend these powers to Northern Ireland on the same basis as that agreed with the Welsh Government. This is not a decision that the UK Government have taken lightly, but we believe it is the right approach in these circumstances, as it preserves the opportunity for reform for a future Executive in a way that preserves the unique situation on the island of Ireland.

Legislating in this way provides Northern Ireland with safeguards on the use of these powers that would ensure that the consent of relevant Northern Ireland departments was required if the UK Government wished to use the powers in Part 6 to legislate for matters within devolved legislative competence. Not extending the powers in this way would mean the loss of these safeguards, as well as the loss of the opportunity for the Northern Ireland Executive to benefit from these powers once the Executive have been restored.

I am conscious that the noble Baroness has sought to introduce amendments for each of the devolved Administrations. While the Government share the noble Baroness's view that it would be best for each Administration to be placed on an even footing, at this stage the amendments provide the Scottish Government with concurrent powers, but on slightly different terms from those of Wales and Northern Ireland. However, we are continuing to engage with the Scottish Government on this issue and remain open to extending the same provisions to the Scottish Government to place each Administration on the same footing, should they agree to that. On the basis of discussions continuing, I hope that the noble Baroness will not feel the need to press her amendments.

Amendment 91 agreed.

Amendment 92

Moved by ***Baroness Scott of Bybrook***

92: After Schedule 12, insert the following new Schedule—

"Schedule

Existing environmental assessment legislation

Part 1

United Kingdom and England and Wales

United Kingdom and England and Wales

- Schedule 3 to the Harbours Act 1964 (procedure for making harbour revision and empowerment orders) so far as relating to environmental impact assessments;
- Part 5A of the Highways Act 1980 (environmental impact assessments);
- Sections 13A to 13D of the Transport and Works Act 1992 (environmental impact assessments);
- The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (S.I. 1999/360);
- The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (S.I. 1999/1672);
- The Environmental Impact Assessment (Land Drainage Improvement Works) Regulations 1999 (S.I. 1999/1783);
- The Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999 (S.I. 1999/2228);
- The Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (S.I. 1999/2892);
- The Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (S.I. 2000/1928);
- The Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003 (S.I. 2003/164);
- The Environmental Assessment of Plans and Programmes Regulations 2004 (S.I. 2004/1633);
- The Transport and Works (Applications and Objections Procedure)(England and Wales) Rules 2006 (S.I. 2006/1466) so far as dealing with environmental matters;

- The Environmental Impact Assessment (Agriculture) (England) (No. 2) Regulations 2006 (S.I. 2006/2522);
- The Marine Works (Environmental Impact Assessment) Regulations 2007 (S.I. 2007/1518);
- The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (S.I. 2017/571);
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (S.I. 2017/572);
- The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 (S.I. 2017/580);
- The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020 (S.I. 2020/1497).

Part 2

Scotland

Scotland

- Sections 20A to 22B and 55A to 55D of the Roads (Scotland) Act 1984 (environmental assessment of certain road construction and improvement projects);
- The Public Gas Transporter Pipeline Works (Environmental Impact Assessment) (Scotland) Regulations 1999 (S.S.I. 1999/1672);
- The Transport and Works (Scotland) Act 2007;
- The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007;
- The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (S.S.I. 2017/101);
- The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (S.S.I. 2017/102);
- The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 (S.S.I. 2017/113);
- The Agriculture, Land Drainage and Irrigation Projects (Environmental Impact Assessment) (Scotland) Regulations 2017 (S.S.I. 2017/114);
- The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (S.S.I. 2017/115).

Part 3

Wales

Wales

- The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004 (S.I. 2004/1656);
- The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009 (S.I. 2009/3342);
- The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (S.I. 2016/58);
- The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2017 (S.I. 2017/565);
- The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (S.I. 2017/567).

Part 4

Northern Ireland

Northern Ireland

- Part V of the Roads (Northern Ireland) Order 1993 (S.I. 1993/3160 (N.I. 15));
- The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 (S.R. (N.I.) 1999/73);
- The Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004 (S.R. (N.I.) 2004/280);
- The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005 (S.R. (N.I.) 2005/32);
- The Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006 (S.R. (N.I.) 2006/518);
- The Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007 (S.R. (N.I.) 2007/421);
- The Planning Act (Northern Ireland) 2011 (c. 25 (N.I.))."

Member's explanatory statement

This amendment inserts a new Schedule (Existing environmental assessment legislation) which lists existing environmental assessment legislation.

Amendment 92 agreed.

Amendment 93

Moved by ***Baroness Scott of Bybrook***

93: After Clause 131, insert the following new Clause—

"Enforcement of Community Infrastructure Levy

(1) In section 218 of the Planning Act 2008 (enforcement), for subsections (11) and (12) substitute—

"(11) Regulations under this section creating a criminal offence may not provide for—

(a) imprisonment for a term exceeding the maximum term for summary offences, on summary conviction for an offence triable summarily only,

(b) imprisonment for a term exceeding the general limit in a magistrates' court, on summary conviction for an offence triable either way, or

(c) imprisonment for a term exceeding 2 years, on conviction on indictment.

(12) In subsection (11)(a), "the maximum term for summary offences" means—

(a) in relation to an offence committed before the time when section 281(5) of the Criminal Justice Act 2003 comes into force, 6 months;

(b) in relation to an offence committed after that time, 51 weeks.""

Member's explanatory statement

This amendment amends section 218 of the Planning Act 2008 to bring the enforcement provisions relating to the community infrastructure levy in line with the new enforcement provisions relating to the infrastructure levy (see new section 204S of the Planning Act 2008 inserted by Schedule 12 to the Bill). These provisions reflect changes to sentencing law.

Amendment 93 agreed.

Amendment 94 not moved.

Clause 132: Community land auction arrangements and their purpose

Amendment 95

Moved by ***Earl Howe***

95: Clause 132, page 161, line 5, leave out ", or giving a direction under this Part,"

Member's explanatory statement

This amendment is consequential on the amendment in the Minister's name to Clause 133 at line 18 on page 162.

Earl Howe (Con): My Lords, in moving Amendment 95, I will speak also to Amendments 97, 287 and 293, which address recommendations in the report of your Lordships' Delegated Powers and Regulatory Reform Committee on community land auctions—CLAs. I declare my interest as a landowner.

These procedural amendments will change the power of direction in Clause 133(1)(a), which allows the Secretary of State to direct that a local planning authority preparing a local plan may put in place a CLA arrangement. We are changing this, so that local planning authorities wishing to pilot a CLA arrangement should instead be designated by CLA regulations. These regulations will be subject to the negative resolution procedure to allow for an appropriate level of parliamentary scrutiny of the selection of local planning authorities to participate in community land auction arrangements. We agree with the argument put forward by the DPRRC that the negative resolution procedure is more appropriate than the affirmative, because it will not lead to the delay of the implementation of CLA arrangements.

The policy intent of these amendments is to allow for the appropriate level of parliamentary scrutiny over the selection of prospective piloting authorities. Any potential piloting authorities will need to actively volunteer to participate in CLA arrangements; they will not be forced to do so. These amendments remove any reference to a power for the DLUHC Secretary of State to direct in Part 5, and make associated changes to Clause 231 to ensure that the negative resolution procedure will apply to the new regulation-making power in Clause 133(1). I beg to move.

Lord Young of Cookham (Con): My Lords, I will speak to Amendments 96 and 98 in my name and that of my noble friend Lord Lansley.

In answering a question last week, the Minister, my noble friend Lady Scott, said that the levelling-up Bill was a large one; she gave that as a reason for dropping the repeal of the Vagrancy Act. My amendment directly addresses that concern by deleting eight pages from the Bill: those introducing the untested concept of community land auctions, parachuted into the Bill at a late stage in the other place, hot from the bubbling vat of a think tank, without the normal process of cooling and maturing.

I say again how grateful I am to Ministers for their patience in discussions on CLAs and for the very comprehensive six-page letter received yesterday, addressing some of the concerns that I have spoken about.

One would have thought that a novel concept such as this one would have been subjected to some consultation before it appeared in the Bill: first, with those who have to operate it—namely, the planning authorities—and, secondly, with those who represent the landowners, who have expressed deep reservations about the proposal. So we were surprised to hear the Minister say, in winding up the debate in Committee:

"We will consult on community land auctions shortly".—[*Official Report*, 18/5/23; col. 430.]

Over the weekend, I was reading the guidance issued in April last year for civil servants who are charged with developing policies such as this one. It says:

"Engaging with stakeholders as soon as possible gives them the opportunity to understand what's being asked of the service team and why. It's also a chance to build trust and understanding of each other's needs and ways of working and lets them plan their time and involvement with the project".

Clearly, that engagement with the stakeholders simply has not happened here. I am not blaming the civil servants; Ministers clearly insisted on this clause going in. The guidance then adds a warning to civil servants to

"think about what your users need, not what government thinks they want".

6.15 pm

It is not as if this was a well-developed policy operating anywhere else. The only territory that has anything like community land auctions is, apparently, Hong Kong, where all land is in public ownership and so is not a great comparator. Some 12 years ago, in his 2011 Budget, George Osborne announced that he would pilot a land auction model. However, no progress was made, possibly because the proposition did not withstand critical scrutiny.

Writing in *Property Week* on 19 January this year, Nick Fell said that community land auctions

"have no place in a bill that needs practicality, commitment and delivery while there is still time to get it off the ground … Community Land Auctions are not a practical solution and we doubt they will have legs".

The problem with this policy lies in the name: community land auctions. We all know what an auction is—the winner is the person who makes the highest bid—so there is a risk that planning decisions will be contaminated by financial inducements. Local authorities will have a financial incentive to designate for planning land over which they have an option, in preference to land over which they have no option, even if that land might be more suitable for development. The proposal works only if there is a proper market and the majority of landowners in an area are prepared to go through the hassle of putting in an option. There is a risk that those with the best sites for development sit on their hands, while those with speculative sites on the margin are the only ones who put in the options. My inquiries with land agents indicate that this is exactly what will happen.

At the moment, land is promoted by a landowner, promoter or developer at a significant cost, with a corresponding risk to financial capital, in order to establish that a site is deliverable. That process involves consideration of the land's constraints—flood risk, archaeology, heritage, ecology, highways, topography, drainage, servicing, et cetera—as well as consideration of the ability of the land to remain viable after applying all the various policy requirements from the planning authority. If the most appropriate sites are to be allocated in local plans, CLAs will have only a limited impact, as landowners are unlikely to sell at any price other than the market price for the land. That is because most sustainably located suitable sites are already likely to be under contract—by way of an option or promotion agreement—to a developer, with a requirement to abide by the conditions set by those legal agreements until the point at which they expire. I have been told that the only take-up will be from

landowners with sites that are neither logical nor unconstrained, and which are most likely to be undeliverable or unsustainable as a result.

If a landowner thinks that his land is suitable for housing development, why should he not just wait and pocket all the windfall, rather than sharing it with the local authority? Most of them are able to take a long-term view, and that is the Achilles heel of the proposal. The chair of the local authority body, the Planning Officers Society, Mike Kiely, said:

"In many urban areas, there's a real shortage of development sites so those landowners with good sites are unlikely to opt for the CLA process".

He went on to point out that there is a danger that landowners with poorly located sites, or those on the edge of urban areas, may choose to go for a CLA to improve their chances of getting an allocation in the local plan and offering a generous incentive to the LPA, while the sites that have the better chances do not enter. Of course, local authorities are under enormous financial pressure at the moment.

Then there is the issue of the local planning authorities having the skills and human resources, and indeed the financial resources, to undertake the whole CLA process. The representative bodies of the planning authorities have highlighted the issue of increased financial risk in their responses to the recently proposed infrastructure levy. Concerns have also been expressed that the CLA process could slow up plan-making and housebuilding. The amendments to the Bill do not set out any timetable for the CLA process, but it would have to be very swift if preparation of the local plan is not to be delayed, as one commentator has remarked.

As we heard in an earlier debate, this is a levelling-up Bill but the most valuable sites are in the better resourced local authorities. Unless receipts from the options are shared, or there is some clawback, which is not proposed, the policy, if it works, will not level up. So this is not just an auction; this is a gamble. We want to make progress with the Bill, so unless I am provoked by an insensitive reply from my noble friend the Minister—which of itself would be a first—I do not propose to test the opinion of the House on this. However, I did not want to let the debate on the clause pass without putting on the record the very real reservations that have been expressed by those who will have to operate it.

Lord Lansley (Con): My Lords, I want to speak to Amendments 96 and 98, to which my noble friend Lord Young has just spoken so eloquently and compellingly. I share with him a sense of gratitude to our noble friends for the time they have given and for the way in which they have addressed a range of concerns. However, I have to confess that not least my noble friend's detailed examination of community land auctions in theory caused me to inquire of several people how it might work in practice, although we have not seen that in reality. Those are a few hours of my life I shall never see again, but the conclusion I reached at the end of that was that it will not happen. That is probably the main reason why my noble friend may choose not to press this amendment to a Division to remove this provision from the Bill: it will sit in the Bill, it will become part of the Act and it will never see the light of day beyond that point.

Why? First, because as we have just debated, Part 4 provides for what is, in effect, a mandatory system for all local authorities for deriving developer contributions. Unless that is an utter failure, I cannot see why local authorities would want to go down the path of community land auctions, as opposed to having a much fairer and more equitable system of levy. Secondly, let us look at how it actually works. My noble friend is saying that the regulations will tell us in due course under what circumstances a local authority can enter a scheme. Clause 133(2) says:

"The local plan may only allocate land in the authority's area for development … if the land is subject to a CLA option or a CLA option has already been exercised in relation to it".

So, in preparing a local plan—this is before the planning process is completed, so following a call for sites—the local planning authority must seek options from all the sites put forward before they are chosen to be allocated or not to be allocated.

Let us have a look at that. I declare my interest again as chair of Cambridgeshire Development Forum. In 2019, in preparation for a local plan, the Greater Cambridge Shared Planning service issued a call for sites. It received 675 applications. In 2020, it allocated 19 sites. We therefore have, I think, in this joint plan area, 656 sites that have to go through the process of agreeing a community land auction option and disclosing the price—actually, as the lawyers rightly tell me, not only disclosing the price, which many landowners and developers will resist, but agreeing a legally watertight potential option before the point at which the allocation is made. These options will cease to have effect only when the plan is adopted or approved. In this instance, that is expected to be in the middle of 2025, just ahead of the Bill's cut-off date. That means that, under these circumstances, the community land auction options would subsist for nearly six years, during which 656 sites will be held in abeyance and nothing can effectively be done with them. The price on those 656 sites, at which they are willing to sell, would have been disclosed, while the actual value will continue to change.

I do not see any evidence that local planning authorities have any desire to go down this path and engage in this process. Of course, it is optional, as my noble friend will no doubt remind us—local planning authorities do not have to do it. The conclusion I have reached is that they will not do it. Therefore, in reality, my noble friend did the Government a service by suggesting that it be taken out and the Bill be lightened. As it happens, I suspect Ministers will not do that, but I think they must be realistic and understand that this is proceeding with very little chance of success.

Baroness Pinnock (LD): My Lords, I thank the noble Lords, Lord Young and Lord Lansley, for throwing some much-needed light on the practicalities of community land auctions. During the debate in Committee, a number of us expressed scepticism about the value of having this in the Bill and how it will work. Nevertheless, it is a pilot scheme; there are plenty of reservations in the Bill itself that may make it more difficult for the blue-sky thinking of the think tanks, this having been brought forward at a late stage of the Bill.

[Baroness Pinnock]

There are some voices in the housing sector that support the proposal of community land auctions. Their argument is that this is the best way of extracting a fair portion of the enhanced land value that allocation for development ensures. That is what they say. Others argue, as did the noble Lords, that it will have the perverse effect of buying planning permissions—I think that was the phrase the noble Lord, Lord Young, used in Committee. For me, time will tell. The noble Lords have said they will not push this amendment, so time will tell whether the scheme is attractive to councils and whether it will then deliver what its proponents claim.

Baroness Hayman of Ullock (Lab): My Lords, I will be very brief. I listened with great interest to what the noble Lord, Lord Young of Cookham, said. The issue is that, on paper, this looks quite sensible, but when we start to dig into it and look at it, that peters away. That is one of the problems.

There is an assumption that the option value will be significantly less than the market value for housing development, which we have mentioned. That is not necessarily going to work out in practice; it is a flawed idea when you look at how it works practically. The circumstances for which the theoretical arrangement is designed are really a collection of small, completely substitutable land parcels with a number of different owners. I do not know that that necessarily bears much resemblance, in reality, to the characteristics of land management and the market across the country. That is one of our concerns. Further, the idea that auctions are going to drive down land prices in the absence of any element of compulsion is, we think, pretty unlikely, to say the least. There is an example of that with Transport for London's disappointing experience with the development rights auction model, which failed to deliver.

Thirdly, if the arrangements prove to be workable in practice, it will almost certainly be an attractive proposition only in areas where there is significant housing demand and high land values; so I do not necessarily see it as something that will be practical to roll out around the country.

On those key points, I think it has been a discussion worth having.

6.30 pm

Earl Howe (Con): My Lords, I first thank noble Lords who have spoken on this group of amendments, which understandably have given rise to a number of questions. I shall do my best to address the various doubts and reservations that have been expressed, particularly those of my noble friends Lord Lansley and Lord Young of Cookham. As a general comment, however, I accept and acknowledge that there is uncertainty about the impact of the land auctions approach. That is why we are proposing a cautious power to explore the approach through time-limited pilots, with only a small number of local planning authorities that volunteer to do so participating. Only local planning authorities that volunteer to participate in the pilot will do so; if no local planning authorities volunteer, then the pilot will not happen.

As regards my noble friend's lament that consultation has not yet taken place, he might have a point if we were proposing something compulsory for local authorities. We are not; we are proposing pilots that will be completely voluntary. That point is relevant also to my noble friend's doubts about the capacity of local planning authorities to operate and handle a CLA. Local authorities that do not feel they are resourced to run a CLA will not have to do so.

I hope that we are united across the House in believing that it is important that the land value uplift associated with the allocation of land can be captured and put to good use for the benefit of communities. Notwithstanding the expressions of doom and scepticism from my noble friends, I am firmly of the view that community land auctions are a promising approach to doing just that. CLAs are designed as a process of price discovery that will incentivise landowners not to overprice the land that they are willing to sell.

This incentive should, we believe, have the effect of bearing down on land prices, which, in turn, should create greater scope for developer contributions and hence better value for local communities. The additional benefit to a local planning authority is certainty about the amount of land value uplift, rather than their having to make assumptions about values as they typically do at present. Certainty offered by CLA arrangements should make it easier for a local planning authority to set developer contributions, and easier for them to control housing supply. Therefore, removing these clauses from the Bill would mean losing out on an opportunity to test CLA arrangements as a potential new solution to the shortcomings of the current system.

The key questions posed by my noble friend Lord Young can, I think, be summarised as: what is to prevent a local planning authority giving undue preferential treatment to land in which they have a financial interest, either when drafting their local plan or when granting planning consents, and what transparency will there be around the process? I shall try to reassure my noble friend on those two issues.

First, I wholeheartedly agree that we cannot shift into a system in which planning permissions can, in effect, be bought and sold. That is why we are seeking to fully integrate community land auctions into the local plan-making process. There will be transparency, as the local plan will be prepared in consultation with the local community, with the proposed land allocations in the draft plan consulted on and independently examined in public, in accordance with the proposed new plan-making process.

As I have said previously, local planning authorities will need to consider many factors in addition to financial benefits when deciding to allocate land in their local plan. How, and the extent to which, financial considerations may be taken into account will be set out in CLA regulations. Moreover, once the local plan is adopted and sites are allocated, planning permission must still be sought in the usual way.

In the current system, local planning authorities already consider whether a site can viably achieve compliance with emerging policies when allocating land. Therefore, it is not unusual for local planning authorities to have to assess planning applications on

land that they have allocated and from which they expect to secure value in the form of developer contributions to mitigate the impacts of new development. It is also not unusual for local planning authorities to consider planning applications on land in which they have an interest or have previously held an interest. Therefore, while it is true to say that community land auctions are a novel and innovative approach, parallels exist within the current system.

We recognise there should be limits on how local planning authorities can use the receipts from community land auctions. We have set out controls on spending that broadly mirror those for the infrastructure levy, and we will set out more detail on what CLA receipts can be spent on in regulations.

We also recognise the importance of both public scrutiny and evaluation to ensure that we fully understand the impacts of the approach. For this reason, the powers are time-limited, expiring 10 years after the regulations are first made.

In summary, I hope that I have provided reassurance—

Lord Lansley (Con): I am sorry to interrupt my noble friend. He quite properly declared his interest as a landowner, but I ask him to think about this from the landowner's point of view. In my experience around Cambridge, many of the most important sites are in the ownership of colleges and large family holdings. These would not make them available to be allocated in the local plan if, as a consequence, they would be subject to a CLA option and would lose control of the development, which is necessarily the result of the auction process. They would simply hold off. We will get less development as a result.

Earl Howe (Con): I entirely take that point, which is why I spoke of a small number of local authorities that we expect to take up the option of a CLA. I am absolutely seized of the point that my noble friend has made. This will not be suitable in a number of areas around the country; he has given a good example from his own area.

Having said that, I hope I have assured noble Lords that existing legislation, and supporting policy and guidance, will mean that there are numerous safeguards to help ensure that community land auctions do not compromise the integrity of the planning system. It means that, while financial benefits can be taken into account in a CLA arrangement, there remains in place a host of measures to ensure well-planned development occurs.

As I said earlier, if we were to accept the amendments tabled by my noble friends Lord Young and Lord Lansley, we would lose the ability to test the merits of piloting community land auctions, which I believe would be a great pity, although I come back to what the noble Baroness, Lady Pinnock, rightly said: time will tell. For those reasons, I hope my noble friends will not feel the need to move their Amendments 96 and 98 when they are reached.

Amendment 95 agreed.

Amendment 96 not moved.

Clause 133: Power to permit community land auction arrangements

Amendment 97

Moved by ***Baroness Scott of Bybrook***

97: Clause 133, page 162, line 18, leave out "the Secretary of State directs" and insert "CLA regulations provide"

Member's explanatory statement

This amendment removes the power of the Secretary of State to direct that a local planning authority may put in place a community land auction arrangement and replaces it with a power to make CLA regulations providing that.

Amendment 97 agreed.

Amendment 98 not moved.

Clause 143: Power to specify environmental outcomes

Amendment 99

Moved by ***Baroness Scott of Bybrook***

99: Clause 143, page 171, line 36, leave out "the Secretary of State" and insert "an appropriate authority"

Member's explanatory statement

This amendment provides that the power to make regulations specifying environmental protection outcomes may be exercised by "an appropriate authority".

Amendment 99 agreed.

Amendment 100

Moved by ***Baroness Hayman of Ullock***

100: Clause 143, page 171, line 37, leave out "may" and insert "must"

Member's explanatory statement

This amendment will ensure that climate and other key environmental considerations, including improving the condition of protected sites, will be included in the new EOR regime.

Baroness Hayman of Ullock (Lab): My Lords, this group is made up of four amendments in my name. They are designed to ensure that climate and other key environmental considerations are included in the new environmental outcomes reports, the details of which will be set out in secondary legislation, as we have heard; and to probe whether the EORs will support the UN's sustainable development goals. I would be grateful if the Minister could shed some light on these matters in her response.

My Amendment 106 specifically asks that the new system

"does not weaken existing environmental protections";

in other words, it is an amendment to ensure non-regression. Environmental assessments play an important role in limiting nature and climate harms from planning decisions. Such an extensive series of changes to environmental assessments, delivered largely through regulations, could, we believe, open the door to environmental regression that has limited parliamentary scrutiny. Concerns to this effect have been expressed by the Office for Environmental Protection and a number of environmental NGOs.

[Baroness Hayman of Ullock]

Unfortunately, the one safeguard in this part of the Bill fails to address the regression risk. Clause 147 states:

"The Secretary of State may make EOR regulations only if satisfied that"

the

"overall level of environmental protection"

will not be less than before. The stipulation overall undermines the utility of this safeguard as the effect is to allow the Secretary of State to weaken individual existing protections as long as they consider this to be balanced out elsewhere in order to maintain overall levels.

We discussed this issue at some length in Committee, so I will not go into detail on the risks that we believe this approach carries. However, it remains unclear why this low-bar test for new regulations has been chosen over the higher bar provided by the Environment Act, Section 20 of which requires Ministers to state that new legislation will not reduce the level of environmental protection provided for by any existing environmental law. My amendment would apply this recent and relevant non-regression precedent to EOR regulations, thereby ensuring that environmental protection is not weakened through the introduction of the new EOR regime by specifying that the Secretary of State should demonstrate that EOR regulations would not diminish any individual environmental protection applying at the time that the Bill passes. This would have the effect of aligning Clause 147 with the Environment Act and the Government's own commitment, as stated in Committee, to use the EOR regime as an

"opportunity to protect the environment".—[*Official Report*, 18/5/23; col. 444.]

I urge the Minister to consider accepting my amendment as the provision of a robust non-regression clause is the minimum required to ensure that the proposed EOR regime does not harm the environment.

A series of government amendments on Report—including Amendments 133 and 138, which we have debated today—seek to define more closely the environmental protections that would be subject to the new EOR powers. However, this listing exercise provides little to no assurance that environmental regression will not take place. We believe that the threat of environmental regression is significant. In its response just last month, in June, to the Government's EOR consultation, the Office for Environmental Protection observed that

"there are risks associated with a move from well-established regimes when so much rides on effective delivery over the next few years (and beyond)".

To address these risks, Clause 147 needs to be strengthened and non-regression assured before the EOR regime is introduced. My amendments would achieve this. I beg to move.

Baroness Young of Old Scone (Lab): My Lords, I support Amendment 106 in the name of the noble Baroness, Lady Hayman.

I have been a great fan of the habitats regulations over the years; I was part of the movement that helped shape them and they have done some pretty sterling work for us, both here in this country as well as across Europe. They have one major feature at the moment: they are understood by both the development community and the environmental movement. There is a shedload of case law that surrounds them, enabling people to understand quite considerably and in detail how they operate. However, I accept that we move on; that is Brexit for you.

The regulations are now being replaced in what I regard as a rather piecemeal fashion but, nevertheless, that is what we have got. So we must make sure that all the building blocks that are being put in place to replace the habitats regulations are going to work properly; and this block, reflected in Amendment 106, is an important one. This is a risky time to be meddling with environmental assessment regimes, when we are at a crisis stage on the climate and biodiversity—but we are where we are, so let us have a look at how we can make this better.

6.45 pm

I honestly believe that Clause 147 does not really do the job that it attempts: providing safeguards so that the EOR regulations do not result in regression from the current level of environmental protection. It uses the words

"overall level of environmental protection".

For me, "overall" means "on the one hand, on the other hand"; it means trade-offs. We all know that trade-offs notoriously diminish levels of protection and often promise jam tomorrow that never materialises, so I am deeply suspicious of anything that looks at overall levels of environmental protection when we are in fact assessing a mechanism that will look at specific cases over time. I believe that Amendment 106 in the name of the noble Baroness, Lady Hayman, would provide a much more robust assurance and non-regression test by taking "overall" out of the equation, so I hope that the House will support the noble Baroness's amendments.

Baroness Pinnock (LD): My Lords, this is an important set of amendments from the noble Baroness, Lady Hayman of Ullock. They seek assurances from the Government that the replacement for the existing environmental tests for development—environmental outcomes reports—will be as robust as the ones they will replace.

The noble Baroness, Lady Hayman of Ullock, made a powerful case for a non-regression clause with her Amendment 106. Recently, there has been a lot of debate about this and pressure from those who want to point the finger of responsibility at the planning system for failing to produce the right number and quality of homes that are desperately needed in this country. When they do so, they point out the additional responsibilities of developers to adhere to environmental responsibilities and regulations, which are causing the difficulties they express. Of course, it is never as easy as that.

It seems to me that, after many years, as the noble Baroness, Lady Young, said, we have a much better balance now between development and protection of the environment in which developments are set. There are responsibilities that developers have to take up in order to make sure that they construct and do not destroy; to make sure that they create communities

that sit well in their environment; and to make sure that nature and the environment are looked after for existing and future generations. So the noble Baroness, Lady Hayman, has made important points here; I hope that the Minister will be able to respond positively to them, because they are important. I guess that they will be raised again later on in our debates on Report.

Baroness Scott of Bybrook (Con): My Lords, Amendments 100 and 101 in the name of the noble Baroness, Lady Hayman of Ullock, would require that all regulations made under Part 6 specify environmental outcomes, whether or not they actually relate to the outcomes themselves. This would place a significant burden on subsequent regulations and would require outcomes across every process element, even where not relevant—for example, on regulations related to enforcement, exemptions and guidance.

We recognise that framing will be critical and recently carried out a consultation on how we can translate the Government's ambitions into deliverable outcomes, which is surely the key consideration here. The Government have also legislated to ensure additional consultations on future outcomes, as well as adopting the affirmative procedure in Parliament on the associated regulations.

Regarding Amendment 101, the Government have been careful to ensure that the new system is capable of capturing all the current elements of the environmental assessment process. This allows the Secretary of State to consider health matters such as air pollution when setting outcomes. Impacts on human health are covered by "protection of people" in Clause 143(2)(b). When developing secondary legislation, we will consult with stakeholders to ensure that health-related commitments are sufficiently captured.

On Amendment 106, the drafting of Clause 147 mirrors the EU-UK Trade and Cooperation Agreement to ensure that, when bringing forward reforms, we live up to our commitment to non-regression. As well as departing from the existing drafting, Amendment 106 would create a rigid approach to non-regression. Removing "overall" from levels of environmental protection would remove the ability to look at the effect of reforms as a whole. When read alongside the commitment to international obligations and expansive duties to consult, we feel that the non-regression clause strikes the right balance to ensure EORs can be an effective tool in managing the environment.

Let me respond to all the noble Baronesses who have spoken by making it clear that, in creating a new system of environmental assessment, it is essential that the standards are kept high. The Government are committed to improving what exists and ensuring that we can deliver on the challenges we face in the 21st century. Focusing on environmental outcomes will allow the Government to set ambitions for plans and developments that build on the Environment Act and other environmental commitments. The legislation is clear that the Government cannot use these powers to reduce the level of environmental protection, and it includes a clause setting out this commitment to non-regression.

On Amendment 107, I have no reservation in saying that the UN sustainable development goals are crucial ambitions. The UK is committed to achieving them by 2030, as affirmed in the international development strategy and integrated review. The expansive nature of these goals is such that it is not possible for the planning and consenting frameworks within which EORs operate to support them all. To require the EOR regime to do so would significantly expand the scope of the assessment beyond the existing legal frameworks of the environmental impact assessments and strategic environmental assessments.

This amendment would exacerbate the biggest issue with the current process, which is a mandatory list of topics that are required to be considered for all assessments, whether relevant or not. Listing matters to be considered in this way has resulted in overly long, complex and inaccessible documents, full of unnecessary material in case an omission invites legal challenge. It would thwart our efforts to make the process more effective, meaningful and manageable.

Environmental assessment was established as a tool to ensure that the environmental impacts of a development were not overlooked in favour of the social and economic priorities that drive development activity. A requirement to support the delivery of all goals would divert attention away from the EOR's core purpose of providing an additional level of scrutiny of the effects of the development activity on the environment.

I hope this provides the reassurances necessary for the noble Baroness, Lady Hayman of Ullock, to withdraw her Amendment 100 and for the other amendments not to be moved when they are reached.

Baroness Hayman of Ullock (Lab): My Lords, I thank the Minister for her response. I have to say that I still have concerns about non-regression. If it works for the Environment Act, I do not understand why it would not work here. Having said that, I beg leave to withdraw my amendment.

Amendment 100 withdrawn.

Amendment 101 not moved.

Amendment 102

Moved by ***Viscount Trenchard***

102: Clause 143, page 172, line 9, at end insert—

"(e) protection for chalk streams in England so as to reduce the harmful impacts of excessive abstraction and pollution and improve their physical habitat"

Member's explanatory statement

The amendment will ensure that the impact on chalk streams of relevant projects is explicitly considered, avoided wherever possible, or mitigated.

Viscount Trenchard (Con): My Lords, my Amendment 102 is identical to my Amendment 372ZA, which was debated in Committee on 18 May. I thank the noble Baronesses, Lady Taylor of Stevenage and Lady Bakewell of Hardington Mandeville, and my noble friend Lord Caithness, for adding their names in support of this amendment. I declare my interest as the owner of a short stretch of the River Rib in Hertfordshire.

I was heartened by the strong support I received from noble Lords on all sides of the House when I debated this amendment in Committee. I believe the case for special protection for our beautiful chalk

[Viscount Trenchard]
streams was well made and widely supported then, and I will not repeat it at length today. I was also grateful for the support of the Minister, my noble friend Lord Benyon, for the aims of my amendment and for his absolutely clear commitment that further conversations would be had with myself and others about chalk stream restoration and how the Government could better make sure that it continues to be a priority.

I was less than wholly happy that the Minister stopped short of committing to bring back the Government's own amendment to give chalk streams the protection they uniquely need. I am a little concerned at his statement that, given the need to capture the environment as a whole in these provisions, he hoped that I would accept that it would not be appropriate to draw out granular considerations in this definition.

I thank the Minister and his Defra officials for keeping their promise to meet me to discuss further why I believe it necessary to give chalk streams the special protection that inclusion in the Bill would provide. I do not think that many noble Lords disagree with the need to protect our beautiful chalk streams, which are unique to north-east Europe and of which some 85% are located in England. The Minister is a keen fisherman and I hope that, as he has been casting his fly over the last few weeks, he has pondered this question further. I know how supportive he has been of the tireless work done by Charles Rangeley-Wilson and others who developed Catchment Based Approach, a partnership with the Government, local authorities and other interested organisations.

As I mentioned in Committee, CaBA has developed a chalk stream restoration strategy, the primary recommendation of which was "one big wish". This is supported by all the organisations, companies and agencies involved in the strategy's development, and by the consultation responses from stakeholders. "One big wish" calls for

"an overarching statutory protection and priority status for chalk streams and their catchments to give them a distinct identity and to drive investment in water-resources infrastructure, water treatment … and catchment-scale restoration".

I remind your Lordships of the Government's response to "one big wish":

"Defra is currently looking for opportunities to deliver on this recommendation. The Retained EU Law (Revocation and Reform) Bill provides an opportunity to consider how stronger protections and priority status for chalk streams can fit into reformed environmental legislation".

However, as I expect my noble friend Lord Caithness will tell your Lordships, on 23 June, the Minister said in reply to my noble friend that the Retained EU Law (Revocation and Reform) Bill is no longer being considered as a means to address this issue. He said that the Government continue to support the work of the chalk stream restoration group and are committed to looking for opportunities to deliver on the Defra-led recommendations in the strategy.

At the launch of the chalk stream strategy implementation plan eight days previously, on 15 June, my honourable friend Rebecca Pow announced that the Government's response to this one big wish would be the creation of a chalk streams recovery package by the end of the year. She revealed that the exact identity and contents had yet to be determined, but essentially this package represents, as an answer to the one big wish, a collation of existing and potential or planned policies, levers and economic drivers that can be used to effect the restoration of chalk streams. The chalk streams recovery package, however, may not provide the clear designation and protection called for in the one big wish, but it is intended that it should have the same outcome by means of a more disparate range of levers.

7 pm

I am sure that my noble friend the Minister recognises that the rejection of my amendment on the grounds that much is being done elsewhere would indicate that the Government are not entirely sincere in their commitment to the creation of a chalk streams recovery package within this year. Surely, my noble friend will agree that this amendment would provide exactly the kind of lever that the recovery package needs—in this case, specifically helping the restoration of chalk streams in those places where the Bill is designed to effect economic and especially social and natural recovery. In these circumstances, it is disappointing that my noble friend has not yet come forward with a different way to provide the specific priority status which the Government have recognised is needed. If the Government's initial thoughts about how to do this are now no longer the chosen way to achieve what must be achieved, why do they not back my amendment or introduce their own similar one? I cannot understand what the downside is.

As your Lordships are aware, an important purpose of the levelling-up Bill is to restore a sense of community, local pride and belonging, especially in those places where they have been lost. These things are all captured by the relationship between the community and its river. Among many towns that have been identified by CaBA and which would benefit immeasurably from this amendment are Baldock, High Wycombe, Chesham, Rickmansworth, Hertford, Luton, Welwyn, Bishop's Stortford, Crayford and Dartford, Ashford and Chartham, Dover, Bury St Edmunds, Fakenham, Horncastle, Louth, Driffield, Bridlington, Warminster and Croydon. Some of those towns are among the most socially deprived in the country—for example, Bridlington—and all are towns which, along with their wider environs, could be immeasurably enriched by a restoration of the green spaces and stream corridors of the potentially beautiful chalk streams that flow through them.

This amendment would require chalk streams to be considered specifically in a way that they simply have not been before, when there are major infrastructure projects or developments, and they deserve specific consideration because of their rarity and what has already been lost. We recognise that this amendment affects only a subset of major projects, but it is precisely those kinds of projects where the biggest damage could be done. If my noble friend argues that the broader environmental designation would require chalk streams to be considered anyway, there is no additional burden in accepting the amendment. I very much hope that my noble friend the Minister will have some good news to tell us when he replies to this debate. I beg to move.

Baroness Taylor of Stevenage (Lab): My Lords, we find that we form some unusual alliances in your Lordships' House, especially in relation to protecting our environment. On this topic, I was very happy to put my name to Amendment 102 in the names of the noble Viscount, Lord Trenchard, the noble Earl, Lord Caithness, and the noble Baroness, Lady Bakewell of Hardington Mandeville. The reason I did that was that I am lucky enough to have spent my life living in the wonderful county of Hertfordshire. For those of you who are not aware, Hertfordshire contains over 20% of the world's unique and special, natural and precious chalk streams. The noble Viscount has already explained that this country is the custodian of the vast majority of this precious natural resource—more than 85%. To have 20% of that in my county is a real reason for doing all that I can to ensure that they are protected.

From the Rivers Chess and Colne in the west of Hertfordshire and the River Beane, which runs alongside my town, to the Rivers Lea, Stort and Ash in the south and east of the county, along with many others, we are blessed with what should be vital water resources, providing habitats for a huge diversity of species, from damselfly to salmon. Sadly, as we have heard, they are under increasing pressure from overextraction and pollution and, while progress is being made through the catchment-based approach mentioned by the noble Viscount, Lord Trenchard, they are still struggling and under pressure. We need to improve their health and focus on that through the chalk stream strategy. There is still much more to be done.

I am most grateful to the Herts and Middlesex Wildlife Trust, which does so much work in this area and has been incredibly helpful in providing information for me. Our precious monuments and ancient buildings have huge protection in the planning system through the mechanism of listing, but we do not seem to take these precious natural resources as seriously in this regard. I support the aims of the amendment in attempting to do that by ensuring that any development in the area of chalk streams explicitly considers the impact on them and sets out what mitigations will be needed. If our chalk streams were buildings, they would be UNESCO heritage sites. Let us protect them as though they were.

The Earl of Caithness (Con): One of the problems that I raised during our debate on 18 May in Committee was the problem of surface water run-off from farms and roads, which was causing problems for our rivers. I am extremely grateful to and would like to thank my noble friend the Minister for the letter that he sent me on 23 June, in which he commented a bit more on the points that I raised. The interesting thing about that letter was his comment on the surface run-off from roads. He said that Defra was

"working with the Department for Transport to reduce the impact of the strategic road network and roads managed by local highways authorities on water bodies".

It just shows what an important cross-government issue this is.

The difficulty that my noble friend has is that he has to work at one remove from the local authorities. The reason I stress the local authorities is that the next day, on 19 May, I was on the River Piddle, a lovely chalk stream, and at 3.30 pm the river was gin clear—it was what a chalk stream should be. We had quite a good thunderstorm and within an hour that river was chocolate brown; it was full of silt and run-off, and the roads were under water. There was run-off from the farmland adjacent to the river—the whole aquatic environment of the river was affected by that thunderstorm; it was a short-term disaster for the river, created by human behaviour. Something similar happened to us humans when we had the smog in the early 1950s. We tackled that problem; it was a manmade problem and we tackled it with the Clean Air Act. It is equally important that we now tackle the problems facing our rivers. It will take a major effort by the Government and across government to do that.

All our rivers are important, but why are the chalk streams just that bit more important? It is worth reiterating that 85% of the world's chalk streams are in England; they are our equivalent of the rainforests. We have a special responsibility to those rivers, and if we do not give a lead to the rest of the world on such an important issue, we will not be doing nature justice.

There are three key indicators of the ecological health of rivers: water quality, water quantity and the physical habitat. The key to getting all of those right is management. The Government will need every single tool in the toolbox and every policy to be able to take the necessary action to fight off the vested challenges from all quarters that they will need to do to establish chalk streams to the standard that we expect and fulfil the one big wish, so rightly mentioned by my noble friend Lord Trenchard.

The Bill is about regenerative action and levelling up, and it is intended to give places a sense of identity. As my noble friend Lord Trenchard said, many of the rivers flow through towns as well as the countryside. The restoration of the rivers could bring huge opportunities and benefits to those towns and to the countryside for both nature and humans. If we do not take this opportunity, we will be letting nature and ourselves down.

Baroness Pinnock (LD): My Lords, my noble friend Lady Bakewell of Hardington Mandeville is unfortunately unable to attend today, as she is not well. I will say a few words on her behalf.

First, I endorse entirely what has already been said about the environmental importance of chalk streams. I think it was David Attenborough who described them as one of the rarest habitats on earth. If David Attenborough says that, we must listen and listen carefully.

Secondly, I want to say something about pollution and about water extraction. The Environment Agency has responsibility for giving permission to water companies for the level of extraction, be it from rivers or aquifers. Indeed, there are aquifers in Yorkshire—not in my part, but in the East Riding—which Yorkshire Water extracts from. What I do know is that aquifers take a long time to refill after periods of extraction. I look to the Minister to respond on water extraction from aquifers. The amount of water taken from aquifers obviously then impacts on the flow in chalk streams, which is essential for their protection.

[Baroness Pinnock]

What I want to say about pollution from sewage overflow discharge is this. About 150 years ago there was a Conservative Prime Minister in this country who had a policy of sewage. That is exactly what this country needs now. A Conservative Government run this country, so perhaps they can adopt Disraeli's policy of sewage. It would be a bit late, but it would not be before time if they did.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): I am very grateful to the noble Baroness and others who have spoken. The noble Baroness should read our *Plan for Water*, which does exactly what she said. I refer noble Lords to my entry in the register.

I turn to Amendment 102, in the name of my noble friend Lord Trenchard. I defer to no one in the verbal arms race that usually takes place in these debates about who can be the greatest supporter of chalk streams. I am passionate about them, and I want to see our chalk streams, which are one of the most valuable ecosystems in these islands, restored to pristine health. I note the passion from across the House on the need to protect these habitats further.

The Government recognise that chalk streams in England are internationally important and unique, and in many cases in poor health. We are committed to restoring England's chalk streams. We have recently reaffirmed this commitment in our *Plan for Water*, which I just referred to, which recognises chalk streams as having special natural heritage.

7.15 pm

In last year's implementation plan for the *Chalk Stream Restoration Strategy 2021*, we committed to review the National Planning Policy Framework to

"consider how to further reflect the value of chalk streams in planning".

We agreed to develop and publish a chalk stream recovery plan by the end of the year. I am grateful to people such as the aforementioned Charles Rangeley-Wilson and others who have been involved in bringing forward the catchment-based approach, which is absolutely leading on this.

I turn to the substance of the amendment. Clause 143 draws on the relevant definitions in the Environment Act and includes protection of the natural environment from

"the effects of human activity",

as well as

"maintenance, restoration or enhancement of the natural environment".

The natural environment includes the habitats of plants, wild animals and other living organisms, and explicitly includes water. The Government's initial view is that this provides sufficient scope to address issues affecting chalk streams.

However, having heard the views of this House on the importance of chalk streams, and especially the passionate arguments from my noble friend Lord Trenchard, I can confirm that the Government intend to support the principle of the amendment. However, there are some concerns with its exact drafting. We are concerned that, as drafted, it could cast doubt on the breadth of existing provisions that stem from the Environment Act and increase the risk of legal challenge to future EOR regulations—a situation we have worked really hard to avoid. However, I absolutely want to get to where my noble friend is and see the recognition of chalk streams in the Bill. I therefore undertake that the Government will bring forward an amendment at Third Reading to provide clarity and reassurance regarding chalk streams in the context of environmental outcomes reports.

I pay tribute to my noble friend for bringing this amendment forward. I hope he will continue to work with me to ensure it meets our shared intention of protecting England's chalk streams.

Viscount Trenchard (Con): My Lords, I thank the Minister for his extremely welcome reply, and I thank all noble Lords who took part in this short debate. I also thank my right honourable friend Sir Oliver Heald, who is in his place on the steps of the Throne, for his tireless work in supporting our chalk streams, of which I think eight flow through his constituency. We should also remember the late Lord Chidgey, who did so much good work campaigning for chalk streams.

I clearly should have placed more trust in my noble friend to bring back the right answer. I thank him warmly for his very welcome words; I take them to mean that he will table an amendment at Third Reading that is substantially the same as mine and that will recognise chalk streams as a different and specific part of the environment, deserving special protection. Taking his most welcome answer, for which I am most grateful, into account, I therefore beg leave to withdraw my amendment.

Amendment 102 withdrawn.

Amendments 103 and 104

Moved by ***Baroness Scott of Bybrook***

103: Clause 143, page 172, line 19, leave out "the Secretary of State" and insert "an appropriate authority"

Member's explanatory statement

This amendment is consequential to the amendment to Clause 143 at line 36 on page 171 in the Minister's name.

104: Clause 143, page 172, line 20, leave out from "to" to end of line 21 and insert "—

(a) in the case of regulations made by the Secretary of State acting alone or jointly with a devolved authority or by the Welsh Ministers acting alone, the current environmental improvement plan (within the meaning of Part 1 of the Environment Act 2021),

(b) in the case of regulations made by a Northern Ireland department acting alone, the current environmental improvement plan (within the meaning of Schedule 2 to that Act), or

(c) in the case of regulations made by the Scottish Ministers acting alone, the current environmental policy strategy (within the meaning of section 47 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021) (asp 4)."

Member's explanatory statement

This amendment includes a reference to the definition of "environmental improvement plan" in relation to regulations made by a Northern Ireland department acting alone and to the environmental policy strategy in relation to regulations made by the Scottish Ministers acting alone.

Amendments 103 and 104 agreed.

Clause 147: Safeguards: non-regression, international obligations and public engagement

Amendment 105

Moved by ***Baroness Scott of Bybrook***

105: Clause 147, page 176, line 3, leave out "The Secretary of State" and insert "An appropriate authority"

Member's explanatory statement

This amendment provides that the requirement to assess the impact of EOR regulations on the overall level of environmental protection before making regulations applies to "an appropriate authority".

Amendment 105 agreed.

Amendments 106 and 107 not moved.

Amendments 108 to 110

Moved by ***Baroness Scott of Bybrook***

108: Clause 147, page 176, line 11, leave out "the Secretary of State" and insert "an appropriate authority"

Member's explanatory statement

This amendment provides that the requirement for arrangements to exist under which the public will be informed of any proposed relevant consent or plan are sufficient to enable adequate public engagement applies to "an appropriate authority".

109: Clause 147, page 176, line 19, leave out "Secretary of State" and insert "appropriate authority"

Member's explanatory statement

This amendment is consequential to the amendment to Clause 147 at line 11 on page 176 in the Minister's name.

110: Clause 147, page 176, line 21, after "2021" insert "but disregarding section 46(3) and (4) of that Act"

Member's explanatory statement

This amendment provides that the definition of "environmental law" includes devolved legislation.

Amendments 108 to 110 agreed.

Clause 148: Requirements to consult devolved administrations

Amendment 111 not moved.

Amendments 112 and 113

Moved by ***Baroness Scott of Bybrook***

112: Clause 148, page 176, line 25, at end insert ", unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved competence"

Member's explanatory statement

This amendment provides that the Secretary of State may make EOR regulations which contain provision within Scottish devolved competence without consulting the Scottish Ministers where the provision is merely incidental to, or consequential upon, provision that is outside that devolved competence.

113: Clause 148, page 176, line 33, leave out sub-paragraph (ii)

Member's explanatory statement

This amendment removes the reference to a person exercising functions of a public nature from the definition of a provision that is "within Scottish devolved competence".

Amendments 112 and 113 agreed.

The Deputy Speaker (Baroness Pitkeathley) (Lab): I must tell the House that if Amendment 114 is agreed to, I cannot call Amendment 115 by reason of pre-emption.

Amendment 114

Moved by ***Baroness Scott of Bybrook***

114: Clause 148, page 176, line 38, leave out "competence after consulting the Welsh Ministers" and insert "legislative competence with the consent of the Welsh Ministers, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence"

Member's explanatory statement

This amendment requires the Secretary of State to obtain the consent of the Welsh Ministers before making EOR regulations which contain provision within Welsh devolved legislative competence.

Amendment 114 agreed.

Amendment 115 not moved.

Amendments 116 to 118

Moved by ***Baroness Scott of Bybrook***

116: Clause 148, page 176, line 38, at end insert—

"(3A) The Secretary of State may only make EOR regulations which contain provision that could be made by the Welsh Ministers or that confers a function on, or modifies or removes a function of, the Welsh Ministers or a devolved Welsh authority after consulting the Welsh Ministers, unless—

(a) that provision is contained in regulations which require the consent of the Welsh Ministers by virtue of subsection (3), or

(b) that provision is merely incidental to, or consequential on, provision that would be outside Welsh devolved legislative competence.

(3B) "Devolved Welsh authority" has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act)."

Member's explanatory statement

This amendment requires the Secretary of State to consult the Welsh Ministers before making EOR regulations which contain provision that could be made by the Welsh Ministers or that confers a function on, or modifies or removes a function of, the Welsh Ministers or a devolved Welsh authority except in certain circumstances.

117: Clause 148, page 176, line 39, after "devolved" insert "legislative"

Member's explanatory statement

This amendment provides where a provision is "within Welsh devolved legislative competence".

118: Clause 148, page 177, line 5, leave out paragraphs (b) and (c)

Member's explanatory statement

This amendment is consequential on the amendment made to Clause 148 at line 38 on page 176 in the Minister's name.

Amendments 116 to 118 agreed.

The Deputy Speaker (Baroness Pitkeathley) (Lab): I must tell the House that if Amendment 119 is agreed to, I cannot call Amendments 120 and 121 by reason of pre-emption.

Amendment 119

Moved by ***Baroness Scott of Bybrook***

119: Clause 148, page 177, line 17, leave out "competence after consulting a Northern Ireland department" and insert "legislative competence with the consent of the relevant Northern Ireland department, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence"

Member's explanatory statement

This amendment requires the Secretary of State to obtain the consent of a Northern Ireland department before making EOR regulations which contain provision within Northern Ireland devolved legislative competence.

Amendment 119 agreed.

Amendments 120 and 121 not moved.

Amendments 122 to 124

Moved by ***Baroness Scott of Bybrook***

122: Clause 148, page 177, line 18, at end insert—

"(5A) The Secretary of State may only make EOR regulations which contain provision that could be made by a Northern Ireland department or that confers a function on, or modifies or removes a function of, a Northern Ireland department after consulting the relevant Northern Ireland department, unless—

(a) that provision is contained in regulations which require the consent of the relevant Northern Ireland department by virtue of subsection (5), or

(b) that provision is merely incidental to, or consequential on, provision that would be outside Northern Ireland devolved legislative competence.

(5B) The "relevant Northern Ireland department" is such Northern Ireland department as the Secretary of State considers appropriate having regard to the provision which is to be contained in the regulations concerned."

Member's explanatory statement

This amendment requires the Secretary of State to consult a Northern Ireland department before making EOR regulations which contain provision that could be made by a Northern Ireland department or that confers a function on, or modifies or removes a function of, a Northern Ireland department except in certain circumstances, and provides a definition of the relevant Northern Ireland department.

123: Clause 148, page 177, line 19, after "devolved" insert "legislative"

Member's explanatory statement

This amendment provides where a provision is "within Northern Ireland devolved legislative competence".

124: Clause 148, page 177, line 26, leave out paragraphs (b) and (c)

Member's explanatory statement

This amendment is consequential on the amendment made to Clause 148 at line 18 on page 177 in the Minister's name.

Amendments 122 to 124 agreed.

Amendment 125

Moved by ***Baroness Scott of Bybrook***

125: After Clause 148, insert the following new Clause—

"EOR regulations: devolved authorities

Schedule (Regulations under Chapter 1 of Part 3 or Part 6: restrictions on devolved authorities) contains restrictions on the exercise of the powers under this Part by devolved authorities."

Member's explanatory statement

This amendment inserts a new Clause which introduces the Schedule to be inserted after Schedule 12 in the Minister's name which contains restrictions on the exercise of the powers under this Part by devolved authorities.

Amendment 125 agreed.

Clause 152: Public consultation etc

Amendments 126 to 128

Moved by ***Baroness Scott of Bybrook***

126: Clause 152, page 179, line 13, leave out "The Secretary of State" and insert "An appropriate authority"

Member's explanatory statement

This amendment provides that the requirement to consult the public before making certain EOR regulations applies to "an appropriate authority".

127: Clause 152, page 179, line 16, after "revoking" insert "relevant"

Member's explanatory statement

This amendment is consequential on the amendment inserting a new definition of "relevant existing environmental assessment legislation" into Clause 152 in the Minister's name.

128: Clause 152, page 179, leave out line 18 and insert "An appropriate authority must consult such persons as the appropriate authority"

Member's explanatory statement

This amendment provides that the requirement to consult such persons as are considered appropriate before making certain EOR regulations applies to "an appropriate authority".

Amendments 126 to 128 agreed.

Clause 153: Guidance

Amendments 129 to 131

Moved by ***Baroness Scott of Bybrook***

129: Clause 153, page 180, line 2, leave out "or existing environmental assessment legislation" and insert "other than under regulations made by a devolved authority acting alone"

Member's explanatory statement

This amendment is consequential on the amendment made to Clause 153 at line 4 on page 180 in the Minister's name.

130: Clause 153, page 180, line 4, at end insert—

"(1A) A public authority carrying out a function under regulations made under this Part by the Secretary of State acting jointly with one or more devolved authorities must have regard to any guidance issued by the Secretary of State or any of those devolved authorities in relation to the function.

(1B) Before issuing guidance under subsection (1A)—

(a) the Secretary of State must—

(i) consult the Scottish Ministers so far as the guidance relates to a matter provision about which would be within Scottish devolved competence by virtue of section 148(2)(a);

(ii) obtain the consent of the Welsh Ministers so far as the guidance relates to a matter provision about which would be within Welsh devolved legislative competence (see section 148(4));

(iii) obtain the consent of the relevant Northern Ireland department so far as the guidance relates to a matter provision about which would be within Northern Ireland devolved legislative competence (see section 148(6));

(b) the Scottish Ministers must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would not be within Scottish devolved competence by virtue of section 148(2)(a);

(c) the Welsh Ministers must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would be outside Welsh devolved legislative competence (see section 148(4));

(d) a Northern Ireland department must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would be outside Northern Ireland devolved legislative competence (see section 148(6)).

(1C) The "relevant Northern Ireland department" is such Northern Ireland department as the Secretary of State considers appropriate having regard to the material which is to be contained in the guidance concerned.

(1D) A public authority carrying out a function under regulations made under this Part by a devolved authority acting alone must have regard to any guidance issued by the devolved authority in relation to the function.

(1E) A public authority carrying out a function under existing environmental assessment legislation listed in Part 1 of Schedule (Existing environmental assessment legislation) must have regard to any guidance issued by the Secretary of State in relation to the function.

(1F) A public authority carrying out a function under existing environmental assessment legislation listed in Part 2 of Schedule (Existing environmental assessment legislation) must have regard to any guidance issued by the Scottish Ministers in relation to the function.

(1G) A public authority carrying out a function under existing environmental assessment legislation listed in Part 3 of Schedule (Existing environmental assessment legislation) must have regard to any guidance issued by the Welsh Ministers in relation to the function.

(1H) A public authority carrying out a function under existing environmental assessment legislation listed in Part 4 of Schedule (Existing environmental assessment legislation) must have regard to any guidance issued by a Northern Ireland department in relation to the function."

Member's explanatory statement

This amendment makes provision about devolved authorities issuing guidance to public authorities about functions under regulations under this Part or under certain devolved existing environmental assessment legislation in certain circumstances and requires public authorities to have regard to such guidance.

131: Clause 153, page 180, line 6, leave out "the Secretary of State" and insert "an appropriate authority"

Member's explanatory statement

This amendment is consequential on the amendment to Clause 153 at line 4 on page 180 in the Minister's name.

Amendments 129 to 131 agreed.

Clause 154: Interaction with existing environmental assessment legislation and the Habitats Regulations

Amendments 132 to 138

Moved by ***Baroness Scott of Bybrook***

132: Clause 154, page 180, line 17, after "under" insert "relevant"

Member's explanatory statement

This amendment limits the power under subsection (2)(a) of Clause 154 to "relevant existing environmental assessment legislation".

133: Clause 154, page 180, line 18, after "the" insert "relevant"

Member's explanatory statement

This amendment limits the power under subsection (2)(a) of Clause 154 to "the relevant Habitats Regulations".

134: Clause 154, page 180, line 26, after "of" insert "relevant"

Member's explanatory statement

This amendment limits the power under subsection (2)(d) of Clause 154 to "relevant existing environmental assessment legislation".

135: Clause 154, page 180, line 27, after "the" insert "relevant"

Member's explanatory statement

This amendment limits the power under subsection (2)(d) of Clause 154 to "the relevant Habitats Regulations".

136: Clause 154, page 180, line 34, after "revoke" insert "relevant"

Member's explanatory statement

This amendment limits the power under subsection (3) of Clause 154 to "relevant existing environmental assessment legislation".

137: Clause 154, page 180, line 42, at end insert—

"(d) the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716);

(e) the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (S.R. (N.I.) 1995/380)."

Member's explanatory statement

This amendment includes some devolved legislation within the definition of "the Habitats Regulations".

138: Clause 154, page 180, line 42, at end insert—

""the relevant Habitats Regulations" means—

(a) in relation to EOR regulations made by the Secretary of State acting alone or jointly with one or more devolved authorities, the legislation listed in the definition of "the Habitats Regulations";

(b) in relation to EOR regulations made by the Scottish Ministers acting alone, the legislation listed in paragraph (d) of that definition;

(c) in relation to EOR regulations made by the Welsh Ministers acting alone, the legislation listed in the definition of "the Habitats Regulations" so far as it applies in relation to Wales;

(d) in relation to EOR regulations made by a Northern Ireland department acting alone, the legislation listed in paragraph (e) of that definition."

Member's explanatory statement

This amendment inserts a new definition of "the relevant Habitats Regulations".

Amendments 132 to 138 agreed.

Amendment 139

Moved by ***Baroness Willis of Summertown***

139: After Clause 156, insert the following new Clause—

"Purposes and plans of protected landscapes

(1) National Parks, the Broads and Areas of Outstanding Natural Beauty must be managed in order to contribute to—

(a) restoring, conserving and enhancing biodiversity and the natural environment;

(b) meeting the environmental targets as set under Part 1 of the Environment Act 2021 and Climate Change Act 2008;

(c) the implementation of any relevant local nature recovery strategies under section 104 of the Environment Act 2021;

(d) the delivery of an environmental improvement plan prepared under section 8 of the Environment Act 2021; and

(e) equitable opportunities for all parts of society to improve their connection to nature of those areas and the enjoyment of their special qualities.

(2) The purposes included in subsection (1) must be considered as if they were equal to purposes listed in section 5 of the National Parks and Access to the Countryside Act 1949, section 2 of the Norfolk and Suffolk Broads Act 1988 and section 87 of the Countryside and Rights of Way Act 2000.

(3) Relevant management plans must include targets and actions intended to further the purposes specified in subsection (2).

(4) Relevant management plans include plans under section 89 of the Countryside and Rights of Way Act 2000, section 66 of the Environment Act 1995 and section 3 of the Norfolk and Suffolk Broads Act 1988.

(5) In exercising or performing any functions in relation to, or so as to affect, land in a National Park, the Broads or an Area of Outstanding Natural Beauty, any relevant authority must further the purposes specified in subsection (2) and the targets and actions in the relevant management plan.

(6) The Secretary of State must maintain a publicly available list of relevant authorities who are to comply with subsection (5), publish a statement setting out instructions for relevant authorities, and review this list and statement at least every five years.

(7) A management plan may not be made operational until it is reviewed by Natural England and approved by the Secretary of State."

Baroness Willis of Summertown (CB): My Lords, I am moving this amendment in the place of the noble Lord, Lord Randall of Uxbridge, who unfortunately cannot be in the House today. I thank the noble Baronesses, Lady Jones of Whitchurch and Lady Bakewell of Hardington Mandeville, who is not in her place, for their support. This amendment would implement the recommendations of the Glover review, which the Government agreed to four years ago, to put nature's recovery at the heart of the purpose of all national parks and areas of outstanding natural beauty. The review proposes three key areas where changes would be implemented in the purposes, plans and statutory duties associated with national parks and areas of outstanding natural beauty.

First, it proposes that national parks and AONBs should be given new statutory purposes to actively restore, conserve and enhance biodiversity; to meet the environmental targets set out in the Environment Act and Climate Change Act; to implement local nature recovery strategies and environmental improvement plans; and, really importantly, to connect more people to the nature and special qualities provided by national parks. Importantly, this amendment also suggests that these new purposes would have equal weight with the existing statutory purposes of national parks.

Why do we need them? We need them because, as stated in Committee, our national parks are in a perilous state for biodiversity. They might seem very lush and green but, a bit like in Rachel Carson's *Silent Spring*, the sound in those national parks is getting quieter and quieter. We are now at a point, which I find very concerning, where many of our rare and vulnerable species do better outside national parks than in the protected areas inside national parks. Only 26% of sites of special scientific interest in national parks have been marked as favourable, compared to the national average of 33%.

It is not just terrestrial ecosystems and landscapes for species that we are talking about; it is also true of our rivers. Following on from the previous amendment, we have huge problems with our rivers in national parks for some of the same reasons that were given in the previous discussion. For example, the River Dove, which is one of the most scenic rivers in the Peak District, recently had its ecological status assessed, and just 6% of its surface waters were classified as being of good ecological status.

We raised these points in Committee. To be fair to the Minister, in his response he recognised how important the protected landscapes are for improving nature and tackling climate change, and for supporting rural communities. So we absolutely agree on the outcomes, and I do not disagree with that at all. He also suggested that

"we need to strengthen governance and management through the Environment Act 2021".—[*Official Report*, 18/5/23; col. 480.]

We were promised that one of the things we would end up with was the new guidance that was to be delivered shortly to do just this. One set of guidance came out on 17 May but, sadly, it absolutely fails to achieve these aims. There is one section in the whole of the guidance on national parks and the protected landscapes within them, and this is the recommendation:

"If appropriate to your public body, you could comply with your biodiversity duty by … helping to developing and implement management plans for national parks or AONBs".

We have this fleeting reference and the extremely weak language of "could". It is not providing the backbone or mandate that we are looking for for protected landscape authorities to take active steps. We are therefore asking the Government to consider this again. That is why we are bringing this part of the amendment back, to see whether the Government now feel able to accept the changes we are suggesting.

The second way this amendment sets out to put nature's recovery at the heart of the purpose of national parks is by strengthening the duty on public bodies to further protect national parks. As stated by the Minister in Committee, currently all public bodies and organisations providing public services, such as national highways, local authorities, and water and forestry companies, have a duty to regard national parks' purposes via Section 62 of the Environment Act 1995. The Minister went on to say:

"The Government intend to publish guidance to ensure that the existing duties on public bodies are correctly interpreted".—[*Official Report*, 18/5/23; col. 481.]

However, we feel this still does not go far enough because of the term "to have regard". It is the weakest form of duty that can be proposed in legislative terms. It requires only that somebody gives some consideration to the statutory purposes, not that any weight needs to be given to those purposes.

What does "have regard" mean on the ground? It means that we are currently seeing planning permission being granted in national parks and areas of outstanding

natural beauty for roads, stone quarrying, forestry plantations, large-scale housebuilding and potash mines. I would go so far as to say that I do not think there is a single area of outstanding natural beauty or a national park that does not have some of these planning applications going in and being agreed to.

Proposed subsection (2) of the new clause in this amendment seeks to deal with this issue by changing and strengthening the legislative terms to require all public bodies to give equal weight to these protected landscapes and wildlife, and to further their purposes in their own work. What does that mean in practice? It means that relevant organisations would have to demonstrate how any decisions they make which affect land in or close to protected landscapes are helping to improve wildlife. I very much hope that the Government will once again look at this language in these terms.

The third and final way that this amendment sets out to put nature recovery at the heart of the purpose of national parks is to say that there needs to be clear national park management plans, and they need to have clear priorities and actions for nature's recovery. The Government have previously stated their intention to align local management plans, but we have yet to see this in any secondary legislation coming through with the Environment Act.

We have brought this amendment back for further consideration and to put some detail and focus back into national park and AONB management plans on a statutory footing. I look forward to the Minister's response on Amendment 139. I know we all want to get the same outcome, but what we do not agree on is how we are going to get there and how we are going to do this. I beg to move.

Baroness McIntosh of Pickering (Con): My Lords, I shall speak to Amendments 272 and 273, in my name and that of the noble Lord, Lord Carrington, to whom I am grateful for his support.

Before I address those amendments, I want to express my severe reservations about Amendment 139. I congratulate the noble Baroness, Lady Willis of Summertown, on moving the amendment, in her name and those of my noble friend Lord Randall and others, so eloquently. However, I want to consider why national parks were created. They were set up and have become cherished spaces that seek to reach a balance between those who live and work here, those who enjoy activities such as walking and riding, and the environmental benefits to which the noble Baroness has referred.

7.30 pm

Each national park is administered by its own national park authority, an independent body funded by central government, with land use and economic development within each national park being the responsibility of the relevant national park authority—for example, the North York Moors National Park is administered by the North York Moors National Park Authority—and areas of outstanding national beauty, to which the noble Baroness also referred, are other cherished areas of outdoor space. What was missing from her amendment is the fact that in my view, if she succeeded in getting it adopted, the balance of the countryside, as represented by the national parks and areas of outstanding natural beauty, would be profoundly disturbed from the balance that we currently enjoy. The reason biodiversity and the environmental gains and benefits exist in national parks is precisely those who tend the land and achieve the high level of beauty and nurture of the environment that they do. So I disagree: national parks are something to celebrate, and I congratulate all those who achieve what they have done.

The noble Baroness and the others who have signed the amendment are right in so far as we could urge others, such as utility companies, to do more. For example, it would be more appropriate for electricity wires and pylons to be undergrounded, basically for environmental reasons but also because it would also save a lot of money and lead to less electricity being lost in transmission.

However, the noble Baroness says, in subsection (3) of the new clause in Amendment 139, that:

"Relevant management plans must include targets and actions intended to further the purposes specified"

elsewhere in the amendment. To me, that causes great problems. The noble Baroness and her co-signees are asking for yet more responsibility and more duties for those who administer the national parks, who tend to be unpaid, part-time and, therefore, volunteers—unless the Minister is going to stand up and allocate a whole raft of new money to national parks to administer this, which would be a different matter completely.

So I have profound reservations about the amendment. It would not be fair on those who live and work in the national parks, and it would give undue priority to the environmental gains; we are all signed up to those, but we have to have the balance maintained, such as it is.

As an alternative, I shall speak to Amendments 272, relating to national parks and local communities, and 273, on areas of outstanding natural beauty and local communities. As I said, I am very grateful for the support from the noble Lord, Lord Carrington. My amendments seek to introduce the promotion of the economic and social well-being of local communities and businesses—in national parks in Amendment 272, and in areas of outstanding natural beauty in Amendment 273. That would enable us to recognise the economic role and the social well-being of those who live and work in national parks, and to achieve all that the noble Baroness says she hopes to achieve from the existence of national parks.

The idea would be to make this social and economic duty one of the purposes and put it on a statutory basis. I believe that would achieve more of what the Government and the noble Baroness want. I know the Minister is very wedded to the Glover report and the measures therein, but putting the promotion of economic and social well-being on a statutory basis would permit diversification while furthering the environmental ends that I think all of us in the House today support.

With those few remarks, I commend Amendments 272 and 273 as powerful alternatives to Amendment 139.

Baroness Jones of Whitchurch (Lab): My Lords, I support Amendment 139, to which I have added my name. I declare an interest as a member of the South Downs National Park Authority and vice-chair of the APPG for National Parks.

[Baroness Jones of Whitchurch]

As we discussed in Committee and as the noble Baroness has eloquently introduced today, the amendment addresses the legislative deficit identified right back in 2019 by the Government-commissioned *Landscapes Review*, which was chaired by Julian Glover. The review identified the huge potential of national parks to deliver the Government's ambitions for nature recovery, but it also recognised that, as currently constituted, national parks are restricted in the role that they can play and the interventions that they can make.

At the time, the Government accepted the vast majority of the review's proposals. They also made it clear that they understood that it would require legislation, and we have been waiting for that legislation ever since. This matters, because the national parks and other protected landscapes have a critical role to play in meeting the COP 15 and environmental improvement plan targets of delivering 30% of land and sea for nature by 2030. As we know, and as we can realise, that is an increasingly desperate challenge, given our low starting point and with only seven years left to reach that target.

It makes absolute sense to start with the sites that can be upgraded relatively quickly. Protected landscapes cover about 25% of land in England, and they are the obvious place to start if we are serious about delivering the targets. There is widespread support for this approach from the national parks themselves and from the environmental NGOs. We also heard in Committee that a number of eminent scientists and advisers also support this approach.

This Bill was identified by the Government some time ago as the best vehicle for making these changes, so it has been a huge source of frustration that the issues have not been progressed in it. It is now four years since the *Landscapes Review* report and 18 months since the Government's response. The irony is that there is—apart from the noble Baroness's contribution just now—widespread agreement about what needs to be done and the statutory underpinning that is necessary.

Our amendment would give national parks and AONBs new purposes to actively recover nature, tackle climate change and connect more diverse groups to nature. Crucially, it would strengthen the duty on public bodies not just to have regard to those purposes but to further them. That might sound like semantics, but it is a huge difference in terms of statutory obligations. We have seen all too often in the past that "having regard to" is not taken seriously by other public bodies and allows them to ride roughshod over the priorities of the national parks. I shall give a quick example: it allowed National Highways, when drawing up its proposals for the A27 Arundel bypass, to say it had "had regard to" the South Downs National Park's objections without demonstrating how that had in any way impacted on its eventual recommendations. There are many more such examples. The point is that the current requirement to "have regard to" is not having any effect. Our amendment would make sure that the targets and actions of public bodies' management further the purposes that we are now proposing, and indeed are published.

When we discussed this issue in Committee, there was huge cross-party support. In his response at the time, the Minister referred to strengthening the biodiversity duty on public bodies such as national parks and the ambitious environmental targets that have been set. However, what is the point of piling obligations and targets on national parks when they do not have the authority to deliver on them?

The Minister also suggested that the new guidance arising from the Environment Act would deliver the Glover review objectives. The noble Baroness, Lady Willis, has done a very good demolition job on how ridiculous that is, given the wording of the guidance that has come out so far.

If there is a problem with our amendment, can the Minister tell us what it is that he does not like about it? I contend that it is completely in line with the Government's thinking and their own response to the landscape review. Meanwhile, we are running out of road and out of time to resolve this issue. I hope the Minister has some good news for us today and the Government plan to back our amendment or come back with their own amendment which would achieve the same objectives.

I have listened carefully to the noble Baroness, Lady McIntosh, on her intention to introduce a third purpose. I found it slightly ironic that she criticised us for adding new purposes to the national parks, given that she has now come up with a different one. You cannot have it both ways. However, I have some sympathy with her argument about rural communities. In fact, the government response to the original landscape review stressed that. We agree that support for rural communities is important, but a new statutory purpose is not the way to achieve it. An economic third purpose would duplicate the roles of the economic development bodies and the local partnership authorities, which already have this responsibility, so I question the direction the noble Baroness is going in.

More importantly, I am anxious to hear the Minister's response, and I hope he has some good news for us this evening.

Lord Carrington (CB): My Lords, I declare my interests in farming and land ownership as set out in the register. I am also a farmer and landowner in the Chilterns AONB.

I am enthusiastic in my support for Amendments 272 and 273, tabled by the noble Baroness, Lady McIntosh of Pickering, and I have considerable reservations about Amendment 139. This is due to the experience of how changes in the financial support of farming have affected the profitability of farming in marginal land and the consequent need for diversification of farming businesses in the Chilterns AONB—and probably in all the others. Farming is not the only business in these areas. I cannot give precise figures, but nationally, 23% of all businesses are based in the countryside and 85% of these are not in farming or forestry.

The inclusion of these two amendments would ensure that promoting the economic and social well-being of local communities and businesses in national parks and AONBs is assured. These amendments are not limited to business but cover concerns that arise about the provision of affordable and small-scale housing developments in villages, as well as community facilities and the like. Failure to promote and allow economic

and social progress in these areas will also encourage people to go ahead with unapproved activities in their buildings, which could be both damaging and short-sighted for the community and themselves. These amendments would not undermine the existing purposes but strengthen the first purpose and reduce the risk of continuing the existing one-dimensional approach, which prevents the diversification that could feed into the financial resource required to conserve and enhance these landscapes and ensure overall sustainability.

Businesses that produce natural landscapes need to evolve to adapt to the challenges of climate change and migration to the countryside, as do the land managers who deliver nature recovery. Environmental considerations currently overrule economic and social decision-making, resulting in a lack of a sustainable flow of funds for businesses. This is weakening the current recovery of nature and the aim of connecting more people to the natural world and tackling climate change.

7.45 pm

A sole focus on the existing purpose, without upgrading the socioeconomic duty to a statutory purpose, will make the delivery of nature recovery harder and more expensive to achieve. The socioeconomic statutory purpose would ensure viability for the businesses delivering this recovery and that funds are available from a diverse income stream. The duty to foster the economic well-being of businesses and communities needs to be given a greater weight in management plans and decision-making.

The timing of these amendments is also topical, as Natural England has recently published plans for four additional AONBs, as well as more SSSIs and national nature reserves. An SSSI in Penwith, Cornwall, has, according to my bible, *Farmers Weekly*, resulted in 300 farmers facing

"a lengthy list of restrictions on their ability to farm, including stock levels, planning restrictions and limits on vehicular activity".

For many, their current businesses will be unsustainable. The article also points out how Natural England has ignored its own rules and procedures on safeguarding and is causing further distress.

Clearly, if current farming and other business models need to be changed, the Government must allow the necessary diversification. This might involve the conversion of farm buildings and the approval of sensitively designed new buildings for rural businesses, including pubs and tourism-related enterprises. Permitted development rights are helpful but insufficient in many cases.

The purpose of this Bill is levelling up areas and communities across the country. Restricting to the nth degree what can be built or done in national parks and AONBs would negate the purpose of the Bill. It would result in the depopulation of these areas as jobs disappear, and whole communities could suffer. Residents and businesses cannot thrive in aspic.

Lord Teverson (LD): My Lords, perhaps I could just respond briefly on the Cornwall point. There is a big issue with those SSSIs and a number of issues with farmers, although I think the *Farmers Weekly* article somewhat exaggerates the position. However, the Cornwall and Isles of Scilly Local Nature Partnership, which I chair, has a number of board members from the farming community and we are looking at this. Certainly, Natural England could have handled the situation better, but I do not think it is quite as terminal as the noble Lord suggests.

Lord Lucas (Con): My Lords—

Noble Lords: We need to wind up.

Lord Lucas (Con): No. I have a lengthy speech, possibly of a couple of hours, to make.

I have considerable sympathy for all these amendments, but I am not committed to their wording. What is evident is that the national parks are in no state to contribute to 30 by 30 in the way they should, and something needs to be done. As the noble Baroness, Lady Jones of Whitchurch, knows from her involvement with the South Downs that I live adjacent to, something needs to be done to make it possible for the national parks and areas of outstanding natural beauty to become a beacon for 30 by 30 and contribute their weight to that. But part of that is my noble friend's emphasis on commerce.

The reason why our local big SSSI consists of waist-high brambles is that there is no income. There is no money coming into the area to deal with what is going on. It is really important that at the same time as dealing with nature conservation, we deal with providing the means for that—and that cannot be just endless subsidy from the Government. These places ought to become self-sustaining, particularly with regard to subsection (1)(e) of the proposed new clause in Amendment 139, which quite rightly points out that we want people to use these spaces a lot more. If they are using these spaces, which immediately generates cost for the owners and concern for the wildlife, we need them to do it in a way which generates income so that we can offset those things.

I am in no way committed to the route which these amendments take, but the matters they raise are important. The one bit that requires specific engagement is subsection (5) in Amendment 139. It is clear that other bodies are not contributing to the purposes of national parks and AONBs in the way that they should be and that the current regulations do not allow that, so some change of wording is required. I do not go as far, perhaps, as the noble Baroness, Lady Willis, would wish and am very happy to listen to what the Government's plans are. However, it is really important that the Government address the concerns raised by this group of amendments, and address them well.

The Earl of Caithness (Con): My Lords, what my noble friend has said is absolutely right; he has said much of what I was going to say. I want to raise one point about what the noble Baroness, Lady Willis of Summertown, said. It is a point that we ought to consider. She said that some species are thriving better outside national parks than inside them. As I said at great length on the Environment Bill and the Agriculture Bill, the management system is absolutely crucial. You can have whatever targets or designations you want on our land, but it is the management system within and on that land that will provide the right answer.

[The Earl of Caithness]

There is no doubt that, in the national parks, we can continue to produce food which we need for an expanding population. We can make them more productive and improve biodiversity. But having served on the Rural Economy Committee in your Lordships' House, I know what a small proportion of the whole rural economy farming is, although it is still the backbone of it. Like my noble friend Lord Lucas, I have sympathy with all three amendments. I am not wedded to their wording but hope that my noble friend the Minister will be able to come forward, as he did with our amendment on water, with wording that captures everything we all want but in the right format to make the Bill a better one, and to make our national parks and AONBs the places we would like them to be—but also living communities and not just set in aspic.

Baroness Parminter (LD): My Lords, briefly, in the absence of my noble friend Lady Bakewell of Hardington Mandeville, I add our Benches' support for Amendment 139 and will make three brief points. The first has been touched on by other Members, but I do not think the figures have been set out as strongly as they need to be.

If the Government are to achieve their 30 by 30 target by 2030, which is seven years away, they will have to rapidly increase the amount of protected areas that we have in the UK. As the noble Baroness, Lady Jones, said, 25% of our protected areas are national parks and AONBs—15% of them AONBs and 10% national parks. If we do not use the opportunities in those protected landscapes, it is frankly inconceivable that we will be able to get to 30 by 30. We cannot just extrapolate and say that all those areas will be able to equate to the 30 by 30 target, but the strongest increases in purposes will enable the landowners, and people who care for that land, to help move towards that target.

The second issue is connectivity, which the noble Baroness, Lady Willis, touched on. Given the size of the national parks and AONBs, and given the threats to our species and the impacts of climate change, we know that we need more connectivity between our sites. These large areas of our national parks and AONBs offer the best opportunities, if not for 30 by 30 then for providing areas of respite and connectivity for species. I wanted to highlight that point.

My third point has been touched on by other Members and I just want to reiterate it. This amendment gives equal weight to the other existing statutory purposes for national parks and AONBs. It does not say that nature is above the requirements for economic activity in them, which we accept, or above the rights of people to live and work in—and enjoy—a national park, which we accept. It is saying that, at the moment, it is not on a level playing field, and given the nature biodiversity crisis that we have, we need all the statutory purposes to be on a level. We need people to work; we need our farmers; we need people to want to live there.

With the AONB where I am in Surrey, I know how much nature underpins the economic activity and businesses—the food producers and wood crafters. We need all that activity. We are not saying that nature needs to be above that but that, at the moment, as the Government themselves admitted in the Glover review response, the terminology—to conserve and enhance—is not strong enough. That is what the Government said; that it is not strong enough and that they would do something about it. This is the chance to give it that level pegging and this is the Bill to do it in. As the noble Baroness, Lady Jones, says, if the Minister is not prepared to accept the wording, can he please be clear in explaining why not?

Baroness Hayman of Ullock (Lab): My Lords, I just want to say how much we support the amendment tabled in the name of the noble Lord, Lord Randall, and so ably introduced by the noble Baroness, Lady Willis of Summertown. We have heard that it would deliver a new focus on nature by implementing the key recommendations from the Glover review of protected landscapes, all of which were previously agreed by the Government. This is an opportunity to move forward on them and I really hope that the Minister can give us some hope that we are going to achieve some of that.

Lord Benyon (Con): My Lords, I thank the noble Baroness, Lady Willis, for moving my noble friend Lord Randall's Amendment 139. The Government recognise how precious our protected landscapes are, and the Environment Act's recently commenced biodiversity duty will play a vital role in further improving their ability to deliver for nature. The noble Baroness is absolutely right that there is no point in talking about 30 by 30 as if it was a line on a map; it has to be a quality that we are seeking to protect. We are determined that national parks and AONBs should play their part in really protecting nature and the environment. I will come on to talk about socioeconomic activities when I respond to my noble friend Lady McIntosh's point.

However, the current statutory purposes are well established. Adding five purposes would cause confusion, particularly when it comes to prioritisation. Instead, we will publish an outcomes framework to define the expected contribution of protected landscapes to national targets later this year. This framework will be embedded within management plans to ensure they reflect the Government's priorities—the priorities enshrined in the 25- year environment plan and in our environmental improvement plan, as part of the Environment Act. We believe this will deliver the desired outcomes in a less disruptive and more agile way than through legislation. We have also taken on board my noble friend Lord Blencathra's excellent suggestion that new guidance would clarify interpretation of legislation. The Government will publish guidance this year on management plans and, next year, on the duties on public bodies.

I hope that is an important indication to your Lordships that we are determined to ensure that we achieve the kind of requirements for the purposes that these places were designated. When the 1949 Act was passed, no one was talking about climate change or about a crisis of species decline—but we are, and we want these landscapes to contribute to the response that this Government so passionately want to achieve, which is a reversal of the decline of species by 2030, with all those Lawton principles of bigger, better and more joined up absolutely functioning at the heart of it. I hope I have said enough to enable the noble Baroness, Lady Willis, to withdraw the amendment in the name of my noble friend Lord Randall.

8 pm

I thank my noble friend Lady McIntosh of Pickering for tabling Amendments 272 and 273, which seek to give AONB conservation boards and national parks an additional statutory purpose, alongside their existing statutory purposes, to give equal weight to the economic and social well-being of local communities that reside within these landscapes. In the purposes of this part of the Bill, perhaps we should be talking about levelling out rather than levelling up—levelling out from the smaller towns into the communities so often covered by national parks and AONBs, where we want to see people thrive and businesses operate. What we are doing in rolling out connectivity, both mobile phone and digital connectivity—broadband—will mean that these communities will not be left behind and that they can continue to flourish.

The Government agree with the spirit of my noble friend's amendments but we feel that this would be better served through non-legislative means, such as strengthened guidance and the sharing of best practice, and programmes that are already supporting local communities in our protected landscapes, such as the Farming in Protected Landscapes programme, a really successful scheme that is seeing the natural environment improved and farming businesses supported. An additional purpose would also dilute the importance of the existing purposes and could conflict with them if economic interests were placed above nature recovery.

We will continue to work with national parks and AONBs and all who love and work in them or support them, to support local communities in our protected landscapes. I hope that I have said enough for my noble friend Lady McIntosh not to press her amendments.

Baroness Willis of Summertown (CB): I thank the Minister for his comments; I know that time is tight so I will keep my comments brief.

I think that in the House in general we are all trying to get to the same endpoint: 30 by 30, restoring nature. All those things are there; they are not exclusive, and I absolutely take the point that we have to bring people with us. People managing the land are often the ones who are able to help us deliver those objectives. I look forward to an outcomes framework being developed but we also need a land use framework—I know this has been raised many times before by the noble Baroness, Lady Young, and others. We need to understand which parts of the landscape are going to be used in terms of 30 by 30 and which ones are not, because right now there is an awful lot of uncertainty on this point.

However, I am encouraged by the Minister's comments and, as long as we can keep this conversation going for the final stages of the Bill, I will withdraw this amendment.

Amendment 139 withdrawn.

Clause 157: Interpretation of Part 6

Amendments 140 to 145

Moved by ***Baroness Scott of Bybrook***

140: Clause 157, page 182, line 7, after "means" insert "the legislation listed in Schedule (Existing environmental assessment legislation)"

Member's explanatory statement

This amendment introduces the Schedule inserted after Schedule 12 in the Minister's name which lists the existing environmental assessment legislation for the purposes of the definition.

141: Clause 157, page 182, line 8, leave out from beginning to the end of line 3 on page 183

Member's explanatory statement

This amendment leaves out the list of existing environmental assessment legislation because the detail of that definition is being moved into the Schedule inserted after Schedule 12 in the Minister's name.

142: Clause 157, page 183, line 3, at end insert—

"(1A) "Relevant existing environmental assessment legislation" means—

(a) in relation to EOR regulations made by the Secretary of State acting alone or jointly with one or more devolved authorities, the legislation listed in Schedule (Existing environmental assessment legislation);

(b) in relation to EOR regulations made by the Scottish Ministers acting alone, the legislation listed in Part 2 of that Schedule;

(c) in relation to EOR regulations made by the Welsh Ministers acting alone, the legislation listed in Part 3 of that Schedule;

(d) in relation to EOR regulations made by a Northern Ireland department acting alone, the legislation listed in Part 4 of that Schedule."

Member's explanatory statement

This amendment inserts a new definition of "relevant existing environmental assessment legislation".

143: Clause 157, page 183, line 4, at end insert—

""appropriate authority" means—

(a) the Secretary of State,

(b) a devolved authority, or

(c) the Secretary of State acting jointly with one or more devolved authorities;"

Member's explanatory statement

This amendment provides the definition for Part 6 of "an appropriate authority" as the Secretary of State, a devolved authority or the Secretary of State acting jointly with one or more devolved authorities.

144: Clause 157, page 183, line 7, at end insert—

""devolved authority" means—

(a) the Scottish Ministers,

(b) the Welsh Ministers, or

(c) a Northern Ireland department;""

Member's explanatory statement

This amendment provides the definition of a "devolved authority" for Part 6.

145: Clause 157, page 183, line 27, at end insert—

""relevant existing environmental assessment legislation" has the meaning given by subsection (1A);"

Member's explanatory statement

This amendment is consequential on the amendment inserting a new definition of "relevant existing environmental assessment legislation" into Clause 157 in the Minister's name.

Amendments 140 to 145 agreed.

Consideration on Report adjourned.

NATO Summit

Statement

The following Statement was made in the House of Commons on Thursday 13 July.

"Mr Speaker, I have just returned from the NATO summit in Vilnius, where we strengthened the NATO alliance and confirmed Britain's place at its heart.

[Baroness Scott of Bybrook]

Faced with a more volatile and dangerous world, a mechanised war in Europe and increasing aggression from authoritarian states, we must show those who would challenge our security and prosperity that NATO is united, that it is ready for this new era and that it will remain the most successful alliance in history.

Together with our allies, that is exactly what we did, in three specific ways. First, we acted decisively to strengthen the alliance. We agreed the most fundamental transformation of NATO's readiness since the Cold War. That includes comprehensive war-fighting plans to defend the UK and its allies, scaled-up defence production to boost our stockpiles, which will benefit British industry and jobs, and increased defence spending. All allies made

'an enduring commitment to invest at least 2%'

of GDP.

The Vilnius summit also saw NATO's membership expand. We welcomed Finland to the table as a NATO member and ensured that Sweden will follow close behind. The historic decision of our Finnish and Swedish friends to join NATO would have been almost unthinkable just a year and a half ago, but Putin's aggression made it almost inevitable. Where he sought to make us weaker, he has achieved the opposite. We are stronger than ever with these new allies by our side.

Secondly, we acted to increase our support for Ukraine. Let us never forget what Ukraine is going through. Over 500 days of war, Ukrainians have experienced untold suffering, the likes of which no NATO country has suffered since its inception. I know the whole House will join me in paying tribute to the Ukrainian people and their incredible spirit and fortitude. They are still standing strong and defiant, and the counter-offensive is making progress. In the last few weeks, they have taken back more ground than Russia has taken in the last year. We are standing with them, and allies are doubling down in their support.

This is not just about NATO. At the Munich Security Conference in February, I called for long-term security arrangements to protect Ukraine, re-establish deterrence in Europe and break the cycle of Russian violence. And now allies have delivered. Yesterday, the G7 leaders came together to sign the joint declaration of support for Ukraine, agreeing to provide the long-term bilateral security commitments that Ukraine needs and deserves. Those commitments mark a new high point in international support for Ukraine, and more allies will be signing up to add their support. But let me be clear: that is not a substitute for NATO membership.

We took a big step in Vilnius towards bringing Ukraine into the alliance. The summit communiqué echoed the UK's long-held position that

'Ukraine's future is in NATO'.

Of course, there is more work to be done, but we have shortened Ukraine's path to membership, removing the need for a membership action plan, and holding the first meeting of the NATO-Ukraine Council with President Zelensky sitting at the table, by our side, as an equal. As President Zelensky said, the summit was

'a very much needed and meaningful success for Ukraine'.

Thirdly, we showed in Vilnius that the UK remains a driving force behind this alliance. As I have told the House before, those who run down this country and its place on the world stage could not be more wrong. In my bilateral meetings and the wider NATO sessions, I was struck again and again by how valued our contribution is. The British people should know that and they should be proud. The United Kingdom is, and will remain, one of the world's leading defence powers. We are the leading European contributor to NATO. We were one of the first to hit the 2% target for defence spending, and we are going further. Earlier this year, I announced a significant uplift of an extra £5 billion over the next two years, immediately increasing our defence budget to around 2.25% of GDP, on our way to delivering our new ambition of 2.5% and ensuring that our incredible Armed Forces can continue to keep us safe.

Right now, RAF jets are patrolling NATO's eastern flank, our troops are on the ground in Estonia and Poland as part of NATO's enhanced forward presence, and the Royal Navy is patrolling the seas, providing a quarter of the alliance's maritime capability. We are one of the only countries that contribute to every NATO mission, and we will keep playing our part as a leading nation in the Joint Expeditionary Force. We are building deep partnerships such as AUKUS and the global combat air programme. We are using our leadership in technology to keep NATO at the cutting edge, hosting the European headquarters of the defence innovation accelerator and holding the first global summit on artificial intelligence safety in the UK later this year. We are also leading the debate on tackling emerging security threats, including the migration crisis. I have called on NATO to play a stronger supporting role here, helping southern allies to build their capabilities.

That leadership in defence and security is matched by our diplomacy, strengthening our relationships around the world. In just the last few months, we have concluded negotiations on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and have signed critical minerals partnerships with Canada and Australia, a semiconductor partnership with Japan, and the Atlantic declaration with the United States—a new kind of economic partnership in a more contested world.

There is no better example of our ability to bring all those elements together and lead on the world stage than our response to Russia's invasion of Ukraine. Our diplomats have led the unprecedented effort to co-ordinate sanctions against Russia's economy. Last month, we hosted the Ukraine Recovery Conference, raising over $60 billion to help rebuild Ukraine's economy and bringing in the private sector to help unlock its economic potential.

As the House knows, we have backed Ukraine's fight for its freedom and sovereignty since the start. We were the first country in the world to train Ukrainian troops, the first in Europe to provide lethal weapons, the first to commit tanks and the first to provide long-range missiles. Now, we are at the forefront of the coalition to equip the Ukrainian air force, with Ukrainian pilots starting their training here in just a few weeks' time.

We do all of this because it is right, because it protects our values and our interests, because it keeps our people and our allies safe, and because, quite

simply, it is who we are as a country. We were there at the start of the NATO alliance, and this week we have shown once again that we remain at its heart, leading it into the future. I commend this Statement to the House."

8.04 pm

The Lord Privy Seal (Lord True) (Con): My Lord, with the leave of the House, I will repeat a Statement made by my right honourable friend the Prime Minister in the other place.

Lord Collins of Highbury (Lab): Does the Minister need to read it?

Lord True (Con): Well, I was asked to read it, but I am in the hands of the House.

Lord Collins of Highbury (Lab): I do not think it is necessary.

Lord True (Con): If the House does not wish me to repeat it, I will not.

Lord Collins of Highbury (Lab): I thank the noble Lord very much. It was taken a few days ago, and we have all had the opportunity to read it. I do not wish to show any disrespect, but I hope we can focus on the questions on the Statement.

The summit in Vilnius was a display of NATO's unity, and an extension of the principles which Ernest Bevin, of course, signed up to in 1949. He was one of the finest Foreign Secretaries the UK has had and, of course, one of the greatest trade union officials, which I know the Leader will be impressed by. Noble Lords on these Benches, and indeed across the House, will always remain committed to those unshakeable values of the North Atlantic Treaty.

I welcome the progress made in strengthening the alliance. The country which President Biden referred to as the "light of Lithuania" provided a symbolic backdrop for the meeting, and a reminder that Europe's freedom can never be taken as a given. As the Prime Minister said, the world has been made a more dangerous place by authoritarian aggression. It is only right that we respond by building NATO's readiness. I therefore very much welcome the agreements made last week.

In particular, I draw attention to Finland's accession, and the hope that others will soon follow. These are historic decisions, which will bring strong and valuable additions to the group. NATO chief Jens Stoltenberg described President Erdoğan's agreement to Sweden's accession as a "historic step", but stressed that a clear date could not be given for when it would join the military alliance, as this relied on the Turkish Parliament. I hope the Lord Privy Seal will be able to give us an update on Turkey's position, and what timeframes the Government anticipate for accession to take place.

By welcoming allies into the NATO fold, we are strengthening the collective defence of our European neighbourhood and sending a signal that Russian aggression will be confronted. But the House will know that membership of the alliance brings responsibilities, and that includes a commitment to spending 2% of GDP on defence. Seeing our NATO allies all commit to this was heartening, but it shines a light on how our own contribution to defence spending has fallen in the past years. The Prime Minister's Statement referred to the renewal of this commitment in Vilnius, but the Lord Privy Seal will know that there is unease on these Benches at the cuts to our Army, and our troops lacking the equipment they need to fight and fulfil our NATO obligations. Given that there are now 25,000 fewer full-time troops since 2010—leaving our Army at the smallest size since the time of Napoleon—I use this opportunity to ask the Lord Privy Seal to encourage his Cabinet colleagues to halt these cuts and keep Britain safe.

Today's refreshed Defence Command Paper was an opportunity, but as my right honourable friend John Healey said:

"Labour wanted this to be the nation's defence plan, not the plan of current Conservative Defence Ministers".

He offered

"to work with the Government on a plan to make Britain secure at home and strong abroad".

This is no such plan.

Similarly, the Lord Privy Seal will know that our military is only as strong as the stockpiles behind it. On the plans announced to scale up defence production, I ask him to commit to updating Parliament on progress towards stockpile targets, so that the House can support the monitoring of this new agreement.

As part of the world's most powerful military alliance, we must also ask questions about our collective readiness. The Statement referred to regional war-fighting plans. Can he assure the House that the plans will adapt to changing security threats in eastern Europe?

I also welcome the commitment to pursue Putin for his crimes. In addition to our membership of NATO, the Lord Privy Seal will be aware that the United Kingdom is currently serving as president of the UN Security Council. Given the Foreign Secretary's commitment to using this role to hold the Russian Government to account, can the Lord Privy Seal provide an update on yesterday's high-level briefing?

For over 500 days, Ukraine has fought for its freedom, and for ours. I want to finish by welcoming the declaration which backs its accession to NATO. In the short period between this Statement being made in the other place and its repeat today, the people of Ukraine have suffered Russian drone attacks in many cities, missile strikes in Kharkiv and shelling in Kherson and many other places. Between the time that this House rises next week and when it returns in September, we can all hope that the Ukrainian counteroffensive will have progressed, but we all know that there will be further civilian deaths at the hands of Putin's regime. Despite the lack of timetable for Ukraine's accession, I hope the Lord Privy Seal will agree that it should be a matter of when, not if, and that we will welcome Ukraine as a full member to NATO.

Lord Newby (LD): My Lords, I thank the noble Lord the Leader for responding to the Statement—and, indeed, for not repeating it.

[Lord Newby]

The Vilnius summit took place at a potentially pivotal point in the Ukrainian struggle against its Russian occupiers and clearly demonstrated why NATO plays such a pivotal role in the security of Europe. The Prime Minister in his Statement set out three ways in which the alliance was being strengthened to deal with the challenges of Ukraine and more broadly.

The first was an increased defence readiness. The Prime Minister cited the fact that the UK was scaling up defence production to boost our stockpiles. There have been newspaper reports in recent days about how this is happening in respect of shells and other ordnance, but could the noble Lord reassure the House that stockpiles of other equipment are being replenished with equal urgency? Strengthening of the alliance also includes its expansion to admit Finland as a member, with Sweden closely to follow. These are extremely welcome developments.

The second development which the Prime Minister highlighted was the increase of support for Ukraine. We can understand why Ukraine is so keen to join NATO at the earliest opportunity but equally understand why that is not possible with the war still under way. The establishment of the NATO-Ukraine Council in these circumstances is a sensible interim structure under which dialogue can be conducted, but as far as the UK is concerned, could the noble Lord the Leader say whether the increase in support which the Prime Minister mentions involves any specific increase in military hardware support from the UK? Does he accept that it is hardly surprising, and certainly not a reason for censure, that the President of Ukraine is persistent in asking for more military hardware, without which success—in what we all accept is a must-win struggle—cannot be achieved?

The third issue stressed by the Prime Minister is that, in his words,

"The UK remains a driving force behind this alliance".

To support this argument, he points again to the proportion of GDP which the UK devotes to defence. While this is clearly greater than some of our allies, there is widespread and growing concern about the effectiveness of this expenditure. For example, the recent House of Commons Select Committee report on military procurement, *It is Broke—and it's Time to Fix It*, sets out a catalogue of specific and generic failings within MoD procurement. It says that the system suffers from "misplaced optimism", a shortage of legal and commercial expertise, a lack of key skills, a habit of overspecifying, not

"sufficient emphasis on the value of time"

and

"a lack of a fixed long-term budget".

Given that half of the defence budget is spent on the purchase of equipment, these are fundamental problems. What are the Government doing to reduce the waste and inefficiency in the MoD procurement process, which could ensure that the very many calls on the defence budget—not least the sensible calls to reverse the manpower cuts to the Army—can be more effectively met?

The Prime Minister also boasts of our role in keeping NATO at the cutting edge of technological developments. One way in which we could do so is by working with European partners via the Horizon programme. It was reported that the Prime Minister was to sign a deal at the summit for the UK to rejoin Horizon. This did not happen. Can the Leader say when it will happen, so that vital scientific collaboration can resume? If, in the Government's view, there are arguments for not doing so, can he set out what they are, given the unanimity of scientific support for the UK to rejoin without further delay?

Finally, the summit communiqué discusses the partnership between the EU and NATO. It says that this partnership also needs the participation of non-EU allies—that is, the UK. It looks forward

"to mutual steps, representing tangible progress".

Do the Government agree that working with the EU on military issues is of fundamental importance? If so, what kind of tangible steps do they have in mind to bring this about?

Lord True (Con): My Lords, I am grateful for those responses and again apologise for volunteering to read the Statement. I had initially been told that the usual channels had agreed to that. I obviously always wish to be of service to the House, but we are proceeding in a way that appears to please those present.

I was pleased by what those present said in response to the Statement. I would not accept the characterisation of the Prime Minister as "boastful". He has many characteristics, but I do not think that boastfulness is one of them.

I was asked a number of important questions. It is right that this challenge should be here, and it is against the background of the unswerving support that all parties in this House have given to the Ukrainian people and the effort against Putin's aggression. I underline the gratitude of the Government and, I am sure, of the whole British people, for the unanimity that has been displayed in our Parliament and in our House, which was displayed again today.

I was asked a number of specific questions. I agree with the noble Lord, Lord Collins of Highbury, that freedom can never be taken for granted. Former President Reagan—not perhaps one of the noble Lord's great heroes—none the less famously said that freedom is

"never more than one generation away from extinction".

We must fight for it always. That is a great characteristic that unites the three great parties represented here. The accession of Finland was, I agree, a very important and historic event. What an absurd effect Putin has created: by launching this unlawful and vicious invasion, he has done something that few of us ever thought would happen—Finland has joined NATO and Sweden possibly will join.

On the date of the Swedish accession to NATO, as the noble Lord knows, there have been detailed discussions with President Erdoğan and the Turkish Government. The Prime Minister spoke to him a number of times and there is a general agreement that NATO will be stronger with Sweden in it. Sweden is a country with great capabilities, technical and in defence terms.

The legal position is that President Erdoğan has said that he will transmit accession protocols to the Grand National Assembly of Turkey, which, following the recent election, his party controls, as I understand it. The next step is for the protocols to be voted

through by the assembly. While I have some control over business in your Lordships' House through the usual channels, it is clearly a matter for the Turkish Government and Parliament to decide how swiftly they proceed. We obviously hope that they will proceed swiftly. We are dependent on our allies, and we are in no doubt that Sweden's membership will strengthen the NATO alliance and make us all safer, as Finland's membership has done.

On deterrence and defence, some scepticism was expressed about Britain's defence posture and our commitments on spending. The defence Command Paper was published today, and there will be a Statement in your Lordships' House tomorrow, when noble Lords will be able to probe that more deeply. I can reassure the House that on defence our core business is to deter and defend against all threats to our security in the modern world in the way we regard as the most effective. That is set out in the latest Statement.

Lord Evans of Rainow (Con): You only have three minutes left.

Lord True (Con): These are questions on the Statement, rather than just the Statement, so I thought I had more than three minutes .

Lord Evans of Rainow (Con): The Clock is wrong.

The Deputy Speaker (Baroness Watkins of Tavistock) (CB): Just to clarify, the Clock did not start correctly. I think that it would be reasonable to say the Leader of the House has until the clock says 15 minutes, and then we will open for 20 minutes of Back-Bench questions.

Lord True (Con): I thought I had more time and was therefore trying to answer the House in some detail.

The defence White Paper sets out our posture; we can discuss that tomorrow.

The capability and effect in numbers of the British Army has been questioned. We are a huge contributor to NATO in its forward presence. We will continue to do that, and £41 billion is being invested in equipment and support projects.

On the Balkans and the eastern flank, we are already one of the biggest contributors to NATO's forward presence on our eastern flank. We will work closely with Estonia and Poland to ensure that we have the appropriate posture for the current climate. Last year, we said that we would maintain a brigade in the UK at high readiness. We are also watchful of the situation in the Balkans.

I was asked about holding Russia to account for its crimes. We have certainly been supporting efforts to ensure accountability for the crimes committed in Ukraine. We led the state party referral to the ICC and provided £1 million in funding to the court. That sits alongside other efforts to find justice for Ukraine, including the Atrocity Crimes Advisory Group we established alongside international partners in support of the prosecution of domestic war crimes in Ukraine. We are a founding member of the international register of damage caused by the Russian aggression against Ukraine, and we have joined a core group of countries to explore options to ensure criminal accountability for the crime of aggression. We ourselves have now sanctioned over 1,600 individuals and entities, including 130 oligarchs with a net worth estimated at over £145 billion.

Both noble Lords asked about the situation in Ukraine. We fully support Ukraine's inherent right to self-defence, which is enshrined in Article 51 of the UN charter. Ukraine is a sovereign country and has a right to choose its security arrangements. Any alliance decision on membership is solely for NATO allies and Ukraine to make. NATO has committed to an expanded package of practical and political support for Ukraine; the allies agreed that Ukraine's future is in NATO. We reaffirm the commitment that allies made in 2008 and recognise that Ukraine's path to full Euro-Atlantic integration has moved beyond the need for the membership action plan.

We have also, as the noble Lord, Lord Newby, referred to, established the NATO-Ukraine Council, a new joint body inaugurated at the summit, where allies and Ukraine sit as equals to advance political dialogue, co-operation and Ukraine's aspirations for NATO membership.

The noble Lord asked about munitions: what we have and, with new funding, whether we have the contracts in place to get new weapons. We have enough weapons systems to defend our national security while fulfilling our commitments to NATO and Ukraine. We remain fully engaged with industry, allies and partners to ensure both the continuation of supply to Ukraine and replenishment of UK stock as quickly as possible. We have already placed a number of substantial procurement contracts directly to replenish munitions granted to Ukraine. The Treasury provided an extra £560 million in the Autumn Statement to increase stockpiles to above pre-Ukraine levels. I assure the noble Lord that NATO support will continue. We announced the gifting of 70 combat logistics vehicles, a contract for spare parts, new training for Ukraine Air Force fast jet pilots and so on, with many weapons systems.

As for the EU, of course it is important that we have unfettered collaboration between EU and non-EU partners in NATO: that is vital for protecting long-term European security. The United Kingdom Government agree with Secretary-General Stoltenberg's very sensible approach. EU defence initiatives should be coherent with NATO requirements and should develop capabilities that are available to NATO and open to the fullest participation of non-EU NATO allies. On that basis, co-ordinating international efforts through collective procurement will be very much part of our strategy.

The Deputy Speaker (Baroness Watkins of Tavistock) (CB): My Lords, the Clock will now restart for the next 20 minutes.

8.26 pm

Lord Robathan (Con): My Lords, I welcome the Statement. While he does not need my congratulations, I congratulate the Prime Minister and the Government on their work at the NATO summit, which is incredibly important. However, where I part company with the

[Lord Robathan]
Government and my noble friend is that it is not enough, I am afraid. There is a war raging in Europe; it is not enough.

When I was a boy, there were four divisions in the British Army, with three armoured divisions sitting in Germany. We cannot find a single full division now. Notwithstanding anything the Defence Secretary has recently said—and, by the way, he has done very well with Ukraine—we need more troops. We cannot cut the size of the Armed Forces—Army, Navy and Air Force—at the same time as this war is raging. In fact, we should never have cut them in the first place. That is very important.

I pray in aid President Reagan, as did my noble friend. As we recall, President Reagan spent a lot of money on a thing called Star Wars. People said it was nonsense and that it would create war, but, as a result of Star Wars, an arms race with the Soviet Union took place that led to the end of the Cold War. We have to be strong. Ask the Ukrainians and the Russians whether the number of troops is important. Of course it is important: they are desperate for more recruits on both sides. So I ask my noble friend, for whom I have a great deal of time, to please mention in Cabinet that we need more money, because this is a time of crisis. We need more troops. I know that everybody says, "Oh, the National Health Service is very important", and it is, but actually more important is that we can defend our country and our interests abroad.

Lord True (Con): I understand the passion with which my noble friend, with his distinguished and courageous record of service to our country, makes his points. The defence paper published today sets out the rationale for the balance in forces in terms of numbers and capabilities. Effective war fighting units must have the best possible modern equipment. The Government announced a significant uplift of an extra £5 billion over the next two years, which will immediately increase our defence budget to around 2.25% of GDP, and we are on the way to delivering our new ambition of 2.5%.

We contribute to every NATO mission and operation; we offer the full spectrum of capabilities to the alliance; we will apportion almost all of our Armed Forces to NATO as part of the new NATO force model in 2024-25; we contribute more troops than any other ally to NATO's enhanced forward presence, with 900 troops deployed in Estonia and a further 150 in Poland, all at high readiness; and we will be the framework nation for the land component of a new allied reaction force.

None the less, I hear what my noble friend says. The Government are determined to have an effective and capable Army, and we will continue to work for that end.

Lord Campbell of Pittenweem (LD): My Lords, I begin by declaring my interest as a member of the British delegation to the NATO Parliamentary Assembly, where, I have no doubt, many of the issues that have been ventilated this evening will be further discussed.

If I had to choose what I regarded as the two most significant things as a result of Vilnius, I would be driven to accept that these were the accession of Sweden and what looks like—I put it no more strongly than that—an end to the intransigence of Turkey. These are very good harbingers of the extent to which NATO remains the bulwark of not only our defence but the defence of the free world. For that reason, the addition of Finland and, in due course, Sweden is more than welcome, not least because they will make a positive contribution to the overall position of the whole membership of the alliance.

The other point I am particularly pleased about is the joint declaration of support for Ukraine. There was much speculation before, during and after in relation to membership of NATO and the extent to which that should be accelerated or, indeed, even granted in the course of the Vilnius discussions. We should never forget that Georgia was made the same undertaking. In all these discussions, no one ever talks about the consequences of the implementation of that undertaking given the fact of very considerable Russian influence in Georgia.

I want to make a point that is not always made in relation to membership of NATO: it is not just about military capability. Membership of NATO involves an acceptance of democratic principles, an acknowledgement of human rights and an absence of corruption. Any country that seeks to join NATO and become part of the arrangement, in particular under Article 5, is obliged to demonstrate these principles. In the best possible analysis of the current position, which we must make, it could hardly be said that these matters were well and truly at the centre of Ukraine.

The Leader of the House was sceptical about the use of language, or criticism of the use of language. I make this point: the Statement reads a bit like Dr Pangloss. I think the effectiveness of the Statement on these issues would be much enhanced if it were in much more down-to-earth language.

Finally, I am being advised that I must ask a question, and I am about to do so: how can it be said—as the Statement says—that there has been an increase in defence expenditure when, while more money has been given to the budget of the Ministry of Defence, there has been no increase in defence expenditure? What money has been given does not to any extent deal with the issue of inflation. Everyone knows that inflation when it comes to, for example, the purchase of military equipment is always much greater than elsewhere. Respectfully, returning to the point I made a moment or two, it seems to me that a bit more realism would carry more credibility.

Lord True (Con): My Lords, I try not to use gung ho language. If I was guilty of that, I apologise; it is not really my wont. I was simply trying to give the House factual answers to some of the questions that were asked. I appreciate what the noble Lord says about accession and the role of both Sweden and Turkey, if Sweden becomes a member. Both Sweden and Turkey are, in security terms, extraordinarily important and proud nations, and we should look on them warmly. It would be good to see that any difficulties between those nations, such as they exist, do not continue, and that is the augury of the NATO summit.

As for guarantees, I said in a previous answer that all agreed that Ukraine's future is in NATO and the proposal for a membership action plan was dispensed

with. However, the alliance will continue its support for Ukraine in making progress on interoperability in weapons terms, but also, as the noble Lord implied, additional democratic and security sector reforms, on its path towards future membership. We will be in a position to extend an invitation to Ukraine to join the alliance when allies agree and due conditions are met. I am confident that that will happen.

On the security position, as I said in answer to an earlier question, we fully support Ukraine's inherent right to self-defence—that is common in this House—as enshrined in Article 51 of the UN charter. There has been a broad international swathe of support for the heroic battle of the Ukrainian people against a grotesque breach of international law in this invasion. What happened at the summit is that the United Kingdom, G7 allies and Ukraine agreed a new framework for guaranteeing Ukraine's long-term security, delivering on an ambition that we set out earlier this year. The joint declaration, signed by all members of the G7, set out how the United Kingdom and its allies will support Ukraine over the coming years to end the war and deter and respond to any future attack. It is the first time that the G7 has agreed to a comprehensive long-term security arrangement of this kind with another country. That is a specific of the commitment that is given—we are not talking about the wider ambit that the noble Lord spoke of, but it is important none the less.

As for support, I will not weary the House with the range of support that is being given, but suffice to say that the Ukrainian Government have made very clear their gratitude to the British people—and indeed the British Government, if I may mention that benighted authority in your Lordships' House—for the unswerving support we have given in matériel, diplomatic efforts and support. That will continue and, as I said earlier, we are beginning the next step forward: this summer we will commence an elementary flying phase for cohorts of Ukrainian pilots in basic training.

Lord Dodds of Duncairn (DUP): My Lords, NATO member states at Vilnius made an enduring commitment to spend 2% of their GDP on defence spending per annum, but that is a long-standing commitment. Although the UK has been in the vanguard of meeting that kind of commitment—along with the US, of course, which funds most of Europe's defence—sadly many European partners have fallen well short of meeting that commitment, over many years. What pressure or incentive is being brought to bear? I know that there are increases in expenditure, but what can be done to ensure that our partners meet that commitment to defence spending over the very short-term future?

Lord True (Con): My Lords, this is an alliance of volunteers and volunteer nations. Of course, it is ideal that every nation should contribute to the agreed target, and that has been reaffirmed at the summit. I am not going to stand here and throw stones at other nations. Putin has failed in his illegal invasion: he thought it would divide NATO and that some of the less enthusiastic nations might split away but, as we have discussed, the reverse has happened.

I do not think we can talk about penalising nations that do not reach 2%. We have made good progress in recent years, with more countries hitting the 2% minimum. Last year, 2022, was the eighth consecutive year of increased defence spending across Europe and Canada. Since 2014, our European allies and Canada have spent an additional £350,000 million—£350 billion in easy parlance—on defence. The noble Lord is right: if we are to ensure that our alliance is equipped to take on the challenges of the future, we must go further. However, it is in all our interests for every member to meet the 2% commitment; that is our plea to our allies and partners. As far as a penalty is concerned, the penalty for failing to fund NATO properly is our future collective security, and I think that is recognised by all our allies.

Lord Balfe (Con): My Lords, some 34 years ago I was the first leader of the European Parliament delegation to the NATO Parliamentary Assembly. At that time, we were trying to be friends with the Russians; indeed, a certain Mr Kelin, who is now the Russian ambassador in London, was in Brussels representing the Russians. We always found it difficult, but part of the difficulty was the disunity among NATO members, which we must address. We also have to address the fact that the Minsk process, which was supposed to help get peace in Ukraine, failed comprehensively.

Will the Minister make it clear to the Americans that the break-up of the Russian Federation, which is widely talked about in some Washington circles, is not in the interests of European security? Secondly, will he promote interoperability within NATO? We discovered, for instance, that you could not drive one of the British tanks in Germany through Denmark because the Danish Parliament would not allow it and the bridges were not strong enough. The biggest challenges facing NATO are interoperability and the fact that, if we do not stop the guns firing, there are far too many frozen conflicts in Europe for us to go to bed happily. We need at some point to find a way of promoting a ceasefire.

Lord True (Con): My Lords, interoperability is obviously important—I agree with my noble friend on that, at least. When I made reference to Ukraine's accession, I said that interoperability is important. What we face here is the most brutal and disgraceful challenge to the international order seen in modern times. More people have perished in that country than in any NATO country in the post-war era. I believe that we need to be absolutely solid in the face of the Russian Government. They must understand that no advantage or chink of gain will come from this aggression. I appeal to my noble friend to play his part in that.

Lord Hamilton of Epsom (Con): My Lords, like the noble Lord, Lord Campbell of Pittenweem, I am a member of the NATO Parliamentary Assembly and I agree with him completely about the importance of the accession of Finland and Sweden to NATO. Does my noble friend the Minister agree that that is very important, not least because one of Putin's excuses for invading Ukraine was that he did not want to see the expansion of NATO, but NATO has expanded as a result of his invasion, which will have caused him quite a bit of difficulty?

The noble Lord, Lord Newby, raised the issue of European defence. It is worth making the point that NATO is an alliance; it may well be defending Europe

[Lord Hamilton of Epsom]
but it does not look mainly to EU members to do so. It is always well worth bearing in mind that, prior to the entry of Sweden and Finland, 80% of NATO's expenditure came from countries outside it. Does my noble friend the Minister agree with Jens Stoltenberg, the Secretary-General of NATO, that the European initiatives to create a defence identity will inevitably lead to duplication and unnecessary expense?

Lord True (Con): My Lords, I agree with everything my noble friend said. Indeed, in an earlier answer I reported the specific comments that Secretary-General Stoltenberg made in relation to this question of the EU and NATO. It is fundamentally important that we are allies, but it is equally fundamentally important that nothing must be done that undermines or conflicts with NATO obligations and the central role, as my noble friend said, of NATO, involving the US and Canada, in this extraordinary commitment to the common defence of our continent.

Lord Coaker (Lab): My Lords, can I say how much I and my noble friend Lord Collins agree with the statement that the Lord Privy Seal made with respect to our attitude to the illegal invasion of Ukraine and Russian aggression? In his remarks, the Lord Privy Seal made a point about how important the unity of this and the other Chamber is in the face of that aggression. Would he congratulate the Prime Minister on including in his Statement the comment referencing the British public and the importance of their continuing support for our efforts with respect to Ukraine through NATO? Will he also ask the Prime Minister whether he can continue to talk within NATO about the importance of maintaining the morale and support the Ukrainian people themselves have for the ongoing conflict they are having to endure on our behalf?

Lord True (Con): I am grateful for and strongly support and endorse the noble Lord's perceptive comments, as always. I assure him that the Prime Minister will do both those things, internally and externally, and will be fortified by the support of the other great democratic parties.

Lord Teverson (LD): My Lords, like many people, I very much welcomed the photo of the President of Turkey, the Prime Minister of Sweden and the Secretary-General of NATO, but there is still another country standing in the way of Swedish membership—Hungary—which has not gone through the process of allowing it. One of the things that Erdoğan did, which was quite surprising, was to tie EU membership to the conditionality of saying yes to Sweden coming in. There could be a real issue if Hungary did the same in terms of its own disputes with the EU. Did the Prime Minister talk to Viktor Orbán, and was he assured that Hungary would also allow the accession of Sweden into NATO?

Lord True (Con): My Lords, I do not have specifics on the Prime Minister's discussions. I understand what the noble Lord is saying. Technically that is the position, but I think it is widely understood that the expressed position of the Hungarian Government is that they certainly would not be the last seeking to frustrate the entry of Sweden. That is a public and clearly established position.

House adjourned at 8.48 pm.