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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

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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

Wednesday 6 September 2023

11 am

Prayers—read by the Lord Bishop of Southwark.

Levelling-up and Regeneration Bill

Report (6th Day)

11.06 am

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

Schedule 7: Plan making

Amendment 193

Moved by ***Lord Lansley***

193: Schedule 7, page 347, line 17, at end insert—

"(3A) The local plan must identify the strategic priorities of the local planning authority for meeting housing needs and for addressing the economic, social and environmental issues affecting the authority's area."

Member's explanatory statement

This amendment would require plan-making to include the strategic priorities of the authority.

Lord Lansley (Con): My Lords, I reiterate at the outset that I have a registered interest as chair of the Cambridgeshire Development Forum.

Amendments 193 and 194 introduce this group. We are discussing the structure of plan-making in Schedule 7, which replaces Sections 15 to 37 of the Planning and Compulsory Purchase Act 2004 as amended. With Amendment 193, I wanted to take the opportunity to explore some interesting changes—I do not know how significant they are and that is what I hope we can determine—between what is to be found in the Planning and Compulsory Purchase Act as it stands and what is proposed in Schedule 7.

The amendment would require that the strategic priorities of an authority for development in its area be identified. The key word here is "strategic". Section 19(1B) of the Planning and Compulsory Purchase Act as it stands says:

"Each local planning authority must identify the strategic priorities for the development and use of land in the authority's area",

and it continues in the next subsection:

"Policies to address those priorities must be set out in the local planning authority's development plan".

That legislation as it stands leads directly into the National Planning Policy Framework. We will talk about the relationship between the NPPF and the Bill on a number of occasions today. In this instance, when the Government published the consultation draft of the NPPF in December, they retained in it the distinction between strategic priorities and policies and non-strategic policies. For example, paragraph 17 of the consultation draft on behalf of the Government—although we have not seen the final version—states:

"The development plan must include strategic policies to address each local planning authority's priorities for the development and use of land in its area".

Paragraph 21 states:

"Plans should make explicit which policies are strategic policies".

The footnote to paragraph 21 states:

"Where a single local plan is prepared the non-strategic policies should be clearly distinguished from the strategic policies".

So my starting point is that the NPPF distinguishes between strategic and non-strategic policies but the Bill does not—it just refers to "policies". New Section 15C(3) in Schedule 7 states:

"The local plan must set out policies of the local planning authority (however expressed) in relation to the amount, type and location of, and timetable for, development in the local planning authority's area".

My purpose in Amendment 193 is essentially to ask the Minister the following questions. Why has the distinction between strategic policies and priorities and non-strategic policies been removed from the Bill? That being the case, will the National Planning Policy Framework be redrafted and revised to remove that distinction? My contention is that the distinction is important, not least because we are looking for the local plan to be strategic in nature rather than bogged down in detail.

Strategic policies are needed if the local plan is to look at these 15 years ahead. As the NPPF stresses, where large settlements and new settlements are concerned, this may be at least 30 years ahead, and strategic policies are required for that. That raises the question: why is the requirement for strategic priorities and policies being removed from the statute on which the NPPF should be based? Which way is it going to work? Is the NPPF going to change, or should we not adopt Amendment 193 and include the word "strategic" in the requirements on local planning authorities?

Amendment 194 is a little simpler. It would insert into the requirements for local authorities, when presenting their priorities, a requirement to recognise the importance of economic development. The NPPF as it stands does that but, when it talks about what is to be put into plans, it has housing, employment, leisure and so on but does not specify how important it is that the economic objective of sustainable development be accompanied by strategic policies to identify the need not just for employment sites but for businesses to grow, and the potential for inward investment into an authority's area.

That is important and is often significantly overlooked in plan-making. To that extent, too great and exclusive attention is paid—not that it is not important—to the allocation of sites for residential and housing development, when often the starting point for whether housing is required in an area is its rate of employment growth. Determining the allocation and spatial strategy for the economy and employment in an area is at least as important as the requirement for housing. Amendment 194 would bring that firmly into the plan-making process as a strategic priority. I beg to move Amendment 193.

Lord Best (CB): My Lords, Amendment 193A, in my name, would require local plans to spell out the housing needs of the locality and set out how, over time, those needs can be met and homelessness and the use of temporary accommodation can be ended. There is a clear problem in that, at present, local plans are not required to factor in homelessness and social housing waiting lists. This means that the extent of housing problems and true housing need in a local authority area are not always reflected. Surely, including provisions to address these housing needs should be a basic component in a local plan; that is common sense.

Without this, there is far less of an incentive for local authorities to address the true extent of housing need in their area. The Bill currently permits local plans to include, among many other things, requirements for affordable housing. This amendment would replace this somewhat vague and light-touch permissive approach with a duty to be clear, both on the scale of local housing problems and the housing provisions that will address them.

11.15 am

I pay tribute to Shelter colleagues for their work on this amendment, which has the backing of a wide range of organisations concerned not only with the nearly 250,000 people who are homeless or living in temporary accommodation, but the 1.2 million households languishing on waiting lists for an affordable home. The planning system must be a key factor in making housing policies work for these households. Recognising their needs explicitly in all local plans would be a positive step forward.

In giving emphasis to meeting affordable housing need, the amendment specifies that provision must be made in the local plan

"for sufficient social rent housing".

In an upcoming amendment, we will look at the need for a new definition of "affordable housing". In this amendment, we go with the term "social rent", which refers to the rents that meet the rent standards set by the social housing regulator. These are the rents for most existing council and housing association homes, rather than the appreciably higher so-called affordable rents linked to market rents.

Social rent homes which are secure, decent and affordable are badly needed, and the amendment gives these the priority they deserve. With this amendment in place, every local planning authority would be empowered to take a firm line with the housebuilders in securing the delivery of genuinely affordable new homes. The authority could be more insistent on all developers meeting their obligations and it would be much more difficult for recalcitrant housebuilders to renege on the delivery of affordable housing agreements. With its local plan clearly establishing the amount and type of affordable housing that needs to be provided, the local authority would have greater credibility and authority in seeking support from central government, Homes England or the GLA for the funding it badly needs for its social housing.

This is not the moment to emphasise the urgency of ensuring that the affordable housing provision in each locality at least starts to match the need for it—there is so much to do—but utilising the key planning tool of the local plan and the delivery strategies that flow from it would represent a vital step in making this happen. This amendment would make a reality of that opportunity. I hope noble Lords will join me in voting for the amendment if the Minister is unable to offer her support for it.

Lord Berkeley (Lab): My Lords, I rise to speak to Amendment 199 in my name and that of the noble Lord, Lord Young of Cookham. I apologise to the House for not being here on Monday—another failed transport from the Isles of Scilly. I would have supported Amendment 191, in the name of the noble Lord, Lord Ravensdale, and Amendment 190, in the name of the noble Baroness, Lady Thornhill.

My amendment follows on from that in the name of the noble Lord, Lord Lansley—and other future comments, I think. It refers to cycling, walking and rights of way and their incorporation, or not, in development plans. We have heard quite a lot already about whether there is or should be a link between plans and strategies for housing, the economy and active travel. It is all getting quite complicated. I want to put the case for walking and cycling to be included in a way which actually works.

This amendment is supported by a long list of eminent organisations: the Bicycle Association, the Bikeability Trust, British Cycling, Cycling UK, Living Streets, the Ramblers, and Sustrans. It covers what we might call active travel in its widest sense—in the city, in the countryside, going to work and school, and for leisure. This very important issue needs to be addressed, partly so that we can encourage more environmentally friendly travel generally.

The noble Lord, Lord Lansley, mentioned the NPPF being a problem. It is a problem for that active travel group and for the Walking and Cycling Alliance, because in the Commons debate the Government suggested that the concern of that group would best be dealt with through the NPPF rather than through legislation. However, as I think the noble Lord referred to, the draft NPPF did not include any new policies on these issues and put it into the further-action box on sustainable transport and active travel. NPPFs have been around for some time, but they take an awfully long time to get through, probably for good reasons. Now is the time to try to find a better way of including these policies in the Bill, and I hope that the Minister, when she responds, will support the concept at least.

Baroness Williams of Trafford (Con): Could I just remind noble Lords that we have a long day ahead of us and that this is Report?

Lord Berkeley (Lab): I apologise to the House for that. The amendment aims to address the problem of local planning authorities unwittingly, and I think occasionally intentionally,

"frustrating a higher-tier authority's aspirations for walking, cycling or rights of way networks".

We must not forget the rights of way, because you cannot walk or cycle if rights of way get blocked. The problem is in not recording those network aspirations in authorities' own development plans,

"thereby failing to safeguard land for those networks, to connect new development with existing networks and/or to secure developer contributions to implement or upgrade specific routes".

I will give examples. It is probably worse with two-tier authorities. Where the local transport or highway authority, which is usually a county council or combined authority, is not the same body as the local planning authority, you can have this example, which Sustrans exposed. The alliance says that

"one part of a unitary authority commissioned Sustrans to assess the feasibility of re-opening a disused railway line as a walking and cycling route, yet another part of the same authority then gave permission for a housing development which blocked that disused railway line before Sustrans had completed the study. In another case, planning permission was granted by a local planning authority for development which adversely impacted a section of the National Cycle Network (which Sustrans manages), with planning officers unaware of the existence and importance of this walking, wheeling and cycling route".

This is confusing for local authorities, especially when they are probably very short of resources, as many noble Lords have said on previous amendments. I think the Government believe that our concerns about lack of co-ordination would best be addressed through the NPPF, but that does not mention it, and it omits other things altogether. Unless we get something here that links granting planning permission with taking account of adequate provision for walking, cycling and rights of way, we are in trouble.

I will give one other example before I conclude. In a recent case in Chesterfield in Derbyshire, the local planning authority considered a housing development close to the town centre and railway station. The council officials pressed for the development to include walking and cycling routes to facilitate access to, from and through the development, and obviously to and from the station. However, when the committee was due to consider the application, the developer made a submission claiming that the walking and cycling routes would render the developments economically unviable, and the councillors accepted that view without really challenging it. I have cycled on many cycle routes that probably suffer from the same failure by a developer to provide a proper, sensible route, because it tried to persuade the planning authority that it would be all right on the night, and it is not always.

I hope that the Government will support this amendment. Active Travel England is involved in this, and I certainly welcome what it is planning to do. However, it will often be consulted only at a later stage, and it would be much better if the relevant authorities' walking, cycling and rights of way network plans were clearly shown in development plans from the outset.

Lord Young of Cookham (Con): My Lords, I have added my name to Amendment 199 on cycling in the name of the noble Lord, Lord Berkeley, and I will follow briefly in his slipstream, if I may.

I am grateful to the Minister for the Teams meeting that she held on this subject at the end of last month to find common ground. Throughout our debates on the Bill, the Government have suggested that our objectives could be better met through NPPFs rather than through legislation. But throughout the debate there has been some scepticism about that, as there is ample evidence that leaving things to guidance does not actually produce the results.

The NPPF guidance on cycling was last revised in 2018, but there is a real problem with that guidance, and I hope that my noble friend can give me some assurance. One paragraph of that guidance said:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

This paragraph makes it very difficult for local planning authorities to refuse developments whose location or design fails adequately to support walking, cycling and other sustainable transport modes. If we are to rely on future NPPFs, can my noble friend give me an assurance that that provision will be removed, because it stands in the way of many of the Bill's objectives?

The final point raised in the Teams meeting was one that the noble Lord, Lord Berkeley, has just mentioned: the conflict between upper and lower-tier authorities. At the meeting, my noble friend was good enough to say that she would have another look at this and would perhaps be able to respond on it.

I very much welcome what has been said—that Active Travel England is now a statutory consultee—but it would be better if it could be involved at an earlier stage of the proposals, as the noble Lord, Lord Berkeley, said, rather than at a later stage, when it would be difficult to retrofit the provisions for cycling that we would all want to see. I hope that my noble friend the Minister is able to provide some reassurance on those two points.

Baroness Thornhill (LD): My Lords, in view of the remarks of the noble Baroness, Lady Williams, I will be much briefer than I intended, so we might ramble around a little.

On Amendments 193 and 194 in the name of the noble Lord, Lord Lansley, I absolutely understand his points and will await the Minister's answer on the reasons for that omission from the Bill. I have to confess to the noble Lord to having made the assumption that they would be in the Bill. In fact, reading through this section, I thought "Why are people putting down these amendments? Aren't they what people already do in a good local plan?", so I am grateful for his attention to detail.

11.30 am

I agree with the noble Lord's portrayal of the plan as tending to be around sites and location. Unfortunately, this is largely driven by public opinion. On a local plan, most consultation is on the site-specific thing, yet answering the big question—where do we want our towns to be in five, 10 and 20 years' time?—is surely the most exciting thing you can do with a community. I hope the Bill encourages us to do that. I genuinely do not know how any local authority could begin its plan without the starting point being its strategic priorities.

Likewise, on Amendment 199, on which my noble friend Lady Pinnock will speak, how can you consider land use if you do not know what your major infrastructure needs are—from big schemes such as railway

[Baroness Thornhill]
schemes down to walking routes and joining up cycle routes? It is really important. My one question to the Minister is: surely, without those key policies, a plan would not be found sound.

I turn to Amendment 193A. As ever, the case has been made by the noble Lord, Lord Best, so I will scrap my next bit and say that the evidence is huge. The real need is to deliver at volume and at speed. It is still a surprise to me that the only statutory provision for accommodation that a council has to make is for Gypsies and Travellers. I understand and recognise why there was a need to do that. Some authorities were just denying their obligation to this community and leaving it to others. Of course, we know that still happens, which is why I seek clarity from the Minister on how local need will be assessed in the future and how need will be defined in the plan. Will it simply be a number-of-units game or, being blunt, can we look at how we can avoid the attitude of "We don't have that problem here, so we don't need to provide"? The subtext is that they will go to the council next door. Noble Lords can fill in their own groups of residents who are often ignored, which sometimes includes social housing tenants.

I come to my most serious point. Given the scale of the housing problem, surely it is time for a Government to be bold enough to put social housing on a statutory footing and then conceive a plan to deliver at scale and pace.

Baroness Pinnock (LD): My Lords, I just wish to speak to Amendment 199 in the name of the noble Lord, Lord Berkeley. I repeat my relevant interests at the outset: I am a councillor and a vice-president of the Local Government Association.

Unfortunately, our wonderful expert on all things transport, my noble friend Lady Randerson, is unable attend this morning but what I shall say comes after having discussed this with her. On this side, we totally support Amendment 199. It is reasonable and filled with sensible caveats such as "so far as relevant" and "must … have regard to". It is something that local planning authorities can work with but should stimulate to them to ensure that they think of travel from the start and incorporate it into their strategic policies and the local plan. Tacking it on later is never as effective. Doing it that way also ensures that there is integration between different layers of local government, which do not always work perfectly together, as we have heard throughout discussions on the Bill.

Something has to be done. At the moment Governments are failing on the targets. We will have a further discussion on targets in another group but this is about travel targets—cycling and walking targets. The target set in 2017 is for 46% of urban journeys to be walking or cycling, but all activity levels are now lower than when the target was set. For instance, the number of children who walk to school has fallen below 50%. Public rights of way, referred to by the noble Lord, Lord Berkeley, are constantly under threat from developers who regard them as an obstacle rather than—as they should be—a benefit. PROW diversions created by developers are often far less attractive than the original. That, too, is discouraging for those who want to walk. Urgent attention is needed—not more targets but practical steps such as those proposed in this amendment to incorporate active travel into the fundamental fabric of urban and rural planning for the future.

Baroness Taylor of Stevenage (Lab): My Lords, Amendments 193 and 194 from the noble Lord, Lord Lansley, introduce sensible additions to Schedule 7 on the content of plans. As the noble Lord, Lord Deben, reminded us on Monday, just because Ministers assume that something will happen, that is no reason for leaving it out of the Bill. One would assume that any local planning authority would include such vital matters as meeting housing need and the economic, social and environmental needs of its area in its plan, as well as identifying appropriate sites. I agree with the sentiment expressed by the noble Baroness, Lady Thornhill, in that regard. Putting this in the Bill makes sure that it happens.

The noble Lord, Lord Lansley, was right to draw attention to the distinction between strategic and non-strategic priorities, which will become ever more important as these strategic policies are considered by a potential combined authority for the joint strategic development strategies. If they are not set out clearly in plans, how will the combined authorities identify them and make sure that they take account of them in the wider plan?

Amendment 193A in the name of the noble Lord, Lord Best, goes to the heart of a huge lost opportunity in the Bill, as currently structured, to make a real difference in addressing the housing emergency we face in this country. The figures have been much debated in this Chamber, in Committee on the Bill and in many other debates on housing, but it is a scandal that over a million families are still on social rented housing registers around the UK. With the current rate of building—just 6,000 a year according to Shelter—few of those families stand a chance of ever having the secure, affordable and sustainable tenancy they need.

This problem is now exacerbated by rising mortgage interest rates resulting in many private landlords deciding to sell the properties they were renting out and their tenants coming to local authorities to seek rehoming. Commentators in the sector say that this could affect as many as one in three privately rented properties. The figures are stark. Worked examples show that rents may have to increase by at least £300 a month. For landlords and tenants also facing other elements of the cost of living crisis, this kind of increase in costs is untenable.

The amendment from the noble Lord, Lord Best, proposes that local plans should link the provision of social housing to the provision of adequate housing for those registered with the local authority. This should be a minimum. I think the noble Lord described it as a duty to be clear about the scale of the housing problem and I totally agree. As we all know only too well, the unmet need for social housing also includes many families not on those registers. We will have a later debate about the definition of "affordable housing", but social housing in particular merits special treatment in how it is addressed by local plans. For some families,

it is the only form of tenure that will ever meet their needs. We agree with the noble Lord, Lord Best, about the importance of putting social housing priorities into the planning process, so if he chooses to test the opinion of the House on this matter, he will have our support.

Government Amendment 197 is a helpful clarification that neighbourhood plans cannot supersede the local development plan in relation to either housing development or environmental outcome reports. I was very pleased to see Amendment 199 from my noble friend Lord Berkeley and the noble Lord, Lord Young. As a fortunate resident of a new town designed with the great foresight to incorporate 45 kilometres of cycleways, thanks to the vision of Eric Claxton and our other early designers, I can clearly see the importance of incorporating this infrastructure at the local plan stage.

The experience of Stevenage is that, unless the infrastructure makes it easier to cycle and walk than to jump in a car, the latter will prevail. Our cycleways are only now coming into their own and being thought of as the precious resource that they are, so the vision to include them was very much ahead of its time. It is important that careful thought is given, in all development, to the relative priorities of motor vehicles and cycling and walking.

As my noble friend Lord Berkeley outlined, this amendment is well supported by the Better Planning Coalition and the Walking and Cycling Alliance, which says that embedding cycling and walking in development plans would

"help safeguard land … that could form useful walking and cycling routes, while ensuring that new developments are well-connected to such routes, and securing developer contributions for new or improved walking and cycling provision".

It cites examples—they were adequately quoted by my noble friend Lord Berkeley, so I will not repeat them—of how this has not been the case in the past. I agree with my noble friend that the consultation on the NPPF makes no mention of, never mind giving priority to, local cycling and walking infrastructure plans. It makes no mention at all of rights of way improvement plans.

On Monday, the noble Earl, Lord Howe, mentioned the new role for Active Travel England as a statutory consultee in planning matters, but surely this amendment would strengthen its role by ensuring that cycling and walking are considered for every development, so that it can focus on the detail of those plans.

Government Amendments 201B, 201C and 201D are very concerning. They represent sweeping powers for combined county authorities to take over the powers of local councils in relation to making and/or revising local plans. Alongside the government proposals that the representatives of local councils will have no voting rights on combined county authorities, this represents yet another huge undermining of the role of local democratically elected institutions in favour of combined county authorities, which are indirectly elected, which may have voting representatives who have no democratic mandate at all and which operate at a considerable distance from the front line of the communities that will be affected by the decisions they are making.

In the debate on Monday, the Minister said that these new powers will be used only in extremis, but one can envisage situations where they could be used for political purposes. I raise the importance of this issue from a background of long experience of plan-making in two-tier areas and the complexities that that brings. On Monday, I mentioned that it was our local MP who held up our local plan for over a year by calling it in to the Secretary of State. Would this, for example, give a CCA grounds to initiate its power grab for the planning powers? If that were the case, you could see this being a very slippery slope indeed. What discussions has the Secretary of State undertaken with the sector on these proposed powers? These powers, like so much else in the Bill, seem to move us ever further away from the devolution and agency for local people that were espoused at the introduction of the White Paper.

Lord Stunell (LD): My Lords, the noble Lord, Lord Lansley, has done a tremendously good forensic job of disclosing the fact that there is an omission—possibly accidental—connecting the whole planning process as far as non-domestic strategic direction is concerned. I look forward to the Minister's explanation for that and perhaps to her coming back with a correction at a later stage.

The Liberal Democrats will certainly support the noble Lord, Lord Best, if he puts his proposition to the House. There is no doubt at all that it is absolutely necessary to tackle the severe problem of the lack of affordability in the rented sector. It is understood clearly by all that developing the social rented sector is the way to go—this surely must be taken into account in all plan-making. The noble Lord made a valid point about those who are homeless. This is a rising number of people and there is a reluctance among many local authorities to undertake the formidable task of dealing with the circumstances that they face.

Certainly, the points made by the noble Lord, Lord Berkeley, and my noble friends Lady Randerson and Lady Pinnock about active travel are important. I await the Minister agreeing that the connection on this between policy and the NPPF, and between policy and plan-making, needs to be corrected in the direction that this amendment sets out.

11.45 am

I support what the noble Baroness, Lady Taylor of Stevenage, said about the power grab involved in the Minister's amendments and I query the wording used. Amendment 201B states that

"the Secretary of State may invite the combined county authority to take over preparation of the local plan".

Can combined county authorities politely decline that invitation if it is extended? I can imagine a number of reasons why they might do that. Chief of those is resource constraints: many combined county authorities, or components of them, are on the brink of bankruptcy and they might not wish to take on an additional challenging function for which they have no capacity or capability. The authorities into whose territory they would trespass are also often in a parlous situation as far as resources go. Not everyone wants to take over Wilko and it is quite understandable that this "may

[Lord Stunell]
invite" provision will be regarded askance by not just the district councils but the combined county authorities. I would like to understand more clearly what the Minister intends the process to be. If she says, "They could decline or politely refuse", then what is the alternative plan? This is a new power that has unforeseen consequences, most of which seem to point in a damaging direction. More uncertainty about this "may invite" provision seems to compound that. I look forward to hearing what the Minister says.

The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con): My Lords, Amendments 193 and 194 in the name of my noble friend, Lord Lansley, seek to require plan-making to include the strategic priorities of the authority and to ensure that a local plan can include policies relating to achieving sustainable economic growth. The Government want the planning system to be truly plan-led, to give communities more certainty.

The Bill provides clear requirements for what future local plans must include. This replaces the complex existing framework, which includes the requirement at Section 19(1B) of the Planning and Compulsory Purchase Act 2004 for authorities to

"identify the strategic priorities for the development and use of land"

in their areas. There is nothing in the Bill to stop authorities including strategic priorities and policies in future local plans. Indeed, our recently published consultation on implementing our plan-making reforms proposes that plans will need to contain a locally distinct vision that will anchor them, provide strategic direction for the underpinning policies and set out measurable outcomes for the plan period. Likewise, on the specific subject of sustainable economic growth, we are retaining the current legal requirement in Section 39 of the Planning and Compulsory Purchase Act 2004 for authorities to prepare plans with the objective of contributing to the achievement of sustainable development.

My noble friend Lord Lansley asked why the distinction between strategic and non-strategic was removed and whether the NPPF will be redrafted to reflect this. That distinction derives from previous legislation on plans, which the Bill will replace with clearer requirements to identify the scale and nature of development needed in an area. The NPPF will be updated to reflect the legislation, subject to the Bill gaining Royal Assent. In light of this, I hope that my noble friend will feel able not to press his amendment.

I turn now to Amendment 193A in the name of the noble Lord, Lord Best. This amendment seeks to require local plans to plan for enough social-rented housing to eliminate homelessness in the area. National planning policy is clear that local plans should, as a minimum, provide for objectively assessed needs for housing. In doing so, local authorities should assess the size, type and tenure of housing needed for different groups in the community, including those who require affordable housing. This should then be reflected in their planning policies. The Government are committed to delivering more homes for social rent, with a large number of new homes from the £11.5 billion affordable homes programme to be for social rent. We are also carefully considering the consultation responses to our proposal to amend national planning policy to make clear that local planning authorities should give greater importance in planning for social rent homes.

Tackling homelessness and rough sleeping is a key priority for this Government. That is why we will be spending more than £2 billion on homelessness and rough sleeping over the next three years. The Homelessness Reduction Act, which the noble Lord, Lord Best, was so influential in bringing forward, is the most ambitious reform to homelessness legislation in decades. Since it came into force in 2018, more than 640,000 households have been prevented from becoming homeless or supported into settled accommodation. We know that the causes of homelessness are complex and are driven by a range of factors, both personal and structural, and I fear that creating a link between local plans and homelessness reduction would add more complexity.

The noble Lord, Lord Best, asked why we cannot recognise housing need in local plans, particularly homelessness and affordable housing. The Bill already requires that plans set out policies for the amount, type and location of the development needed. I feel that it is a local issue, and the best way to ensure that we get the amount of particular housing needed in a particular area is for it to be put into local plans by local councils talking to local people. The noble Baroness, Lady Thornhill, asked how local needs are going to be assessed in the future and how they will be defined. This is another matter that will be considered when we update national policy. We need flexibility to address changes in circumstances, which is why policy is the best approach to this, rather than looking for definitions in legislation.

I move now to Amendment 199 in the name of the noble Lord, Lord Berkeley, and my noble friend Lord Young of Cookham. I thank the noble Lords for their amendment on this important matter. We recognise the importance of walking and cycling, and the role the planning system plays in enabling the infrastructure which supports active forms of travel. National planning policies must be considered by local authorities when preparing a development plan and are a material consideration in planning decisions. The Bill does not alter this principle and would strengthen the importance of those national policies which relate to decision-making. The existing National Planning Policy Framework is clear that transport issues, including opportunities to promote walking and cycling, should be considered from the earliest stages of plan-making and when considering development proposals. Proposals in walking and cycling plans are also capable of being material considerations in dealing with planning applications, whether or not they are embedded in local plans. Indeed, the decision-maker must take all material considerations into account, so there is no need to make additional provision in law as this amendment proposes.

The Government are delivering updates to the *Manual for Streets* guidance to encourage a more holistic approach to street design which assigns higher priorities

to the needs of pedestrians, cyclists and public transport. We are also working closely with colleagues in the Department for Transport to ensure local transport plans are better aligned with the wider development plan.

The noble Lord, Lord Young, asked if the NPPF policy requiring a high bar to refuse proposals on transport grounds will be changed. As he knows, we have committed to a full review of the NPPF, part of which will need to look at all the aspects of policy, including how best to provide for walking and cycling.

I move now to government Amendments 196C, 196D, 201B, 201C and 201D. These are consequential on Clause 91 and Schedule 7 to the Bill which, when commenced, will introduce a new development plans system. They amend and supplement consequential amendments to Schedule A1 to the Planning and Compulsory Purchase Act 2004 made by Schedule 4 to the Bill relating to the creation of combined county authorities. The Schedule 4 amendments will mean that combined county authorities will be in the same position as the Mayor of London, county councils and combined authorities are currently in relation to the ability of the Secretary of State to invite those bodies to take over plan-making where a constituent planning authority is failing in its plan-making activities. The noble Lord, Lord Stunell, asked what will happen if they do not want to do so. I do not think we can force them, but there are a couple of things we can do if local authorities are not producing local plans in a timely manner or at all. For example, there will be a commissioner who could take over the production of the plans, or the Secretary of State could take that into his own hands. We are not going to force them, but it will be an offer they can make in order that their county combined authorities have the correct plans in place to shape their communities in the correct way.

In light of the new plan-making system being introduced by the Bill, a number of consequential amendments to Schedule A1 to the 2004 Act are already provided for by Schedule 8 to the Bill. Broadly speaking, they will update Schedule A1 to ensure that the provisions can operate within the new plan-making system. As such, in light of these wider reforms, these further amendments are needed to ensure that the new provisions which Schedule 4 to the Bill will insert into Schedule A1 are updated accordingly when the new plan-making system comes into effect. I hope noble Lords will support these minor and consequential changes.

Finally, the Bill ensures that neighbourhood plans will continue to play an important role in the planning system and encourage more people to participate in neighbourhood planning. For example, it will mean that future decisions on planning applications will be able to depart from plans, including neighbourhood plans, only if there are strong reasons to do so. While the Bill retains the existing framework of powers for neighbourhood planning, it will also provide more clarity on the scope of neighbourhood plans alongside other types of development plan. It amends the list of basic conditions set out in Schedule 4B to the Town and Country Planning Act 1990 which new neighbourhood development plans and orders must meet before they can be brought into force.

Amendment 197 would make corresponding changes to the basic conditions set out in paragraph 11(2) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 so that the same conditions apply when an existing neighbourhood development plan is being modified. These changes are necessary to ensure that these neighbourhood plans receive consistent treatment.

Lord Lansley (Con): I am most grateful to all noble Lords who participated in this rather important debate. From my point of view, in considering whether strategic policies should be distinguished from non-strategic policies in plan-making, I asked my noble friend a question and I got a reply. It is an interesting reply because by simply asserting that the local plan must include, in effect, all policies, my noble friend is saying that that is clearer than the present structure which distinguishes between strategic policies and non-strategic policies.

Noble Lords may say that we are all dancing on the head of a pin—I do not think so. The noble Baroness, Lady Taylor of Stevenage, made an extremely good point: identifying strategic priorities in a local planning authority's local plan is a key component of creating spatial development strategies in a broader area. That would be extremely helpful.

None the less, what my noble friend has told me is going to be an interesting conclusion for people to draw. We are now told that the consultation draft of the National Planning Policy Framework, which was published on 22 December following the passage of this Bill in the other place, did not take account of what is in the Bill. This is rather interesting. It means that if we change the Bill, we can change the NPPF—which, from the point of view of my noble friend's and other amendments, is a very helpful thought that we might take up. I do not think that the revisions that will follow to the NPPF will be as wide ranging as my noble friend implied, because that would mean that they would do away with much of what is written presently into the chapter on plan-making.

Noon

In the cycling and walking debate on Amendment 199, it might be helpful for my noble friend Lord Young to recognise that the latter part of the NPPF relating to how development proposals are to be considered, and how walking, cycling and active travel are to be incorporated, will no doubt form part of the new national development management policies. Therefore, how it is written will require local plans and the determination of planning applications to accord with how that is written, so the language of the NPPF, if it turns into NDMPs, is terribly important. They were right to focus on that point.

When they come to write the NPPF, which clearly will now have to be substantially rewritten, I hope that my noble friend and the Front Bench will pick up the point about economic growth and put it into the terms

[Lord Lansley]
that, I think we are more or less agreed, are required. My noble friend responded to the questions that I asked on Amendment 193, so on that basis I beg leave to withdraw it.

Amendment 193 withdrawn.

Amendment 193A

Moved by ***Lord Best***

193A: Schedule 7, page 347, line 17, at end insert—

"(3A) The local plan must identify the local nature and scale of housing need in the local planning authority's area and must make provision for sufficient social rent housing, to eliminate homelessness within a reasonable period as stipulated in the updated local plan, and to provide housing for persons registered on the local housing authority's allocation scheme within the meaning of section 166A of the Housing Act 1996.

(3B) Subsection (3A) applies in relation to social housing provided both by the local housing authority where it retains its own housing stock and by private registered providers of social housing.

(3C) The information concerning the level of housing need recorded on the local plan must be updated at least annually."

Lord Best (CB): My Lords, I am very grateful to noble Lords for their support for this amendment. I am grateful to the noble Baroness, Lady Thornhill, and the noble Lord, Lord Stunell, for their support, and for pointing out the urgency of the need for homelessness and those on waiting lists to be addressed, and the value of using the local plan to help in that process. I am also grateful to the noble Baroness, Lady Taylor of Stevenage, for her eloquent support. She made the point that, unfortunately, things are getting worse for those in the most acute need. I am afraid to say that the urgency for doing more grows daily, and this would be a helpful step in the right direction.

The Minister, who I know believes that local plans are a very important instrument in getting things changed and done, said that she very much agreed that this deserved priority. Indeed, the government consultation currently going on may lead to greater prominence being given to the needs of those who are homeless, in temporary accommodation or on a never-ending waiting list. She hopes that local planning authorities will do their best by that and include those things in local plans, but there is no obligation on them so to do. It is that obligation that this amendment would put into place. I am grateful for the support of all those colleagues, and the moment has come for me to test the opinion of the House.

12.04 pm

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Amendment 193A agreed.

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12.16 pm

Amendment 194 not moved.

Amendment 194A

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

194A: Schedule 7, page 347, line 38, at end insert—

"(6A) The local plan must take account of any local nature recovery strategy that relates to all or part of the local planning authority's area, including in particular—

(a) the areas identified in the strategy as areas which—

(i) are, or could become, of particular importance for biodiversity, or

(ii) are areas where the recovery or enhancement of biodiversity could make a particular contribution to other environmental benefits,

(b) the priorities set out in the strategy for recovering or enhancing biodiversity, and

(c) the proposals set out in the strategy as to potential measures relating to those priorities."

Member's explanatory statement

This amendment requires a local plan to take account of any local nature recovery strategy that relates to any part of the area of the authority preparing the plan.

Amendment 194A agreed.

Amendment 195

Moved by ***Lord Young of Cookham***

195: Schedule 7, page 347, line 38, at end insert—

"(6A) The local plan must be designed to secure that the supply of housing through development in the local planning authority's area meets or exceeds the requirement for housing during the plan period which would be derived from the housing targets and standard method prescribed in guidance by the Secretary of State as applicable at that time."

Member's explanatory statement

This amendment would require a local plan to meet or exceed the housing need for the authority's area as specified by Government targets.

Lord Young of Cookham (Con): My Lords, I beg to move Amendment 195 in my name and those of my noble friend Lord Lansley, the noble Lord, Lord Best, and the noble Baroness, Lady Hayman.

[Lord Young of Cookham]

For me, this is the most important group of amendments in the whole Bill; they go the heart of the question of whether one of the basic responsibilities of government is to ensure that the nation is adequately housed. I hope that it is common ground that there are some core functions of central government that it should not opt out of: ensuring that the country is well defended, that the streets are safe, that families have a basic income, that children are well educated, that there is access to a decent health service and that people are adequately housed. These are either provided centrally by government—defence, health and income support—or mandated to be provided by others, in the cases of policing, education and housing.

Basically, what happened last December was that housing was deleted as one of those core functions. It was done not as a considered act of policy but as a reaction to a group of Government Back-Benchers who were threatening to rebel. As a former Government Chief Whip, I am well aware of the importance of party cohesion—but not at any price. Yes, the nominal commitment remained with central government—the 300,000 housing target—but, crucially, the means for the Government to secure that target was removed. The targets became advisory, not mandatory: a starting point and not a destination.

The way the system has worked for as long as I can remember—going back to the days of the GLC in the 1960s, and to the 1980s when I was a Minister and SERPLAN—is that central government has formed a view of how many homes the country needs. It has looked at household formation, life expectancy, broader demographic trends, regional policy and net inward migration, and then come up with a global figure. That has then been divvied up between the planning authorities, after consultation, to underpin a credible national housing policy.

It should be immediately apparent that this is not a process that can be left to the discretion of local councillors. They look downwards to their electorate, to whom they are accountable, while national government has a broader responsibility. For example, left to their own devices, local authorities would make no provision for migration, which is a responsibility of national government. The noble Lord, Lord Best, will develop that point. As I have said repeatedly in this House, you cannot rely on the good will of local government to provide the homes that the country needs.

Before the policy was reversed, we were falling well short of our target. New homes granted planning permission declined to 269,000 in the year to March, down by 11% on the year to March 2022. After the reversal, the target becomes less achievable. The starkness of the climbdown was revealed in an article in the *House* magazine by Theresa Villiers, who referred to her amendment in the following terms:

"This was backed by 60 MPs, and in response, the secretary of state brought forward significant concessions to rebalance the planning system to give local communities greater control over what is built in their neighbourhood. That includes confirming that centrally determined housing targets are advisory not mandatory. They are a starting point, not an inevitable outcome. Changes have been promised to make it easier for councils to set a lower target".

I believe that my colleagues in the other place have misread the politics. Yes, there is a risk of losing a few votes from those who do not wish to see development in their area—we saw the consequences of that in a by-election in Chesham and Amersham—but there is a much greater risk of losing far more votes in a general election if we are seen to be a party that is insensitive to the needs of those who need a decent home against a background of lengthening waiting lists, more use of temporary accommodation, rising rents in the private sector and home ownership becoming more difficult.

Our opponents in the main opposition party have spotted this weakness and will continue to exploit it until we put things right, which is what the amendment seeks to do—restoring what was government policy when the Bill was introduced, before the policy was ill-advisedly abandoned in December. There is a strong case for giving the other place an opportunity to reflect on this policy change now that we have seen its consequences. My noble friend Lord Lansley will develop that point.

The consequences were made clear in a unanimous report, published in July, from a Select Committee with a government majority. It said:

"The Government's reform proposals include making local housing targets advisory and removing the need for local authorities to continually demonstrate a deliverable 5-year housing land supply. We have heard evidence from many stakeholders that these measures will render the national housing target impossible to achieve".

It also said:

"This uncertainty has resulted in 58 local authorities stalling, delaying, or withdrawing their local plans to deliver housing—28 of those since the December 2022 announcement. Contrary to the Government's objective of facilitating local plan-making, the short-term effect of announcing the planning reform proposals has been to halt the progress of local plans in many areas".

Several authorities have stated that the reason for delaying their local plans is that they are waiting for the outcome of consultations. On that subject, the report concluded:

"In many cases, this will be on the understanding that they will no longer be required to meet their local housebuilding targets".

The report further concluded that

"it is difficult to see how the Government will achieve its 300,000 net national housing target by the mid-2020s if local targets are only advisory. The Government has not provided sufficient evidence to demonstrate how the policy of removing mandatory local housing targets will directly lead to more housebuilding".

Before tabling this amendment, I did what I could to press the Government to think again. My noble friend has answered countless Questions on the 300,000 target; she can look forward to another next Tuesday. She has been generous and patient with her time in many meetings. I have seen the Secretary of State and his special adviser, and my noble friend Lord Lansley and I have seen the Housing Minister—all to no avail. Far from this amendment being contrary to government policy, it is essential if the Government are to meet their manifesto commitment of building 300,000 homes a year. I hope that, even at this late stage, the Government will think again. If not, I propose to test the opinion of the House.

Lord Best (CB): My Lords, my name is down in support of Amendment 195, so brilliantly introduced by the noble Lord, Lord Young of Cookham. It is also supported by the noble Lord, Lord Lansley. The amendment would return us to the position whereby each local plan must be designed to secure enough homes to meet the target for the area set by government. I too see this as a matter of considerable significance.

In essence, this country needs to build at least 300,000 homes each year to ease the problems caused by acute housing shortages: overcrowding, homelessness, poverty and health inequalities. This national target will not be achieved by leaving the supply of sufficient homes to individual councils to determine. On its own, of course, the requirement on all local authorities to have local plans that together make provision for 300,000 homes will not mean that the planned-for number will necessarily be built. Market factors will affect private housebuilding. Insufficient government support will affect social housing output, and so on. If local plans do not plan for their share of the national total, it is certain that it will not be accomplished.

Many analysts suggest that the overall figure of 300,000 homes per annum is not enough. The Centre for Cities has explained that we would have another 4.3 million homes if we had matched the average rate of housebuilding of our European counterparts over recent decades. We have a massive catching-up job to do. The Centre for Policy Studies argues that 460,605 homes should have been added last year. The actual output was barely half this figure—235,000 net additions, including conversions of existing buildings. For the moment, 300,000 homes is a sensible, short-term target.

Why is it so improbable that this figure will be reached unless local planning authorities are obliged to meet housing targets? First, because a number of councils have already made clear that, if the decision on numbers is now in their hands, they will reduce the amount of development previously planned for. Even if only, say, a quarter of authorities opt to see fewer homes built, there will be a big undershoot of the grand total. Reducing acute shortages will then be even more difficult in future than it has been to date.

Secondly, nationally determined targets are necessary because—as I guess we all recognise—it is incredibly difficult for elected Members to champion new housebuilding in their areas. New housing is perceived as meaning more traffic, more pressure on services, disruption from construction and—although this may be an urban myth—a fall in house prices. It is also true that housebuilders have often singularly failed to create quality places. There is a long way to go in reforming that industry. These concerns do not mean that we can simply set aside the need for new homes.

The harsh fact is that where a councillor is likely to be voted out of office if they do not vociferously oppose new development, few will feel able to act in the interests of those who need a home but do not yet have a vote in that area. The structure of democracy at local level makes it nigh on impossible for representatives of local communities to act in the wider interests of those who do not live there.

Our planning system recognises that no one is keen to have a power station, airport or highways project on their doorstep. Nationally significant infrastructure projects are taken outside the remit of the local council. No one is suggesting the same approach for housing developments, even very large ones, but recognition should be given to what is in the national, rather than necessarily the local, interest. Securing sufficient new homes is a national priority and should be part of the national decision-making process.

This important amendment removes the unfair onus on local councillors to determine how many new homes their local plan should be designed to secure. It removes an unreasonable expectation that those who are—or hope to be—elected as local councillors will always do what is right for the next generation, the wider region and the country, rather than what the often vocal local electorate of here and now are demanding. I acknowledge that arguments can still rage over the methodology for setting housing targets and that there will rightly be lengthy consideration of exactly what gets built and where, but these are separate matters and do not affect the amendment before us. Rather, I warn that, without this change to the prevailing position, without decisions on overall numbers of new homes being taken at a higher level than the local planning authority, we will certainly not see 300,000 additional homes built each year. The horrendous housing shortage will get worse. I urge the Minister to accept this essential amendment.

12.30 pm

Lord Lansley (Con): My Lords, I am grateful to my noble friend Lord Young and the noble Lord, Lord Best —he is also my noble friend in this context—for introducing Amendment 195 so very well.

I want to add my threepennyworth in relation to not only Amendment 195 but Amendment 196; one might think of them as a package. They would require local planning authorities to meet or exceed the Government's housing target—in so far as the Government have a housing target; we have debated the figure of 300,000, which is what the Government tell us their target is, but it could of course be different if they chose a different target because of their assessment of the demographic and other requirements—and to do this by reference to the standard method. I emphasise that this means whatever standard method is applicable at the time. Personally, I do not regard our current standard method as fit for purpose. There will need to be change. I have said before—let me repeat it briefly—that the relationship between the standard method process and the prospective increases in employment in an area should assume a greater weight in relation to the objectively assessed housing need.

These amendments are a package. Remember, in addition to Amendment 195, which we are debating first, Amendment 196 would require local planning authorities to have regard to the housing target or a standard method respectively. Of course, if Amendment 195 were to go to the Commons, Amendment 196 would go with it as a consequential amendment. The House of Commons would then have an opportunity to consider the questions of whether local planning authorities should have regard to the Government's target and standard method—that is a bit of a no-brainer; of course they should—and of whether, in addition,

[Lord Lansley]
they should be required to meet or exceed the resulting figure of objectively assessed housing need for an area. This is the debate that the House of Commons needs to have.

There are two groups of people who should vote for Amendments 195 and 196. There are those who just agree with the policy; I am among them. My noble friends have well set out the policy objective, which fundamentally comes down to this: if a Government have a target, they need to have a mechanism for delivering it. I have had these conversations, for which I am grateful, with the Housing Minister, my noble friend and the Secretary of State. Unfortunately, the Secretary of State in particular—I love him dearly—is trying to run with the hare and hunt with the hounds. He is trying to give local planning authorities, in the minds of a minority of Conservative Members in the other place—I emphasise that it is not a majority but a minority—the freedom to have a different method and to think, "It's a starting point but we can go south from this instead of north". It is an opportunity for them to say, "We've got green belt, areas of natural beauty, sites of special scientific interest and sensitive areas. We don't have to have the houses; they can all be somewhere else".

In some cases, that will be true. Let me pick a place at random. If you were in Mid Bedfordshire and you knew that Milton Keynes, Bedford and Luton wanted development—and, indeed, Tempsford, which is on the new east-west rail link and faces the possibility of taking on a large new settlement of 20,000 homes—you might well conclude that, in Mid Bedfordshire, taking account of the development in all the neighbouring areas, you do not need much development. That would be perfectly reasonable. Actually, the standard method and the way in which the guidance is constructed would allow that to happen because that is precisely what joint spatial development strategies should deliver in an area such as Bedfordshire.

As I say, my right honourable friend the Secretary of State wants those who feel that they have relaxed all these requirements to feel comfortable with that, yet he wants to maintain his target. When challenged, he says, "Well, there's still an objectively assessed housing need and, if people do not meet it and do not show that they are going to meet that housing requirement, their plans will not be sound". I have to say, this is not the way in which to conduct the planning system, whereby local planning authorities produce plans and inspectors throw them out. That way lies madness. What we need is for local planning authorities to have the kind of guidance that enables them to produce in the first instance sound plans that are the basis on which local people can rely. That is what we are aiming for: a plan-led system. However, what the Government are moving towards is not a locally plan-led system. In my view, we need to change this.

That is the first set of people who should vote for this amendment, in this case because it is the right the policy. There is a second group of people for whom there is another, different argument. It goes, "How is this supposed to work?" This Bill was in the other place last year. It completed its Third Reading on 13 December. As far as I can tell, there was effectively no substantive debate on the provisions in this Bill relating to the housing target and standard method. Nine days after the Bill completed its passage through the other place, the Government published their consultation draft of the National Planning Policy Framework. In it, they relaxed the housing delivery test; they made the housing targets and standard method an advisory starting point, in effect; and they allowed local planning authorities to have an alternative approach.

As my noble friend Lord Young demonstrated so clearly, all of that added up to local planning authorities thinking that they had been let off. However, none of that was in the Bill. It was not debated by the House. It was not voted on by the House of Commons in any fashion. Today, if we do not send Amendments 195 and 196 to the other place, no such debate will take place in the House of Commons. The issue will go through by default. I agree with my noble friend: the world has moved on and sentiment has changed. He used to be a Chief Whip; I used to run national election campaigns. I used to look carefully at the salience of issues. The salience of housing as an issue has risen and continues to rise. I must advise my Front Bench that the salience of housing as an issue is rising not because we are building too many houses but because we are building too few. The Government may argue, "Well, they're just in the wrong place". There are ways of dealing with that but we do need more, which is what the standard method is intended to help us achieve.

We are having this debate today because these amendments are here on Report. If we do not send them down to the other place, the debate will not take place in the Commons. I know that there are colleagues on our Benches in another place who want to have this debate. They think that the Bill needs to show what Parliament thinks about housing targets—the standard method—and how an objectively assessed housing need should be established, and by whom. We need to give them that opportunity. I encourage noble Lords, in looking at these amendments, to realise that this is about not just the policy but the question of whether the Commons should have a chance to look at this matter. I do not mean making them think again, which is our conventional constitutional job; in this case, I mean them looking at this issue for the first time. If we do not send these amendments back, they will not even look at it a first time. We need to give them that opportunity.

I hope that noble Lords will support Amendment 195 on that basis.

Baroness Taylor of Stevenage (Lab): I am grateful to noble Lords who have spoken so eloquently on this subject already. Amendment 200, in the name of my noble friend Lady Hayman, recognises the need to reinstate the provision for housing targets through the NPPF and associated guidance, and through the housing delivery test, which, I agree with noble Lords who have spoken already, is incredibly important. Similarly, Amendment 195, in the name of the noble Lords, Lord Lansley, Lord Young and Lord Best, and my noble friend Lady Hayman, and Amendment 196, in

the names of noble Lords, Lord Lansley and Lord Young, see the essential part that local plans have to play in the delivery of housing need. It is, as the noble Lord, Lord Young, said—rightly, in my view—one of the most important amendments to the Bill that we have discussed on Report.

The much-respected organisation Shelter reports that there are 1.4 million fewer households in social housing than there were in 1980. Combined with excessive house prices making homes unaffordable, demand has been shunted into the private rental sector, where supply has been too slow to meet needs. That means above-inflation increases in rents.

On the affordable homes programme, the National Audit Office reports that there is a 32,000 shortfall in the Government's original targets for building affordable homes. It goes on to say that there is a high risk of failing to meet targets on supported homes and homes in rural areas. Progress will be further confounded by double-digit inflation, soaring costs of materials and supply disruption, yet the Government seem to have no clue how to mitigate those factors, and in those circumstances the decision to scrap housing targets last December seems even more bizarre.

The National Audit Office is not the only one with concerns about the delivery of the programme. In December last year, the Public Accounts Committee outlined that DLUHC

"does not seem to have a grasp on the considerable risks to achieving even this lower number of homes, including construction costs inflation running at 15-30% in and around London",

although that is not far off what it is in the rest of the country.

We had extensive debates about the housing crisis during Committee on this Bill, but there was nothing in the Minister's responses to reassure us that the vague promises to deliver 300,000 homes a year by the mid-2020s would feed through into the planning process—points made very clearly by noble Lords who have already spoken. I do not need to point out to your Lordships' House that we are just 18 months away from that deadline and the target has never been met. It is being missed by almost 100,000 homes a year, and more in some years. If they are not in the planning process, what chance is there of them being delivered? According to one estimate commissioned by the National Housing Federation and Crisis from Heriot-Watt University, the actual number needed is around 340,000 new homes in England each year, of which 145,000 should be affordable.

Let us consider the latest figures from the National House Building Council. The number of new homes registered in quarter 2 in 2023 was 42% down on 2022. The number of new homes registered in the private sector in quarter 2 in 2023 was 51% down on 2022. The number of new homes registered in the rental and affordable sector was down 14% in quarter 2 2023—declines across most regions compared to the same quarter last year, with the north-west experiencing the sharpest decline of 67%, followed by the east of England at 56% and the West Midlands at 54%. Only London and Wales bucked this trend.

The consequences of not delivering the right number of homes of the right tenures that people actually need are devastating. Those of us who are councillors or have been councillors all know that our inboxes, surgeries and voicemails are full of families with horrible experiences of overcrowding, temporary and emergency housing, private rented homes that are too expensive for family budgets and insecure resulting in constant moves, more young people having to live with their parents for longer, impaired labour mobility, which the noble Lord, Lord Lansley, mentioned and which makes it harder for businesses to recruit staff, and increased levels of homelessness. All this is stacking up devastating future consequences for the families concerned, and no doubt a dramatic impact on public funding as the health, education, social and employment results of this work down the generations.

There is increased focus on addressing affordability as distinct from supply—subjects that we discussed in the earlier group. In the foreword to a 2017 Institute for Public Policy Research report, Sir Michael Lyons said:

"We would stress that it is not just the number built but also the balance of tenures and affordability which need to be thought through for an effective housing strategy".

With local authorities charged with the responsibility for ensuring that their local plans drive economic development in their areas, we simply cannot afford to overlook the place that housing development plays in local economies.

12.45 pm

Policy Exchange has set this out very clearly in its paper. The housing crisis does not simply have localised effects on regional markets; it is holding back growth everywhere. Addressing the housing shortage offers immense economic opportunities to the country. As in previous historical periods, like the 1930s, the 1950s and the 1960s, expanding housing supply could provide a platform for sustained growth that balances the economy and spreads prosperity widely. It could help to reduce government expenditure on benefits and make our urban areas more productive.

Equally importantly, it could restore faith in the aspiration of home ownership. The fact is that we need a renewed national effort to fix the housing market and fulfil the dream of an affordable, secure and sustainable home for every family and the promise of owning one's own home to the next generation. That national effort might well have to wait for the election of a Labour Government, but what is certain is that we cannot let that effort be confounded by a few Tory Back-Benchers in the other place, nervous about their majorities.

The noble Lord, Lord Lansley, said that if the Government have a target, they must have a mechanism for delivering it. I completely agree with that. Without a clear plan for each area to meet its assessed housing need, there is little likelihood that it will happen at all.

Lord Stunell (LD): As far as I understand these amendments, they are an intention to return the planning system to the time before 2022 happened—the golden age when the system worked. I must say that I was looking for some fairy dust. I will explain by going back to 2010, when an incoming coalition Government discovered that only 15%—I think it was 15%—of local authorities had an up-to-date local plan. That is

[LORD STUNELL]
when the Department for Communities and Local Government, in which I was then a junior Minister, came up with a way to encourage local planning authorities to speed-up their local plan process.

That was after a 30-year statutory requirement—it is 30 years old—that they should have such a local plan. This was essentially to let developers loose in areas where there was no up-to-date local plan. I have scars from an Adjournment debate in that place, which is a bit like a QSD at this end. As a junior Minister, I drew the always available short straw, and I was faced—or rather I was backed, because they were behind me—by 20, 30, 40, although it seemed like a thousand, angry MPs complaining that the Government were blackmailing their district council by setting developers loose. It was like Dunkirk, only there were no boats.

The coalition Government kept their nerve, and so that system endured until 22 December, I think—the dispatch date given by the noble Lord, Lord Young of Cookham. However, whether the coalition Government held their nerve, or whether, like the Conservative Government, they did not hold their nerve, the outcome was still not 300,000 homes a year. The missing ingredient for us was fairy dust. That system does not deliver 300,000 homes a year. I wish the noble Lords good luck with their amendments, and I shall be interested to see what the Government have to say, but even if passed, it will not deliver 300,000 homes a year. That seems to me to be the fundamental point. I absolutely take the analysis delivered so powerfully by the proponents of this. Unfortunately, the lever that they intend us to use for it is already deficient, and we have seen it. So, please, where is the fairy dust?

Lord Deben (Con): My Lords, I refer to my registered interests, particularly that I chair a company that advises people on sustainable planning. I must say to my noble friends, with whom I very often agree, that I find this debate extremely difficult. First, this Bill should never have been in this form at all. No previous Government would have provided a long title for a Bill that means that it takes this long to go through Parliament and that, every time they think of something, they can add it to the Bill. We must be very clear about this Bill. Historically, we used to have the tightness of a title which enabled you to keep responsibly and respectably within the subject. So I start with this difficulty.

Secondly, this concentration on the numbers misses the point. Since the Government got rid of the net-zero requirement for houses, we have built over a million and a half homes that are not fit for the future. Every one of them has meant that the housebuilders have taken the profit, while the cost of putting those homes right has been left with the purchaser of the home. That is a scandal which is shared between the Government, who were foolish enough to get rid of the net-zero requirement, and the housebuilders, who knew precisely what they were doing. One of them made so much money that it offered its chief executive £140 million as a bonus. He did not get all that in the end, but that was the situation.

My problem is that in the absence of a proper policy, we are talking about the wrong thing. We should not be talking about the numbers, except to say that we need significantly more homes. We should be talking about the quality of the homes and the places where they should be. I go back to my own experience as Housing Minister. We were very interested in ensuring that we built homes on already used land. We thought it important to recreate our cities. We thought that was just as important a part of this as the numbers. At the moment, I can drive back from my local railway station and see every little village, every little town, spreading out into the countryside, homes being built on good agricultural land and homes being built which are, by their nature, the creators of commuters, as there is nowhere else for people to work.

If I may say so to my noble friend, it is no good ignoring that many district councils have a real problem with the number of places in which they can build the homes that they were asked to build. A lot are NIMBYs, and some I quite agree you would not like, but if you are faced with building homes in a council where most of the area is green belt, areas of outstanding natural beauty or historic areas, you find yourself in a huge difficulty. I agree that many of them do not try as hard as they ought to, but let us not kid ourselves as to what the local issue is—not just wanting to win that particular ward but a matter of real difficulty.

For that reason, I say to my noble friend that I am sad that in this elongated, extended, overblown Bill, we have not had time to do four things: put in the future homes requirements to raise the standards of housebuilding so that they are fit for the future; create a system whereby housebuilders should provide the resources for rebuilding the insides of many of the homes that they built over the last five or 10 years; and understand that we should reuse land and think about place-making where people are within a quarter of an hour of the resources they need. Then, we can talk about how we can have a relationship with local authorities that can build the number of houses that we need.

I intend to support the Government on this amendment because I am not prepared to be put into a position where the answer to our problems is numbers. That is not the answer. The answer is a housing policy which looks at sustainability, the ability to buy and the future, not a collection of odd clauses stuck together and added when it happens to be convenient.

Lord Cromwell (CB): My Lords, I have a much less eloquent and much less exciting question to the proponents of Amendment 195, and certainly no fairy dust. If you are linking national targets to the local plan, what happens when national targets change during the five-year plan period? Does the plan have to be rewritten, do parts of it have to be rewritten, or do you have to wait until the end of the period and then apply the new target? It is a purely technical question and, as I say, much less exciting than some of the material we have just heard, but I would be grateful if the noble Lord, Lord Lansley, could help me with that.

Lord Lansley (Con): I know that we are on Report but in response to that, it is exactly the structure that we have seen before. Essentially, in the five-year period between one local plan and the review of that plan,

clearly, the housing delivery test is applied to what is adopted in that plan in the first instance. When it is reviewed after five years then clearly, as the amendment would say, the local plan must then be reviewed, taking account of the Government's targets and standard method as applicable at that time.

Baroness Pinnock (LD): My Lords, the noble Lord, Lord Young of Cookham, was absolutely right when he introduced his amendment in saying that this is the most important part of the Bill and is at the heart of the housing debate we have been having. I am very fortunate to be following the noble Lord, Lord Deben, who has given this whole debate a new dimension and a new focus for our thoughts, on whether we should be fixated on numbers or considering other elements of housing provision.

There is complete agreement across the House and support for building the homes that people need and the country needs. It means building homes in all parts of our country. I agree with the argument made by the noble Lord, Lord Young, about how we will provide the homes that folk need, and the analysis of the noble Baroness, Lady Taylor of Stevenage, on how vital it is that homes be provided for social rent so that families can have a stable background, and with a housing cost that they can meet within their tight family budgets. Like her, I am a councillor, and I am saddened by the number of families where I live who are pushed into renting in the private housing sector on short-term lets and every six months are having to post on Facebook, "Is there a home to rent in this locality at this price with this number of bedrooms, so that I don't have to move schools for my children?" That is not the sort of country we want to create, in my opinion; we ought to be providing stable homes for people whose incomes restrict their housing options to homes for social rent.

1 pm

The answer that the noble Lords, Lord Young of Cookham and Lord Lansley, and even the noble Lord, Lord Best, give is to provide a big target for housebuilding, which the country needs, and to hope that it will somehow be fulfilled. Unfortunately, history tells us that this is not what happens. We know that the Government have dictated housing targets for many years and failed to achieve them for at least 50. If those targets had been fulfilled, we would not be in the desperate state we are now. Targets do not build homes. Targets do not build the homes that people need; they tend to give power to developers, who build homes that people want, which is why we are so short of affordable housing and housing for social rent. Top-down targets are not the answer. The problem with top-down targets is that communities and, indeed, councillors do not like being told exactly how many homes they have to build. Top-down targets enable arguments about census figures, household sizes and demographic trends, and these cast doubt on the need for new homes. The consequence of that argument is that land allocation for sites is hotly contested. Because the targets are top down, there is no general discussion with communities about the type of homes needed as well as their number. When communities have those discussions, as they do when developing neighbourhood plans, the result is that more homes are allocated in those areas than the targets suggest, because communities have the opportunity to think about it and rise to the challenge. The people in the community—local families—need those homes and communities respond to that by enabling those sites to be allocated for new build.

My other challenge for the advocates of top-down targets is that they can be implemented only where councils adopt a local plan. On Monday, in discussion on another group of amendments, we heard that only a third of local councils currently have an up-to-date plan. That means that two-thirds of councils do not have allocated sites for housing. It is not surprising, therefore, that the top-down targets do not provide the lever for councils to allocate sites. What is needed is for those councils to have those discussions and be encouraged—perhaps not as far as the Minister would like—to step into the difficult territory of a combined county authority dictating to district councils what should be built. That is difficult territory, which I suggest others would not wish to tread in. If, as I think we all agree, we want new homes built, we must be willing somehow to provide the means by which that happens, rather than simply saying, "These are the targets: get on with it".

Housing targets and numbers do not reflect different types of tenure, types of home and household sizes. Some parts of the country desperately need housing with extra care for older people so that they can retain independence and downsize without having to go into residential care. Where is that in any top-down target? It does not exist, as we heard from the noble Lord, Lord Best, in an earlier debate about social housing numbers. That is as important as a single top-down target dictated by the Government.

I shall state at every opportunity that the Bill is about levelling-up and regeneration. I agree with what the noble Lord, Lord Lansley, said on the previous group about how important it is to link economic investment and housing development. That is how we achieve levelling up in some of our more deprived communities, but that is not what is here. What is also missing is any incentive for local communities to accept new building. As a local councillor, whenever a big housing site is allocated, people say to me, "Where is the allocation for school places, new doctors' surgeries and new transport, and what about our parks?" I know the Minister will say to me, "You can put them into the conditions of a planning application". Of course you can but, more often than not, they are not fulfilled within that community—they are off site, somewhere else. That is at the heart of this problem about housebuilding. Incentives must be in place to encourage communities to accept new homes.

Then there is the issue that we have forgotten about: currently, more than 1 million homes with planning consent are not being built. In my small ward, planning consent for nearly 800 homes has been there for two or three years. The homes are not being built because it does not suit the developers to do so. Unless we also overcome the issue that there is too much power in the hands of developers, we miss the whole point about top-down targets. I repeat: top-down targets do not build homes. We need to talk to communities, discussing

[Baroness Pinnock]
how inward investment and housebuilding will help them thrive and help their high streets come to life. That is why, if the noble Lord, Lord Young, is moved to press his amendment to a vote, we will be unable to support him. We will abstain. We agree that more houses are needed, which is where I started. There is complete agreement on that, but we disagree on how you achieve it.

Baroness Scott of Bybrook (Con): My Lords, I am grateful for the contributions made on this important issue. I reiterate at the outset that delivering more homes remains a priority for this Government, as the Prime Minister and the Secretary of State made clear in the long-term plan for housing, which they set out at the end of July.

Local plans play a crucial role in enabling new homes to come forward, which is why the National Planning Policy Framework is clear that all plans should seek to meet the development needs of their area. Nothing we consulted on at the end of last year changes that fundamental expectation. There will, however, be limits on what some plans can achieve, which is where I must take issue with Amendment 195, in the names of my noble friends Lord Lansley and Lord Young, the noble Lord, Lord Best, and the noble Baroness, Lady Hayman of Ullock.

Amendment 195 would place local plans under a legal obligation to meet or exceed the number of homes generated by the standard method prescribed by the Government. Amendment 200, in the name of the noble Baroness, Lady Hayman of Ullock, is designed to have a similar effect. While this is well intentioned, it would be unworkable in practice. Ever since the National Planning Policy Framework was introduced in 2012, it has been clear that plans should meet as much of their identified housing need as possible, but there are legitimate reasons why meeting or exceeding that need may not always be appropriate. For example, an authority with very extensive areas of green belt or which is largely an area of outstanding natural beauty or a national park may not be able to meet its identified housing need in full if we are also to maintain these important national protections. In these cases, there will be a need to consider whether any unmet need can be met elsewhere, which is something that our policies also make clear.

It is for this reason that our standard method for calculating housing need—or, indeed, any alternative method which may be appropriate in certain cases—can be only a starting point for plan-making, not the end. Mandating in law that the standard method figures must be met or exceeded in all cases would do significant harm to some of our most important protected areas and could conflict with other safeguards, such as the need to avoid building in areas of high flood risk.

It is also right that local communities should be able to respond to local circumstances. The changes to national policy which were consulted upon at the end of last year are designed to support local authorities to set local housing requirements that respond to demographic and affordability pressures while being realistic, given local constraints. However, let me make it clear: the Secretary of State's Written Ministerial Statement, published on 6 December 2022, confirmed that the standard method for assessing local housing need will be retained. To get enough homes built in the places where people and communities need them, a crucial first step is to plan for the right number of homes. That is why we remain committed to our ambition of delivering 300,000 homes per year and to retaining a clear starting point for calculating local housing needs, but we know that the best way to get more homes is by having up-to-date local plans in place.

Amendment 196, in the name of my noble friends Lord Lansley and Lord Young, takes a different approach, obliging local planning authorities to have regard to any standard method and any national housing targets when preparing their local plans. I will put this more bluntly still: there is no question that we are about to let local authorities off the hook in providing the homes that their communities need. They need to have a plan, it should be up to date, it needs to do all that is reasonable in meeting the needs of the local area and, in response to the question asked by the noble Baroness, Lady Pinnock, it needs to look at different types of housing. They need to know how much housing is required for older people, younger people, families and disabled people. That is what their plan should have. We have discussed this with local authorities and will be working with them to ensure that that will happen.

A need to have regard to the standard method is already built into the Bill, as Schedule 7 requires local planning authorities when preparing their local plan to have regard to

"national policies and advice contained in guidance issued by the Secretary of State".

That includes the National Planning Policy Framework, its housing policies, including those relating to the use of the standard method, and associated guidance. Adding a specific requirement to have regard to the standard method would have no additional effect as planning authorities will already take it into account and draft plans will be examined against it.

A legal obligation to take any national housing target into account, which this amendment would also create, poses a different challenge as it is unclear how plans at the level of an individual local authority could do so. This could create unintended consequences by creating an avenue for challenges to emerging plans on the basis that they have not done enough to reflect a national target and so could slow down the very plans that we need to see in place.

I hope that, taking these considerations into account, my noble friend Lord Lansley is persuaded not to move his amendment.

1.15 pm

Lord Young of Cookham (Con): My Lords, this has been a long and good debate, and I will not detain the House with a long summing up. I will deal first with the core defence that the Minister has just laid out, namely, that the way to get more houses is to have more up-to-date local plans. That argument was

considered seriously by the Select Committee in the other place, which said this about what the Minister has just told us:

"We are sceptical of the Minister for Housing and Planning's confidence that greater local plan coverage will result in more housebuilding. If there is no longer a requirement for up-to-date local plans to continually demonstrate a five-year housing land supply, and if housing targets in local plans are to be made advisory, then it does not necessarily follow that more local plan coverage will result in the same increases in housebuilding as under the current NPPF".

In one paragraph, I am afraid that it demolishes the main defence that the way forward is through more local plans.

I am grateful to everyone who has taken part in this debate. The noble Lord, Lord Best, pointed out that the Government's target is very modest by international standards and explained how the imperatives of local politics will always require local councillors to go for a lower target rather than a higher one, so it would not be fair on local councillors to leave this in their hands.

My noble friend Lord Lansley made an important constitutional point that the major changes were made to the proposed NDMP after the Bill had completed its stages in the other place. It has not had an opportunity to consider these major changes in housing policy and will not unless this amendment is carried. He also made the point that housing has risen up the agenda since the rebellion last December, and there has been some evidence of a movement of opinion within the governing party down the other end.

I am grateful for the support from the noble Baroness, Lady Taylor, who pointed out the statistics were going in the wrong direction. I was disappointed by the response from the Liberal Democrat spokesman. Only one thing is clear: if we do not carry this amendment, we will get fewer targets. The Government say they want more houses but, again, I quote from the Select Committee report:

"it is difficult to see how the Government will achieve its 300,000 net national housing target by the mid-2020s if local targets are only advisory".

I was Housing Minister to my noble friend Lord Deben. If I had gone to him and said, "It doesn't matter how many houses we build", I am not sure that I would have stayed in my post for very long. Numbers matter. Any responsible Government must look ahead: how many schools, hospitals and homes do we need? It is not an irrelevant consideration. That is why my party had a clear manifesto commitment to build 300,000 houses a year.

Yes, we should do more about brownfield sites, but if every brownfield site in England identified on all the local authority brownfield registers was built on to full capacity, this would provide for only just under one-third of the 4.5 million homes needed over the next 15 years.

I am grateful to the Minister, who has been very patient. She has not been able to move in the direction that I had hoped, so I want to restore the position to what it was when the Bill was introduced, before the Government amended housing policy in December. I want to enable the commitment of 300,000 houses that we gave at the last election to be met, and I want to give the elected House an opportunity to consider the major changes in government policy announced since the Bill was introduced. I wish to test the opinion of the House.

1.19 pm

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1.30 pm

Amendment 196 not moved.

Amendments 196A to 196E

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

196A: Schedule 7, page 350, line 20, at end insert—

"(5A) The minerals and waste plan must take account of any local nature recovery strategy that relates to all or part of the relevant area, including in particular—

(a) the areas identified in the strategy as areas which—

(i) are, or could become, of particular importance for biodiversity, or

(ii) are areas where the recovery or enhancement of biodiversity could make a particular contribution to other environmental benefits,

(b) the priorities set out in the strategy for recovering or enhancing biodiversity, and

(c) the proposals set out in the strategy as to potential measures relating to those priorities."

Member's explanatory statement

This amendment requires a minerals and waste plan to take account of any local nature recovery strategy that relates to any part of the relevant area.

196B: Schedule 7, page 352, line 33, at end insert ", and

(b) take account of any local nature recovery strategy which relates to all or part of the area to which the plan relates or to an area in which a site to which the plan relates is located, including in particular—

(i) the areas identified in the strategy as areas which—

(A) are, or could become, of particular importance for biodiversity, or

(B) are areas where the recovery or enhancement of biodiversity could make a particular contribution to other environmental benefits,

(ii) the priorities set out in the strategy for recovering or enhancing biodiversity, and

(iii) the proposals set out in the strategy as to potential measures relating to those priorities."

Member's explanatory statement

This amendment requires a supplementary plan to take account, so far as appropriate, of any local nature recovery strategy that relates to the area to which the plan relates or an area in which a site to which the plan relates is situated.

196C: Schedule 7, page 364, line 22, after "authority" insert ", combined county authority"

Member's explanatory statement

This amendment is consequential on the amendment in the Minister's name amending new section 15HD of the Planning and Compulsory Purchase Act 2004 (as inserted by Schedule 7 to the Bill).

196D: Schedule 7, page 364, line 24, after "authority" insert ", combined county authority"

Member's explanatory statement

This amendment amends new section 15HD of the Planning and Compulsory Purchase Act 2004 (as inserted by Schedule 7 to the Bill) so that it also covers combined county authorities, which are provided for under Part 2 of the Bill.

196E: Schedule 7, page 380, line 16, at end insert—

""local nature recovery strategy" means a local nature recovery strategy under section 104 of the Environment Act 2021;"

Member's explanatory statement

This amendment defines "local nature recovery strategy" for the purposes of the amendments in the Minister's name to Schedule 7 at page 335, line 33; page 347, line 38; page 350, line 20; and page 352, line 33.

Amendments 196A to 196E agreed.

Clause 92: Contents of a neighbourhood development plan

Amendment 196F

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

196F: Clause 92, page 98, line 35, at end insert ", and

(b) take account of any local nature recovery strategy, under section 104 of the Environment Act 2021, that relates to all or part of the neighbourhood area, including in particular—

(i) the areas identified in the strategy as areas which—

(A) are, or could become, of particular importance for biodiversity, or

(B) are areas where the recovery or enhancement of biodiversity could make a particular contribution to other environmental benefits,

(ii) the priorities set out in the strategy for recovering or enhancing biodiversity, and

(iii) the proposals set out in the strategy as to potential measures relating to those priorities."

Member's explanatory statement

This amendment requires neighbourhood development plans to take account, so far as appropriate, of any local nature recovery strategy that relates to all or part of the neighbourhood area to which the plan relates.

Amendment 196F agreed.

Clause 93: Neighbourhood development plans and orders: basic conditions

Amendment 197

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

197: Clause 93, page 99, line 33, at end insert—

"(3) In paragraph 11(2) of Schedule A2 to PCPA 2004 (modification of neighbourhood development plans: basic conditions)—

(a) for paragraph (c) substitute—

"(ca) the making of the plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the draft plan were not to be made,";

(b) after paragraph (d) (but before the "and" at the end of that paragraph) insert—

"(da) any requirements imposed in relation to the plan by or under Part 6 of the Levelling-up and Regeneration Act 2023 (environmental outcomes reports) have been complied with,"

Member's explanatory statement

This amendment updates the basic conditions which must be met for a modification of a neighbourhood development plan, so that they correspond to those that will apply for making a neighbourhood development plan once the amendments already included in Clause 93 are made.

Amendment 197 agreed.

Amendment 198

Moved by ***Lord Hunt of Kings Heath***

198: After Clause 94, insert the following new Clause—

"Duty to reduce health inequalities and improve well-being

(1) For the purposes of this section "the general health and well-being objective" is the reduction of health inequalities and the improvement of well-being through the exercise of planning functions in relation to England.

(2) A local planning authority must ensure that the development plan for their area includes policies designed to secure that the development and use of land contribute to the general health and well-being objective.

(3) In considering whether to grant planning permission or permission in principle and related approvals, a local planning authority or, as the case may be, the Secretary of State must ensure the decision is consistent with achieving the general health and well-being objective.

(4) In complying with this section, a local planning authority or, as the case may be, the Secretary of State must have special regard to the desirability of—

(a) ensuring that key destinations such as essential shops, schools, parks and open spaces, health facilities and public transport services are in safe and convenient proximity on foot to homes;

(b) facilitating access to these key destinations and creating opportunities for everyone to be physically active by improving existing, and creating new, walking and cycling routes and networks;

(c) increasing access to high-quality green infrastructure;

(d) ensuring a supply of housing which is affordable to and meets the health, accessibility and well-being needs of people who live in the local planning authority's area."

Member's explanatory statement

This new Clause would create a requirement for local planning authorities to include policies in their development plans which contribute to a new general health and well-being objective. It requires local planning authorities and the Secretary of State to ensure consistency with this objective when deciding whether to grant planning permission or permission in principle and related approvals, such as reserved matters.

Lord Hunt of Kings Heath (Lab): My Lords, on Monday we debated this amendment, in the name of the noble Baroness, Lady Willis, who is unavoidably detained. The amendment proposes a duty to reduce health inequalities and improve well-being through the exercise of planning functions. I am grateful to the noble Earl, Lord Howe, for his response, in which he put his faith in the National Planning Policy Framework, but I do not think that this goes far enough. I wish to test the opinion of the House.

1.32 pm

Division on Amendment 198

Contents 176; Not-Contents 178.

Amendment 198 disagreed.

Division No. 3

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Wyld, B.
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1.43 pm

Amendments 199 and 200 not moved.

Lord Evans of Rainow (Con): My Lords, it is with great pleasure that I beg that further consideration on Report be now adjourned until after the further business of the House is completed.

1.44 pm

Sitting suspended.

Private Sector Renters: Eviction Protection

Question

3 pm

Asked by ***Baroness Grender***

To ask His Majesty's Government what steps they are taking to protect renters in the private sector who are seeking help with energy-saving improvements from eviction.

The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con): My Lords, the Government are committed to ending Section 21 no-fault evictions. We introduced the Renters (Reform) Bill in the other place to do this. Without the fear of retaliatory eviction, once Section 21 is abolished, tenants will be more empowered to act within their legal rights, complain about unacceptable standards and seek improvements. Private rented properties should be warm and decent, and we have several schemes to support energy-saving improvements to provide this.

Baroness Grender (LD): Does the Minister agree that the balance is wrong if, according to a report by Generation Rent, nearly 40% of fuel-poor households rent privately but only 14% of energy company obligation grants help them in any way? Will the Minister ensure that the Renters (Reform) Bill protects tenants from either eviction or prohibitive rent rises if they get these grants? That is surely urgent, and important above other tenures.

Baroness Scott of Bybrook (Con): I agree. I looked at the figures showing where private renters were utilising the Government's grants for energy efficiency in their homes, and I think we should be spending more time trying to improve take-up. The Renters (Reform) Bill is important because it will deliver a fairer, more secure and higher-quality private rented sector. It will deliver the Government's commitments to a better deal for renters, as well as for landlords, by improving the system for responsible tenants and the good-faith landlords who are in the majority.

Baroness Hayman of Ullock (Lab): My Lords, many families are paying the price in higher energy bills because of the failure to improve the energy efficiency of homes. Cold homes could also have a serious impact on public health, given that 4% of UK homes have a serious damp problem and 17.5% of the UK's population has been diagnosed with a form of asthma. Has the department carried out any assessment of the savings which could be made to the long-term NHS budget by increasing the energy efficiency of UK homes? The Minister may need to write to me on this.

Baroness Scott of Bybrook (Con): I do not have that information with me but I will certainly look at it and write to the noble Baroness. However, the Government are investing £12 billion in Help to Heat schemes. As I said to the noble Baroness, Lady Grender, it is sad that not enough private rental landlords are taking up those grants. We also have the ECO Plus scheme—the GB insulation scheme—for which both tenants and landlords can apply. In the energy security strategy, the Government have just announced zero-rated VAT for the next five years on the installation of insulation and low-carbon heating. It is important that landlords know what is available and that tenants ask them for it.

Lord Young of Cookham (Con): My Lords, I welcome what my noble friend said on the Renters (Reform) Bill, but what action is being taken to address the delays in the courts that are asked to process cases relating to tenancies?

Baroness Scott of Bybrook (Con): My noble friend is absolutely right about the court system: it is too slow. On difficult cases that escalate to the courts—not

[Baroness Scott of Bybrook]
all of them do—we are working with the judiciary, the Ministry of Justice and HMCTS to target areas that frustrate proceedings, including through digitising more of the court process to make it simpler and easier for landlords to use.

Baroness Thornhill (LD): My Lords, the system is just not working. It relies on the tenant applying for a fuel poverty grant and, as is clear from the statistics that my noble friend just gave, that simply is not working. These perverse incentives are working against each other and not helping the poorest in society. Are there any plans to review this, because it is so obviously not working? What did the Minister make of the Secretary of State's remarks that he wants to relax the pace of energy-efficiency standards in the private rented sector, given that it has the fewest decent homes?

Baroness Scott of Bybrook (Con): We are still committed to raising efficiency from band E to C by 2028 and will keep the fuel poverty grant under review. I think the important issue, as I said in response to the noble Baroness, Lady Grender, is the grants that will make private rented properties more energy efficient in the first place.

Teacher Shortages

Question

3.06 pm

Asked by ***Baroness Twycross***

To ask His Majesty's Government what assessment they have made of teacher shortages in schools in England, and what plans they have to address the issue.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, there are nearly 468,400 full-time equivalent teachers in state-funded schools in England, 27,000 more than in 2010 and the highest number since the school workforce census began. In July, the Government fully accepted the School Teachers' Review Body's pay recommendations, giving teachers and leaders the highest pay award in over 30 years—6.5%. This is a competitive salary and will help us to build on the record numbers of teachers in our schools.

Baroness Twycross (Lab): My Lords, on Monday we discussed the literally crumbling school estate and, today, the shockingly high teacher shortages. It seems that the entire school system is creaking at the seams, with our children paying the price. Almost one in 10 of the total teacher workforce in England resigned last year: 40,000 teachers left the profession and 4,000 retired. There are shortages across the board including in maths, science, modern languages, English, business studies and DT. Does the Minister have a plan and timetable to address these shortages?

Baroness Barran (Con): In mentioning the number of people leaving the profession, the noble Baroness omitted to mention the number entering the profession last year. There were 48,000 entrants, including 16,700 returning to the profession. I remind the House that the vacancy rate for teachers is 2.8%, which remains extremely low. However, I recognise that there are shortages in certain subjects and in certain parts of the country, which is why we are targeting our bursaries on them. I remind the noble Baroness that we should be proud in this country that the work of our teachers has resulted in us rising up the international rankings in primary reading, from 8th in 2016 to 4th in 2021—the highest in the western world.

Lord Storey (LD): My Lords, the number of teacher vacancies has doubled in two years. The number of students wanting to go into teaching has declined by 79%. We then have the issue of specialist subjects; for example, there are 400 schools where there is no qualified physics teacher. Increasingly, we see our children being taught by supply teachers, which is not the best way to teach young people. How have we managed to get into such a situation? Did we not see this coming, and should we not have put together a plan to avert this crisis?

Baroness Barran (Con): First, I do not accept that it is a crisis. Secondly, if the noble Lord looks at the long-term numbers on this, in subjects such as mathematics, which is raised frequently in the House, in 2014-15 we had 75.8% specialist teachers. That is now 78.6%. There are subjects like physics where it has gone down slightly, but this has been a long-term issue, and I thank our teachers and leaders for the work they do to make our schools as good as they are.

Lord Carrington (CB): My Lords, I declare my interests as set out in the register as a trustee of a large state secondary school in High Wycombe. What consideration is being given to extending the area covered by the London fringe allowance, given the increasing challenges of teacher recruitment in urban areas outside of London, particularly areas like High Wycombe?

Baroness Barran (Con): I am very happy to take the noble Lord's point back to the department. I am aware that teacher mobility is much greater in London than in some other parts of the country. I appreciate that that represents challenges for schools, but I will take his specific point back.

Lord Hunt of Kings Heath (Lab): In 2018, the Minister's own department published an analysis of why teachers were leaving the profession. Two of the reasons were being overworked and a feeling that they were unloved. This afternoon, she paid tribute to the profession for their achievements, which I welcome, but does she really think that the intemperate remarks of the Secretary of State yesterday give confidence to teachers, headteachers and schools that Ministers really value what they do?

Baroness Barran (Con): I am aware that the Secretary of State has apologised for her remarks. Working closely with her and my right honourable friend the Minister for School Standards, I can absolutely assure

the House that we barely have a conversation where we do not express our gratitude to teachers and school leaders. We take workload very seriously and are continuing to work with the unions on that following the pay agreement.

Lord Forsyth of Drumlean (Con): My Lords, on the subject of intemperate behaviour, does my noble friend share my disgust that the Labour Party put out a message that the Prime Minister did not care about the safety of our children in schools? On issues such as the ones she has dealt with so well, we do not need people making party political points.

Baroness Barran (Con): I think the serious point here is that there is a serious situation in the handful of schools where we have had to intervene on the concrete. Of course, it could not be more inaccurate and unhelpful to criticise the Prime Minister personally in this regard.

Lord Berkeley of Knighton (CB): My Lords, does the Minister accept that there is a particular problem with music teachers in schools, and that the shortage, coupled with the decline in people taking GSCE music, is really very worrying?

Baroness Barran (Con): I know that the noble Lord has worked very hard in this area. We still have 81.1% of music lessons being delivered by quality—qualified; I am sure they are all quality—music teachers. That is down, as the noble Lord says, from 87.7% in 2014-15. I am delighted that the noble Lord is meeting with the Minister for School Standards to progress ideas on how we can encourage more children to be able to study music in school.

Lord Jackson of Peterborough (Con): My Lords, in the last academic year, 94,900 children were listed as missing from education. The recruitment and retention of teachers is hugely important, but so is that of child welfare officers. Will the Minister recommit to the recruitment and retention of those? The issue of children missing from education has been much more prevalent since Covid, and they are vital in tackling that long-term problem.

Baroness Barran (Con): My noble friend makes an important point. We are extremely concerned about the specific issue of children missing from education and, more broadly, about the impact that Covid has had on school attendance. Yesterday, the Secretary of State and the Minister for School Standards met the Attendance Action Alliance, trying to address exactly these issues and learning from best practice around the country.

Baroness Bull (CB): My Lords, given the shortage that we heard about earlier of specialist teachers in subjects such as physics, what is the department able to do to broker partnerships with independent schools where teachers are available perhaps to enable pupils to study these subjects remotely so that they can gain the qualifications they want and enter the professions where these roles are so badly needed?

Baroness Barran (Con): The noble Baroness makes a good point. We are extremely supportive of partnerships between independent schools and state-funded schools. That cuts across a wide range of areas, of which specialist teaching is just one. What I hear from independent schools when I talk to them about this issue is that it is very much a two-way street. It is not just about independent schools sharing their resources with their neighbouring schools. It is very much in both directions, and both groups benefit.

The Earl of Clancarty (CB): My Lords, following on from the question from the noble Lord, Lord Berkeley, if, as is clearly the case, bursaries are an effective driver of teacher recruitment, will the Government reintroduce them for arts subjects, including art and design and music, where recruitment is now falling well short of their targets—less than 60% in both these subject areas?

Baroness Barran (Con): We always keep these issues under review, but our assessment at the moment is that the greatest pressures are in some regional areas—hence our levelling-up premiums—and in certain specific subjects, which I know the noble Earl is familiar with, which those are.

Asylum Applications Backlog

Question

3.17 pm

Asked by ***Earl Russell***

To ask His Majesty's Government what steps they are taking to address the growing backlog of asylum applications and to ensure new cases are processed in an efficient manner.

The Parliamentary Under-Secretary of State for Migration and Borders (Lord Murray of Blidworth) (Con): We committed to increase our headcount to 2,500 decision-makers. As of 1 September, we have met that commitment. We have taken immediate action to speed up asylum processing while maintaining the integrity of the system. The streamlined asylum process plays an important role in achieving that. We are on track to clear the legacy asylum backlog by the end of 2023. It is presently down by more than 30,000 cases.

Earl Russell (LD): I thank the Minister, but the asylum backlog had risen to a high of more than 175,000 waiting for an initial decision as of the end of June, up 44% from last year. There was a service standard that set a target of 98% of straightforward cases receiving an initial decision within six months. That was withdrawn in 2019. Can the Minister confirm that this Government are still committed to the efficient processing of asylum claims? If so, when will a new service standard be put in place?

Lord Murray of Blidworth (Con): I can reassure the noble Earl that we are very much committed to the efficient dispatch of the consideration of asylum claims. There were 78,768 asylum applications in the year ending June 2023, which is higher than at any time

[Lord Murray of Blidworth]
since the European migration crisis. The asylum backlog is high because there are so many applications. We entirely appreciate the point the noble Earl makes—that we need efficient dispatch of these applications—and that is why we have made the reforms and the headway with the backlog that we have.

Lord Kirkhope of Harrogate (Con): While the application numbers should, of course, reduce—it is very important for this to be an initiative by the Government—do we not also have to look at the removals of those who fail to meet the criteria under the 1951 convention? Is my noble friend satisfied that we have discussed enough with the countries of origin—I emphasise "origin"—of these applicants that they will take back those who fail to meet those criteria, particularly countries of origin that claim to be free, democratic respecters of human rights?

Lord Murray of Blidworth (Con): My noble friend is entirely right that one of the keys to the asylum process is to remove those whose asylum applications are refused, but in some cases some countries are difficult about taking back their citizens. The Government take very seriously their obligations to seek to negotiate an improvement in those situations. An example of that being very successfully achieved was in relation to the Albanian cohort. As the House will hear later during the Statement repeat, we have successfully removed many Albanians to Albania under that agreement.

Baroness Jones of Moulsecoomb (GP): My Lords, when are the Government going to apologise for having created this backlog by closing all the safe and secure routes, except for a few nationalities? When will the Government apologise for making asylum seekers and refugees, who have experienced the most horrendous conditions, into some sort of right-wing trope and hate figures?

Lord Murray of Blidworth (Con): I do not recognise any of the items raised by the noble Baroness. I can reassure her that there will be no such apologies.

Lord Browne of Ladyton (Lab): My Lords, from my time as Minister for Immigration, I have some experience of the challenges of asylum casework. Indeed, when I was the Minister we had a backlog and the problem of many countries not taking back their own citizens, but they were nothing like this scale. The backlog has increased by 44% over the last year. I recently heard a Home Office explanation for this. Apparently, it is

"due to more cases entering the asylum system than receiving initial decisions".

Where I come from, in the west of Scotland, explanations of that nature are responded to with the words, "You don't say?". This is a description, not an explanation, of failures. My experience in government was that, when there were failures, the best way to deal with them was to change methodologies. Can the Minister honestly tell us whether, in his review of how this came about, the Home Office has identified any failures on its part that have caused this backlog?

Lord Murray of Blidworth (Con): I am afraid the Government do not accept any lessons in handling the asylum backlog from the Labour Party, which resolved the issues in relation to its own asylum backlog by granting an asylum amnesty. That is not something we propose to do. The Government have addressed the problem by taking concrete steps, including the streamlined asylum processing model. This concentrates facilities on applicants from high-grant countries such as Afghanistan, Eritrea, Libya, Syria, Yemen and, latterly, Sudan. That is on the basis of the high grant rate. Various other steps have been taken to make the system more efficient. That is why we have had a drop in the number of applicants.

Lord Ricketts (CB): My Lords, does the Minister accept that up to a third of the funds intended for overseas development assistance are being spent on the accommodation of asylum seekers, who are unable to work? Does he agree that reducing the backlog of asylum seekers would free up money to spend on overseas development, which is such an important part of Britain's overseas reputation?

Lord Murray of Blidworth (Con): I rather agree with the noble Lord. The Government's policy is to reduce expenditure on hotels, which will free up more government money to be spent on overseas aid. I can reassure the noble Lord, the House having passed the Illegal Migration Act, that one of its consequences is that those in the cohort covered by Section 2 will not be able to make asylum claims. As a result, they will not be in the asylum backlog.

Lord Coaker (Lab): My Lords, can the Minister confirm that since the Prime Minister pledged to clear the pre-June 2022 asylum backlog the Government are now withdrawing many more claims, meaning that they no longer count? Can he say how many such claims have been withdrawn and whether a Home Office official was right when reported in the press as saying:

"This is done to basically bring the backlog down"—

in other words, changing the way the Government count numbers to give them the result they want?

Lord Murray of Blidworth (Con): No is the short answer. The Home Office is committed to ensuring that the asylum system is not open to abuse. By promptly withdrawing asylum claims from non-compliant individuals, we are ensuring that decision-making resources are concentrated on those who genuinely wish to continue with their asylum claims within the UK. Asylum seekers can withdraw their claim, should they no longer wish to claim asylum in the UK, and may do so for a variety of reasons, including that they want to leave the UK or have permission to stay on another basis. Asylum claims may also be withdrawn where the individual fails to comply with the asylum process or absconds before a decision is made on their claim.

Lord Kerr of Kinlochard (CB): Following the question from the noble Lord, Lord Ricketts, will the Minister confirm that, as reported in today's press, it will no

longer be possible to charge to the aid programme the costs of asylum seekers whose claims are deemed inadmissible under the Illegal Migration Act?

Lord Murray of Blidworth (Con): I have not seen the article to which the noble Lord refers. I will of course look at it and reply to him in due course.

The Lord Bishop of Durham: Returning to the question from the noble Lord, Lord Coaker, how long does the Home Office consider a reasonable length of time for an asylum seeker to provide reasons and evidence as to why their asylum request should be reinstated after receiving a decision and the application is withdrawn? Will the Government publish statistics on the number of applicants reinstated?

Lord Murray of Blidworth (Con): The GOV.UK website contains detailed guidance on circumstances in which a claim will be withdrawn or deemed withdrawn, including a timescale. I do not believe, although I do not have the facts before me, that there is a concrete deadline after which a claim may not be restored, but I will check that and revert to the right reverend Prelate in relation to it.

Lord German (LD): My Lords, I draw attention to my interests in the register. One of the consequences of the Government's rush to beat the backlog is that those who have the right to remain are given as little as seven days, or sometimes even less, to leave their asylum seeker accommodation—seven days to find a home and a job and, most crucially, to put in a successful application for universal credit. Do the Government believe that making people homeless and passing the buck to local authorities and the voluntary sector, while that may solve the Government's problem, places cash-strapped councils in an impossible position?

Lord Murray of Blidworth (Con): Clearly, as the noble Lord knows, it is a priority for the Government to reduce and eliminate the use of hotels. If people have successfully claimed asylum, the position is that they should no longer reside in Home Office accommodation and that they become the responsibility of the local authority. This is a well-known procedure and has been in place for a long time. I do not believe that there is any reason why that should not be the case.

Reinforced Autoclaved Aerated Concrete: Public Buildings

Question

3.28 pm

Asked by ***Viscount Stansgate***

To ask His Majesty's Government what assessment they have made of the extent of the problem of reinforced autoclaved aerated concrete in public buildings other than schools.

The Minister of State, Cabinet Office (Baroness Neville-Rolfe) (Con): My Lords, the Government have acted decisively to tackle the issue, taking a proportionate approach informed by experts. The Office of Government Property, which is part of the Cabinet Office, wrote to all government property leaders in 2019 and again in September 2022, highlighting safety notices on RAAC and signposting Institution of Structural Engineers guidance on identification and remediation. It is the responsibility of individual organisations such as departments, arm's-length bodies or wider organisations such as NHS trusts, to manage their own buildings.

Viscount Stansgate (Lab): My Lords, I thank the Minister for the Answer, but there is something of a metaphor for the Government in this issue of RAAC—time expired and liable to collapse with little or no notice. Is the Chancellor going to agree to "spend whatever it takes" to fix the problems in housing, hospitals and other public buildings? The Minister just mentioned the Cabinet Office review, but what about the Ministry of Defence review into its buildings that I understood had to be completed by July? How many hospitals are going to be partially closed as a result of work on RAAC and will the Government list them in the way they have done for schools? Does the Minister agree with the head of the National Audit Office that getting value for money depends on doing the "unflashy but essential" things such as maintenance, in addition to what you might call a sticking-plaster approach that ends up costing more money? In short, can the Minister understand why some people think that this is an autoclaved aerated crumbling Government in need of replacement?

Baroness Neville-Rolfe (Con): That was a huge array of questions more suitable for debate, but perhaps I can make clear that the Government have agreed to fund extensive RAAC mitigation works across the NHS and the education estate by capital funding allocations. We will consider the approach to any RAAC funding in other public sector estates on a case-by-case basis. As regards the MoD, the programme of surveys is ongoing, given the size of the estate, and I know that my right honourable friend the new Defence Secretary takes this matter very seriously.

Lord Wallace of Saltaire (LD): My Lords, the Comptroller and Auditor-General wrote yesterday in the *Times* that the problems were caused by "underinvestment" in the physical estate and

"by the lack of a robust long-term programme of building maintenance and replacement",

and suggested that that needs now to be urgently addressed. Can the Minister assure us that the Government are now willing to develop such a long-term programme and raise the level of investment in the public estate, or are they going to give in to the continuing demands from right-wing newspapers and their own Back Benches to cut taxes first and not put the money in?

Baroness Neville-Rolfe (Con): The Government are investing and will continue to invest in public sector buildings. Take education: the Government have allocated £15 billion since 2015 to keep schools safe and operational. In this area, professional advice has evolved over time.

[Baroness Neville-Rolfe]
Successive Governments since 1994 have managed the risk of RAAC and will continue to do so. I have explained the central advice given to help individual public sector bodies manage their responsibilities in the way that all building and property owners need to do.

Lord Cromwell (CB): My Lords, it is my understanding that four out of five schools have asbestos in them, as do many public buildings, including this one. If the concrete part of a building is now degrading and exposing the asbestos, at which point its disturbance makes it extremely dangerous, what are the Government's plans to budget and implement a way to deal with the asbestos and the concrete at the same time?

Baroness Neville-Rolfe (Con): As the noble Lords knows, there is of course a legal framework for managing asbestos through the Control of Asbestos Regulations 2012 and I refer to the expert advice and involvement of independent building experts that have played a very important part in identifying RAAC in places such as hospitals and managing that in a responsible way.

Baroness Smith of Basildon (Lab): My Lords, the test of a good Government is not whether a crisis pops up on their watch that they have to deal with but how Ministers respond. There are two options—you can roll up your sleeves and get on with it or you can dither, delay, cut funding and blame others while expecting to be thanked. As the scale of the schools problem emerges, and given that the Government cut Building Schools for the Future funding, the Minister said just now that the Cabinet Office wrote to all government departments in 2019. Can she tell the House whether the Government now have a grasp of the extent of the problem to which courts, hospitals and other buildings used by the public are affected by this? If they have, given that the letter went out in 2019, when will that information be published?

Baroness Neville-Rolfe (Con): Actually, we have rolled up our sleeves in this case, to quote the noble Baroness. We wrote in 2019, and again in 2022 after Covid. A great deal of management on a risk-based basis has been undertaken across the public sector, drawing on professional expert advice, because it is very important that that is done. More recently, in June 2023, the Cabinet Office set up an expert working group under the OGP to look at RAAC. Of course, that has been meeting very frequently since the information, which has been the subject of other Question sessions, became available in schools in August.

Lord Mendoza (Con): My Lords, we are learning about a range of RAAC in all building types across the nation's estate, from theatres to hospitals—sometimes in small amounts, sometimes in big amounts—so it is a complex picture that will need remedying or, crucially, mitigation. Does my noble friend agree that the approach that government takes includes advice, as she described briefly, from technical experts such as the Institution of Structural Engineers? If so, can she say more?

Baroness Neville-Rolfe (Con): I cannot help but agree with my noble friend: it is absolutely right to follow expert advice in this sort of case. That is why the OGP wrote out on a number of occasions, and it is why my right honourable friend in the other place, the Minister for the Cabinet Office, had discussions with the Institution of Structural Engineers only this week. We are pursuing this, but we are ensuring that those who are responsible are putting in the effort and making the changes that are necessary—and we are giving central support, as I explained, in relation to education and health.

Baroness Randerson (LD): My Lords, many universities are likely to suffer from this problem, and some, of course, also have hospital trusts associated with them. The noble Baroness said it was up to NHS trusts and individual institutions to manage their estates, but she knows that that is not a sustainable position, because this problem is not evenly spread across the sector and will impact very heavily on individual organisations. What more will the Government do and announce in the near future to assist those affected? I declare an interest as chancellor of Cardiff University.

Baroness Neville-Rolfe (Con): I am grateful to hear from the noble Baroness about the situation in the university sector. Of course, they will be taking their responsibilities seriously. As I know from having been involved in these sorts of organisations, the governors always spend a lot of time being concerned about, and taking professional advice on, the safety and state of buildings. Universities and hospitals, where RAAC mitigation work has been going on since 2019, are a bit different from schools, because the estates are usually concentrated in a smaller number of buildings and there are usually dedicated teams of trained estate professionals who are able to monitor and maintain the buildings.

Lord Hunt of Kings Heath (Lab): My Lords, when the noble Baroness says that public bodies should accept their responsibilities, is she not aware—of course she is—that capital expenditure limits in the public sector are set by central government? Very often, the specifications for building materials are specified through government machinery and advice. After the survey of the NHS in relation to RAAC, why is the target to get rid of it 2035? Why will it take another 12 years?

Baroness Neville-Rolfe (Con): One of the reasons for that is that some of the hospitals in which we have identified RAAC need a full replacement. They will be part of the rebuilt hospitals programme, which is due to mature by 2030. DHSC has published a media fact sheet on RAAC in the NHS, which I think the noble Lord might find very helpful in the health context.

Online Safety Bill
Third Reading

3.39 pm

Relevant document: 40th Report from the Delegated Powers Committee. Scottish and Welsh Legislative Consent granted.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con): My Lords, I will make a brief statement on the devolution status of the Bill. I am pleased to inform your Lordships' House that both the Scottish Parliament and Senedd Cymru have voted to grant consent for all the relevant provisions. For Scotland, these provisions are the power to amend the list of exempt educational institutions, the power to amend the list of child sexual exploitation and abuse offences and the new offence of encouraging or assisting serious self-harm. For Wales, the provisions are the power to amend the list of exempt educational institutions, the false communications offence, the threatening communications offence, the flashing images offences and the offence of encouraging or assisting serious self-harm.

As noble Lords will be aware, because the Northern Ireland Assembly is adjourned the usual process for seeking legislative consent in relation to Northern Ireland has not been possible. In the absence of legislative consent from the Northern Ireland Assembly, officials from the relevant UK and Northern Ireland departments have worked together to ensure that the Bill considers and reflects the relevant aspects of devolved legislation so that we may extend the following provisions to Northern Ireland: the power to amend the list of exempt educational institutions, the false communications offence, the threatening communications offence and the offence of encouraging or assisting serious self-harm. His Majesty's Government have received confirmation in writing from the relevant Permanent Secretaries in Northern Ireland that they are content that nothing has been identified which would cause any practical difficulty in terms of the existing policy and legislative landscape. Historically, this area of legislation in Northern Ireland has mirrored that in Great Britain, and we believe that legislating without the consent of the Northern Ireland Assembly is justified in these exceptional circumstances and mitigates the risk of leaving Northern Ireland without the benefit of the Bill's important reforms and legislative parity.

We remain committed to ensuring sustained engagement on the Bill with all three devolved Administrations as it progresses through Parliament. I beg to move that the Bill be read a third time.

Clause 44: Secretary of State's powers of direction

Amendment 1

Moved by ***Lord Parkinson of Whitley Bay***

1: Clause 44, page 45, line 30, leave out from "must" to end of line 31 and insert ", as soon as reasonably practicable, be published and laid before Parliament."

Member's explanatory statement

This amendment provides that, in addition to publishing a direction under this Clause, the Secretary of State must also lay it before Parliament. Additionally the Secretary of State is required to do these things as soon as reasonably practicable. There is an exemption in certain circumstances (as to which see the next amendment to this Clause in my name).

Lord Parkinson of Whitley Bay (Con): My Lords, His Majesty's Government have listened carefully to the views expressed in Committee and on Report and have tabled amendments to the Bill to address concerns raised by noble Lords. Let me first again express my gratitude to my noble friend Lady Stowell of Beeston for her constructive engagement on the Secretary of State's powers of direction. As I said during our previous debate on this topic, I am happy to support her Amendments139 and 140 from Report. The Government are therefore bringing forward two amendments to that effect today.

Noble Lords will recall that, whenever directing Ofcom about a code, the Secretary of State must publish that direction. Amendment 1 means that, alongside this, in most cases a direction will now need to be laid before Parliament. There may be some cases where it is appropriate for the Secretary of State to withhold information from a laid direction: for example, if she thinks that publishing it would be against the interests of national security. In these cases, Amendment 2 will instead require the Secretary of State to lay a statement before Parliament setting out that a direction has been given, the kind of code to which the direction relates and the reasons for not publishing it. Taken together, these amendments will ensure that your Lordships and Members of another place are always made aware as soon as a direction has been made and, wherever possible, understand the contents of that direction. I hope noble Lords will agree that, after the series of debates we have had, we have reached a sensible and proportionate position on these clauses and one which satisfies your Lordships' House.

I am also grateful to the noble Baroness, Lady Kennedy of The Shaws, for her determined and collaborative work on the issue of threatening communications. Following the commitment I made to her on Report, I have tabled an amendment to make it explicit that the threatening communications offence captures threats where the recipient fears that someone other than the person sending the message will carry out the threat. I want to make it clear that the threatening communications offence, like other existing offences related to threats, already captures threats that could be carried out by third parties. This amendment does not change the scope of the offence, but the Government understand the desire of the noble Baroness and others to make this explicit in the Bill, and I am grateful to her for her collaboration.

Regarding Ofcom's power of remote access, I am grateful to noble Lords, Lord Knight of Weymouth and Lord Allan of Hallam, my noble friend Lord Moylan and the noble Baroness, Lady Fox of Buckley, who unavoidably cannot be with us today, for raising their concerns about the perceived breadth of the power and the desire for further safeguards to ensure that it is used appropriately by the regulator.

I am also grateful to technology companies for the constructive engagement they have had with officials over the summer. As I set out on Report, the intention of our policy is to ensure clarity about Ofcom's ability to observe empirical tests, which are a standard method for understanding algorithms and consequently for assessing companies' compliance with the duties in the Bill. They involve taking a test data set, running it through an algorithmic system and observing the output.

3.45 pm

Under the Clause 101 information-gathering power before it was amended, Ofcom would clearly have been able to require providers to carry out such tests and then submit the requested information to it. However, it was not explicit that Ofcom could observe tests itself, which in many cases would be significantly more efficient. I am pleased to announce that, to ensure that the drafting meets the Government's policy intention, and in recognition of these concerns, the Government have tabled amendments to change Ofcom's power of "remote access" to a power to "view information remotely". This clarifies that Ofcom cannot use the power to require companies to give access to its systems, addressing concerns which noble Lords raised that the power was too broad and could be used in a way that might create security risks.

Furthermore, we have tabled amendments which would limit the scope of this power so that, rather than being able to use it to view remotely any information necessary to carry out its online safety functions, Ofcom may view remotely only specific types of information in relation to the operation of systems, processes or features, including algorithms, or to observe tests or demonstrations remotely. We have also listened to the calls for additional safeguards and have tabled amendments which would ensure that the power to view information remotely could be exercised only by persons authorised by Ofcom. Moreover, Ofcom will be required to issue a seven-day notice before exercising this power.

These further protections and limitations are in addition to the existing safeguards in the Bill, which include Ofcom's legal duty to exercise this power in a way that is proportionate, ensuring that undue burdens are not placed on businesses. The proportionality safeguard would extend to issues of security and privacy, as well as the duration of any tests. In observing algorithmic assessments, Ofcom would generally expect to require a service to use a test data set. There may be circumstances where Ofcom asks a service to execute a test using data it holds—for example, in testing how content moderation systems respond to certain types of content on a service as part of an assessment of the systems and processes. In this scenario, Ofcom may need to use a provider's own test data set containing content which has previously violated its own terms of service. However, Ofcom can process users' personal data only in a way compatible with UK data protection law and must take into account a platform's own obligations under relevant data protection legislation. I hope that these amendments address the concerns noble Lords raised during our previous debate, while ensuring that Ofcom has the information-gathering powers it needs to regulate effectively—in particular, to hold providers to account for their use of algorithms.

The Government have also tabled a number of minor and technical amendments to improve the drafting of the Bill. These include an amendment to Clause 52(3), which is about Ofcom's duties to produce guidance. This amendment updates a cross-reference in this clause. We are also making technical amendments to include the relevant information powers and offences in Clause 121, which is about the admissibility of statements in criminal proceedings, and we are making an amendment to Clause 162 which defines age assurance as

"age verification or age estimation".

I beg to move.

Lord Rooker (Lab): I am very surprised that the Minister's speech did not accede to the recommendations from the Delegated Powers and Regulatory Reform Committee, published last week, in the report we made after we were forced to meet during the Recess because of the Government's failure with this Bill. From his private office, we want answers to what is set out in paragraphs 6 and 7:

"We urge the Minister to take the opportunity during the remaining stages of the Bill"—

which is today—

"to explain to the House"—

I will not read out the rest because it is quite clear. There are two issues—Henry VIII powers and skeleton legislation—and we require the Minister to accede to this report from a committee of the House.

I think that every member of the committee was present at the meeting on 29 August, the day after the bank holiday. We were forced to do that because the Government published amendments to Clauses 216 and 217 on 5 July, but they did not provide a delegated powers memorandum until 17 July, the date they were debated in this House. That prevented a committee of the House being able to report to the House on the issue of delegated powers. We are not interested in policy; all we are looking at is the delegated powers. We agreed that one of us would be here—as it is not a policy issue—to seek that the Minister responds to the recommendations of this committee of the House. I am very surprised that he has not done that.

Baroness Stowell of Beeston (Con): My Lords, I am very concerned to hear the contribution from the noble Lord, Lord Rooker. I certainly look forward to hearing what the Minister says in reply. I confess that I was not aware of the Delegated Powers and Regulatory Powers Committee's report to which he referred, and I wish to make myself familiar with it. I hope that he gets a suitable response from the Minister when he comes to wind up.

I am very grateful to the Minister for the amendments he tabled to Clause 44—Amendments 1 and 2. As he said, they ensure that there is transparency in the way that the Secretary of State exercises her power to issue a direction to Ofcom over its codes of practice. I remind the House—I will not detain your Lordships for very long—that the Communications and Digital Select Committee, which I have the privilege to chair, was concerned with the original Clause 39 for three main reasons: first, as it stood, the Bill handed the Secretary of State unprecedented powers to direct the regulator on pretty much anything; secondly, those directions could be made without Parliament knowing; and, thirdly, the process of direction could involve a form of ping-pong between government and regulator that could go on indefinitely.

However, over the course of the Bill's passage, and as a result of our debates, I am pleased to say that, taken as a package, the various amendments tabled by the Government—not just today but at earlier stages, including on Report—mean that our concerns have been met. The areas where the Secretary of State can

issue a direction now follow the precedent set by the Communications Act 2003, and the test for issuing them is much higher. As of today, via these amendments, the directions must be published and laid before Parliament. That is critical and is what we asked for on Report. Also, via these amendments, if the Secretary of State has good reason not to publish—namely, if it could present a risk to national security—she will still be required to inform Parliament that the direction has been made and of the reasons for not publishing. Once the code is finalised and laid before Parliament for approval, Ofcom must publish what has changed as a result of the directions. I would have liked to have seen a further amendment limiting the number of exchanges, so that there is no danger of infinite ping-pong between government and regulator, but I am satisfied that, taken together, these amendments make the likelihood of that much lower, and the transparency we have achieved means that Parliament can intervene.

Finally, at the moment, the platforms and social media companies have a huge amount of unaccountable power. As I have said many times, for me, the Bill is about ensuring greater accountability to the public, but that cannot be achieved by simply shifting power from the platforms to a regulator. Proper accountability to the public means ensuring a proper balance of power between the corporations, the regulator, government and Parliament. The changes we have made to the Bill ensure the balance is now much better between government and the regulator. Where I still think we have work to do is on parliamentary oversight of the regulator, in which so much power is being invested. Parliamentary oversight is not a matter for legislation, but it is something we will need to return to. In the meantime, I once again thank the Minister and his officials for their engagement and for the amendments that have been made.

Baroness Ritchie of Downpatrick (Lab): My Lords, I, too, thank the Minister for his engagement and for the amendments he has tabled at various stages throughout the passage of the Bill.

Amendment 15 provides a definition:

""age assurance" means age verification or age estimation".

When the Minister winds up, could he provide details of the framework or timetable for its implementation? While we all respect that implementation must be delivered quickly, age verification provisions will be worthless unless there is swift enforcement action against those who transgress the Bill's provisions. Will the Minister comment on enforcement and an implementation framework with direct reference to Amendment 15?

Lord Allan of Hallam (LD): My Lords, as this is a new stage of the Bill, I need to refer again to my entry in the register of interests. I have no current financial interest in any of the regulated companies for which I used to work, in one of which I held a senior role for a decade.

I welcome Amendment 7 and those following from it which change the remote access provision. The change from "remote access" to "view remotely" is quite significant. I appreciate the Minister's willingness to consider it and particularly the Bill team's creativity in coming up with this new phrasing. It is much simpler and clearer than the phrasing we had before. We all understand what "view remotely" means. "Access" could have been argued over endlessly. I congratulate the Minister and the team for simplifying the Bill. It again demonstrates the value of some of the scrutiny we carried out on Report.

It is certainly rational to enable some form of viewing in some circumstances, not least where the operations of the regulated entities are outside the United Kingdom and where Ofcom has a legitimate interest in observing tests that are being carried out. The remote access, or the remote viewing facility as it now is, will mean it can do this without necessarily sending teams overseas. This is more efficient, as the Minister said. As this entire regime is going to be paid for by the regulated entities, they have an interest in finding cheaper and more efficient methods of carrying out the supervision than teams going from London to potentially lots of overseas destinations. Agreement between the provider and Ofcom that this form of remote viewing is the most efficient will be welcomed by everybody. It is certainly better than the other option of taking data off-site. I am glad to see that, through the provisions we have in place, we will minimise the instances where Ofcom feels it needs data from providers to be taken off-site to some other facility, which is where a lot of the privacy risks come from.

Can the Minister give some additional assurances at some stage either in his closing remarks or through any follow-up correspondence? First, the notion of proportionality is implicit, but it would help for it to be made explicit. Whenever Ofcom is using the information notices, it should always use the least intrusive method. Yes, it may need to view some tests remotely, but only where the information could not have been provided in written form, for example, or sent as a document. We should not immediately escalate to remote viewing if we have not tried less intrusive methods. I hope that notion of proportionality and least intrusion is implicit within it.

Secondly, concerns remain around live user data. I heard the Minister say that the intention is to use test data sets. That needs to be really clear. It is natural for people to be concerned that their live user data might be exposed to anyone, be it a regulator or otherwise. Of course, we expect Ofcom staff to behave with propriety, but there have sadly been instances where individuals have taken data that they have observed, whether they were working for the police, the NHS or any other entity, and abused it. The safest safeguard is for there to be no access to live user data. I hope the Minister will go as far as he can in saying that that is not the intention.

4 pm

Thirdly, Ofcom should carry out some kind of privacy impact assessment before requiring access. Again, that is standard practice in data protection terms and is a helpful discipline. If somebody at Ofcom is thinking, "Look, I'd really like to view one of these tests remotely", there should be some kind of internal process where someone says, "I'm just going to look at the privacy impact of that and, if there are concerns, I'm going to work through them". Doing this before the test is better than finding out after the

[Lord Allan of Hallam]
test that there was an issue; I speak from experience, having worked at a company that did all sorts of things that turned out to be serious mistakes from a privacy point of view. I do not want Ofcom to fall into the same trap.

Fourthly, I would like reassurance that these things will be time-limited. Again, this is not explicit in the Bill, but I hope the Minister will be able to say that the intention is that, when Ofcom asks to view things remotely, those are not going to be open-ended asks but will be a case of saying, "I want to view X remotely for this period of time"—a week, a month, whatever is required—and that there will not be continual viewing, which is where it potentially becomes problematic.

Finally, I want to make a suggestion in this area: that the Government encourage Ofcom, which will be the independent regulator once we have finished with this Bill, to maintain a public register of all the information notices that it issues—without sensitive information, obviously. The fact that Ofcom has sought access to, requested information from and been viewing data at a particular platform is a matter of public interest. It would provide huge reassurance to people in the United Kingdom using these services if they knew that any information requests will be made public and that there will be no secrecy involved in the process. That is my final request, particularly around remote viewing requests. Otherwise, people will create conspiracy theories around what remote viewing entails; the best way to prevent this is simply to have a register saying, "Look, if Ofcom asked company X for this kind of remote viewing, that will never be secret. There will always be an easy way for a citizen to found out that that happened".

Having said that, we certainly welcome these changes. They are an improvement as a result of our debate and scrutiny on Report.

Baroness Kennedy of The Shaws (Lab): My Lords, I, too, join noble Lords in thanking the Minister for the way in which he has addressed my concerns about aspects of the Bill and has wanted to enhance particularly the protection of women and girls from the kind of threats that they experience online. I really feel that the Minister has been exemplary in the way in which he has interacted with everyone in this House who has wanted to improve the Bill and has come to him with good will. He has listened and his team have been absolutely outstanding in the work that they have done. I express my gratitude to him.

Viscount Colville of Culross (CB): My Lords, I, too, thank the Minister for the great improvements that the Government have made to the Secretary of State's powers in the Bill during its passage through this House. I rise to speak briefly today to praise the Government's new Amendments 1 and 2 to Clause 44. As a journalist, I was worried by the lack of transparency around these powers in the clause; I am glad that the lessons of Section 94 of the Telecommunications Act 1984, which had to be rescinded, have been learned. In a world of conspiracy theories that can be damaging to public trust and governmental and regulatory process, it has never been more important that Parliament and the public are informed about the actions of government when giving directions to Ofcom about the draft codes of practice. So I am glad that these new amendments resolve those concerns.

Baroness Morgan of Cotes (Con): My Lords, I welcome Amendments 5 and 6, as well as the amendments that reflect the work done and comments made in earlier stages of this debate by the noble Baroness, Lady Kennedy. Of course, we are not quite there yet with this Bill, but we are well on the way as this is the Bill's last formal stage in this Chamber before it goes back to the House of Commons.

Amendments 5 and 6 relate to the categorisation of platforms. I do not want to steal my noble friend's thunder, but I echo the comments made about the engagement both from my noble friend the Minister and from the Secretary of State. I am delighted that the indications I have received are that they will accept the amendment to Schedule 11, which this House voted on just before the Recess; that is a significant and extremely welcome change.

When commentators outside talk about the work of a revising Chamber, I hope that this Bill will be used as a model for cross-party, non-partisan engagement in how we make a Bill as good as it possibly can be—particularly when it is as ground-breaking and novel as this one is. My noble friend the Minister said in a letter to all of us that this Bill had been strengthened in this Chamber, and I think that is absolutely right.

I also want to echo thanks to the Bill team, some of whom I was working with four years ago when we were talking about this Bill. They have stuck with the Bill through thick and thin. Also, I thank noble Lords across the House for their support for the amendments but also all of those outside this House who have committed such time, effort, support and expertise to making sure this Bill is as good as possible. I wish it well with its final stages. I think we all look forward to both Royal Assent and also the next big challenge, which is implementation.

Lord Clement-Jones (LD): My Lords, I thank the Minister for his introduction today and also for his letter which set out the reasons and the very welcome amendments that he has tabled today. First, I must congratulate the noble Baroness, Lady Stowell, for her persistence in pushing amendments of this kind to Clause 45, which will considerably increase the transparency of the Secretary of State's directions if they are to take place. They are extremely welcome as amendments to Clause 45.

Of course, there is always a "but"—by the way, I am delighted that the Minister took the advice of the House and clearly spent his summer reading through the Bill in great deal, or we would not have seen these amendments, I am sure—but I am just sorry that he did not take the opportunity also to address Clause 176 in terms of the threshold for powers to direct Ofcom in special circumstances, and of course the rather burdensome powers in relation to the Secretary of State's guidance on Ofcom's exercise of its functions under the Bill as a whole. No doubt we will see how that works out in practice and whether they are going to be used on a frequent basis.

My noble friend Lord Allan—and I must congratulate both him and the noble Lord, Lord Knight, for their addressing this very important issue—has set out five assurances that he is seeking from the Minister. I very much hope that the Minister can give those today, if possible.

Congratulations are also due to the noble Baroness, Lady Kennedy, for finding a real loophole in the offence, which has now been amended. We are all delighted to see that the point has been well taken.

Finally, on the point raised by the noble Lord, Lord Rooker, clearly it is up to the Minister to respond to the points made by the committee. All of us would have preferred to see a comprehensive scheme in the primary legislation, but we are where we are. We wanted to see action on apps; they have some circumscribing within the terms of the Bill. The terms of the Bill—as we have discussed—particularly with the taking out of "legal but harmful", do not give a huge amount of leeway, so this is not perhaps as skeleton a provision as one might otherwise have thought. Those are my reflections on what the committee has said.

Lord Knight of Weymouth (Lab): My Lords, I do not know how everyone has spent their summer, but this feels a bit like we have been working on a mammoth jigsaw puzzle and we are now putting in the final pieces. At times, through the course of this Bill, it has felt like doing a puzzle in the metaverse, where we have been trying to control an unreliable avatar that is actually assembling the jigsaw—but that would be an unfair description of the Minister. He has done really well in reflecting on what we have said, influencing his ministerial colleagues in a masterclass of managing upwards, and coming up with reasonable resolutions to previously intractable issues.

We are trusting that some of the outcome of that work will be attended to in the Commons, as the noble Baroness, Lady Morgan, has said, particularly the issues that she raised on risk, that the noble Baroness, Lady Kidron, raised on children's safety by design, and that my noble friend Lady Merron raised on animal cruelty. We are delighted at where we think these issues have got to.

For today, I am pleased that the concerns of the noble Baroness, Lady Stowell, on Secretary of State powers, which we supported, have been addressed. I also associate myself with her comments on parliamentary scrutiny of the work of the regulator. Equally, we are delighted that the Minister has answered the concerns of my noble friend Lady Kennedy and that he has secured the legislative consent orders which he informed us of at the outset today. We would be grateful if the Minister could write to us answering the points of my noble friend Lord Rooker, which were well made by him and by the Delegated Powers Committee.

I am especially pleased to see that the issues which we raised at Report on remote access have been addressed. I feel smug, as I had to press quite hard for the Minister to leave the door open to come back at this stage on this. I am delighted that he is now walking through the door. Like the noble Lord, Lord Allan, I have just a few things that I would like clarification on—the proportional use of the powers, Ofcom taking into account user privacy, especially regarding live user data, and that the duration of the powers be time-limited.

Finally, I thank parliamentarians on all sides for an exemplary team effort. With so much seemingly falling apart around us, it is encouraging that, when we have common purpose, we can achieve a lot, as we have with this Bill.

Lord Parkinson of Whitley Bay (Con): My Lords, let me first address the points made by the noble Lord, Lord Rooker. I am afraid that, like my noble friend Lady Stowell of Beeston, I was not aware of the report of your Lordships' committee. Unlike her, I should have been. I have checked with my private office and we have not received a letter from the committee, but I will ask them to contact the clerk to the committee immediately and will respond to this today. I am very sorry that this was not brought to my attention, particularly since the members of the committee met during the Recess to look at this issue. I have corresponded with my noble friend Lord McLoughlin, who chairs the committee, on each of its previous reports. Where we have disagreed, we have done so explicitly and set out our reasons. We have agreed with most of its previous recommendations. I am very sorry that I was not aware of this report and have not had the opportunity to provide answers for your Lordships' House ahead of the debate.

Lord Rooker (Lab): The report was published on 31 August. It so happens that the committee has been forced to meet in an emergency session tomorrow morning because of government amendments that have been tabled to the levelling-up Bill, which will be debated next Wednesday, that require a report on the delegated powers, so we will have the opportunity to see what the Minister has said. I am very grateful for his approach.

Lord Parkinson of Whitley Bay (Con): The committee will have a reply from me before it meets tomorrow. Again, I apologise. It should not be up to the committee to let the Minister know; I ought to have known about it.

I am very grateful to noble Lords for their support of the amendments that we have tabled in this group, which reflect the collaborative nature of the work that we have done and the thought which has been put into this by my ministerial colleagues and me, and by the Bill team, over the summer. I will have a bit more to say on that when I move that the Bill do now pass in a moment, but I am very grateful to those noble Lords who have spoken at this stage for highlighting the model of collaborative working that the Bill has shown.

The noble Baroness, Lady Ritchie of Downpatrick, asked for an update on timetables. Some of the implementation timetables which Ofcom has assessed depend a little on issues which may still change when the Bill moves to another place. If she will permit it, once they have been resolved I will write with the latest assessments from Ofcom, and, if appropriate, from us, on the implementation timelines. They are being recalculated in the light of amendments that have been made to the Bill and which may yet further change. However, everybody shares the desire to implement

[Lord Parkinson of Whitley Bay]
the Bill as swiftly as possible, and I am grateful that your Lordships' work has helped us do our scrutiny with that in mind.

The noble Lord, Lord Allan, asked some questions about the remote viewing power. On proportionality, Ofcom will have a legal duty to exercise its power to view information remotely in a way that is proportionate, ensuring, as I said, that undue burdens are not placed on businesses. In assessing proportionality in line with this requirement, Ofcom would need to consider the size and resource capacity of a service when choosing the most appropriate way of gathering information. To comply with this requirement, Ofcom would also need to consider whether there was a less onerous method of obtaining the necessary information.

On the points regarding that and intrusion, Ofcom expects to engage with providers as appropriate about how to obtain the information it needs to carry out its functions. Because of the requirement on Ofcom to exercise its information-gathering powers proportionately, it would need to consider less onerous methods. As I said, that might include an audit or a skilled persons report, but we anticipate that, for smaller services in particular, those options could be more burdensome than Ofcom remotely viewing information.

4.15 pm

On live user data, Ofcom would generally expect to require a service to use a test dataset, as I said in opening this debate. Additionally, Ofcom can process users' data only in a way that is compatible with UK data protection law, and the extent to which steps would require Ofcom to view personal data is also relevant to its proportionality assessment.

We agree with my noble friend Lady Stowell and the noble Lord, Lord Knight, that ongoing parliamentary scrutiny of the regime will be crucial in helping to reassure everybody that the Bill has done what we hope it will. The creation of the new Department for Science, Innovation and Technology means there is another departmental Select Committee in another place which will provide an enhanced opportunity for cross-party scrutiny of the new regime and digital regulation more broadly. Your Lordships' Communications and Digital Committee will of course continue to play a vital role in the scrutiny in this House. As I set out at Report, to support this, the Government will ensure that the relevant committees in both Houses have every chance to play a part in government consultations by informing them when they are open. While we do not want the implementation process to be delayed, we will, where possible, share draft statutory instruments directly with the relevant committees before the formal laying process. That will be on a case-by-case basis, considering what is appropriate and reasonably practical. Of course, it will be up to the committees to decide how they wish to engage, but it will not create an additional approval process, to avoid delaying implementation.

A number of noble Lords mentioned press coverage about encryption, which I am aware of. Let me be clear: there is no intention by the Government to weaken the encryption technology used by platforms, and we have built strong safeguards into the Bill to ensure that users' privacy is protected.

While the safety duties apply regardless of design, the Bill is clear that Ofcom cannot require companies to use proactive technology on private communications in order to comply with these duties. Ofcom can require the use of a technology by a private communication service only by issuing a notice to tackle child sexual exploitation and abuse content under Clause 122. A notice can be issued only where technically feasible and where technology has been accredited as meeting minimum standards of accuracy in detecting only child sexual abuse and exploitation content. Ofcom is also required to comply with existing data protection legislation when issuing a notice under Clause 122 and, as a public body, is bound by the Human Rights Act 1998 and the European Convention on Human Rights.

When deciding whether to issue a notice, Ofcom will work closely with the service to help identify reasonable, technically feasible solutions to address child sexual exploitation and abuse risk, including drawing on evidence from a skilled persons report. If appropriate technology which meets these requirements does not exist, Ofcom cannot require its use. That is why the powers include the ability for Ofcom to require companies to make best endeavours to develop or source a new solution. It is right that Ofcom should be able to require technology companies to use their considerable resources and expertise to develop the best possible protections for children in encrypted environments. That has been our long-standing policy position.

Our stance on tackling child sexual abuse online remains firm, and we have always been clear that the Bill takes a measured, evidence-based approach to do this. I hope that is useful clarification for those who still had questions on that point.

Lord Moylan (Con): Will my noble friend draw attention to the part of Clause 122 that says that Ofcom cannot issue a requirement which is not technically feasible, as he has just said? That does not appear in the text of the clause, and it creates a potential conflict. Even if the requirement is not technically feasible—or, at least, if the platform claims that it is not—Ofcom's power to require it is not mitigated by the clause. It still has the power, which it can exercise, and it can presumably take some form of enforcement action if it decides that the company is not being wholly open or honest. The technical feasibility is not built into the clause, but my noble friend has just added it, as with quite a lot of other stuff in the Bill.

Lord Parkinson of Whitley Bay (Con): It has to meet minimum standards of accuracy and must have privacy safeguards in place. The clause talks about those in a positive sense, which sets out the expectation. I am happy to make clear, as I have, what that means: if the appropriate technology does not exist that meets these requirements, then Ofcom will not be able to use Clause 122 to require its use. I hope that that satisfies my noble friend.

Amendment 1 agreed.

Amendments 2 and 3

Moved by ***Lord Parkinson of Whitley Bay***

2: Clause 44, page 45, line 31, at end insert—

"(7A) If the Secretary of State considers that publishing and laying before Parliament a direction given under this section would be against the interests of national security, public safety or relations with the government of a country outside the United Kingdom—

(a) subsection (7)(c) does not apply in relation to the direction, and

(b) the Secretary of State must, as soon as reasonably practicable, publish and lay before Parliament a document stating—

(i) that a direction has been given,

(ii) the kind of code of practice to which it relates, and

(iii) the reasons for not publishing it."

Member's explanatory statement

This amendment provides that in the circumstances mentioned in the amendment the Secretary of State is not required to publish and lay before Parliament a direction given under this Clause but must instead publish and lay before Parliament a document stating that a direction has been given, the code of practice to which it relates and the reasons for not publishing it.

3: Clause 44, page 46, line 2, leave out "and (8)" and insert "to (8)"

Member's explanatory statement

This amendment is consequential on the preceding amendment to this Clause in my name.

Amendments 2 and 3 agreed.

Clause 52: OFCOM's guidance about certain duties in Part 3

Amendment 4

Moved by ***Lord Parkinson of Whitley Bay***

4: Clause 52, page 52, line 12, leave out "subsection (9) of those sections" and insert "section 23(10) or 34(9)"

Member's explanatory statement

This is a technical amendment which substitutes the correct cross-references into this provision.

Amendment 4 agreed.

Clause 95: Meaning of threshold conditions etc

Amendment 5

Moved by ***Lord Parkinson of Whitley Bay***

5: Clause 95, page 85, line 12, at end insert—

"(za) references to a service meeting the Category 1, Category 2A or Category 2B threshold conditions are to a service meeting those conditions in a way specified in regulations under paragraph 1 of Schedule 11 (see paragraph 1(4) of that Schedule);"

Member's explanatory statement

This amendment improves the drafting to clarify that a service "meets the Category 1 threshold conditions" (for example) if the service meets them in a way set out in regulations under Schedule 11.

Amendment 5 agreed.

Clause 98: List of emerging Category 1 services

Amendment 6

Moved by ***Lord Parkinson of Whitley Bay***

6: Clause 98, page 88, line 19, after "which" insert "does not meet the Category 1 threshold conditions and which"

Member's explanatory statement

This amendment improves the drafting to clarify that services which are already Category 1 services, or which meet the conditions to be a Category 1 service, do not need to be assessed by OFCOM to see if they should be included in the list which is provided for by Clause 98.

Amendment 6 agreed.

Clause 101: Power to require information

Amendments 7 to 10

Moved by ***Lord Parkinson of Whitley Bay***

7: Clause 101, page 91, line 23, leave out from "that" to end of line 26 and insert "a person authorised by OFCOM is able to view remotely—"

Member's explanatory statement

This amendment changes the wording of one of OFCOM's information powers. The power now refers to viewing information remotely, rather than remotely accessing a service; the power is exercisable by a person authorised by OFCOM; and the power may only be exercised in relation to information as mentioned in Clause 101(3)(a) and (b).

8: Clause 101, page 91, line 29, leave out "the" and insert "a"

Member's explanatory statement

This amendment and the next amendment in my name make minor drafting changes in connection with the first amendment of Clause 101 in my name.

9: Clause 101, page 91, line 30, after "generated" insert "by a service"

Member's explanatory statement

This amendment and the preceding amendment in my name make minor drafting changes in connection with the first amendment of Clause 101 in my name.

10: Clause 101, page 93, line 5, at end insert—

"(7A) The reference in subsection (3) to a person authorised by OFCOM is to a person authorised by OFCOM in writing for the purposes of notices that impose requirements of a kind mentioned in that subsection, and such a person must produce evidence of their identity if requested to do so by a person in receipt of such a notice."

Member's explanatory statement

This amendment explains what is meant by the reference in Clause 101(3) to a person authorised by OFCOM.

Amendments 7 to 10 agreed.

Clause 103: Information notices

Amendment 11

Moved by ***Lord Parkinson of Whitley Bay***

11: Clause 103, page 94, line 27, at end insert—

"(4A) An information notice requiring a person to take steps of a kind mentioned in section 101(3) must give the person at least seven days' notice before the steps are required to be taken."

Member's explanatory statement

This amendment has the effect that if a person receives a notice from OFCOM requiring them to allow OFCOM to remotely view information, they must be given at least 7 days to comply with the notice.

Amendment 11 agreed.

Clause 121: Admissibility of statements

Amendments 12 to 14

Moved by ***Lord Parkinson of Whitley Bay***

12: Clause 121, page 105, line 32, after "101" insert ", 102"

Member's explanatory statement

Clause 121 is about the admissibility of statements in criminal proceedings. This amendment adds Clause 102 to the list of relevant information powers (information in connection with an investigation into the death of a child).

13: Clause 121, page 105, line 33, after "2(4)(e) or (f)," insert "3(2),"

Member's explanatory statement

This amendment adds paragraph 3(2) of Schedule 12 to the list of relevant information powers (notices in connection with an inspection by OFCOM).

14: Clause 121, page 106, line 7, after "18" insert "(1)(c)"

Member's explanatory statement

This amendment pinpoints paragraph 18(1)(c) of Schedule 12 as the offence relevant to this Clause (rather than paragraph 18 as a whole)(provision of false information in connection with an inspection by OFCOM etc).

Amendments 12 to 14 agreed.

Clause 162: OFCOM's report about use of app stores by children

Amendment 15

Moved by ***Lord Parkinson of Whitley Bay***

15: Clause 162, page 144, line 29, at end insert—

> ""age assurance" means age verification or age estimation;"

Member's explanatory statement

This amendment adds a definition of "age assurance" into this Clause.

Amendment 15 agreed.

Clause 182: Threatening communications offence

Amendments 16 and 17

Moved by ***Lord Parkinson of Whitley Bay***

16: Clause 182, page 159, line 29, after "out" insert "(whether or not by the person sending the message)"

Member's explanatory statement

This amendment makes it clear that the threatening communications offence in Clause 182 may be committed by a person who sends a threatening message regardless of who might carry out the threat.

17: Clause 182, page 159, line 31, after "out" insert "(whether or not by the person sending the message)"

Member's explanatory statement

This amendment makes it clear that the threatening communications offence in Clause 182 may be committed by a person who sends a threatening message regardless of who might carry out the threat.

Amendments 16 and 17 agreed.

4.21 pm

Motion

Moved by ***Lord Parkinson of Whitley Bay***

That the Bill do now pass.

Lord Parkinson of Whitley Bay (Con): My Lords, in begging to move that the Bill do now pass, I add my words of thanks to all noble Lords who have been involved over many years and many iterations of the Bill, particularly during my time as the Minister and in the diligent scrutiny we have given it in recent months. The Bill will establish a vital legislative framework, making the internet safer for all, particularly for children. We are now closer than ever to achieving that important goal. In a matter of months from Royal Assent, companies will be required to put in place protections to tackle illegal content on their services or face huge fines. I am very grateful to noble Lords for the dedication, attention and time they have given to the Bill while it has been before your Lordships' House.

The Bill will mark a significant change in children's safety online. Last month, data from UK police forces showed that 6,350 offences relating to sexual communications with a child were recorded last year alone. These are horrifying statistics which underline the importance of the Bill in building a protective shield for our children online. We cannot let perpetrators of such abhorrent crimes stalk children online and hide behind their screens, nor let companies continue to turn a blind eye to the harm being done to children on their services. We are working closely with Ofcom to make sure that the protections for children established by the Bill are enforced as soon as possible, and we have been clear that companies should not wait for the legislation to come into force before taking action.

The aim of keeping children safe online is woven throughout the Bill, and the changes that we have made throughout its passage in your Lordships' House have further bolstered it. In order to provide early and clear guidance to companies and Ofcom regarding the content from which children must be protected, rather than addressing these later via secondary legislation, the categories of primary priority and priority content which is harmful to children will now be set out in the Bill.

Following another amendment made during your Lordships' scrutiny, providers of the largest services will also be required to publish summaries of their risk assessments for illegal content and content which is harmful to children. Further changes to the Bill have also made sure that technology executives must take more responsibility for the safety of those who use their websites. Senior managers will face criminal liability if they fail to comply with steps set by Ofcom following

enforcement action to keep children safe on their platforms, with the offence punishable with up to two years in prison.

Noble Lords have rightly raised concerns about what the fast-changing technological landscape will mean for children. The Bill faces the future and is designed to keep pace with emerging technological changes such as AI-generated pornography.

Child sexual exploitation and abuse content generated by AI is illegal, regardless of whether it depicts a real child or not, and the Bill makes it clear that technology companies will be required to identify this content proactively and remove it. Whatever the future holds, the Bill will ensure that guard rails are in place to allow our children to explore it safely online.

I have also had the pleasure of collaborating with noble Lords from across your Lordships' House who have championed the important cause of strengthening protections for women and girls online, who we know disproportionately bear the brunt of abhorrent behaviour on the internet. Following changes made earlier to the Bill, Ofcom will be required to produce and publish guidance which summarises in one clear place measures that should be taken to reduce the risk of harm to women and girls online. The amendment will also oblige Ofcom to consult when producing the guidance, ensuring that it reflects the voices of women and girls as well as the views of experts on this important issue.

The Bill strikes a careful balance: it tackles criminal activity online and protects our children while enshrining freedom of expression in its legislative framework. A series of changes to the Bill has ensured that adults are provided with greater control over their online experience. All adult users of the largest services will have access to tools which, if they choose to use them, will allow them to filter out content from non-verified users and to reduce the likelihood of encountering abusive content. These amendments, which have undergone careful consideration and consultation, will ensure that the Bill remains proportionate, clear and future-proof.

I am very grateful to noble Lords who have helped us make those improvements and many more. I am conscious that a great number of noble Lords who have taken part in our debates were part of the pre-legislative scrutiny some years ago. They know the Bill very well and they know the issues well, which has helped our debates be well informed and focused. It has helped the scrutiny of His Majesty's Government, and I hope that we have risen to that.

I am very grateful to all noble Lords who have made representations on behalf of families who have suffered bereavements because of the many terrible experiences online of their children and other loved ones. There are too many for me to name now, and many more who have not campaigned publicly but who I know have been following the progress of the Bill carefully, and we remember them all today.

Again, there are too many noble Lords for me to single out all those who have been so vigilant on this issue. I thank my colleagues on the Front Bench, my noble friends Lord Camrose and Lord Harlech, and on the Front Bench opposite the noble Lords, Lord Knight and Lord Stevenson, and the noble Baroness, Lady Merron. On the Liberal Democrat Benches, I thank the noble Lords, Lord Clement-Jones and Lord Allan of Hallam—who has been partly on the Front Bench and partly behind—who have been working very hard on this.

I also thank the noble Baroness, Lady Kidron, whom I consider a Front-Bencher for the Cross Benches on this issue. She was at the vanguard of many of these issues long before the Bill came to your Lordships' House and will continue to be long after. We are all hugely impressed by her energy and personal commitment, following the debates not only in our own legislature but in other jurisdictions. I am grateful to her for the collaborative nature of her work with us.

I will not single out other noble Lords, but I am very grateful to them from all corners of the House. They have kicked the tyres of the Bill and asked important questions; they have given lots of time and energy to it and it is a better Bill for that.

I put on record my thanks to the huge team in my department and the Department for Science, Innovation and Technology, who, through years of work, expertise and determination, have brought the Bill to this point. I am grateful to the staff of your Lordships' House and to colleagues from the Office of the Parliamentary Counsel, in particular Maria White and Neil Shah, and, at the Department for Science, Innovation and Technology, Sarah Connolly, Orla MacRae, Caroline Bowman and Emma Hindley as well as their huge teams, including those who have worked on the Bill over the years but are not currently working on it. They have worked extremely hard and been generous with their time to noble Lords for the use of our work.

The Bill will make a vital difference to people's safety online, especially children's safety. It has been a privilege to play a part in it. I was working as a special adviser at the Home Office when this area of work was first mooted. I remember that, when this Bill was suggested in the 2017 manifesto, people suggested that regulating the internet was a crazy idea. The biggest criticism now is that we have not done it sooner. I am very grateful to noble Lords for doing their scrutiny diligently but speedily, and I hope to see the Bill on the statute book very soon. I beg to move that the Bill do now pass.

Lord Stevenson of Balmacara (Lab): My Lords, I am grateful to the Minister for his very kind words to everybody, particularly my Front Bench and me. I also wish him a speedy recovery from his recent illness, although I was less sympathetic when I discovered how much he has been "managing upwards"—in the words of my noble friend Lord Knight—and achieving for us in the last few days. He has obviously been recovering and I am grateful for that. The noble Lord has steered the Bill through your Lordships' House with great skill and largely single-handedly. It has been a pleasure to work with him, even when he was turning down our proposals and suggestions for change, which he did in the nicest possible way but absolutely firmly.

4.30 pm

As has been mentioned, the original Green Paper was a response to the consultation on internet safety that the noble Lord mentioned, which started in October 2017. We are fast approaching six years later.

[Lord Stevenson of Balmacara]
A commitment to legislate has appeared in all the party election manifestos since then, but there have been changes in approach. That is not surprising given the turnover in Secretaries of State and junior Ministers, not forgetting that there has also been a change of department in that period. However, nearly six years on, it is gratifying to see that the bones of the original approach, albeit modified by the White Paper, are still in this version of the Bill.

Government processes can be cumbersome, but on this Bill they have worked very well. The Green and White Papers, and the government response to many of the consultations, all helped to set out thinking, clarify the approach and give early notice to companies likely to be in scope of the Bill. It was a very smart move to select Ofcom as the regulator early on and to fund it to prepare and scale up. That will prove to be a very good investment in future years.

Adding the pre-legislative joint scrutiny committee, which the noble Lord mentioned and which had five Members from this House, was a very important step. Damian Collins MP, who perhaps does not get the credit that he should, was a very good choice as chairman. The noble Lord, Lord Clement-Jones, kept us fully briefed on the report as we went through the various stages—he probably has a copy in his hands as we speak and may well want to quote from it even more. That so many of those recommendations are now in the Bill shows, as the Minister says, what can happen if we pool our efforts and pull together for a common aim.

Given that there was broad political agreement and that the key principles of the Bill were right, at Second Reading in your Lordships' House I called for us to work together across party lines to ensure that we got the best Bill that we could out of what was before us. I was touched that so many colleagues from across the House agreed with my approach and went out of their way to offer their support. It was really good to see colleagues working together across the House, ignoring party lines, in pursuit of a better Bill. We are all Cross-Benchers at heart, or Bishops—perhaps not.

We got off to a slightly rocky start in Committee, with virtually everything being dismissed with a very superior form of words—usually that we had not foreseen the unforeseen consequences of our amendment being accepted—but it is good to see a lot of those amendments trumping back into the Bill now. But the debates themselves were useful and built a consensus around several key areas. It was clear that this collaborative approach can be very effective. Indeed, this way of working has shown parliamentary scrutiny at its best. We had debates of high quality, generating real insights on the Floor of the House. To be fair, by the time we got to Report, the Government rose to the challenge and responded with nearly 200 amendments that are going forward to the Commons. If you think about it, this is all the more remarkable given the intense partisanship that has characterised our public life during this time.

While a few significant issues still need to be resolved, there have been big changes and developments in the last few days. Following discussions with my noble friend Lady Merron, Sir Jeremy Wright and the noble Baroness, Lady Morgan, the Government have offered to bring forward amendments at the Commons consideration of Lords amendments stage next week. But, as the noble Baroness, Lady Morgan, said, we need to see those and to be clear that they are going in the direction that we have been told they will. We want to make sure that the Government will deliver what they have offered in these outstanding points. If they do, we can look forward to the strong possibility of completing parliamentary processes on the Bill by the end of this September sitting.

I thank the Bill team for all the work they did throughout. It was particularly good that the Minister mentioned them by name, because they have given a huge amount to us. I do not think that any holidays or time off have been allowed over the last few years, as they have worked through the various changes we have proposed. Their willingness to share their thinking has been absolutely fantastic. Taking us into their confidence on the policy issues that were still not finalised within government was difficult for them, and of course runs counter to all the usual approaches. I have been on Bills when we have had no information at all about the thinking. It was better here when we were talking about these things, having meetings that looked at the options and thinking about the ways in which they might be taken forward. I am sure it gave us the chance to make better decisions about when to settle, and as a result I hope that the Bill team will agree that the Bill is now in much better shape than it was.

Of course, the Opposition are at a considerable disadvantage to the Government in the support we can command when trying to take on legislation and give good scrutiny, as we wish to do. Dan Stevens in our office has done a magnificent job for us, despite having several other policy briefs to deal with. We would have struggled to deal with this Bill without his calm and measured advice and administrative skills. I think we should put it on record that we have also had a lot of support from the Public Bill Office. It is very hard to get amendments that say what you want, in language that will be accepted and allows them to be debated. Its staff often say that they are not parliamentary draftsmen or lawyers, but they make a pretty good job of what they have to do.

I also pay tribute to the All-Party Group on Digital Regulation and Responsibility, chaired by Sir Jeremy Wright, which has tracked the progress of the Bill throughout its many stages, organised meetings and circulated briefings, which has been incredibly useful. I think all of us involved in the Bill have benefited from the expertise and knowledge of the Carnegie UK Trust, led on this occasion by one of its trustees, William Perrin, who, with Professor Lorna Woods, was key to the initial development of the duty of care approach, and who, together with Maeve Walsh and others from the Carnegie team, supplied high-quality briefings and advice as we went through the various stages.

Finally, I thank my noble friends Lady Gillian Merron and Lord Jim Knight, who have supported me throughout this period despite having significant responsibilities in other areas, have taken the strain when needed without complaint, and have indeed won

improvements to the Bill that I perhaps would not even have thought of, let alone obtained. It has been a real team effort, a joy and a pleasure, and a most enjoyable experience.

Lord Clement-Jones (LD): My Lords, I am probably going to echo quite a lot of what the noble Lord, Lord Stevenson, had to say, and I also pay tribute to him. This is an absolutely crucial piece of cross-party-supported legislation that many said was impossible. I believe that it is a landmark, and we should all take huge encouragement from seeing it pass through this House.

We started with the Green Paper, as the noble Lord, Lord Stevenson, said, back in 2017. Many of us have been living with this issue since then, and I hope that therefore the House will not mind if I make a few more extended remarks than usual on the Motion that the Bill do now pass. I will not disappoint the noble Lord, Lord Stevenson, because I will quote from the original Joint Committee report. As we said in the introduction to our Joint Committee report back in 2021:

"The Online Safety Bill is a key step forward for democratic societies to bring accountability and responsibility to the internet".

We said that the most important thing was to

"hold online services responsible for the risks created by their design and operation".

Our children and many others will be safer online as a result.

Across the House, this has been a huge joint venture. We made some very good progress, with the Minister and the Secretary of State demonstrating considerable flexibility. I thank them sincerely for that. We have tightened the Bill up, particularly regarding harms and risks, while, I believe, ensuring that we protect freedom of expression. Many Members of this House, including former Members of the Joint Committee, can take some pride in what has been achieved during the passage of the Bill through the House. I will add my thanks to some of them individually shortly.

The Minister mentioned a relatively short list; he was actually rather modest in mentioning some of the concessions that have been given while the Bill has passed through the House. For instance, the tightening up of the age-assurance measures and the adding of a schedule of age-assurance principles are really important additions to the Bill.

Risk assessment of user empowerment tools is very important, and I believe that the provisions about app stores and future regulation are an important aspect of the Bill. The freedom of expression definition has been inserted into the Bill. We have had new offences, such as facilitating self-harm and intimate image abuse, added during the passage of the Bill. I am delighted to say that, as the noble Lord, Lord Stevenson, said, we expect to hear further concessions in the Commons on both the functionality issue raised by the noble Baroness, Lady Kidron, and the category 1 aspects raised by the noble Baroness, Lady Morgan.

We very much welcome the amendments that have been tabled today, including the remote-viewing clarification. We wait to hear what the Government's position will be—I am sure that discussions are ongoing since the House voted to include a provision to review whether animal cruelty offences online should be brought into scope, and I am delighted to see the noble Baroness, Lady Hayman, here—and whether they will preserve the amendment and perhaps also include wildlife-trafficking offences in order to ensure that we avoid ping-pong on that last issue.

We on these Benches have never been minded to spoil the ship for a halfpenny-worth of tar, but that is not to say that there are not areas where we would have liked to have seen a bit more progress. I do not think the Minister will be surprised to hear me say that there are one or two such areas, such as: risk assessment, where we believe that the terms of service should be subject to a mandatory risk assessment; the threshold of evidence required for illegality; the prosecution threshold as regards the encouragement of non-fatal self-harm; the intent requirement for cyber flashing; and verification status and visibility, and whether Ofcom can actually introduce requirements.

I heard what the Minister had to say about AI-generated pornography but, like the NSPCC, I am not convinced that we have adequately covered the features provided as part of a service in the metasphere with which users interact. Bots in the metaverse are demonstrating an extraordinary level of autonomy that could potentially be harmful and, it seems, may not be covered by the Bill. Time will tell, and we will see whether that is the case.

Then of course there is the lack of legislative teeth for the review of research access and no requirement for guidance afterwards. I very much hope that will happen, despite there being no obligation at the end of the day.

I have mentioned Clauses 176 and 177. We wait to see how those will pan out. Then of course there is the issue on which these Benches have spoken virtually alone: the question of news publisher definition and exemption.

I very much welcome the last piece of assurance that the Minister gave in terms of Ofcom's powers under Clause 122. Even as late as last night we heard news reports and current affairs programmes discussing the issue, and I genuinely believe that what the Minister said will be reassuring. Certainly I took comfort from what he had to say, and I thank him for agreeing to say it at a pretty late stage in the proceedings.

I think we all recognise that in many ways the Bill is just the beginning. There will be much further work to be done. We need to come back on misinformation when the committee set up under Clause 153 has reported. I hope that in particular it will look at issues such as provenance solutions such as those provided by the Content Authenticity Initiative. Fundamental changes will be needed to our electoral law in order to combat misinformation in the course of our elections, because we have had several Select Committees say that, and I believe the misinformation advisory committee will come to the same conclusion.

It is also clear that Parliament itself needs to decide how best to scrutinise the Bill in both its operation and its effectiveness. As we in the Joint Committee sought to suggest, there could be a Joint Committee of both Houses to carry on that scrutiny work, but I very

[Lord Clement-Jones]
much hope that will not be the case. I hope the SIT Select Committee in the Commons will pick up the cudgel and that the committee of the noble Baroness, Lady Stowell, the Communications and Digital Select Committee, will do likewise in the House of Lords.

4.45 pm

There are going to be many codes. The Minister talked about this, and we very much welcome his statement about the intent to consult and lay the codes in good time. I hope the committees will engage in the scrutiny of those as we go through, because the codes will be absolutely crucial to how this Bill will be implemented. The timing of the implementation of the Bill's provisions will be crucial. I hope that Ofcom and DSIT will be very clear in their guidance about the timings and how the different parts of the Bill will be brought into operation and the codes of conduct drafted.

I know it is invidious in these proceedings to single out individuals but, as everybody who has spent time here during the course of this Bill will know, this has been a Back-Bench inspired set of amendments. In many ways, it is not really the Front Benches that have made a lot of the running; the passion and expertise of so many Back-Benchers has driven so many of the amendments. I pay tribute to all of them without, sadly, being able to read out all their names. I think they should know that they have the gratitude of everybody who has had anything to do with this Bill.

I do, however, want to single out my friend the Labour Front-Bench spokesman, who has spent so much time on this Bill: the noble Lord, Lord Stevenson. In particular, his dispute-resolution skills have been to the fore. He set the tone at the very beginning of our proceedings in this House, which is highly unusual; I do not think we will be expecting similar behaviour any time soon. His open offer at the very beginning was highly significant and has coloured our proceedings. Of course, we all need to single out the noble Baroness, Lady Kidron. She is a total force of nature, and we all stand in awe of what she has managed to achieve with this Bill.

I thank my noble friend Lord Allan, who identified the marshmallow problem, for his considerable expertise and practical experience, which has been totally invaluable. I thank my noble friends Lords McNally and Lady Burt and, in absentia, my noble friend Lady Featherstone, who has now returned to her place; I am delighted to see that. I thank our extraordinarily hard-working Sarah Pughe, who is ably assisted by Mohamed-Ali Souidi in our Whips' Office, and my former senior researcher, Zoë Asser, from Queen Mary University of London.

I also—finally, noble Lords will be pleased to hear—pay my own tribute to Carnegie UK, especially Will Perrin, Maeve Walsh and Professor Lorna Woods, for having the vision five years ago as to what was possible around the construction of a duty of care and for being by our side throughout the creation of this Bill. I also thank Reset, which has helped co-ordinate our activities, and the huge number of organisations that have briefed us on issues ranging from children's safety to freedom of speech throughout our proceedings. I echo our thanks to Sir Jeremy Wright and the all-party group, and to Damian Collins, who has been a tower of strength in helping us. Quite often, the other end ceases to take much interest in what we do as soon as a Bill comes here, but we have gone through this Bill hand-in-hand and that has been of huge usefulness and importance.

We are entering unknown territory in many ways, but with a huge amount of good will to make this Bill work.

Baroness Kidron (CB): My Lords, I want to thank the Minister and other noble colleagues for such kind words. I really appreciate it.

I want to say very little. It has been an absolute privilege to work with people across both Houses on this. It is not every day that one keeps the faith in the system, but this has been a great pleasure. In these few moments that I am standing, I want to pay tribute to the bereaved parents, the children's coalition, the NSPCC, my colleagues at 5Rights, Barnardo's, and the other people out there who listen and care passionately that we get this right. I am not going to go through what we got right and wrong, but I think we got more right than we got wrong, and I invite the Minister to sit with me on Monday in the Gallery to make sure that those last little bits go right—because I will be there. I also remind the House that we have some work in the data Bill vis-à-vis the bereaved parents.

In all the thanks—and I really feel that I have had such tremendous support on my area of this Bill—I pay tribute to the noble Baroness, Lady Benjamin. She was there before many people were and suffered cruelly in the legislative system. Our big job now is to support Ofcom, hold it to account and help it in its task, because that is Herculean. I really thank everyone who has supported me through this.

Lord Moylan (Con): My Lords, I am sure that your Lordships would not want the Bill to pass without hearing some squeak of protest and dissent from those of us who have spent so many days and weeks arguing for the interests of privacy and free speech, to which the Bill remains a very serious and major threat.

Before I come to those remarks, I associate myself with what other noble Lords have said about what a privilege it has been, for me personally and for many of us, to participate over so many days and weeks in what has been the House of Lords at its deliberative best. I almost wrote down that we have conducted ourselves like an academic seminar, but when you think about what most academic seminars are like—with endless PowerPoint slides and people shuttling around, and no spontaneity whatever—we exceeded that by far. The conversational tone that we had in the discussions, and the way in which people who did not agree were able to engage—indeed, friendships were made—meant that the whole thing was done with a great deal of respect, even for those of us who were in the small minority. At this point, I should perhaps say on behalf of the noble Baroness, Lady Fox of Buckley, who participated fully in all stages of the Bill, that she deeply regrets that she cannot be in her place today.

I am not going to single out anybody except for one person. I made the rather frivolous proposal in Committee that all our debates should begin with the noble Lord, Lord Allan of Hallam; we learned so much from every contribution he made that he really should have kicked them all off. We would all have been a great deal more intelligent about what we were saying, and understood it better, had we heard what he had to say. I certainly have learned a great deal from him, and that was very good.

I will raise two issues only that remain outstanding and are not assuaged by the very odd remarks made by my noble friend as he moved the Third Reading. The first concerns encryption. The fact of the matter is that everybody knows that you cannot do what Ofcom is empowered by the Bill to do without breaching end-to-end encryption. It is as simple as that. My noble friend may say that that is not the Government's intention and that it cannot be forced to do it if the technology is not there. None of that is in the Bill, by the way. He may say that at the Dispatch Box but it does not address the fact that end-to-end encryption will be breached if Ofcom finds a way of doing what the Bill empowers it to do, so why have we empowered it to do that? How do we envisage that Ofcom will reconcile those circumstances where platforms say that they have given their best endeavours to doing something and Ofcom simply does not believe that they have? Of course, it might end up in the courts, but the crucial point is that that decision, which affects so many people—and so many people nowadays regard it as a right to have privacy in their communications—might be made by Ofcom or by the courts but will not be made in this Parliament. We have given it away to an unaccountable process and democracy has been taken out of it. In my view, that is a great shame.

I come back to my second issue—I will not be very long. I constantly ask about Wikipedia. Is Wikipedia in scope of the Bill? If it is, is it going to have to do prior checking of what is posted? That would destroy its business model and make many minority language sites—I instanced Welsh—totally unviable. My noble friend said at the Dispatch Box that, in his opinion, Wikipedia was not going to be in scope of the Bill. But when I asked why we could not put that in the Bill, he said it was not for him to decide whether it was in scope and that the Government had set up this wonderful structure whereby Ofcom will tell us whether it is—almost without appeal, and again without any real democratic scrutiny. Oh yes, and we might have a Select Committee, which might write a very good, highly regarded report, which might be debated some time within the ensuing 12 months on the Floor of your Lordships' House. However, we will have no say in that matter; we have given it away.

I said at an earlier stage of the Bill that, for privacy and censorship, this represents the closest thing to a move back to the Lord Chamberlain and *Lady Chatterley's Lover* that you could imagine but applied to the internet. That is bad, but what is almost worse is this bizarre governance structure where decisions of crucial political sensitivity are being outsourced to an unaccountable regulator. I am very sad to say that I think that, at first contact with reality, a large part of this is going to collapse, and with it a lot of good will be lost.

Baroness Benjamin (LD): My Lords, I rise very briefly to thank the Minister for getting us to where we are today—the content of a Bill that I have advocated for over a decade. I thank the noble Baroness, Lady Kidron, for her kind words. She is my heroine.

I am so happy today to discuss the final stages of this Bill. The Minister has shown true commitment, tenacity and resilience, even through the holiday period. He has listened to the voices of noble Lords from across the House and to parents, charities and schools, and he has acted in the best interests of the future of society's well-being. To him I say thank you. I fully support what he has to say today about measures that he has put down to safeguard children to prevent the worst type of child sexual abuse and exploitation imaginable, which, according to the IWF, has doubled in the last two years.

I am pleased that the Government have not been blown off course by those who feel that privacy is more important than child protection. I hope that Clause 122 of the Bill in relation to the use of technology notices remains unchanged in the final stages of deliberation. It will be good to have that confirmation once again today from the Minister.

On behalf of the IWF, CEASE and Barnardo's—I declare an interest as a vice-president—we are so grateful to the Minister for the diligence, hard work and dedication to duty that he has shown. I very much look forward to continuing working closely with him, and with noble Lords from all sides of the House, to ensure that the implementation of the amendments we have all worked so hard to secure happens.

I look ahead to the review into pornography, which is often the gateway to other harms. I also look forward to working to make the UK the safest place in the world—the world is looking at us—to go online for everyone in our society, especially our children. As I always say, childhood lasts a lifetime. What a legacy we will leave for them by creating this Bill. I thank the Minister for everything that he has done—my "Play School" baby.

5 pm

Baroness Stowell of Beeston (Con): My Lords, I shall ask my noble friend the Minister a question about encryption but, before I do, I will briefly make a couple of other points. First, I echo all the tributes paid around the House to those involved in this legislation. It is no secret that I would have preferred the Bill to be about only child safety, so I particularly congratulate the Government, and the various Members who focused their efforts in that area, on what has been achieved via the Bill.

That said, the Government should still consider other non-legislative measures, such as banning smartphones in schools and government guidance for parents on things such as the best age at which to allow their children to have their own smartphones. These may not be points for DCMS, but they are worth highlighting at this point, as the Bill leaves us, soon to become legislation.

As I said on Report, I remain concerned about the reintroduction of some protections for adults, in lieu of "legal but harmful", without any corresponding

[Baroness Stowell of Beeston]
amendments to reinforce to Ofcom that freedom of expression must be the top priority for adults. We now have to leave it to Ofcom and see what happens. I know that the current leadership is deeply conscious of its responsibilities.

On encryption, I was pleased to hear what my noble friend said when he responded to the debate at Third Reading. If he is saying that the technology not existing means that Clause 122 cannot be deployed, as it were, by Ofcom, does that mean that the oversight measures that currently exist would not be deployed? As my noble friend will recall, one of the areas that we were still concerned about in the context of encryption was that what was in the Bill did not mirror what exists for RIPA. I am not sure whether that means that, because Clause 122 has been parked, our oversight concerns have been parked too. It would be helpful if the Minister could clarify that.

In the meantime, in the absence of Clause 122, it is worth us all reinforcing again that we want the tech firms to co-operate fully with law enforcement, either because a user has alerted them to illegal activity or when law enforcement suspects criminal behaviour and seeks their help. In that latter context, it would be helpful to understand what the Minister has said and to know what oversight that might involve. I congratulate my noble friend on this marathon Bill, and I am sorry to have delayed its passing.

Lord Allan of Hallam (LD): My Lords, I will make a short contribution so that I do not disappoint the noble Lord, Lord Moylan; I will make a few direct and crunchy comments. First, I thank colleagues who participated in the debate for giving me a hearing, especially when I raised concerns about their proposals. It has been a constructive process, where we have been, as the Minister said, kicking the tyres, which is healthy in a legislature. It is better to do it now than to find faults when something has already become law.

I am in the unusual position of having worked on problems comparable to those we are now placing on Ofcom's desk. I have enormous empathy for it and the hard work we are giving it. I do not think we should underestimate just how difficult this job is.

I want to thank the Minister for the additional clarification of how Ofcom will give orders to services that provide private communications. Following on from what the noble Baroness, Lady Stowell, said, I think this is a challenging area. We want Ofcom to give orders where this is easy—for example, to an unencrypted service hosting child sexual abuse material. The technology can be deployed today and is uncontroversial, so it is important that we do not forget that.

I heard the Minister say that we do not want Ofcom to move so fast that it breaks encryption. It should be moving but it should be careful. Those are the fears that have been expressed outside: on the day that this becomes law, Ofcom will issue orders to services providing encrypted communications that they will not be able to accept and therefore they will leave the UK. I think I heard from the Minister today that this is not what we want Ofcom to do. At the same time, as the noble Baroness, Lady Stowell said, we are not expecting Ofcom to ease off; any online service should be doing everything technically possible and feasible to deal with abhorrent material.

I humbly offer three pieces of advice to Ofcom as we pass the baton to it. This is based on having made a lot of mistakes in the past. If I had been given this advice, I might have done a better job in my previous incarnation. First, you cannot overconsult; Ofcom should engage with all interested parties, including those who have talked to us throughout the process of the Bill. It should engage with them until it is sick of engaging with them and then it should engage some more. In particular, Ofcom should try to bring together diverse groups, so I hope it gets into a room the kind of organisations that would be cheering on the noble Lord, Lord Moylan, as well as those that would be cheering on the noble Baroness, Lady Kidron. If Ofcom can bring them into the room, it has a chance of making some progress with its regulations.

Secondly, be transparent. The more information that Ofcom provides about what it is doing, the less space it will leave for people to make up things about what it is doing. I said this in the previous debate about the access request but it applies across the piece. We are starting to see some of this in the press. We are here saying that it is great that we now have a government regulator—independent but part of the UK state—overseeing online services. As soon as that happens, we will start to see the counterreaction of people being incredibly suspicious that part of the UK state is now overseeing their activity online. The best way to combat that is for Ofcom to be as transparent as possible.

Thirdly, explain the trade-offs you are making. This legislation necessarily involves trade-offs. I heard it again in the Minister's opening remarks: we have indulged in a certain amount of cakeism. We love freedom of expression but we want the platforms to get rid of all the bad stuff. The rubber is going to hit the road once Ofcom has the powers and, in many cases, it will have to decide between one person's freedom of expression and another's harm. My advice is not to pretend that you can make both sides happy; you are going to disappoint someone. Be honest and frank about the trade-offs you have made. The legislation has lots of unresolved trade-offs in it because we are giving lots of conflicting instructions. As politicians, we can ride that out, but when Ofcom gets this and has to make real decisions, my advice would be to explain the trade-offs and be comfortable with the fact that some people will be unhappy. That is the only way it will manage to maintain confidence in the system. With that, I am pleased that the Bill has got to this stage and I have a huge amount of confidence in Ofcom to take this and make a success of it.

Lord Bethell (Con): I rise briefly to raise the question of access to data by academics and research organisations. Before I do so, I want to express profound thanks to noble Lords who have worked so collaboratively to create a terrific Bill that will completely transform and hold to account those involved in the internet, and make it a safer place. That was our mission and we should be very proud of that. I cannot single out noble Peers, with the exception of the noble Baroness, Lady Kidron, with whom I worked collaboratively

both on age assurance and on harms. It was a partnership I valued enormously and hope to take forward. Others from all four corners of the House contributed to the parts of the Bill that I was particularly interested in. As I look around, I see so many friends who stuck their necks out and spoke so movingly, for which I am enormously grateful.

The question of data access is one of the loose ends that did not quite make it into the Bill. I appreciate the efforts of my noble friend the Minister, the Secretary of State and the Bill team in this matter and their efforts to try and wangle it in; I accept that it did not quite make it. I would like to hear reassurance from my noble friend that this is something that the Government are prepared to look at in future legislation. If he could provide any detail on how and in which legislation it could be revisited, I would be enormously grateful.

Lord Parkinson of Whitley Bay (Con): My Lords, I will be brief and restrict myself to responding to the questions which have been raised. I will hold to my rule of not trying to thank all noble Lords who have played their part in this scrutiny, because the list is indeed very long. I agree with what the noble Lord, Lord Clement-Jones, said about this being a Back-Bench-driven Bill, and there are many noble Lords from all corners of the House and the Back Benches who have played a significant part in it. I add my thanks to the noble Baroness, Lady Benjamin, not just for her kind words, but for her years of campaigning on this, and to my noble friend Lord Bethell who has worked with her—and others—closely on the issues which she holds dear.

I also thank my noble friend Lord Moylan who has often swum against the tide of debate, but very helpfully so, and on important matters. In answer to his question about Wikipedia, I do not have much to add to the words that I have said a few times now about the categorisation, but on his concerns about the parliamentary scrutiny for this I stress that it is the Secretary of State who will set the categorisation thresholds. She is, of course, a Member of Parliament, and accountable to it. Ofcom will designate services based on those thresholds, so the decision-making can be scrutinised in Parliament, even if not in the way he would have wished.

I agree that we should all be grateful to the noble Lord, Lord Allan of Hallam, because he addressed some of the questions raised by my noble friend Lady Stowell of Beeston. In brief, the provision is flexible for where the technological solutions do not currently exist, because Ofcom can require services to develop or source new solutions.

This close to the gracious Speech, I will not point to a particular piece of legislation in which we might revisit the issue of researchers' access, as raised by my noble friend Lord Bethell, but I am happy to say that we will certainly look at that again, and I know that he will take the opportunity to raise it.

Noble Lords on the Front Benches opposite alluded to the discussions which are continuing—as I committed on Report to ensure that noble Lords are able to be part of discussions as the Bill heads to another place—on functionalities and on the amendment of my noble friend Lady Morgan on category 1 services. She is one of a cavalcade of former Secretaries of State who have been so helpful in scrutinising the Bill. It is for another place to debate them, but I am grateful to noble Lords who have given their time this week to have the discussions which I committed to have and will continue to have as the Bill heads there, so that we can follow those issues hopefully to a happy resolution.

I thank my noble friend Lady Harding of Winscombe for the concessions that she wrought on Report, and for the part that she has played in discussions. She has also given a great deal of time outside the Chamber.

We should all be very grateful to the noble Lord, Lord Grade of Yarmouth, who has sat quietly throughout most of our debates—understandably, in his capacity as chairman of Ofcom—but he has followed them closely and taken those points to the regulator. Dame Melanie Dawes and all the team there stand ready to implement this work and we should be grateful to the noble Lord, Lord Grade of Yarmouth, and to all those at Ofcom who are ready to put it into action.

Bill passed and returned to the Commons with amendments.

Levelling-up and Regeneration Bill

Report (6th Day) (Continued)

5.15 pm

Amendment 201

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

201: After Clause 95, insert the following new Clause—

"Definition of affordable housing

(1) Within 90 days of the day on which this Act is passed, a Minister of the Crown must publish the report of a consultation on the definition of affordable housing.

(2) Within 30 days of the publication of the report, a Minister of the Crown must by regulations update the definition of affordable housing as set out in Annex 2 to the National Planning Policy Framework."

Member's explanatory statement

This amendment means that the Government must update the definition of affordable housing following a consultation.

Baroness Hayman of Ullock (Lab): My Lords, I thank the noble Lord, Lord Stunell, and—

Baroness Swinburne (Con): I apologise but, given that we are running over what we thought was the anticipated time for starting, and given the large number of topics to discuss today on Report, I respectfully remind all participants to have a brevity objective in mind, as required in the *Companion* for Report stage.

Baroness Hayman of Ullock (Lab): As I was saying, I thank the noble Lord, Lord Stunell, and the noble Baroness, Lady Bennett of Manor Castle, for their support for my Amendment 201. My amendment inserts a new clause for the definition of affordable housing. It asks that, within 90 days of when the

"Act is passed, a Minister … must publish the report of a consultation on the definition of affordable housing".

[Baroness Hayman of Ullock]
Following the publication of that report, within 30 days, the definition must be updated in the National Planning Policy Framework. The reason we have put this forward is because we feel that the current definition in the National Planning Policy Framework is simply not fit for purpose.

Earlier today, we passed the amendment from the noble Lord, Lord Best, on social housing. He is not in his place, but I point out that getting that sorted out is part of managing our problem with affordable housing. So, in many ways, although they are not in the same group, these amendments in fact work together. The noble Lord is also the chair of the Affordable Housing Commission, and although he is not here, I pay tribute to the important work that he has done with that. The Affordable Housing Commission has produced an important report on this issue, *Making Housing Affordable Again*, which I urge all noble Lords with an interest to study.

When we consider affordable housing, we need to look at a number of issues, the first of which is to ask who has a problem with it. What the commission did was to divide the overall picture into four different groups: struggling renters; low-income older households; struggling home owners; and frustrated first-time buyers. So this issue affects a very large proportion of our population, including people who are trying to find themselves a decent, secure home. The way that housing affordability is currently defined and measured is as rents or purchase costs that are lower than in the open marketplace; we believe that that definition is both misleading and confusing. It is a crude definition, which is not helping to solve the problem. It brings "affordable housing" to a level that is way beyond the means of many who need a home.

The commission offers a new definition of affordability, which views the issue from the perspective of the household and not from the marketplace—as the current definition does. What can people pay for their housing without risking financial and personal problems? Who is facing these problems of unaffordability, and exactly what is the scale of the problem?

The NPPF definition of affordable housing is made with reference to various housing products, from social rent to low-cost home ownership. Even if eligibility is bounded by local incomes, except for social rent, of course, affordable housing remains market-led, rather than being defined by personal income. This has led to a number of local authorities being extremely sceptical about their ability to deliver the affordable housing their areas need.

A cursory glance at the affordable rent level shows that in many areas a three-bedroom, affordable-rent property cost £400 per week. This is clearly way out of the pocket of many people in this country. I suggest that the Government look at what the Affordable Housing Commission is calling on them to do. We believe it provides a good starting point for solving the housing crisis we are in.

First, it suggests a rebalancing of the housing system so that there will be affordable housing opportunities for all by 2045. Affordable housing should be made a national priority and placed at the centre of a national housing strategy. The safety net for struggling renters and home owners should be improved. A new definition and alternative measures of housing affordability should be adopted which relate to people's actual income and circumstances, rather than just to the market.

We agree with the Affordable Housing Commission. Will the Minister accept that the current definition is not fit for purpose? In order to help the very many people who are struggling either to buy or rent a home, will the Government put into the Bill a commitment to act to change the definition so that affordable housing actually means what it says?

I have spoken on this issue a number of times. Others are saying what we are saying. The Affordable Housing Commission is saying it. People who understand the system and have identified how it can be changed for the better are offering concrete, constructive ways in which things can be improved. I hope that the Minister can accept my amendment as a starting point on this journey to improve the current situation. If I do not have her assurance that this will be the case, I will test the opinion of the House on this matter.

Lord Stunell (LD): My Lords, I have added my name to Amendment 201 in the name of the noble Baroness, Lady Hayman of Ullock. As she clearly set out, there is a complete absence of focus on what is and is not affordable when it comes to government policy-making. That policy is in desperate need of overhaul and a recalibration. This amendment puts that overhaul firmly on the agenda. It is a fitting addition to the Bill. I hope that the Minister will accept it. If not, I and my colleagues will strongly support the noble Baroness in pressing it to a vote.

In Committee, I made the case as strongly as I could that the highly desirable objective of the provision of affordable housing, which is shared on all sides of this Chamber, is not being achieved in real life. It has failed by a wide margin, as the noble Baroness has just set out. At present, about half of affordable homes—the ones which are given capital letters by policy-makers—are supposedly delivered through planning obligations placed on developers. The reality is that in many parts of England this is being completely undermined by basing the calculation of affordability on a figure of 80% of the open-market price of that property on that site or, for renters, of 80% of the market rent. The noble Baroness, Lady Hayman of Ullock, gave one practical example of the consequence of this for renters.

Amendment 201 calls for a review. The Minister may reply that all government policies are under constant review, but when she replied in Committee, I got the impression that any such review of this policy has not been particularly diligent. It certainly has not been timely or purposeful. This amendment would put that right and task the Government with producing a review and publishing it, with recommendations for a change, on a short, fixed timescale.

In Committee, I drew noble Lords' attention to the experience of my noble friend Lord Foster, who unfortunately cannot be with us today, in his local area of Southwold in east Suffolk. A so-called affordable estate, built with £1 million of government subsidy, is so out of the price range of people on median incomes

there that its homes have proved unsaleable and the developer has been released from the planning obligation. The homes are now going on the open market. This is not in inner London; it is 100 miles away. In Southwold, the price/median earnings ratio of the affordable homes, at 80% of full price, is still 13:1, reduced from 17:1 for full-price homes. Obviously, that is completely out of the reach of those seeking an affordable home.

I am sure that the Minister will know of similar circumstances in many other places. It is certainly true in Cheshire and Derbyshire, for instance—they are known to me—and is quite possibly so in Wiltshire as well. Far too often, affordable homes as delivered by planning obligations are nothing of the sort. I sometimes think that saying this out loud is seen as swearing in church. Nobody seems to confront this obvious truth. This Levelling-Up and Regeneration Bill is exactly the place to begin putting that right. It must be the case that when median incomes in a locality are not sufficient to buy such homes, it is misleading to describe them as affordable, wrong to put them on the credit sides of the affordable homes balance sheet and deceitful to boast that their provision makes a worthwhile contribution to fulfilling an election promise.

Amendment 201 would kick off that process of reform, but my Amendment 201A and its consequential amendment, Amendment 285A—they are also in this group—would go further by setting out the principles that should underlie that review. Those principles have been set out by the noble Baroness, Lady Hayman. They include the principle that affordability must be defined by reference to the income of the purchaser or renter, not solely by the inflated price on the open market. My amendment does not specify the mechanics or precise formula for that. The Affordable Housing Commission certainly provides a professionally generated one, while two others were quoted in Committee. We all know how it can be achieved, but the vital point of any government review must be to take into account the obvious truth that the current measuring stick is not solving the problem of affordability but is instead costing the Treasury a hatful of cash, which is being wasted and at the same time leaves many families stuck in wretched housing conditions.

There is a second part to my Amendment 201A, which I believe would help to close the yawning gap between open market prices and affordable home prices. It would disapply the current exemption in the Freedom of Information Act for the disclosure of viability calculations used by developers when haggling with local planning authorities over their planning obligations. At present, commercial confidentiality can be exploited to leverage cuts in affordable home provision, and it often is. Transparency would ensure that there was no temptation to inflate falsely the figures of costs that are deployed in those negotiations. It would also be likely to lead, over time, to less profligate bidding and purchasing of land by developers. Simply by removing that commercial exemption in this specific situation, at nil cost to the public purse, more affordable homes will be provided by developers. It is a no-brainer and one that I hope the Minister will find irresistible.

If levelling-up is to proceed from an election slogan to real delivery, it has a long road to travel. On that road, an essential milestone will be a proper affordable homes policy. Amendments 201 and 201A would provide the Government with that milestone. I hope that they pass today.

5.30 pm

Baroness Bennett of Manor Castle (GP): My Lords, I rise with pleasure to follow the noble Lord, Lord Stunell, and the noble Baroness, Lady Hayman, to speak to Amendment 201, to which I have attached my name. Essentially, I associate myself with everything that they said. I will seek not to repeat them but just make a couple of additional points.

Democracy demands clarity. We all know that we are heading into a general election, in which discussion of affordable housing will be right up there at the top of the agenda. We need to set out a definition about what we are talking about, if we are to have a sensible debate about our housing policy future.

For any noble Lords who have not seen it, I recommend the excellent briefing from the House of Commons Library—if I am allowed to recommend that—on the definition of affordable housing in July this year. One of its top headlines is:

"No agreed definition of affordable housing".

It notes that the most commonly used framework is that of the National Planning Policy Framework, used by local planning authorities, which takes in social rent, as well as a range of so-called intermediate rent and for-sale products. As the Affordable Housing Commission of 2020 concluded, "many" of these so-called affordable homes are "clearly unaffordable" for those on middle or lower incomes.

This being the House of Lords, we should look for a second at the historical framework of this. If we go back to 1979, we see that nearly half of the British population lived in what were clearly affordable homes—they lived in council homes, with council rents. That reality is not that long ago. We have since seen the massive privatisation of right to buy, and a move towards treating housing primarily as a financial asset, rather than as homes in which people can securely, comfortably, safely and healthily live. That is what brings us to this point today. This amendment is not going to fix that but it would at least set out the clarity of terms for us to be able to talk about this in a practical kind of way.

I looked at the Green Party policy for a sustainable society. It starts with the absolute foundation, stating that it is

"a universal human right to shelter which is affordable, secure and to a standard adequate for the health and well-being of the household".

That is why we are now saying today: right homes, right place and right price. We need to think about what that price means. In the Green Party we have set out very clearly what we believe the right price is. On purchase, we should be looking to move towards a situation where house prices are not more than four times average salaries. On rent, where the real extreme levels of suffering are now, there should be a living rent—a definition backed by many of the NGOs. Genuinely affordable housing means that median local rents would not take up more than 35% of median local take-home pay. That is what I would set out.

[Baroness Bennett of Manor Castle]

I could perhaps have put down an amendment to set those figures out, but that is not what I have done. What I have said instead is that we need to set out the terms of this debate, as this amendment does. I strongly commend Amendment 201 to your Lordships' House.

The Lord Bishop of Southwark: My Lords, the noble Baronesses, Lady Hayman and Lady Bennett, and the noble Lord, Lord Stunell, have all spoken eloquently on Amendment 201, which I support. I thank them for tabling it.

The independent Archbishops' Commission on Housing reported in March 2021, and your Lordships' House may recall the debate that the most reverend Primate the Archbishop of Canterbury secured on 24 March 2021, on the subject of housing. I simply wish to highlight a few points from that which I believe are relevant to the debate on this amendment.

The first is that the object of central government policy and of legislation should always be the ready provision of good housing—homes in which people want to live, in areas capable of flourishing. Too often, sadly, that is not the case, and we build among the smallest dwellings in Europe. Secondly, we require a bipartisan approach that enables a consistent policy to be followed across decades, and not one that is beholden to the sort of interests that have so limited housebuilding. It is worth remembering, as has already been mentioned today, that the last year in which we achieved house-building at the current target of 300,000 was 1969, over 50 years ago. Thirdly, we require a definition of affordable housing that relates specifically to income. Without this, any policy on affordable housing will fail. I support Amendment 201.

The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing and Communities (Baroness Scott of Bybrook) (Con): My Lords, Amendment 201 in the name of the noble Baroness, Lady Hayman of Ullock, relates to the definition of affordable housing. The amendment proposes a consultation on the definition that currently appears in the National Planning Policy Framework. We have had good debates about these issues, both today and in Committee, and I recognise the strength of feeling around the importance of ensuring that affordable housing meets the needs of those who require it.

I can reaffirm the Government's commitment to delivering more houses for social rent. We are carefully considering the consultation responses to our proposal to amend national planning policy to make clear that local planning authorities should give greater importance in planning for social rent homes. A large number of the new homes delivered through our £11.5 billion Affordable Homes Programme will be for social rent.

Nevertheless, it is also important that the definition of affordable housing in the NPPF provides local authorities with sufficient flexibility to plan for the type of affordable housing that is needed in their area. The existing definition includes a range of affordable housing products for those whose needs are not met by the market. Those needs will vary depending on people's circumstances and in different housing markets.

I am also mindful of the point made during our debate in Committee by my noble friend Lord Young of Cookham, about the trade-off between the level of discount that a type of affordable housing provides and the number of such homes that can be delivered.

We all agree that we need to consider this issue further. That is why we have committed to a wider review of the national planning policy once the Bill has received Royal Assent. That will include the production of a suite of national development management policies. This work will need to consider all aspects of national policy—and that includes the way that affordable housing is defined and addressed—and would be subject to consultation. I look forward in that consultation to hearing all the views from the sectors which have been mentioned this afternoon. I think we all agree on this.

What we do not agree on is how we should process this particular issue that we want to deliver. I therefore hope that the noble Baroness, Lady Hayman of Ullock, feels able to withdraw her amendment at this stage.

Amendments 201A and 285A from the noble Lord, Lord Stunell, raise two important matters relating to affordable housing. The first matter is how affordable housing is defined for the purposes of this Bill. The approach has been to link this to the definition of social housing in the Housing and Regeneration Act 2008. This definition encompasses both rented and low-cost home ownership accommodation that is made available in accordance with rules designed to ensure it is made available to people whose needs are not adequately served by the commercial housing market. While I understand the noble Lord's argument that affordable housing should be defined more tightly, I am eager to avoid depriving local authorities of sufficient flexibility to determine what is most appropriate to meet the needs of their area.

However, the Government are taking action to secure the delivery of more social rented homes, as I have said, for which rents are set using a formula that takes account of relative local incomes. A large number of these new homes, as I have said before, will be delivered through our £11.5 billion Affordable Homes Programme and will be for social rent.

We are also carefully considering the consultation responses to our proposal to amend the national planning policy to make clear that local planning authorities should give greater importance in planning for social rent homes. The noble Lord, Lord Stunell, also raised the disclosure of information relating to the viability of affordable housing in housing developments. Although I recognise that the noble Lord is seeking to improve the transparency of this process, I do not believe that the change he is proposing is necessary. As discussed earlier on Report, the new infrastructure levy will allow local authorities to require developers to pay a portion of their levy liability in kind in the form of on-site affordable housing. This new "right to require" is designed to replace site-specific negotiations of affordable housing contributions.

While viability assessments may be used in setting infrastructure levy rates, any developer that wishes 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.

Lord Stunell (LD): I hesitate to interrupt the Minister, but can she confirm that the infrastructure levy will not be operational in most of England for another eight or 10 years?

Baroness Scott of Bybrook (Con): As the noble Lord knows, we have already discussed this. We will have a test and learn throughout the country and then a rollout, but with any large change in any planning system, as with the community infrastructure levy, it will take time—up to 10 years, we believe.

Levy rates and charging schedules will be matters of public record, as I said. For these reasons, I hope that the noble Lord will agree not to move his amendments.

Baroness Hayman of Ullock (Lab): My Lords, I thank all noble Lords who have taken part in this debate and the Minister for her response. I welcome the right honourable Michael Gove to the Chamber and thank him for taking the time to listen to our debate. Clearly, he is enthralled by our discussions at the moment, and I am sure that he will take our concerns away for further consideration.

Noble Lords: Oh!

Baroness Hayman of Ullock (Lab): I thank the Minister for spelling out the Government's commitment to social housing through the affordable homes programme and for the wider review that she talked of. I understand the need for flexibility that she talked about for local authorities. However, this does not change the fact that houses classed as affordable should actually be affordable and currently are not. Otherwise, what on earth is the point of having the definition?

I am afraid I have heard nothing to convince me that the Government are serious about changing the definition. On that basis, I would like to test the opinion of the House.

5.43 pm

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Glenarthur, L.
Godson, L.
Goldie, B.
Hamilton of Epsom, L.
Hannan of Kingsclere, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Hayward, L.
Herbert of South Downs, L.
Hintze, L.
Hodgson of Abinger, B.
Holmes of Richmond, L.
Hooper, B.
Hope of Craighead, L.
Horam, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jackson of Peterborough, L.
James of Blackheath, L.
Jay of Ewelme, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Jopling, L.
Kempsell, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lansley, L.
Lawlor, B.
Lea of Lymm, B.
Lexden, L.
Lingfield, L.
Lucas, L.
Magan of Castletown, L.
Mancroft, L.
Markham, L.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
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.
Owen of Alderley Edge, B.
Parkinson of Whitley Bay, L.
Patel, L.
Penn, B.
Pidding, B.
Popat, L.
Porter of Spalding, L.
Randall of Uxbridge, L.
Ranger of Northwood, L.
Rawlings, B.
Reay, L.
Redfern, B.
Risby, L.
Robathan, L.
Roberts of Belgravia, L.
Roborough, L.
Rose of Monewden, L.
Sanderson of Welton, B.
Sandhurst, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Sharpe of Epsom, L.
Shields, B.
Smith of Hindhead, L.
Spencer of Alresford, L.
Stedman-Scott, B.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Sugg, B.
Swinburne, B.
Taylor of Holbeach, L.
Taylor of Warwick, L.
Trenchard, V.
True, L.
Udny-Lister, L.
Vere of Norbiton, B.
Verma, B.
Waldegrave of North Hill, L.
Waverley, V.
Wei, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wyld, B.
Young of Cookham, L.

5.56 pm

Amendment 201A not moved.

Schedule 8: Minor and consequential amendments in connection with Chapter 2 of Part 3

Amendments 201B to 201D

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

201B: Schedule 8, page 389, line 39, at end insert—

"(8A) In paragraph 7ZA (inserted by paragraph 156 of Schedule 4), in paragraph (b) of the definition of "constituent planning authority", for "29" substitute "15J".

(8B) For paragraph 7ZB (inserted by paragraph 156 of Schedule 4) substitute—

"7ZB "(1) This paragraph applies if the Secretary of State thinks that a constituent planning authority are failing to do anything it is necessary or expedient for them to do in connection with the preparation, adoption or revision of a local plan.

(2) If the local plan has not come into effect, the Secretary of State may invite the combined county authority to take over preparation of the local plan from the constituent planning authority, in which case the combined county authority may do so.

(3) If the local plan has come into effect, the Secretary of State may invite the combined county authority to revise the local plan, in which case the combined county authority may do so."

(8C) In paragraph 7ZC (inserted by paragraph 156 of Schedule 4)—

(a) in sub-paragraph (1), for "development plan document" substitute "local plan";

(b) after that sub-paragraph insert—

"(1A) If the combined county authority are to prepare the local plan, the combined county authority must publish a document setting out—

(a) their timetable for preparing the plan, and

(b) if they intend to depart from anything specified in a local plan timetable in relation to the plan, details of how they intend to depart from it.";

(c) for sub-paragraph (4) substitute—

"(4) The combined county authority may then—

(a) where the combined county authority have prepared a local plan, approve the local plan subject to specified modifications or direct the constituent planning authority to consider adopting the local plan by resolution of the authority, or

(b) where the combined county authority are to revise a local plan, make the revision or make the revision subject to specified modifications."

(8D) In paragraph 7ZD (inserted by paragraph 156 of Schedule 4)—

(a) for sub-paragraph (1) substitute—

"(1) Subsections (4) to (12) of section 15D, and section 15DA, apply to an examination held under paragraph 7ZC(2)—

(a) reading references to the local planning authority as references to the combined county authority, and

(b) in the case of an independent examination of a proposed revision, reading references to a local plan as references to the revision.";

(b) in sub-paragraph (3)(a), omit "or omitted";

(c) in sub-paragraph (4)—

(i) for "joint local development document or a joint development plan document" substitute "joint local plan";

(ii) for "the document" substitute "the plan"."

Member's explanatory statement

This amendment to Schedule 8 to the Bill makes amendments to Schedule A1 to the Planning and Compulsory Purchase Act 2004 in connection with provision for development plans under Part 3 of the Bill. The amendments amend and supplement consequential amendments to Schedule A1 to the 2004 Act made by Schedule 4 to the Bill relating to the creation of combined county authorities.

201C: Schedule 8, page 391, line 34, after "6(4)(a)" insert ", 7ZC(4)(a)"

Member's explanatory statement

This amendment to Schedule 8 to the Bill makes amendments to Schedule A1 to the Planning and Compulsory Purchase Act 2004 in connection with provision for development plans (under Part 3 of the Bill) to reflect amendments made to Schedule A1 by Schedule 4 to the Bill in relation to the creation of combined county authorities.

201D: Schedule 8, page 391, line 35, after "6(4)(b)" insert ", 7ZC(4)(b)"

Member's explanatory statement

This amendment to Schedule 8 to the Bill makes amendments to Schedule A1 to the Planning and Compulsory Purchase Act 2004 in connection with provision for development plans (under Part 3 of the Bill) to reflect amendments made to Schedule A1 by Schedule 4 to the Bill in relation to the creation of combined county authorities.

Amendments 201B to 201D agreed.

Amendment 202 not moved.

Clause 99: Removal of compensation for building preservation notice

Amendment 202A

Moved by ***Lord Parkinson of Whitley Bay***

202A: Clause 99, page 109, line 1, at end insert—

"(A1) The Listed Buildings Act is amended as follows.

(A2) In section 3 (temporary listing in England: building preservation notices), after subsection (1) insert—

"(1A) Before serving a building preservation notice under this section, the local planning authority must consult with the Commission.

(1B) Subsection (1A) does not apply where the Commission proposes to serve a building preservation notice under this section (see subsection (8))."""

Member's explanatory statement

This amendment inserts a new duty into the Planning (Listed Buildings and Conservation Areas) Act 1990 for local planning authorities to consult the Historic Buildings and Monuments Commission for England ("Historic England") before serving a building preservation notice under that Act. The duty does not apply in cases where Historic England is carrying out the functions of a local planning authority.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con): My Lords, I will speak to this group of amendments as Minister for Heritage. I will speak first to Amendments 202A and 202B, which regard building preservation notices.

His Majesty's Government recognise that, although building preservation notices provide a useful means of protecting buildings for up to six months while they are being considered for listing, it is important that they should not be used inappropriately or injudiciously.

Further to our debate in Committee, my amendment to Clause 99 should help to provide that reassurance. It introduces a requirement on local planning authorities to consult Historic England before serving a building preservation notice, drawing on Historic England's expert knowledge about the historic environment to help advise local planning authorities before they issue a building preservation notice. This practice is commonplace today, although not universal; the amendment seeks to solidify this practice as a duty on the local planning authority. In addition, His Majesty's Government will issue guidance after the Bill has become law, setting out the manner in which local planning authorities need to consult Historic England. For example, where the planning authority's view differs from Historic England's, it should set out why it has come to that conclusion.

By tabling this amendment, the Government are showing that we have listened to the concerns raised at earlier stages yet remain committed to ensuring the best protection possible for our nation's most loved and valued heritage.

I am grateful in particular to Historic Houses for the time and willingness they have shown in discussing this issue with me.

I turn to Amendment 271A, in my name, which concerns blue plaques. For a century and a half, blue plaques have helped people to learn about and celebrate their local heritage and to take pride in their local community. More than 900 have been erected, celebrating people as diverse as Ada Lovelace, Jimi Hendrix and Mohandas Gandhi—but only in London, for, while there are many brilliant local schemes across the country, the official scheme backed in statute is limited to London alone.

6 pm

That in itself is a quirk of history. The scheme was established by the Royal Society of Arts in 1866. In 1901, it was taken over by the London County Council, then by the Greater London Council and, when that was abolished via the Local Government Act 1985, responsibility passed to the Historic Buildings and Monuments Commission for England, which is now Historic England. The 1985 Act gives it discretionary power to operate the scheme in Greater London but not elsewhere. That limits the people and places that can be celebrated by this world-renowned scheme.

Indeed, the politician who inspired it, William Ewart, was a Member of another place representing Liverpool, his native city. He also represented Wigan, and Bletchingley in Surrey, and he died in Devizes in Wiltshire. None of those places is covered by the scheme that he bequeathed us.

I am therefore tabling an amendment to insert a new clause after Clause 226, extending Historic England's current discretionary power to operate the blue plaque scheme across England. I am doing so with the aim of creating one cohesive scheme throughout England, celebrating links between notable figures from our past and the buildings where they lived and worked, showing that people who went on to leave their mark on the world were drawn from every corner of our country and all sorts of backgrounds.

[Lord Parkinson of Whitley Bay]

People across the country will be able to nominate notable figures with a connection to their local area for national recognition. Officials in my department are working with Historic England and English Heritage Trust to develop this England-wide scheme, aiming to get the new plaques erected in the next few months and learning from the excellent work done by English Heritage while running the scheme since 1986 to build a scheme that can operate from 2025 when the new licence period from Historic England begins.

I am grateful to the noble Baroness, Lady Pinnock, for signing the amendment, as well as my noble friend Lord Mendoza, whom I am delighted to welcome as the new chairman of Historic England, following in the footsteps of the excellent Sir Laurie Magnus. I am also glad that this amendment has received the support of the Local Government Association and am grateful to Councillor Gerald Vernon-Jackson in particular for his enthusiastic engagement on this issue.

Government Amendments 301A and 315ZB are consequential. They provide that the clause applies to England and Wales and that it comes into force two months after Royal Assent.

Finally, I turn to government Amendment 284, which gives the Secretary of State the power to make regulations amending the heritage provisions in the Bill once enacted. Any such amendments will be purely technical and limited to changes which are needed to ensure that the heritage provisions in the Bill work as intended. Government Amendments 289 and 296 are consequential and provide that any regulations made under this power should follow the negative procedure.

I hope that, with that explanation and reassurance, noble Lords will be willing to support the government amendments in this group. I beg to move.

Lord Northbrook (Con): My Lords, I rise to speak to two amendments in this group. Under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, on making planning decisions in conservation areas,

"special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".

Local planning authorities have a wide degree of discretion in deciding whether applications for development in conservation areas pass this statutory test. In my local borough, the Royal Borough of Kensington and Chelsea, planning officers do not normally live in or near the relevant conservation area and routinely substitute their own opinions for the opinions of those who do, frequently in disregard of the relevant conservation area appraisal document and advice from important third parties such as Historic England.

The problem is particularly acute in the royal borough, where harmful decisions have been made in the past and then been used as precedent to justify approving further harm of a similar nature. This line of reasoning has been criticised frequently by the Planning Inspectorate and runs contrary to the advice of Historic England in its document, *Managing Significance in Decision-Taking in the Historic Environment—Historic Environment Good Practice Advice in Planning: 2*, published in March 2015. Paragraph 28 of this document states:

"The cumulative impact of incremental small-scale changes may have as great an effect on the significance of a heritage asset as a larger scale change. Where the significance of a heritage asset"—

which, of course, includes the entirety of a conservation area—

"has been compromised in the past by unsympathetic development to the asset itself or its setting, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset".

Regrettably, such consideration is all too often not given by planning officers in their decision reports on the exercise of delegated powers or in their advisory reports to planning committees recommending the approval of an inappropriate development without clear or compelling justification. The exercise is all too subjective, frequently a reflection of poor taste and simply wrong.

My amendment in Committee was to insert at the end of Section 72(1),

"and (in relation thereto) to any views expressed by persons living in that area".

I believe that making such an amendment would have a significant and beneficial impact on the content of planning officers' reports, in that they would need to include a special section identifying clearly such views of local residents as have been expressed and, as the case may be, explaining why the officers' views should be accepted, rather than those of local residents.

I also believe that such an amendment would have a significant and beneficial impact on the approach taken by planning committees, which would need to change from an instinctive desire to accept officers' recommendations to a real determination to understand and respect the views of local residents. If the planning officers wish to substitute their own opinions on what is good for a conservation area, the amendment would require them to explain clearly and convincingly why they seek to do so and why views of local residents should not be respected.

The noble Baroness, Lady Bloomfield of Hinton Waldrist, objected to my amendment on the grounds that:

"It would mean the views of conservation area residents would have greater weight than those living outside the area, which we think would be unfair."—[*Official Report*, 20/4/23; col.847.]

I strongly disagree that it would be. Nevertheless, I have recast the amendment for Report to avoid this objection by requiring special attention to be paid to

"any relevant guidance given by Historic England",

instead of

"any views expressed by persons living in that area".

I will also speak to Amendment 204. The Royal Borough of Kensington and Chelsea used to insert a standard condition on planning approvals in conservation areas that any replacement of sliding sash windows fronting the street should be like-for-like. The owner of a house in Moore Street put an ugly, non-sliding sash window in a breach of planning conditions. The local residents association complained to the council and asked planning enforcement to get it removed. The local ward councillor, who was also the cabinet member for planning at the time, sent them an email saying, "I have just been to see the window. It is clearly

inappropriate and will need to be replaced as soon as possible". The enforcement officer then sent an email agreeing with the complaint, and an enforcement notice was duly served. The owner then told the council that his new window was in fact permitted development, so the enforcement notice was cancelled, and the enforcement officer sent a second email saying that the council had no control over its staff. The window remains.

My proposed solution is to amend class A.3(a) of Part 1 of Schedule 2 to the GPDO, which currently reads,

"the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse".

My amendment would add the wording:

"and, in respect of a replacement window in a conservation area, the style and colour".

The Minister responded:

"For windows specifically, under nationally set permitted development rights, homeowners are able to enlarge, improve or alter their homes, subject to certain conditions and limitations to minimise their impact. As an improvement, the permitted development regulations allow the installation of new doors and windows. We have no plans to further restrict the ability of people to replace windows in conservation areas".

My rejoinder to this is: what is the logic of requiring similar materials but not similar style or colour? The Minister does not explain. When granting planning permission for replacement windows in conservation areas, local planning authorities frequently impose like-for-like conditions to preserve the character and appearance of the conservation area. I sympathise with making the replacement of windows in conservation areas permitted development, provided the replacement windows appear like for like. GPDO should be amended to reflect this.

The noble Baroness, Lady Bloomfield, opposed the amendment as premature to accept in advance of a current review of planning barriers that households can face when installing energy-efficient measures, including double glazing. I do not see that the amendment would cut across recommendations arising from the review. The noble Baronesses, Lady Hayman and Lady Pinnock, both made the point that like-for-like replacement windows of wood and glass can be very expensive. I agree, and this points to a defect in the current permitted development right, which is a requirement for similar materials. In a conservation area, it is the appearance that matters, so the requirement should be for a similar style and colour, rather than similar materials. These days it is possible to buy much cheaper replacement windows, made of composite material, which appear identical to the original, so why is this not permitted? However, the existing permitted development right is subject to a similar materials condition and applies to all exterior developments other than conservatories—that is, not just windows and in all areas, not just conservation areas. Therefore, I cannot recast the amendment to replace "materials" with "style and colour", as I would like. So the amendment has been retabled for Report. I beg to move.

Baroness Andrews (Lab): My Lords, I have two amendments in this group, which I tabled as new clauses in Committee. I am again very grateful to the Victorian Society for helping us do this. I am also extremely grateful to the Minister for the amendments he introduced this afternoon; they are very welcome and very overdue. With a very ancient hat on, I remember that some of the best times I had at English Heritage was unveiling plaques—I unveiled a plaque when Yoko Ono and John Lennon had lived in Notting Hill for just the right amount of time to get a blue plaque. I think that William Hewitt will be very pleased, as will the new chair—I congratulate the noble Lord, Lord Mendoza, on his appointment.

The new clauses were the subject of a very sympathetic meeting we had with the Minister before the Recess. I was very grateful to him, so I shall not reiterate much of what I said. We just need to hear what he has to say this evening.

For the record, I want to point out the anomalies that the new clauses in these amendments address. The gap in the law is affecting people and places, which is why it needs to be closed. Quite simply, permitted development means that unlisted buildings as a whole and buildings which are on the local heritage list but outside the protection of a conservation area are outside the protection of planning law. They can be demolished without challenge and without local people being able to defend them. The Minister said in Committee that Article 4 directions offer a protection: in principle they do, but they are rarely used. The way in which planning departments have been stripped out means that this already onerous business is hardly ever used, because there are not the people there to do it.

Amendment 204A would bring the demolition of all buildings within the scope of planning law. Amendment 204B sets out a more limited case for bringing all buildings which are on the local heritage list but outside a conservation area within the scope of planning law. This is an anomaly because, essentially, nationally listed buildings already have this protection, but it does not apply to other buildings, including locally listed buildings, as I said, which are not in a conservation area. There are other anomalies in this situation; one has to seek planning permission, for example, to "significantly amend" a building but not to knock it down. A third anomaly is that a building can be demolished while a decision is being taken. I will come back to that shortly.

I do not apologise for trying to find a simpler way by which all non-designated heritage assets can be listed and protected; frankly, we are just too casual about demolition and about reference to the local community or the impact on the local setting or character, or the environment as a whole. I argued in Committee that it was better to repurpose and reuse good and useful buildings, however idiosyncratic, than to demolish them and to involve the local community in the planning process.

6.15 pm

It is not an arcane argument. I am sure that at the top of the Minister's mind at the moment is the furore over the Crooked House. That is how people feel about local buildings. The Crooked House was not nationally or locally listed, but the case has raised the game—it has raised a lot of precedents about how the planning system works. Clearly, local people thought

[Baroness Andrews]
that there should have been more protection and that they should have been involved—but they were not. It was on the local list, nor on the national list. There is no protection for buildings that are simply caught up in the necessary procedures; it was under consideration for listing, but that did not help the situation. So this is a case in point. Put bluntly, were Amendment 204A to be in force now, the Crooked House could not have been demolished, but, since it was not locally listed, neither was it helped by local designation.

As I said in Committee, demolition is the nuclear option; it is just ironic that it is the one with the least involvement of the local community. Bringing demolition of all non-designated assets into the planning frame would ensure people get their rightful say in what happens in their local area. It would not prevent demolition but, critically, it enables demolition to be discussed in the context of local and master planning, which is exactly where it should be. That is within the spirit of the Bill, which is all about local engagement and involvement and better planning processes.

My second argument in favour of the catch-all amendment concerns climate change and the waste of embedded energy in the buildings that we knock down. I think that that case has been reinforced in recent weeks; it is clear that the Government are retreating from some of their convictions about net zero. I should also say, in response to the Minister in Committee, that, although national planning policy does support a transition to low carbon, the problem is that the policies in the NPPF do not apply to permitted development.

Amendment 204B is a more restricted amendment. We know of local buildings that may be humble or vernacular or even not very prepossessing but are well loved because for local people they have memory, meaning and character. Sometimes these are bleak places.

The local heritage list is still very much a work in progress and is very patchy. Few of us know which buildings are on the local list or even if our local authority has one. That is something that the Minister might want to address today. A local list has the unique ability to reveal the biography of a place—the buildings with particular character and history that show economic and social evolution. These buildings, which are special to the community, can be demolished without planning permission if they are not in a conservation area. Many of our post-industrial towns would not be in conservation areas—they would not have any protection—and yet these buildings have profound attachment when it comes to the way people feel about them, whether they are libraries, doctors' surgeries, community halls or cinemas. They make up the character of a place.

My second amendment is a modest proposition. It attempts to make rational what is irrational and partial at the moment. It would remove all locally listed assets from permitted development and bring them within the protections of the planning system.

Finally, I ask the Minister and his colleagues to consider the need for an independent and public review of the way in which permitted development as a whole is working. My knowledge and experience of it is that it is creating many more contested situations and perverse consequences than was intended. I understand that the Department for Levelling Up, Housing and Communities may have an internal review taking place. Can the Minister tell me whether that is true and, if so, could we have a few more details? Or perhaps he and his colleagues would prefer to write to me.

I am very grateful for the close attention that the Minister has given these amendments, and I very much look forward to what he is going to say this evening.

Lord Bellingham (Con): My Lords, I rise briefly in support of my noble friend Lord Northbrook's two amendments, which I have also signed. Before doing so, I congratulate the Minister on his Amendment 271A to extend the world-class and world-renowned blue plaque scheme to the whole of England. Let us hope that Northern Ireland, Scotland and Wales will be able to do the same under their legislation. It is a superb move and is long overdue.

As my noble friend pointed out on Amendment 203, under the 1990 planning Act, local planning authorities must pay special attention to the desirability of preserving the character and appearance of an area. Unfortunately, although there are some outstanding examples of planning authorities that follow those guidelines very carefully, practice across the country overall is intermittent to say the least.

For example, in King's Lynn in my former constituency of North West Norfolk, the local planning authority has done a superb job in maintaining the Georgian fabric of the town. I think the Minister has been to King's Lynn, so he would have seen the historic heart of that town and how the planners have worked tirelessly to preserve the character of the town centre. They are to be applauded, but there are other examples from around the country where, as my noble friend pointed out, adherence to this important legislation is a mixed picture.

I reinforce what my noble friend said about Historic England, because I am a great supporter of it. I join in the congratulations to my noble friend Lord Mendoza on being appointed to his new role, and I pay tribute to the work done by Sir Laurie Magnus, who did an excellent job over a number of years.

I looked at the governing statute of Historic England, which goes back to one of the first Bills I was involved with in the other place, in 1983—the National Heritage Act. I looked at that legislation again and one of its main statutory tasks is to protect the historic environment by preserving, and then listing, historic buildings, but another of the tasks in that legislation is to liaise with local government. Local government should listen to Historic England.

I urge the Minister to look at this amendment which, as my noble friend pointed out, is a slight adjustment to the original amendment that was put down but is all the better for it. I hope that the Minister, in light of the recent attention that was paid to the positive work done by Historic England and the help it gave on the blue plaque scheme, for example, will look at this amendment positively and support it.

The key thing with the other amendment, as far as windows are concerned, is not to focus too much on similar materials but, as my noble friend pointed out,

a similar style and colour. Again as he pointed out, there are examples—I have seen plenty in my old constituency—of where new windows have been put in listed buildings using composite materials, but you would have to be an out-and-out expert to tell the difference. I support my noble friend's amendments and very much hope that the Minister accepts them.

Lord Redesdale (LD): My Lords, I will speak to three amendments in my name—Amendments 261, 262 and 263. These are probing amendments, on which I hope the Minister can give some clarification, as this is very much a Pepper v Hart moment, where ambiguity over wording in the Bill could cause some problems.

Historic environment record services are vital not only in not protecting our historic environment records but for developers, because an understanding, at an early stage, of issues around the historic environment reduces the cost of development.

Amendment 261 is a probing amendment to establish whether the Government's interpretation of "maintain" adequately covers existing provision of HER services, which are shared between multiple authorities or outsourced to third parties. We have heard concerns from various HER services that they would need to change the way they currently deliver services as a result of this clause. We are confident that that is not the Government's intention. An example is that Greater London's HER is maintained by Historic England on behalf of all London boroughs; the Government would need to confirm that this service model is acceptable in order to reduce the risk that the Bill destabilises otherwise good provision. We would like the Government to confirm that their intent is for all models of service provision, including those where HER services are shared with other authorities or bought in from third parties, to be deemed to meet their obligations to "maintain" an HER.

Amendment 262 makes provision for a dispute resolution procedure should disagreement arise over competing interests from authorities. This is particularly important at the moment because, while HER services have to be supplied, local authorities are making cuts wherever they can. This could lead to confusion around the definition of a responsible authority. Dispute resolution may therefore be needed to resolve, for example, city council X cutting funds to its HER service and making the argument that county council Y is the responsible authority and should pick up the shortfall. Such situations may occur in the future if there is a shortage of money. We would like the Minister to confirm that the Government intend to set out, in guidance, processes to deal with any situation that may arise between authorities—for example, competing claims over which is the responsible authority.

Amendment 263 expands the definition of "relevant authorities" to include district councils, where no other authority provides an HER service. At present, there are at least seven lower-tier authorities—for example, Oxford City Council, Colchester City Council and City of Lincoln Council. Under the current definition of "relevant authority", the county authority would appear to be subject to the responsibilities in this clause, despite not currently or historically delivering services in these areas. This could cause a breakdown in existing provisions or lead to disputes over who should deliver or pay for these services. I hope the Minister will confirm that the Bill's intention is to include lower-tier authorities within the definition of "relevant authority".

The Earl of Lytton (CB): My Lords, I thank the Minister for his Amendments 202A and 202B, which were partly a response to my comments in Committee. I am particularly grateful that he and his team have listened to the concerns that I expressed, not least those made by the CLA and the Historic Houses Association. I pay tribute to those two organisations for their quiet persistence. I certainly appreciated the opportunity to discuss this with the Minister and his officials.

I declare that I am a member of the CLA and was once a member of its heritage working group. I also own several listed buildings. I am glad to say that I have never been in receipt of a building preservation notice, which is the subject of these amendments, but I have had long professional involvement with heritage matters. I am particularly grateful for the support of colleagues in this House and others outside.

Clause 99 removes one of the few safeguards available to property owners faced with a building preservation notice, where the issue of the notice has been found to be ill-founded and, as a result, the owner suffers loss. It is easy to see how works in course of execution, whether groundworks internally or works to the roof, could be critically compromised, and the building with it, by the immediate and complete cessation of works that a building preservation notice demands, potentially for many months. If the notice is not well-founded, the owner can suffer serious and gratuitous loss.

Here I observe that local authorities often do not have in-house heritage expertise. It is often subcontracted to external contractors, who may provide so many days a month. That underlines why these amendments are so important, as the local authority would have to go to Historic England or to the commission to make sure that it was taking the correct approach.

Were it not for the fact that, to date, the existing listing of buildings under Historic England and DCMS oversight and the operation of the building preservation notice regime have functioned pretty well and achieved a good deal of confidence, this situation would be of significant concern. I am particularly glad that the Minister has made it clear that this should be in the Bill as a further safeguard. But the safeguards, such as they are, will now rest extremely heavily on this procedure, because the one other safeguard that would normally be present—compensation for a misconceived notice—is no longer there.

6.30 pm

This whole arrangement, to some extent, defies the normal rules-based approach of our western culture, namely that a person shall have a right to the reasonable enjoyment of their property and shall not be deprived of that by the state without good reason, and then only subject to a right to challenge, access to an impartial adjudication process and compensation for

[The Earl of Lytton]
the loss, where this rises out of the exercise of the administrative power. These are all embedded in human rights legislation.

Let me make it clear: listing on its own is fine. Creating this situation in which there could be serious consequential disruption, without compensation and without any recourse, is certainly not. Without some safeguards, the uncontrolled, arbitrary and potentially oppressive exercise of non-recourse powers beckons, with all the mistrust that that involves. Should the new arrangements not work as well as in the past—I certainly hope they will—it is on the cards that the courts will become involved, and then we will be back to square one. A great deal depends on collaboration, trust in the process and a deft hand being played by those wielding administrative powers.

It is axiomatic that the person with probably the greatest knowledge of the heritage value of a property may be the owner, who self-evidently cannot be consulted, for fear of tipping them off that a building preservation notice may be in prospect. This is a paradox we have to live with. We will need clear and consistently applied protocols, avoiding the temptation to rely on some spurious tip-off from a malicious third-party source, as well as a process for ensuring that the building subject to a notice is not thereby frozen in a vulnerable state or unsafe condition.

I understand that there was no external consultation with stakeholders on the measures first brought in by the Bill. But, going forward, I am particularly pleased by the Minister's confirmation about guidance being brought forward, and I hope he will be able to reassure me that not only local authorities but organisations such as the CLA and the HHA will be part of that consultation process. We need to minimise avoidable risks to buildings themselves and the interruption of affected owners' commitments. We have avoided this in the past, for the most part, and I hope we continue to do so.

I had considerable sympathy with the points by the noble Lord, Lord Northbrook. I have been appalled at some of the quite unconscionable alterations that have been carried out to buildings, often in conservation areas, where you cannot believe that somebody could have thought it appropriate, or indeed that it did anything other than degrade the whole area by putting in singularly unmatching materials. Some of these are done by bodies that should know better; I can think of a parish council or two that have done things to village halls that, frankly, destroyed a great deal of the ambience and appearance of the building.

With regard to materials for windows, the quality, for instance, of softwood, which might have customarily been used in Victorian times, is now nowhere near what it should be. You are on a rotational treadmill of having to replace things that rot prematurely. Why not use modern materials? I certainly agree with the noble Lord, Lord Bellingham, that with some of these you have to be an expert to know the difference in what you are looking at.

My final point relates to Amendment 204A; I will put in just a little word of warning here. I absolutely understand the point that is being made here: demolitions can and do create an awful degree of blight and are a loss to the community. But planning, as far as I know, applies technically, subject to certain derogations, to any building, structure or engineering works, many of which are there by virtue of permitted development or may be small or transient in nature. I do not want to have absolutely everything caught; there would have to be at least some sieving process. One thinks of commonly used utilitarian buildings in farmyards; farms generally do not fall within planning. I would not want a farm to suddenly have to go through hoops in order to knock down some scruffy 1960s hoop-frame barn and replace it with a tidier-looking portal-frame structure of more use and value. One just needs to be very careful about that.

There is a lot of good in this group of amendments, and I am very glad that we have been able to discuss them this evening.

Lord Shipley (LD): My Lords, the noble Earl, Lord Lytton, has made a very important point about Amendment 204A, which I will speak to, as well as Amendment 204B tabled by the noble Baroness, Lady Andrews. I spoke on those amendments in Committee, and wish to do so again. The point that the noble Earl made is important because Amendment 204A calls for a public consultation. I think there would need to be one, given the potential scale and scope. I think that point has been taken; there have been discussions as to whether you might take 1948 as the date. It could be that you take a much earlier one, in the Victorian or pre-Edwardian period; you might wish to consider that. There needs to be a debate about that very issue, so I take the noble Earl's point.

Nevertheless, I strongly support the principle behind Amendment 204A and the detail of Amendment 204B, as I did in Committee. It is particularly important now because of the huge public interest in the way that demolition is permitted development, enabling buildings of local historical value to be knocked down. The example of the Crooked House pub has really energised public opinion, and I very much hope that we hear something from the Minister that would be helpful in preventing that sort of situation arising. That would lie in Amendment 204B, because it would

"remove permitted development rights relating to the demolition of a heritage asset which has been placed on a local planning authority's local list of assets which have special local heritage interest".

It is clear to me that, in the case of the Crooked House, that would apply, but of course it would have to be placed on the local list.

I am grateful to the Minister for the meeting we had just before we went into recess, when we discovered that quite a lot of local planning authorities do not have local lists. Of course, you need to have a local list if you are to use it. One of my motives now in supporting Amendment 204B is that it may encourage many more to have local lists because, as the noble Baroness, Lady Andrews, said, not everything that you want to protect will be nationally listed. It is not like that, and yet many buildings have strong local support.

This is a way forward that would not be a bureaucratic scheme but would give local control. It could be led by civic society; it would not have to be done by the

planning departments. The authorisations and so on with committee approval would have to be done by them, but you could use voluntary organisations to do a lot of the work in identifying the buildings that should be protected.

The point here is that we have a dysfunctional system. The noble Baroness, Lady Andrews, said that we have a gap in the law. We do. The current system is dysfunctional, and I think the general public have now acknowledged that fact. I hope the Minister is going to take advantage of the huge opportunity that he has now been given and that, when he replies to the House, we will hear something hopeful.

Lord Carrington of Fulham (Con): My Lords, I add my support, as I did in Committee, to Amendment 204A by the noble Baroness, Lady Andrews, and, with a little more reluctance, to Amendment 204B, which is a compromise that is better than nothing but not as good as the original amendment.

We discussed this amendment considerably in Committee. I spoke on it then and do not intend to repeat what I said. However, it is important to remember that what we are talking about are not buildings and structures that are listed or currently protected but those that fall outside the normal protection system, though they nevertheless have streetscape value and are important, given their location and interaction with the buildings that surround them. They are also buildings that people feel emotionally attached to and which have a historic significance in the local community.

Why are those buildings under threat? Because if you are a developer and you buy a property that is going to be more valuable if you can rebuild it, the first thing you will do is to knock it down. You then have a vacant site—ideally, from the developer's point of view, in an eyesore location—and you can then go to the planning department of a local authority and say, "I want to build this building that you do not like but which would replace an eyesore that I have created. Give me my planning permission, please". Sadly, that happens all too often.

The noble Baroness, Lady Andrews, mentioned the Crooked House pub in the Black Country. Curiously enough, I know the Black Country rather well. That type of building is very common in the Black Country—there are a lot of them that look like that. A lot of those have been destroyed, but they have a local community value for the very closely structured communities in the Black Country that have been there for several hundred years.

As I understand it, the Crooked House pub was up for listing. It is quite clear that, if you are a developer and you buy a building that is up for listing, you are likely to get it cheaper than if it were not up for listing, because other potential purchasers will look at it and say, "I won't be able to do what I want to do to maximise its economic value if it's listed". So you as a rogue developer buy the property; then, under permitted development, you knock it down so it cannot be listed. You have bought it cheap so, when you redevelop it, your profits are that much bigger. The current system actually encourages you to behave in an outrageous manner. That is the problem.

6.45 pm

Do not get me wrong. We are not talking just about rogue developers or people who have tried to make a fast buck; often, we are talking about people who do not understand better. However, we are also talking about people who do. Noble Lords may have seen reports of a church, St John's, in Werneth, in Greater Manchester, which was knocked down by Oldham Council earlier this year. It was a church from 1844, by a known architect, Edwin Shellard. It was a rather fine building, although it was perhaps not listable, and it was certainly a redundant church. Oldham Council decided that perhaps it might be vandalised and that it would be responsible if people went into the church and hurt themselves. Rather than repurpose the building by converting it into flats, or at least keeping its community value, the council saw to it that a building that had been there since the middle of the 19th century was bulldozed overnight with no need for permission, consideration or consultation.

In case noble Lords think I am picking out examples that are unique, there was another church, St Anne's, in Hastings. This was a completely different case. It was a redundant church that was built in the 1950s, and so the suggested cut-off date in the amendment of 1948 would not apply. This fine church, which had also been designed by very highly respected architects, the firm of Denman and Son, was bulldozed with no need for planning consent or consideration. It was lost to the community, when it could perfectly well have been repurposed.

We need change. I am not talking—and I do not think anyone is—about stopping buildings that should be knocked down being knocked down, such as farm buildings. What we are asking for, and what the amendment tries to do, is to make sure that, before a building is destroyed, someone has given it some thought and decided whether it should be destroyed. This could be done through the planning process or in any number of different ways, but it should not be up to one person, driven by economic benefit to themselves, to take the decision to destroy something that has a value in a community. That is what we are asking for: a decision should be taken, rather than there being no decision and letting chaos reign.

Lord Mendoza (Con): My Lords, I declare my interests as set out in the register as the new chairman of Historic England and as provost of Oriel College, Oxford, which is in the middle of applying for enormous amounts of planning permission and listed building consent to do a great deal of work. I thank noble Lords for their good wishes, particularly the noble Baroness, Lady Andrews, as a former chair of the commission when it was known as English Heritage.

I did not speak in Committee so I will keep my remarks brief. On Amendment 202A, building preservation notices are used relatively sparingly, as I understand it, but they are a powerful tool to protect against damage and destruction of local heritage, particularly when the building itself could be listed. They are almost like an immediate but temporary listing in order to give the local planning authority some time to sort it out.

[Lord Mendoza]

I hope that the addition of this clause will allow local planning authorities to continue to consult Historic England so that this tool will not be used vexatiously or overzealously but will be used where it is absolutely necessary. I am grateful to the noble Earl, Lord Lytton, for pointing that out. Dialogue with local planning authorities is something that Historic England does a great deal of.

In terms of the amendment that my noble friends Lord Northbrook and Lord Bellingham spoke about, there is already a great deal of engagement between Historic England and local planning authorities. They already pay a lot of attention to the advice that Historic England publishes. However, my understanding from much of this debate is that there is even more that we can do. I am very happy for Historic England to work with officials at the department to ensure that we can do more to help local planning authorities make the right decisions and be acquainted with all the published advice that they need to be aware of.

On a happier note, the Minister's amendment to allow the blue plaque scheme to be extended throughout England is a wonderful and very simple amendment. I hope that it goes through. It is a fantastic scheme run excellently, so far, by English Heritage, as the Minister said, for 150 years. As he said, there are plenty of other schemes around the country from place to place, but they are not consistent. So, would it not be wonderful if we had a consistent scheme, judged by the same criteria, allowing members of the public to nominate people they care about in the places that they love to allow deeper involvement in the heritage and history of our country? I think that from 2024 people will be able to nominate in their areas to encourage a greater connection to place, which we know is so important. It has been described here. The "Crooked House" is a fantastic example of a building that was not listed—it was being considered for listing—but meant so much to so many. That is not unusual. People really care about the heritage of their places.

I will briefly pay tribute to Sir Laurie Magnus, who chaired Historic England for a decade, going beyond his allotted two terms because of Covid. He chaired the organisation in an exemplary fashion, with his customary passion, verve, brio, courteousness and deep care and attention to the heritage of England. I know we are all very grateful to Sir Laurie. He has obviously now gone on to much more glamorous things as the Prime Minister's Independent Adviser on Ministers' Interests. Of course, we wish him well with that very serious task. I thank noble Lords, and I will now sit down and be quiet.

Baroness Bennett of Manor Castle (GP): My Lords, I will briefly comment on two of the amendments. First, the noble Baroness, Lady Andrews, introduced Amendment 204A so powerfully. I share others' strong preference for this amendment, rather than the weaker Amendment 204B.

I want to emphasise the point made by the noble Baroness, Lady Andrews, about embodied carbon. These structures that were built in the past are there for us. Knocking them down and building something again has environmental costs, which we have to start to take seriously. Along that line, I want to pick up a phrase used by the noble Earl, Lord Lytton. He spoke about how we might want to knock things down and replace them with tidier looking buildings. I ask your Lordships' House to think very carefully about the word "tidy" because heritage and history is seldom tidy, just as nature is not tidy. Straight lines and very even frameworks—the idea that tidiness is a virtue—has done enormous amounts of damage. It is something we really need to challenge. With a lack of tidiness, there may well be character, diversity and reality rather than something new and artificial.

My second point is to commend government Amendment 271A on the extension of blue plaques. I take this opportunity to invite the Minister to comment from the Dispatch Box and reflect on the fact that currently in Greater London only 14% of blue plaques commemorate the lives and contributions of women. I looked into this to see whether I could get a plaque for Moll Cutpurse or Bathsua Makin. Unfortunately, the buildings with which they were associated do not survive. However, will the Minister take this opportunity from the Dispatch Box to reflect on the need to ensure the encouragement of women and greater diversity in the lives which are commemorated?

Lord Lexden (Con): My Lords, I will very briefly add to the salutations rightly directed at my noble friend Lord Parkinson for his important amendment extending the blue plaque scheme. One moment my noble friend is expounding issues related to online safety, and a little while later he brings forward a major heritage measure, which I think will have given him great personal pleasure because of his considerable interest in matters related to history.

The extension of the scheme will surely stimulate added interest on a considerable scale in localities throughout our country and extend knowledge of individuals who contributed within those localities and, in many cases, at national level too. The scheme will not be appropriate in every single case. For example, in Birmingham there is a fine memorial to Joseph Chamberlain. The noble Lord, Lord Shipley, will know it, as will the noble Lord, Lord Carrington, with whose remarks on the preservation of buildings I agree strongly.

On the Joseph Chamberlain memorial, there is a suitably inscribed plaque recording his important work. The city council has agreed in principle to a proposal from the noble Baroness, Lady Stuart of Edgbaston, and me to add plaques to Joseph Chamberlain's two sons, Austen and Neville, who contributed greatly to the life of Birmingham and, of course, at national level. In Neville's case, rather controversially, but he was above all the greatest social reformer the Conservative Party has ever produced. It would be right to ensure, as I think we will, that the new plaques blend in satisfactorily with the existing one. However, I think that in most cases, the blue plaques shining forth in their localities will do so much to stimulate historical interest throughout our country. For that, I salute my noble friend.

Baroness Pinnock (LD): My Lords, I added my name to Amendment 271A in the name of the Minister and thank him for the meeting we had to discuss it. My Liberal Democrat colleague, Councillor Gerald

Vernon-Jackson, promoted the change in his work as chair of the LGA's culture, tourism and sport board. I am glad the Minister recognised the role he played in bringing this amendment to the Floor of the House. This is a really good move, which is welcomed across the House, adopting the extension of the blue plaque scheme to areas outside London and to those of us who live outside London. I did not realise that they did not happen outside London because of the local schemes that have been in place. My understanding is that those local schemes can continue; there is no conflict with the extension of the current blue plaque scheme.

The noble Baroness, Lady Andrews, and my noble friend Lord Shipley have made a strong case for Amendment 204A. I hope that the Minister will accept the amendments in the name of the noble Baroness because, if nothing else, she has raised the issue throughout the passage of the Bill and, during the passage of the Bill, we have had an excellent example that highlights the reason why she has so strongly promoted these changes.

7 pm

I have some considerable reservations about Amendment 202A. As it has been brought in by the Government at this rather late stage, perhaps the Minister may be able to answer my worries in a bit of detail. On building preservation notices, Historic England says on its website:

> "Local planning authorities are encouraged to use BPNs to protect important buildings of value to society from being irretrievably lost or damaged without the authority first being able to consider its merits and any proposals for development".

Building preservation notices are used sparingly by local authorities, as was said earlier in this debate. They do so only when a building of value is at risk.

Having to consult Historic England prior to serving the notice, which is what I think the amendment indicates, would surely give a developer the opportunity, as was described by the noble Lord, Lord Carrington of Fulham, to damage that building irretrievably in the space between a local authority being concerned that work was being done to damage it—the only reason it would issue a BPN—and consulting Historic England. There will be a time gap, so what can be done to ensure that the required consultation does not prevent a local authority protecting that building for the local community? It was not clear to me exactly what the Minister is proposing in his amendment, so I hope that he will not mind giving us a full explanation of how it will work.

I thank the noble Lord, Lord Northbrook, for bringing his amendment, as I did in Committee, on the replacement of windows in listed buildings and in conservation areas. He knows that I agree with what he has said. There is a manufacturer of replacement window frames for historic and listed buildings, not far from this House. I have been to see them and, even getting close up in person to those window frames, I cannot tell the difference. They can be replaced looking like for like.

I look forward to the Minister's response to the probing amendments in the name of my noble friend Lord Redesdale. I thank everybody across the House for an informative and thoughtful debate on matters of great importance to local heritage.

Baroness Hayman of Ullock (Lab): I thank all noble Lords who have taken part in this very interesting debate. I start by thanking the noble Lord, Lord Parkinson of Whitley Bay, for his introduction and for the amendments that he introduced. It was good to see that we have the negative procedure being applied in some areas. As others have done, I too welcome the rollout of the blue plaques, but I also support the comments regarding women and diversity. I am sure that he will take those away.

My noble friend Lady Andrews, as always, introduced her important amendments eloquently and clearly. I will not go into detail but want to let the House know that we fully agree with and support her amendments and the arguments that she put forward urging the Government to accept what she believes is absolutely the right way to move forward on this. I thank the Victorian Society for its very helpful briefing on this. I absolutely agree with my noble friend that one big concern that has come across in the debate, particularly regarding the Crooked House, of course, is that we have been too casual about demolition in our society. The Crooked House demolition raised very highly up the agenda the public's concerns when something like that happens in their local community. As the noble Lord, Lord Carrington, said, it appeared that the building was about to be listed, so it is quite shocking that it was able to happen. We need to ensure in future that buildings of such importance to localities cannot just be demolished like that.

We heard during earlier discussions on the Bill about the release of carbon when buildings are demolished. The noble Lord, Lord Ravensdale, had an amendment on this and it was mentioned by my noble friend and by the noble Baroness, Lady Bennett of Manor Castle. Again, that now needs to be part of the discussions. Also, I really agree with the noble Baroness's comments on tidiness. We are too concerned about tidiness and that has impacts on all sorts of areas and our environment.

My noble friend also had an amendment around the importance of the local list that communities now have of buildings that are important to those local communities. We should all applaud my noble friend Lady Taylor, because I understand that she has set up such a list. But the concerns are how little weight that then has in planning and how little understanding there is of it, so my noble friend's amendment is important in this aspect.

The noble Lord, Lord Northbrook, introduced his amendments, which are similar to those he had in Committee, so I will not go into detail. However, he raised concerns about the approval of inappropriate developments and the importance of what local residents feel about them. That should be taken proper account of and, again, we would very much support him in that. We believe that local residents should be listened to and that there should be proper consultation.

On replacement windows in conservation areas, it is really important that we have a sensible and practical approach to this. I know that we talked about like for like and heard that other materials can be used, but that is not always the way things are interpreted, unfortunately. There is a house near to me where the windows are going to fall out because like for like

[Baroness Hayman of Ullock]
insists on hardwood, and the residents cannot afford it. There needs to be more flexibility and practicality. Also, in the conservation area in Cockermouth after the flooding, households were told that they were not allowed to put in flood doors, which seems a ridiculous situation for us to be in.

In my last two comments, I thought the noble Lord, Lord Redesdale, made some very good points on his amendments, particularly regarding dispute resolution, environmental record services and archives. The noble Earl, Lord Lytton, as always, made some very important points. He has enormous knowledge and practical expertise in this area.

This debate has shown that there are serious concerns about heritage and conservation, areas that could move forward quite sensibly and practically with government support. I look forward to the Minister's response.

Lord Parkinson of Whitley Bay (Con): I am grateful, first, to all those noble Lords who expressed their support for the amendment relating to the extension of the blue plaque scheme. I am glad to see that it has had support from across the House, as it did from the cross-party Local Government Association, so I am grateful to all those who mentioned it in their contributions now.

My noble friend Lord Lexden was particularly kind. He was right to point out that one of the motivations here is to increase people's curiosity and knowledge about the past, including untold or surprising stories. I am glad to hear of the progress that he and the noble Baroness, Lady Stuart of Edgbaston, are making with their campaigns for plaques—not blue ones, but important ones—in Birmingham to the two sons of that city and of Joseph Chamberlain, who is already commemorated. My noble friend is right that they are people of international and national significance, as well as of great local pride. I look forward to seeing those plaques added to the Chamberlain memorial.

I am also grateful for what my noble friend Lord Mendoza said about the importance of the blue plaques scheme in increasing people's connection to and sense of pride in place. That is a very important aspect of the scheme.

The noble Baronesses, Lady Bennett of Manor Castle and Lady Hayman of Ullock, are right to point to the need for a greater diversity of stories. That is something that English Heritage has been focusing on in recent years. For instance, of the plaques that have been unveiled since 2016, more than half have been to women. The noble Baroness is right that there is a job of work to do to ensure that we are telling more untold stories of women, working-class people, people of colour, people of minority sexualities and so much more. I hope one of the benefits of extending the scheme across all of England will be being able to draw on the greater diversity of the country in telling those stories, which are always so interesting and important.

The noble Baroness, Lady Pinnock, asked some questions on blue plaques. Yes, local schemes—which, as I say, have operated for many years in parallel—will be able to do so. In fact, a number of London boroughs organise their own schemes on top of the blue plaques scheme which has operated in the capital—so the more the merrier, I say.

I was remiss in not thanking the noble Earl, Lord Lytton, in my opening speech in relation to the amendment when I thanked the Historic Houses association, with which I know he has been in touch. I am grateful to him for the time and attention he has given this and for the discussions we have had on that amendment.

The noble Baroness, Lady Pinnock, rightly asked a few more questions on BPNs. Our original proposal was without this further amendment recognising the need for speed in these instances. I reassure her that Historic England is adept at dealing with these and other listing and heritage matters quickly when the situation needs, and there is an expedited process for listing when something is believed to be at risk. One of the advantages of having Historic England's chairman in your Lordships' House is that my noble friend Lord Mendoza will have heard those points and be able to reflect them back to Historic England, which already works quickly. That point will be carefully considered in the production of the necessary guidance. I hope that addresses her concerns on BPNs.

I turn now to the amendments in this group tabled by other noble Lords. I am very grateful to my noble friend Lord Northbrook for tabling Amendment 203 and for the correspondence we have had on this issue this week. His amendment seeks to require that, in meeting their statutory duty under Section 72, local planning authorities should have regard to any relevant advice produced by Historic England. I agree that this should be the case, but it is already something that local planning authorities do, and the Government's planning practice guidance points them to Historic England's advice.

My noble friend Lord Bellingham is right to remind us that Historic England has a duty to liaise with local authorities, and I hope he will be reassured by what our noble friend Lord Mendoza said about the frequency with which it does that. When our guidance is next reviewed, I am happy to ask officials to consider whether the links to Historic England's advice could be strengthened. I hope that, with that assurance, my noble friend Lord Northbrook will be content not to press his Amendment 203.

Amendment 204, also in my noble friend's name, relates to replacement windows in conservation areas. An existing permitted development right allows for enlargement, improvement or other alteration to a dwelling-house. That is subject to a condition that the materials used in any exterior work—other than those used in the construction of a conservatory—must be of a similar appearance to those used in the construction of the exterior of the existing dwelling-house. That applies to replacement windows in conservation areas. The Secretary of State for Levelling Up, in his housing speech in July, launched a consultation which included a proposal to apply local design codes to permitted development rights. He also announced that the Government will consult this autumn on how to better support existing homeowners to extend their homes. On top of that, the Government are undertaking a review of the practical planning barriers which householders can face when installing energy-efficiency measures.

Although I am grateful to my noble friend for raising this issue, I hope he will understand that it would be premature to accept his Amendment 204, as it would curtail the scope of any legislative recommendations that the review might set out in due course. Additionally, powers to amend permitted development rights already exist in primary legislation. For these reasons I cannot support Amendment 204 but am happy to reassure my noble friend that we keep permitted development rights under review.

7.15 pm

I turn now to Amendments 204A and 204B, tabled by the noble Baroness, Lady Andrews. I am grateful to her, the noble Lord, Lord Shipley, and my noble friend Lord Carrington of Fulham for their time discussing these issues just before the Summer Recess. Amendments 204A and 204B would mean that works to demolish affected buildings would require a planning application. The noble Baroness and the noble Lord, Lord Shipley, were right to raise the issue of the Crooked House pub, which has underlined the importance of local heritage to communities. I hope they will understand that, with the active police investigation into the fire, I cannot comment extensively. However, I know how loved and admired the building was, not just in the Black Country but more widely, and what a powerful reminder it is of the importance of our built heritage to local communities.

I can reassure noble Lords more broadly that the Government recognise the importance of local pubs, especially historic ones. That is why pubs are specifically excluded from the permitted development right which grants planning permission for the demolition of most other buildings in England. That means that an application for planning permission for their demolition must be submitted in advance to the relevant local planning authority for consideration.

More broadly, the Government recognise the need to protect historic buildings and other assets which are so valued by local people. We intend therefore to consult on options for changes to this permitted development right to ensure that local planning authorities have the opportunity fully to consider the impacts on the historic environment, and we will make further announcements on this shortly.

I hope the noble Baroness will be pleased to hear that we will seek views on two options that she raised in Committee and in our discussions before the summer: an exemption from the right for buildings built before 1948 or an exemption for buildings which are locally listed, meaning that local planning authorities would need to consider the specific circumstances of each case. I stress that it is a consultation, and so I cannot pre-empt the conclusions we might draw from the views put forward, but I hope she will be reassured that we are looking keenly at the issue that she and other noble Lords have raised in their amendments. With that, I hope she will not press her amendments today.

The amendments tabled by the noble Lord, Lord Redesdale, relate to Clause 220, which introduces a new statutory requirement for all local authorities to maintain a historic environment record. These records are important sources of information for plan-makers and applicants, as well as being a source of information for the public and other government bodies. The Government's intention is that the variety of ways in which local authorities currently make provision for historic environment records will continue as now. Existing local government legislation allows local authorities to arrange for the discharge of their functions by other authorities. This means that they can share or outsource their services, including the provision of historic environment records.

The measure will need to be implemented by local authorities to ensure that an up-to-date historic environment record is maintained for their area, allowing public access to help increase understanding of the historic environment. It will also ensure a consistent and quality standard of digital records is maintained to assist plan-making and decision-taking. This should be supplied at the upper tier by the county councils or, where there is no county council, by the district.

Amendments 261 and 263 seek to ensure that the different arrangements that currently exist for providing historic environment records can continue in the future. I assure the noble Lord that that is absolutely the Government's intention. We believe that Clause 220 as currently drafted achieves this.

The noble Lord's Amendment 262 seeks to make provision for a dispute resolution process. With the provision of historic environment records, there will already have been discussion and agreement between local authorities about the coverage and responsibilities. This established approach is likely to continue, and our guidance will help to minimise the scope for any disagreements.

I hope that, with those reassurances, the noble Lord will be happy to leave his amendments as probing ones. With gratitude to the noble Lords for their support for the government amendments in this group, I commend them to the House.

Baroness Andrews (Lab): I thank the noble Lord for what he has just said. It is an important step forward to get a consultation on the two propositions and the two sets of dates that might apply with Amendment 204A. That is very important and very good news, and I am very grateful. Can the noble Lord say anything about the timetable? I presume that he is talking about the normal 12-week public consultation period. Is there anything we can pass on to the community about preparation for such a consultation? Could the Minister write to me about whether there is a consultation within DLUHC on permitted development as a whole? It would be very useful to have that information.

Lord Parkinson of Whitley Bay (Con): I will happily write to the noble Baroness with the information she seeks, including confirmation of the timelines for the consultation, which I expect will meet the normal provisions. I am afraid I cannot give her a date, but we will do it shortly—if I am able to give any greater finesse to her in writing, I will do so gladly.

Amendment 202A agreed.

Amendment 202B

Moved by ***Lord Parkinson of Whitley Bay***

202B: Clause 99, page 109, line 2, leave out "of the Listed Buildings Act"

Member's explanatory statement

This amendment is consequential on the amendment made to line 1 of Clause 99 in the Minister's name.

Amendment 202B agreed.

Amendment 203

Tabled by ***Lord Northbrook***

203: After Clause 99, insert the following new Clause—

"Conservation areas: guidance from Historic England

In the Listed Buildings Act, at the end of section 72(1) insert "and (in relation thereto) to any relevant guidance given by Historic England"."

Lord Northbrook (Con): My Lords, I am grateful to noble Lords who contributed to the debate on my amendments, particularly my noble friend Lord Bellingham and the noble Earl, Lord Lytton. I am also grateful for the general support from the Labour and Lib Dem Front Benches. I listened very carefully to the Minister and was very encouraged by the fact that local planning authorities should have regard to relevant Historic England advice, and that the Government's planning practice guidance points them to this. I am especially pleased that, when the guidance is next reviewed, my noble friend Lord Parkinson will be happy to ask officials to consider whether links to Historic England's advice could be strengthened. On that basis I am happy not to move my amendment.

Amendment 203 not moved.

Amendment 204

Tabled by ***Lord Northbrook***

204: After Clause 99, insert the following new Clause—

"Permitted development: replacement windows in conservation areas

In the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015/596), Schedule 2, Part 1, Class A.3(a), after "conservatory)" insert "and, in respect of a replacement window in a conservation area, the style and colour"."

Lord Northbrook (Con): My Lords, again, I listened very carefully to the Minister's reply. Particularly important was what he said about the Secretary of State for Levelling Up's housing speech on 24 July that launched this consultation, which includes the proposal to apply local design codes to permitted development rights. I also note that the Government will consult this autumn on how better to support existing homeowners to extend their homes, and the promise to keep permitted development rights under regular review. On that basis, I will not move my amendment.

Amendment 204 not moved.

Amendments 204A and 204B not moved.

Clause 100: Street votes

Amendment 205

Moved by ***Earl Howe***

205: Clause 100, page 111, line 5, at the end insert—

"(g) such other area as may be specified or described in regulations made by the Secretary of State."

Member's explanatory statement

This amendment confers a regulation-making power on the Secretary of State to specify or describe other areas to be excluded from the remit of street vote development orders.

Earl Howe (Con): My Lords, I beg to move Amendment 205 and will speak to the seven other government amendments in this group. In doing so, I thank your Lordships' Delegated Powers and Regulatory Reform Committee for its scrutiny of the Bill, which has informed these amendments in my noble friend's name.

Amendments 205 and 206 will replace the Henry VIII power to add to, remove from or amend the list of excluded areas under new Section 61QC with a power to specify or describe additional excluded areas in regulations. Amendments 207 and 208 will replace the Henry VIII power to add to, remove from or amend the list of excluded development under new Section 61QH with a power to specify or describe in regulations additional excluded development. Amendment 211 removes the power to make regulations excluding the application of Schedule 7A to the Town and Country Planning Act 1990 in relation to planning permission granted by a street vote development order. This power will permit modification only of the application of statutory biodiversity net gain requirements. These amendments address specific recommendations made in the report of the Delegated Powers and Regulatory Reform Committee.

In addition, to address the general points made by the committee, Amendments 209 and 210 will also remove the remaining Henry VIII power in new Section 61QI to add to, amend or remove requirements from the list of requirements that planning conditions requiring a Section 106 obligation must meet, with a power to prescribe additional requirements in regulations. Amendment 213 specifies that the three new regulation-making powers replacing the Henry VIII powers will be subject to the affirmative procedure.

I hope these amendments demonstrate the seriousness with which the Government take the question of appropriate delegation and the recommendations of your Lordships' Delegated Powers and Regulatory Reform Committee. I commend them to the House.

Lord Young of Cookham (Con): My Lords, I will speak to Amendments 212 and 214 to 216 in my name. Earlier today, I spoke on what I regard as the most important clause in the Bill, and I will now speak briefly on what I regard as the least important clause, which is perhaps why there was a mass exodus before we reached this group.

We return now to the subject of street votes, on which I expressed my views forcefully in Committee. The ensuing debate on my amendments exhibited little enthusiasm for this policy—indeed, there was a large degree of suspicion and scepticism from those who spoke, all of whom had a background in local government, which would have to operate the policy.

I think it would be fair to say that a number of key questions remained unanswered, as the policy was clearly work in progress. For example, neither in the

debate nor in the letter that my noble friend subsequently wrote was he able to say what a "street" was, what the policy might cost or who would pay. It turned out that a short-term tenant in a property would have a vote, but the owner would not. A street vote could overturn a recently adopted neighbourhood plan or district plan, and there would be no requirement for affordable housing. Many questions were answered with the reply that this was a matter for consultation.

My noble friend Lord Howe shipped a fair amount of water when he wound up the debate on 20 April. He wrote to me after the debate on 10 July and, although I would never accuse my noble friend of insincerity, when he ended his letter by saying that he "looked forward" to considering this measure further with me as we moved to the next stage of the Bill, he may have had his tongue in his cheek.

In a nutshell, the policy of allowing street votes to determine planning applications was shoehorned into the Bill at a late stage: on Report in the other place. It was fast-tracked from the bubbling vat of a think tank into primary legislation, with no Green Paper and no consultation with the LGA, the TCPA or the public. On the way, it displaced the placeholder in the Bill for the abolition of the Vagrancy Act, which, by contrast, had been extensively consulted on and had all-party approval.

Not only is the policy heroically unready for legislation, but it sits uneasily with the thrust of the Bill, which is to inject certainty into the planning process. The LGA has opposed it and it was panned by the DPRR committee, which wanted whole sections of the clause removed—which has not happened, although I welcome the changes that my noble friend has announced.

I was confused by the explanatory notes to government Amendments 205 and 206, which seem to contradict each other. Amendment 205

"confers a regulation-making power on the Secretary of State to specify or describe other areas to be excluded from the remit of street vote development orders".

Amendment 206

"removes the power to add, amend or remove an area which is excluded from the remit of street vote development orders".

I am sure there is an explanation and I would be happy to get it in a letter, but the amendments, however interpreted, reinforce the original objection of the DPRRC, which said of these clauses:

"A common thread runs through them all: in each case, we consider that the power relates to matters that are too significant in policy terms to be left to be determined by regulations".

The power in one of the amendments could, in effect, designate the whole of England as excluded from the remit of street vote development orders and at a stroke cancel the policy.

7.30 pm

On the principle of the Bill, neither in the debate nor in his letter to me did the Minister address a fundamental flaw, and I pose the question again. Take a suburban road, which we will call the avenue. On either side are detached houses with long back gardens, with access to the garden by the side of the houses. Parallel to the avenue, on either side, are two other roads. Their back gardens back on to the back gardens of the houses in the avenue; this is not untypical in many suburbs. Under this proposal, residents in the avenue can decide in a majority vote to allow those who want to build in their back garden a bungalow, or indeed a two-storey house, to do so. This will clearly have an impact on the residents in the parallel roads, who will find their privacy affected as there will be a new home overlooking their garden—but, crucially, they have no vote. Also, those residents in the avenue who voted no will also find that their gardens too have intrusive development next door, without the opportunity they have at the moment to object and have the issue decided by a planning committee.

Street votes could feed into and inform the democratic planning process, but they should not bypass it. I think there are priorities in planning, including all the new duties in the Bill, other than asking planning authorities to cope with this. But on the basis that nothing will happen in the short term because the policy is simply not ready—and, if and when it is piloted in a few areas and found not to work, it will wither on the vine—I do not propose to invite the street in which I am now speaking to vote on my amendments.

Baroness Thornhill (LD): My Lords, in the interests of balance, and despite the eloquence of the noble Lord, Lord Young, I am rising briefly to support street votes and commend the Government on staying with it. As we have heard, it is a Marmite proposal, and I agree with the noble Lord that there are many questions to be answered. It feels very strange that I will oppose Amendments 212 and 214 to 216 from the noble Lord, Lord Young, as my respect for his housing wisdom usually sees me eagerly doing a nodding dog impression in agreement. On this occasion it was my noble friend Lady Pinnock who was doing so, but I suspect we are definitely coming at this from very different angles. I wish to be clear that we on these Benches have very mixed views about street votes and that there are legitimate concerns that they are not compatible with the hierarchy of plans that the Bill proposes, that they just do not fit, or that it is a daft idea that will never take off. There are also legitimate concerns about how it will work in practice.

Like many here, I have sat in too many meetings being screamed and shouted at for daring to allow homes to be built that apparently nobody wants and will bring chaos to the neighbourhood—noble Lords can imagine the scene. This is in a town where the self-same people complain that house prices have driven their children out of the town and that they just cannot afford to live here; that was my fault too, apparently. They then complain about the number of flats being built that apparently no one wants to live in. I have come home from such meetings in despair, and we have to work with the population at large to change that narrative. In that development all the flats are now lived in, and very nice they are too, with mixed tenure from market sales through to social rent. What was it really all about?

There is an old adage: if you do what you always do, you get what you always get. I believe that street votes are an attempt to break that negative cycle. Can it really do any significant harm to let this one fly and just see what happens? Pilots are certainly a very good way of doing that. If nothing comes of it, we have lost

[Baroness Thornhill]
nothing, and if anything starts to happen it is learning for the future. It is progress—positive public engagement in development, which has to be welcome. I do not believe that any more harm can be done—probably far less than that already done by permitted development rights, for example.

I have long been a supporter of the key principles behind street votes, an attempt to deliver more homes and better places in sustainable ways that are supported by local communities, which is the key aspiration. As an encouraging signal, we have seen what success neighbourhood planning has been in some areas, probably even a few, delivering popular new homes that meet the needs of the community. I believe that street votes might possibly continue this tradition, enabling popular and high-quality homes where they are most needed and helping to ease the housing crisis in a small but significant way by positively engaging residents.

However, I welcome the Government's concession in their amendments. The Delegated Powers and Regulatory Reform Committee report was right to point out that Henry VIII powers are not appropriate for this case. For example, it is plain that a Minister should not be able to exempt development from biodiversity rules without the consent of Parliament, and I am glad that the Government have listened. In the current anti-development climate, where the nimbies appear to have gone bananas and build absolutely nothing anywhere near anybody, anything that might just get some people to become "yimbies" has to be worth a try.

Baroness Taylor of Stevenage (Lab): My Lords, the discussions and continuing concerns in relation to the proposals in the Bill on street votes once again make the strong case for pre-legislation scrutiny. As the noble Lord, Lord Young, outlined, these proposals seem to have been fast-tracked straight into the Bill without any consultation with the sector that might have avoided some of the many concerns we now have. We note that the government amendments are already starting to recognise some of the complexities inherent in the proposals for street votes, which were explored in great detail in Committee. Considerable questions remain to be answered about the process, finances and other resources, and the relationship with other elements of the planning system.

First, let me be clear that we understand and support the idea behind the proposal of greater public engagement in planning matters, on which I agree with the noble Baroness, Lady Thornhill. Our concerns are about the detail. Why could that engagement not be advisory to planning, rather than a formal planning process in its own right? There does not appear to have been any assessment of the cost and resource implications of street votes, which could be considerable—for example, additional cost to the local planning authority under new Section 61QD relating to support for the process of street votes. New Section 61QE is the provision for organising the prescribed referenda, and we all know how expensive it is to hold a referendum. New Section 61QK allocates financial assistance for street votes and could, for example, result in hefty consultancy fees, particularly bearing in mind that it is likely that many street vote processes will rely on external consultancy support if they are to prepare papers to a standard that will meet the test of an inquiry in public. The provision for loans, guarantees and indemnities in relation to street votes projects is in the Bill; how and by whom will the due diligence be done on these? That in itself could present a major burden to local authorities.

Lastly, Clause 101 of the Bill makes provision for developments that come forward from the street vote process to be subject to community infrastructure levy. As it has taken local authorities some years since the implementation of CIL to become proficient in negotiating these agreements, and they could take considerable time and expertise, just who is going to undertake that work? Secondly, there is the potential for this to place even further burdens on the Planning Inspectorate, where there does not seem to be, at the current time, enough capacity to deal with current workloads.

We were very grateful to the noble Earl, Lord Howe, for his letter addressing the concerns we expressed in Committee—concerns raised by the noble Lord, Lord Stunell, on the relationship with neighbourhood plans, and the noble Baroness, Lady Pinnock, on the definition of a street. I think the noble Lord, Lord Young, clearly outlined how that may get complicated, and I have my own concerns about the finance. In relation to the considerable concerns on the financial and resource aspects, we feel it would have been far more helpful for those who have been promoting street votes to have carefully assessed the impact before the proposals came forward. The letter of the noble Earl, Lord Howe, stated:

> "The Government is aware street votes will require local planning authorities and the Planning Inspectorate to perform functions in the process, and that these will result in new burdens and associated costs. The extent of these costs will be clearer as we develop the detail of new regulations. New burdens on local planning authorities will be assessed and addressed in accordance with well-established convention, and costs incurred by the Inspectorate will be taken into account as we determine future budget allocations".

We have to ask: is the considerable additional funding that may be needed to meet these costs really a priority in a time of such considerable budget and funding pressures, both for the Government and for local government? I note that the Local Government Association continues to oppose these proposals.

I add my thanks to those on the Delegated Powers and Regulatory Reform Committee, who have looked at this in great detail and at least undertaken some of the scrutiny that might have been useful before the proposals went into the Bill. The noble Lord, Lord Young, outlined that there are many questions still remaining on this. He ably set out a very clear example of how the flaws in the thinking behind the proposal might impact on local people. The noble Baroness, Lady Thornhill, spoke about the relationship between these orders and other neighbourhood and local plans which will be made.

I note that the noble Lord, Lord Young, wishes to strike the clauses out of the Bill. He made a very cogent case for doing so. I think his term was "heroically unready for legislation", which I will not comment on, but it was a good term. If the Minister does not take the advice of the noble Lord, Lord Young—and that may be so, as I understand that the Secretary of State has been convinced of the merits of street votes—can

I make a strong plea that there is some engagement with the sector about the detail of how street votes will work before we go any further with this?

Earl Howe (Con): My Lords, I am naturally sorry that I have not been able to persuade my noble friend to give his support to the clauses in the Bill that would allow for the introduction of street vote development orders. We firmly believe that this policy has the potential to boost housing supply by helping to overcome resistance in communities to new housebuilding, which can be a major barrier preventing us from building the homes we need. I was most grateful for the support expressed for the policy by the noble Baroness, Lady Thornhill. She was quite right in her remarks. Local people often feel that development is imposed on them and that they have little say on what gets built and how it is designed. That can lead to local opposition to new housebuilding and can discourage people from bringing development forward. Street vote development orders will help to address that issue.

As a country, we build very few new homes in our existing suburbs. Research by the Centre for Cities in 2020 found that over one-fifth of neighbourhoods outside city centres have built no new houses since 2011, while half of these suburban neighbourhoods have built less than one home each year. There is, therefore, a huge opportunity to make better use of our existing urban land to develop the homes we need, particularly in low density suburban areas. We can more effectively take advantage of this opportunity if we incentivise residents to support additional development in these areas. This is where street votes can really help.

This policy will provide the means for residents to work together and decide what development is acceptable to them, and to shape that development so that it fits with the character of their street. After a street vote development order has been made, it will mean that home owners can develop their properties with much greater confidence that their neighbours will be supportive of what they are doing, providing the development complies with the terms of the order. The value of property may increase as a result of a street vote development order, so there is a strong incentive for home owners to work with their neighbours to prepare one. There may also be benefits for those who do not own their property, including environmental improvements in their street and a greater choice of accommodation in the area. Prescribed requirements, including on what type of development is allowed, as well as detailed design requirements such as floor limits, ceiling heights and plot use limits, will help to ensure that we have the right level of safeguards in place and that impacts on the wider community are managed appropriately.

7.45 pm

I accept that this is a new way of doing things and that we need to get the details right, which is why in Committee I pledged that, before we implement this policy, we will work closely with a wide range of stakeholders across the sector, including local government, and seek the views of the public to inform these regulations. I know there are a range of important matters of interest to noble Lords, such as the precise definition of a street area, who is eligible to vote in a referendum and the relationship with the development plan. The noble Baroness, Lady Taylor, mentioned other points. These are all issues that we intend to detail in regulations following a public consultation. This will enable us first to test our proposals with a wide range of stakeholders, so that the policy can deliver good outcomes for communities. Delegated powers will also allow government to make changes to matters of details, if required, to ensure consistency with changes to broader government policy.

I hope, on that basis, noble Lords—particularly my noble friend—will give these clauses a fair wind.

Amendment 205 agreed.

Amendments 206 to 211

Moved by ***Earl Howe***

206: Clause 100, page 111, leave out lines 6 to 8

Member's explanatory statement

This amendment is connected to the amendment in the Minister's name inserting new paragraph (g) into section 61QC(2) of the Town and Country Planning Act 1990 (as inserted by Clause 100), and removes the power to add, amend or remove an area which is excluded from the remit of street vote development orders.

207: Clause 100, page 115, line 14, at the end insert—

"(f) such other development as may be specified or described in regulations made by the Secretary of State."

Member's explanatory statement

This amendment confers a regulation-making power on the Secretary of State to specify or describe development to be excluded from the remit of street vote development orders.

208: Clause 100, page 115, leave out lines 15 and 16

Member's explanatory statement

This amendment is connected to the amendment in the Minister's name inserting new paragraph (f) into section 61QH of the Town and Country Planning Act 1990 (as inserted by Clause 100), and removes the power to add, amend or remove development which is excluded from the remit of street vote development orders.

209: Clause 100, page 115, line 40, at the end insert—

"(d) satisfies such other requirements as may be specified in regulations made by the Secretary of State."

Member's explanatory statement

This amendment confers a regulation-making power on the Secretary of State to specify further requirements that must be met before a street vote development order under the Town and Country Planning Act 1990 (see sections 61QA to 61QM, inserted by Clause 100) may be made subject to a condition that a person enter into an obligation under section 106 of that Act.

210: Clause 100, page 116, leave out lines 1 to 3

Member's explanatory statement

This amendment is connected to the amendment in the Minister's name inserting new paragraph (d) into section 61QI(4) of the Town and Country Planning Act 1990 (as inserted by Clause 100), and removes the power to add, amend or remove requirements that must be met before a street vote development order under the Town and Country Planning Act 1990 (see sections 61QA to 61QM, inserted by Clause 100) may be made subject to a condition that a person enter into an obligation under section 106 of that Act.

211: Clause 100, page 118, line 3, leave out "or excluding"

Member's explanatory statement

This amendment removes the power to make regulations excluding the application of Schedule 7A to the Town and Country Planning Act 1990 in relation to planning permission granted by a street vote development order.

Amendments 206 to 211 agreed.

Amendment 212 not moved.

Schedule 9: Street votes: minor and consequential amendments

Amendment 213

Moved by ***Earl Howe***

213: Schedule 9, page 400, line 26, leave out "61QC(3), 61QH(2) or 61QI(5)" and insert "61QC(2), 61QH or 61QI(4)"

Member's explanatory statement

This amendment is consequential on the amendments in the Minister's name amending Clause 100 to change the scope of the regulation-making powers under new sections 61QC, 61QH and 61QI (as inserted into the Town and Country Planning Act 1990 by that Clause).

Amendment 213 agreed.

Amendment 214 not moved.

Clause 101: Street votes: community infrastructure levy

Amendment 215 not moved.

Clause 102: Street votes: modifications of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017

Amendment 216 not moved.

7.48 pm

Consideration on Report adjourned until not before 8.35 pm.

Illegal Migration Update

Statement

The following Statement was made in the House of Commons on Tuesday 5 September.

"With permission, Madam Deputy Speaker, I wish to make a Statement about illegal migration.

Tackling illegal migration is one of the Government's central priorities because it is the British public's priority. People can see that illegal migration is one of the great injustices of our time. It harms communities in the UK, it denies the most vulnerable refugees a chance of resettlement, and it leaves behind a trail of human misery. Indeed, the perilous nature of the small boat crossings was underscored once again last month when six fatalities occurred in a tragic incident off the French coast. My thoughts are with all those affected, and I pay tribute to the first responders in both the UK and France who worked in difficult circumstances to save as many lives as possible.

That reminds us all why we need to do whatever it takes to stop the boats, which is exactly what the Government have been doing throughout the summer. We started by redoubling our efforts to smash the criminal gangs upstream, well before those gangs are in striking distance of the United Kingdom. We have agreed a new partnership with Turkey to target the supply chain of small boats, which establishes the UK as Turkey's partner of choice in tackling the shared challenge of illegal migration. Two weeks ago I visited my counterparts in Egypt, as the Security Minister visited Iraq, to deepen our law enforcement co-operation with two more strategically important countries in that regard.

In the UK, we have been ratcheting up our activity to break the business model of the gangs. Unscrupulous employers and landlords who offer illegal migrants the ability to live and work in the UK are an integral part of the business model of the evil people-smuggling gangs. We are clamping down on them; we announced over the summer the biggest overhaul of our civil penalty regime in a decade, trebling illegal working fines and initiating a tenfold increase in right to rent fines for repeat offenders.

As we do so, more rogue employers and landlords are getting knocks on the door. Illegal working visits in the first half of this year increased by more than 50% compared with the same period last year. So far in 2023 we have more than trebled the number of right to rent civil penalties issued compared with last year, resulting in a sixfold increase in the number of penalties levied. Following the resumption of the immigration banking measures in April, banks and building societies are now closing the accounts of more than 6,000 illegal migrants.

As we surge our enforcement activity, we are driving up the returns of those with no right to remain in the United Kingdom. Last month we announced the professional enablers task force, which will increase enforcement action against lawyers and legal representatives who help migrants to abuse the immigration system. Lawyers found to be coaching migrants on how to remain in the country by fraudulent means will face a sentence of up to life imprisonment.

Since our deal with Albania in December last year, we have returned more than 3,500 immigration offenders, on weekly flights. As we have done so, we have seen a more than 90% reduction in the number of Albanians arriving illegally. So far there have been more than 12,600 returns this year, with returns in the first half of this year 75% higher than in the same period last year. Of course, those changes follow the landmark Illegal Migration Act 2023, which, coupled with our partnership with Rwanda, will deliver the truly decisive changes necessary to take away all the incentives for people to make illegal crossings from the safety of France.

As we adopt a zero-tolerance approach to illegal migration, the Government have extended a generous offer to those most in need of settlement. The latest statistics published over the summer show that, between 2015 and June 2023, 533,000 people were offered a safe and legal route into the United Kingdom. Last month the Home Office resettled the thousandth refugee through the community sponsorship scheme.

While this Government's focus is on tackling the source of the problem, we have none the less worked to manage the symptoms of illegal migration as best as is practicable. We have made significant improvements at Manston since last year, and it continues to operate as an effective site for security, health and initial asylum checks, despite the pressure of the summer months.

We have worked to ensure that when migrants depart Manston they are now heading to cheaper and more appropriate accommodation, by rolling out room sharing and delivering our large accommodation sites. Those sites are undoubtedly in the national interest, but the Government continue to listen to the concerns of local communities and Members of this House, and throughout the summer further engagement has taken place to ensure that those sites are delivered in the most orderly way possible. We have successfully ended the use of Afghan bridging hotels, with Afghan families now able to move on with the next stage of their lives in settled accommodation, and the hotels are now returning to use by the public.

Reducing the backlog in asylum cases and establishing a more efficient and robust decision-making system is not in and of itself a strategy to stop illegal migration, but it is important for taxpayer value and we have prioritised it. We have transformed the productivity of asylum decision-making by streamlining processes, creating focused interviews and instilling true accountability for performance. As of 1 September, we have met our commitment to have 2,500 decision-makers, an increase of 174% from the same point last year. As a result, I am pleased to report to the House that we are on track to clear the legacy backlog by the end of the year, and that recently published provisional figures for July show that the overall backlog fell.

Tackling illegal migration is not easy; more people are on the move, and more are mobile, than ever before. Countries around the world are struggling to control it. But our 10-point plan is one of the most comprehensive strategies to tackle this problem in Europe, and that is showing. As of today, arrivals are down by 20% compared with last year, and for the month of August the reduction was more than a third. That is against the reasonable worst-case scenario of 85,000 arrivals that we were presented with when taking office last year.

In contrast, irregular migration into the EU has significantly increased, with Italy alone seeing a doubling in small boat arrivals. In Italy, a 100% increase; in the UK, a 20% decrease. Our plan is working. There is of course much more to do, but it is clear that we are making progress. I commend this Statement to the House."

7.48 pm

Lord Coaker (Lab): My Lords, even as we discuss yesterday's illegal migrants Bill update, new information emerges which requires the update to be updated, as we read in today's papers of various claims and counter-claims. First, can the Minister explain to us where the Home Office will find the additional £2 billion a year, because it will no longer be allowed to use the foreign aid budget to pay for migrants in hotels? This is a result of the illegal migrants Act. Is this report from the Independent Commission for Aid Impact accurate? Why has it never been mentioned? Did the Minister know about it, because when he was asked about it earlier by another noble Lord, he did not know anything about it. So can he update us on whether this should have been mentioned, or whether the reports of that additional £2 billion are wrong?

This Saturday we saw the year's record numbers for a day, with 870 people crossing the channel. So far this year, 21,000 people have crossed the channel in small boats. Can the Minister tell us how many of those were children and what the estimate is of the numbers waiting in France for the opportunity? If the weather improves, does the Minister expect that that number will continue to grow?

As we watch the Government move from crisis to crisis on migration, can the Government update us on plans to house migrants? Is it the case that the Army base in the Prime Minister's constituency is still to be used, and not dropped, as a possible option, as Sir Edward Leigh MP said yesterday in the other place? When will the "Bibby Stockholm" barge be fully utilised? Has all the legionella in the water supply now been dealt with? What happened with "Bibby Stockholm", and when did Ministers become aware of the problems? What plans does the Home Office have for more barges or, as I read in the papers over the Summer Recess, for marquees?

The Prime Minister keeps declaring victory in respect of small boats, yet the "small boats week" designed to highlight success was a catastrophic failure that merely highlighted that fact. Is it not the case that the asylum backlog is still at record levels? Migrants continue to cross the channel in huge numbers, the provision of detention facilities outside hotels is a mess, and costs continue to rise. Can the Minister also update us on how many failed asylum seekers under existing laws are awaiting deportation?

We have continually called for proper returns agreements, particularly with France; safe routes; stronger police action nationally and internationally; dealing with the problems at source; and speedier decision-making. This Government remain in denial, while passing ever more laws, some of which undermine our international reputation. Can the Minister also tell me whether he agrees—and, if not, why not—with the deputy chair of the Conservative Party, Lee Anderson MP, who said that his party had failed on immigration and that it had allowed the situation to get, to quote him, "out of control"?

We all believe that the small boat problem needs resolving—it needs dealing with—but greater competence and sensible policy would make a real difference, rather than always seeking tomorrow's headlines. Is it not about time that the Government got a grip on this problem and, as a start, were actually competent in implementing the policies they put before us, rather than the incompetence we see day after day and week after week?

Lord German (LD): My Lords, I will not repeat the questions which have already been asked, except to emphasise the issue about the ODA money and the question of where on earth they will find funding for this to be changed.

This Statement is, basically, very thin gruel, because it opens the door to more problems than the problems we had already raised. I will question two of those big problems which are additional to the ones which have already been asked. The first is about the number of claim withdrawals. There has been a big increase in withdrawals of asylum claims, particularly from countries

[Lord German]
which have a very high grant rate for asylum claims. The previous rules on treating asylum claims as withdrawn provide three reasons that an asylum claim will be treated as implicitly withdrawn. The new version of the rules, since we completed the debate before the Recess, now adds two more grounds: failure to maintain contact with the Home Office or to provide up to date contact details, and failure to attend reporting events unless due to circumstances outside the applicant's control. The Government say that the rule changes are to improve clarity regarding the withdrawal of asylum applications. It is difficult to see how adding yet further grounds will do anything other than increase the number of people who have genuine asylum claims thrown out.

The claims that I want to talk more about are those where, according to the rules, the circumstances in which an asylum claim will be treated as explicitly withdrawn have now widened. Before, the only circumstances in which a claim would be treated as explicitly withdrawn were where an applicant signed a specified form. Now, an applicant may also

"otherwise explicitly declare a desire to withdraw their claim".

Can the Minister clarify what the "otherwise" circumstances are? These are new circumstances, but nowhere are they explained. How can he be sure that these people do not require protection, and what happens to them once their application has been withdrawn?

I will now follow on from the question I asked the Minister earlier today about the moving on process from Home Office accommodation. He indicated today that the process would be very swift, and he did not demur from the seven days I mentioned. That was down from the 28 days that currently exists; seven days now seems to be the new norm. We understand the urgent need to move people out of hotels and into more appropriate, community-based accommodation, but the way to achieve that is not by evicting them into homelessness—in effect, dumping them on the front door of the local authority, many without the biometric certificate which is the essential ticket to getting universal credit and the gateway to a home.

So my questions are these. What, if any, communication exists between the Home Office and local authorities of the names and details of those who are to be released and when? At what point, following the letter telling the recipient they have leave to remain, do recipients receive their biometric certificate, without which they cannot really proceed anywhere? Is there any standard of service in the Home Office on any time gap between the letter arriving saying that they have leave to remain and the biometric certificate being delivered? The Minister spoke today of the need to protect the service provision, but the actions taken by the Government focus entirely on the numbers issue, not on seeking a sensible solution to those coming through and out of the system. I fear that we are in for many more debates on the chaos left by a system that is driven by numbers and not by people.

The Parliamentary Under-Secretary of State for Migration and Borders (Lord Murray of Blidworth) (Con): My Lords, I am grateful to both noble Lords for their questions. It is apparent that I would refute the allegation from the noble Lord, Lord Coaker, that, in any sense, the illegal migration update did not reveal a sensible and competent approach.

I will remind the House of the six points contained in the Statement. The first was the agreement we have recently struck with Turkey to take action with the Turkish authorities to disrupt gang activity and to prosecute those who would seek to smuggle people across the channel. The second point was the reiteration of the department's approach to lawyers who would seek to undermine the efficacy of the asylum system by coaching or by, in effect, enabling fraudulent use of asylum and other routes; we have created the Professional Enablers Taskforce to prevent such an abuse of the system. The third was the massive increases in civil penalties for illegal working and for renting to those who are not entitled to do so.

Fourthly, on the very satisfactory statistics in relation to returns, I need not remind the House that 3,500 Albanians have been returned in recent times—a 90% reduction in the numbers arriving on small boats. Fifthly, my right honourable friend the Immigration Minister reminded the House of Commons that the target of 2,500 asylum decision-makers has now been met. Finally, there has been a 20% reduction in small boat crossings, compared to this time last year. This must be viewed in the context of circumstances where small boat arrivals in Italy have gone up by 100%.

In the context of all those points, it is notable that none of the questions from the noble Lord, Lord Coaker, or the noble Lord, Lord German, focused on these points. That is because neither the Liberal Party nor the Labour Party has any answer to the problem posed by small boats.

I turn now to address some of the questions raised by the noble Lord, Lord Coaker. First, on the article in the *Times* about the report of the Independent Commission for Aid Impact, the Government are looking at that report and considering its outcome. It may be that the outcome is not something with which His Majesty's Government agree, but in any event I can reassure the noble Lord that funding for asylum support will remain.

On the noble Lord's question about Catterick garrison. I can confirm that work is ongoing to bring forward accommodation there as part of wider efforts to relieve pressure on the asylum system.

On the noble Lord's question about the "Bibby Stockholm", as my right honourable friend made clear in the other place, we are confident that we will be able to return asylum seekers to such accommodation within a fairly short period. Final checks are being conducted.

As to the work with France, I can reassure the noble Lord that our agreements with France have yielded a great deal of success. Our French deal has prevented some 33,000 illegal crossings in 2022—40% more than in 2021. In the first eight months of 2023, around 15,000 of these dangerous, illegal and unnecessary crossing attempts have been prevented. This is on top of the agreements with Albania which have had the effect I have already outlined. We have a similar agreement with Turkey to tackle and disrupt the small boats supply chain. This includes the creation of a Turkish national police centre of excellence, based in Turkey, to tackle organised immigration crime.

This must all be viewed in the context of the operationalisation of the Illegal Migration Act, which will demonstrate the effect of the provisions. If you come to the UK illegally in a small boat, you will be detained and speedily removed.

8.03 pm

Lord Howard of Lympne (Con): My Lords, has my noble friend seen the recent, extremely sensible suggestion that, since the boats which are used in such dangerous circumstances to cross the channel do not comply with the safety requirements of the European Union, France and other member states have the power—and, indeed, the responsibility—to confiscate those boats? What representations are His Majesty's Government making to France and the other countries to exercise these powers?

Lord Murray of Blidworth (Con): My noble friend makes an important point. It is right that Home Office officials and National Crime Agency officers are working closely with the French to try to disrupt the supply of small boats. We now have many of the boats used in the crossings which have been confiscated following the journeys across the channel. By and large, they are not ones which are sold on the French market; most of these vessels are constructed for the purpose. I have seen them myself, and they are incredibly dangerous and not fit for crossing an area of open water such as the English Channel. I can reassure my noble friend that, from what I have been told, the practice of the French, when they disrupt a launch, is to destroy the effectiveness of the boat and to confiscate what remains of the boat. This is something the French authorities have been handling. We are working, as ever, with them to disrupt the maritime side, and further work to disrupt the upstream provision of both boats and engines is ongoing.

Baroness Brinton (LD): My Lords, there is a shocking omission from the Statement. During the passage of the Illegal Migration Bill, a number of noble Lords expressed concern for the safety of unaccompanied asylum-seeking children arriving in Kent and who was responsible for them. The Minister repeatedly reassured us that these minors were rapidly transferred to other local authorities beyond Kent because it was not fair for one local authority to manage the numbers. Following a court case last month, the leader of Kent County Council said that the national transfer scheme was failing. Kent is now caring for 661 unaccompanied asylum-seeking children and more than 1,000 care leavers. Last month alone, Kent received 489, but only 136 went elsewhere. Shockingly, the judge said that neither Kent County Council nor the Home Office knew where the children are or whether they are safe and well. What is the Home Office doing to make the NTS work? Above all, are these children safe?

Lord Murray of Blidworth (Con): Clearly, the Home Office has the judgment of Mr Justice Chamberlain in the decision of which the noble Baroness speaks. The High Court found that Kent County Council was in breach of its obligations under the Children Act in relation to housing these children. It found that the contingency use of Home Office hotels was acceptable for short periods in an emergency where the facilities of Kent were overwhelmed. It was his view that the periods for which these children were in the hotels had exceeded the permissible period. Obviously, the Home Office is considering that recent judgment. As the noble Baroness observed, the practice has been for Kent to take responsibility for these children. Clearly, the national framework is being used and will continue to be used to redistribute the unaccompanied asylum-seeking children around the country.

Baroness Ludford (LD): My Lords, small boats week was, unfortunately, a fiasco—it would have been a hoot were it not so incredibly serious when what we need is competent administration. The real problem is the Government's prioritisation of gesture politics and grandstanding over hard work on dealing with this getting on for 200,000 backlog.

In his response to the Front-Benchers, the Minister said that funding would remain for asylum support. During the passage of the Illegal Migration Bill, Members from across the House warned—I remember that my noble friend Lord Purvis of Tweed in particular raised the issue—that international aid money could not be spent on people who are not asylum seekers if the Government refuse to admit them to the asylum process, which is what the Illegal Migration Act provides. Are the Government ever going to implement the Illegal Migration Act, or will they kick it into touch as they did with part of the Nationality and Borders Act, whose provisions on group 2 refugees have not been implemented? One wonders why we spent so many hours debating this—including till 4.15 am, as I remember —when the Government were acting all macho that this legislation had to go through. I would be intrigued to find out whether they will implement the Act not only because of these issues about budget but also because, as we warned, possibly hundreds of thousands of people will be left in limbo. It is an unworkable Act. What are the Government going to do?

Lord Murray of Blidworth (Con): I can confirm for the noble Baroness that we will certainly commence the Act. She will be happy, I am sure, to see statutory instruments commencing various provisions very shortly.

Baroness Hoey (Non-Afl): My Lords, one of the most welcome aspects of this Statement is the clampdown on the despicable lawyers who have benefited so much from leading on many young people who have come to this country illegally. Can the Minister tell the House honestly—I am sure that he is always honest—whether he really believes that we are getting value for money from the French Government for the £480 million that we spend? Can he also tell us how much training all these extra decision-makers, as I think they are called, have had? Were they all newly appointed or have they come from other parts of the Home Office?

Lord Murray of Blidworth (Con): I will deal first with the question about lawyers. I can confirm to the noble Baroness that the purpose of the Professional Enablers Taskforce is to bring together regulatory bodies, law enforcement teams and government departments to exchange information thus to investigate,

[Lord Murray of Blidworth]
disrupt and increase enforcement action against those lawyers who help illegal migrants exploit the immigration system. I am sure that I do not need to remind the House that such prosecutions against corrupt immigration lawyers could result in them facing sentences up to life imprisonment for assisting illegal migrants to remain in the country by deception.

Turning to the noble Baroness's question about value for money from our agreement with the French, plainly, it is very hard to put a price on the lives of those saved who may have drowned while attempting to cross the channel. However, I venture to suggest to the noble Baroness that the answer is yes.

I turn to the noble Baroness's third question, which related to the 2,500 additional asylum case workers. They are all fully trained. The Home Office also has a detailed programme of ongoing refresher training to ensure that each case worker is up to date. As to their source, I am afraid that I do not have the precise breakdown, but my understanding is that they have been recruited to that role. I can certainly look into how many of them are entirely new to the Home Office and how many have moved from other parts of the Home Office, and I will write to the noble Baroness in respect of that.

Lord Jackson of Peterborough (Con): My Lords, I welcome the Government's initiatives in this policy area, in particular the 10-point plan, the 20% reduction in arrivals and the deal that was secured with Albania. However, can I gently press the Minister on the possibility, or the suspicion, that we might be moving towards a de facto amnesty situation in our haste to reduce the waiting list of asylum claimants? I pray in aid evidence by way of comparison with France, which accepts and grants the claims of only 25% of its asylum claimants whereas we grant 73%. Retaining robust standards is an important issue that people are concerned about, particularly in terms of the people we are training to adjudicate these claims in order to reassure the public that real action is being taken in this vital area.

Lord Murray of Blidworth (Con): I can assure my noble friend that we are certainly not engaging in an amnesty. Of course, that is what the previous Labour Government did in relation to bringing down the backlog, and it would be incredibly damaging to deterring false asylum claims if one were to go down that line. Every asylum claim is considered properly and fully against the acceptable standards. I can put my noble friend's mind at rest on that question.

I realise that I omitted to answer the question from the noble Lord, Lord German, in relation to asylum support, and I ask for the indulgence of the House to provide those answers. There appears to be some confusion around the moving on process. The provision of asylum support is heavily regulated. I assure the noble Lord that the prescribed period for someone given notice that their asylum claim has been granted or that their appeal has been allowed or that their asylum claim has been refused and they have been given another type of leave is 28 days. In all other cases, it is 21 days. As per Regulation 22 of the Asylum Support Regulations, individuals will receive a notice-to-quit support letter, which will be issued in writing at least seven days before the individual's support payments are due to end. Where an individual's 21-day or 28-day period has passed but they have not received their seven days' notice, they will still receive the seven-day notice period.

I should add that there is no legislative power to provide such support beyond the 21-day or 28-day prescribed periods and that there are no plans to change the periods. I hope that that provides a sufficiently detailed answer for the noble Lord.

Lord Scriven (LD): My Lords, before the Recess, I asked a simple question expecting a simple answer from the Minister. I asked what is the youngest age of an unaccompanied asylum-seeking child to have been placed in a Home Office hotel? It is a simple question, but the answer was quite breath-taking in that the Home Office could not give an answer because the data could not tell it the age of the youngest unaccompanied asylum-seeking child to be held in a hotel. Why is that the case? If the Home Office cannot answer that question, what are the implications for safeguarding and appropriate provision for such young children?

Lord Murray of Blidworth (Con): Clearly, safeguarding is a significant consideration. The Kent Intake Unit, where unaccompanied asylum-seeking children are initially triaged, is certainly somewhere where safeguarding concerns are taken very seriously. The staff there pay very close attention to ensuring the best possible care for the children who pass through the centre. Careful consideration is given in the cases of very young children that they are not sent to hotel accommodation but, rather, to local authority accommodation if it is at all possible.

I should add that, of course, the vast bulk of unaccompanied asylum-seeking children are nearer the age of 18—that is, 16, 17 or 18 years old.

Lord Faulks (Non-Afl): My Lords, the Statement and, indeed, the Minister emphasised how lawyers have been, and are, capable of frustrating this process in ways that would often constitute serious criminal offences. Of course, those are matters for prosecuting authorities or the Solicitors Regulation Authority if the stories that the *Daily Mail* has helpfully published are true, and there is no reason to think that they are not true.

The Statement talks about the Professional Enablers Taskforce. Can the Minister set my mind at rest about whether this will help very much? Is there not a danger that having a bureaucratic organisation such as the Professional Enablers Taskforce may get in the way of the fairly straightforward process of prosecuting by the authorities or, indeed, pursuing professional matters under the regulation authority?

Lord Murray of Blidworth (Con): I thank the noble Lord for that question. The Professional Enablers Taskforce will perform the important function of ensuring that information is shared between the Home Office—of course, it has access to the documents relating to the various cases and could arguably provide witnesses in

relation to them—the regulatory bodies of the various lawyers concerned, the police and the prosecuting authorities. The exchange of information in such circumstances is a great enabler to the successful prosecution and conviction of these people who would abuse our asylum system and our system of humanitarian protection for personal or professional financial gain.

Lord Scriven (LD): I will try again. Very simply, why does the Home Office data not have a simple answer on the age of the youngest unaccompanied child seeking asylum who is in a hotel run by the Home Office, or, I should say, procured by the Home Office? Why is that data not available as a matter of fact?

Lord Murray of Blidworth (Con): As I have already made clear, the categories of data held by the Home Office are held in accordance with the practices that are deployed in the triaging of the various UASC who come through the Kent intake unit. Some data is held, and obviously some of that is protected because it is personal data. It will not surprise the noble Lord to learn that there is a vast amount of data which is held, and it is simply not satisfactory for the noble Lord to complain that one particular category of data is not held.

Baroness Hoey (Non-Afl): My Lords, could I push the Minister very gently a little more on his obvious reasons on the question of value for money with France? Am I right that we have a relationship with Belgium, which does not get £480 million, and that it is doing much better at stopping these boats? Is there not some way that we can get the French to copy their colleague nation in the European Union to do the same?

Lord Murray of Blidworth (Con): I thank the noble Baroness for that remark. She is absolutely right: the Belgians are doing an excellent job. The Belgians, in contradistinction to the approach taken by the French authorities, stop the boats when they are in the water and return them to the shore, rather than the approach adopted by the French authorities, which is that they are unable to interfere once the boats have launched. Clearly, this is a topic that is the subject of frequent discussion. I reassure the noble Baroness that her point is well made, and I will take it away.

Baroness Brinton (LD): I am sorry to come back on this point but the answer that the Minister has given twice now to my noble friend Lord Scriven is in conflict with the answer that he gave the noble Lord, Lord Howard of Lympne. To the noble Lord, Lord Howard of Lympne, he said that the Home Office received data, whereas to my noble friend Lord Scriven he said that that data was not available. We know from the data that has been in the press that Kent County Council is certainly aware of the number of children and other details, as would be any other corporate parent local authority receiving children. We are not asking for individual data and the names of children, but there must be statistical ranges of the children who have arrived. The Minister has said that the Home Office holds some data—why does it not hold that data?

Lord Murray of Blidworth (Con): I have already answered that question. I am afraid I simply do not accept the noble Baroness's point that there is conflict between the answer I gave to the noble Lord, Lord Howard, and the answer I gave to the noble Lord, Lord Scriven. The point is this: certain categories of data are simply not collected and this falls into that category. Lots of data is held, as it will not surprise the noble Baroness to learn.

Baroness Ludford (LD): Can I have one last try at this? Does the Home Office record and hold data on the age of unaccompanied asylum-seeking children who are triaged in Kent and who are placed in hotels? A simple yes or no will do.

Lord Murray of Blidworth (Con): As I have already made clear, the data requested on a child in hotels could not be provided as it comes from operational databases that have not been quality assured.

8.23 pm

Sitting suspended.

Levelling-up and Regeneration Bill

Report (6th Day) (Continued)

8.35 pm

Amendment 217

Moved by ***Lord Lansley***

217: After Clause 104, insert the following new Clause—

"Drop-in Permissions

(1) The Secretary of State may, by regulations, make provision in relation to applications for planning permission in respect of land in England which is already the subject of an existing planning permission.

(2) Regulations made under subsection (1) may enable a subsequent planning permission to vary an existing permission without rendering the existing planning permission void, if the local planning authority is satisfied that the existing planning permission is able to be completed as amended.

(3) The power to make regulations under subsection (1) includes power to make—

(a) consequential, supplementary, incidental, transitional or saving provision;

(b) different provision for different purposes."

Lord Lansley (Con): My Lords, this group of amendments is diverse in its scope and purpose, but they all relate to the determination of planning applications. Amendments 217 and 219 are my responsibility, and I will introduce them first. Amendment 217 takes us back to a subject that we discussed very carefully during Committee. It is about the circumstances where a planning application is received in relation to a site on which planning consent has already been granted and where the new planning application is for the purpose of varying the intended development on that site.

In the past, before the Hillside judgment last November, the working practice was that, if such variation was not so substantial that it did not prevent the physical

[Lord Lansley]
completion of the original application, such a new consent could be given and a variation made to the existing permission. I will not go on about all that, but if anyone wants to see it in detail, it is in the report of the Committee proceedings. I am very grateful to my noble friend and officials for the work that has been done and the advice that we have all received from the British Home Builders Federation and the British Property Federation.

There is a serious practical problem here, which is that where there is a large site to be built out for development, often parts of that site require a change to what was the originally intended development. That may be because, for example, it was going to be executive homes and it has to be sheltered housing, or a school may need to be moved from one place to another. In the past, this has generally been able to be done in a relatively pragmatic way. However, the conclusion of the Supreme Court judgment was that there was not the scope simply to vary existing applications: the existing application is what it is and, if it is to be changed, a new application has to be made. This is of course severely impacting negatively on the possibility of being able to proceed on large sites by giving options for and allocations of that site to developers.

It is generally acknowledged, and I think my noble friend and the Government agree, that there is a problem here, and it stems from the fact that what was the practice is now no longer supported by case law. What we need, therefore, is for planning law to adjust for that purpose. That is the point of my Amendment 217. However, if I can get the assurances I am seeking from my noble friend this evening, I would certainly not wish to press my amendment, which is something of a placeholder to try to get us to the right place.

In Clause 104, to which the amendment relates, which is titled "Minor variations in planning permission" and would more accurately be called "Variations in planning permission", we need it to be well understood that, where in new Section 73B(5) it says that

"Planning permission may be granted in accordance with this section only if the local planning authority is satisfied that its effect will not be substantially different from that of the existing permission",

the meaning of those words is sufficient to encompass changes or variations in the existing planning permission which are not incompatible with the original purpose of the overall planning permission—then it would be invalidated. But if it is not made invalid by the additional application, then it ought to be able to be varied by this. If that is not sufficient and does not quite get us far enough, I hope my noble friend will also agree that the Government will look at using, actively if necessarily, the general development order power in Section 59 of the Town and Country Planning Act to specify what local planning authorities should do if they receive a planning application in relation to a site where there is an existing permission and where that permission would need to be varied as a consequence of granting consent but is intended to be consistent with the overall purpose.

I could well understand it, and would accept it, if the Minister said that there is a difference here with outline planning permissions or permissions in principle that need to be varied, where it must be understood that there could be quite significant variations in those planning permissions at that stage. Clearly, a narrower, more precise definition will need to be used in relation to sites where full planning permission has been granted. But, in many of these developments, what happens in practice is you have outline planning permission, and then the full planning permission for parts of that site comes forward in phases. The sector could live with that perfectly well.

It is of the essence for this to be proceeded with relatively quickly. I hope my noble friend agrees. At the moment, the sector and planning authorities are living with case law that is making it very difficult for them to build out on large sites with large developments. We need that to be resolved quickly. I hope that my noble friend can say that they will come forward with their proposals, and consultation on guidance and/or regulations if necessary, as soon as they can.

Amendment 219 relates not to that clause but to the later Clause 107, where Ministers are proposing to take a power to decline applications, extending the power in circumstances where somebody making an application for planning permission to a planning authority has failed to begin or has not proceeded sufficiently quickly with the buildout of an existing planning permission in that authority's area.

The first objection to this, which I am not pursuing, is that planning permissions are granted in relation to land, not to people, so acting in relation to a planning application based on the circumstances of the applicant is not really in keeping with the structure of planning law. But let us put that aside for a moment and accept that, in effect, the Government are looking to have a stick with which planning authorities can beat those developers or others who are failing to build out at the pace they wish them to. That is fair enough. But then, in the clause, in addition to that, we have not just a person who has made an application for development in the area but one who has a connection of a prescribed description with the development to which the earlier application related. Who are these people?

I am afraid that my purpose in putting this amendment down was just to say that this is going too far. We do not know what the specified descriptions are, how far they could extend, or what sorts of people we are talking about. They could extend to large developers who are, in effect, banned by a local authority from undertaking any activity in that area—and some local planning authorities are quite large—or the shareholders in or partners of those companies, or people who have been involved in a development with them in some other place across the country. Where does this end? The Government need to act quickly to establish that the parameters of the connection they are talking about, if they have to have it at all, are made extremely clear and very limited, otherwise I worry that it might stretch too far.

There are many other important issues in this group, but I beg to move.

8.45 pm

Lord Carrington (CB): My Lords, I declare my interests in farming and land ownership, as set out in the register.

The reason for retabling Amendment 221 is to question the Minister on her response in Committee. I thoroughly understand that permissions in principle are currently used only in respect of housing developments. She explained that our National Planning Policy Framework strongly supports policies and decisions to promote sustainable development in rural areas and support a prosperous rural economy. She confirmed that local plans and neighbourhood plans should enable the development and diversification of agriculture and other land-based rural businesses.

However, many question the noble Baroness's rather negative assessment of the amendment's utility in creating rural economic development. I would be most grateful if she could expand on why it is unnecessary and would not work. My point is that although the National Planning Policy Framework strongly supports policies and decisions to promote sustainable development in rural areas, the planning system is so underresourced that it is not filtering through into local decision-making. It therefore seems highly desirable that the permission in principle route is extended to rural economic development and not just housing.

Let me reiterate the purpose and advantages of permissions in principle in the rural business context. The rural economy is 19% less productive than the national average, and for this gap to be closed, the countryside needs more rural economic development so that it can grow sustainably. Businesses are put off submitting planning applications to grow their businesses because of the risk of putting capital up front with an uncertain outcome. Planning applications are costly, risky and take a lot of time to submit.

The permission in principle route splits a planning application into two stages: the first stage is high level and sets out the principle of the development to be approved by the planners. The second stage, which involves the cost, is to confirm the technical details. Extending the permission in principle to rural economic development reduces the resources required to process applications and creates certainty as to what is required at the technical stage.

In her response in Committee, the Minister agreed to take the issue back and consider with officials how we can strengthen economic development in those rural areas. Perhaps the new discussion of this amendment will encourage her further to grant this request. If more applications were submitted and approved for rural economic development, businesses would grow, creating more employment opportunities and adding more to local rural economies. This sounds like an easy win in the levelling-up process.

Lord Goldsmith of Richmond Park (Con): My Lords, before making a point about the amendment, I acknowledge that my noble friend on the Front Bench rightly feels a little blindsided by it. I apologise to her for that. I am a newbie on the Back Benches and I clearly have much to learn about the process here. In my defence, I shared my plans and the wording of the amendment with my friend the Secretary of State who, I am pleased to say, was excited by much of the contents, although not all of it.

I will be brief because this proposal is relatively simple and, in many respects, speaks for itself. Before I describe it, I will heap praise and thanks on a campaigner who is simply formidable. I am pleased that she is in the Gallery today, probably holding a swift box. Hannah Bourne-Taylor has single-handedly made what for many people appears to be a niche concern into a national campaign—not least by walking naked through London painted as a swift and causing quite a stir, as noble Lords can imagine. She has turned this into a national cause. It is because of her that this amendment exists.

Back in 2002 the British Trust for Ornithology cited the loss of cavity nesting sites as the key factor in the decline of cavity-nesting urban birds. Since then, four species—house martins, starlings, swifts and house sparrows—have been added to the dreaded red list of species of particular concern that, crudely speaking, face extinction. Worst hit among them are house martins. When I was preparing my notes, I was going to say that there has been a 37% decline, but I have since discovered that the figure is even worse at 50%. Swifts too have suffered horrifically; their breeding population declined by 60% between 1995 and 2020. That number continues to sink.

Despite broad agreement, not just in this place or the other place but across the whole country, that the UK—one of the most nature-depleted countries on the planet—requires urgent action or to introduce emergency measures to turn around these trends, the reality is that nothing of any real substance has yet been done. The problem, as noble Lords no doubt know well, is that sites for cavity-nesting creatures such as swifts have simply been lost. It is not because of evil or malign intent but because of repairs, house modernisation and even insulation—something of which we all in this House would like to see much more.

This simple proposal to include swift bricks in new builds is key. It is not just about providing a supporting hand to a species in trouble; it is critical, indeed essential. Modern new-build homes are simply not designed to accommodate nature. Swifts in particular rely completely on cavities, as noble Lords know. Without those, there are no safe or permanent nesting sites for them in Britain. Without manmade cavities in this sense, those birds have no future in this country. It is crazy, and something I learned only recently, that the simple swift brick is not even included in the biodiversity net gains metric.

The amendment that we are here to discuss today could not be much simpler. The swift brick is a zero-maintenance solution. It is just a brick in a wall that can be added to a building as any other brick could. For a refurb or a new build, it is cheap; it costs £30 or thereabouts. We know that they work because, wherever they have been tried and installed, they have worked. Surveys conducted on, for example, the Duchy estates, where swift bricks have been installed in numerous buildings, have resulted in a staggering 96% occupancy rate. Even that number continues to grow.

Obviously, not all the bricks are used by swifts. I have heard that as one of the counterarguments—"What about other creatures using these boxes?"—to which my answer is, "So what?". Heaven forbid that a house sparrow might decide to use one of these swift boxes. Who would not be filled with joy at the prospect? It just seems to me to be such a non-argument as to almost not merit discussion.

[Lord Goldsmith of Richmond Park]

If this amendment is adopted—I really beseech colleagues to support it—and it becomes national policy to ensure installation of these magical, simple, cheap bricks in all new homes, it will not only help counter the tragic loss of cavity-nesting birds but directly help the Government themselves meet what are, let us remember, legally binding targets to halt biodiversity loss by 2030. This measure has unanimous support—not all measures do—from ornithologists, all of whom agree and have gone to great lengths to explain that there is no downside.

By the way, swifts do not eat vegetation; they eat insects. They particularly enjoy mosquitoes and eat mountainous volumes of them, so there is yet another bonus to encouraging swifts in and around our homes. I am told that they also do not leave droppings; there is a reason for that, which I will not go into. I am sure that the expert up in the Gallery will know, but they do not leave droppings underneath their nest boxes. They tidy up—I will tell noble Lords what they do; they eat them, I am afraid, probably to recycle the mineral content. I do not know why, but for whatever reason they remove them. They are very tidy, conscientious and thoughtful creatures.

This amendment is also flexible for developers. Those I have heard from are all supportive. One major housebuilder, Thakeham, has actively appealed for an industry-wide commitment. Very recently the Irish Citizens' Assembly on Biodiversity Loss voted to include swift bricks in all new builds. In the Netherlands, swift bricks are already installed as a mitigation measure.

There have been suggestions, and I understand where they have come from, that this should be a voluntary measure. I get that; no one wants excessive bureaucracy and mandates. But I am afraid we know that this has not worked. It is not through lack of caring: who does not want to see swifts flying in and around—maybe not in—their homes and gardens? Who does not feel better, frankly, when they have greater proximity to nature?

In fact, a petition that was initiated by Hannah in the Gallery attracted 110,000 signatures—

Lord Evans of Rainow (Con): My Lords, noble Lords should not refer to people in the Gallery.

Lord Goldsmith of Richmond Park (Con): As I said, I am a newbie on the Back Benches and that is yet another rule I have learned. I will cease referring to the person in the Gallery. But 110,000 signatures were collected by the person in the Gallery. I think that is pretty impressive, given the subject matter we are talking about.

National legislation is necessary because of the urgency of the situation. We have debated the issue over and over again; we understand that this country is in the midst of a biodiversity collapse. National legislation is necessary because nowhere near enough swift boxes have been installed, despite swift bricks being nationally promoted since 2019, including in guidance in the National Planning Policy Framework. That is not to diss the NPPF; it is a valuable piece of literature, but it has been largely ignored in the context of the issue we are discussing here today. A paltry 20,000 boxes have been installed at best—that is an optimistic assessment. District councillors and the vice-chair of the Association of Local Government Ecologists have all been clear that the current situation is not enough. We are simply not seeing take-up of these swift boxes. Of 455 local planning authorities in England, just nine have planning conditions around swift boxes, so the voluntary approach does not work.

We are asking here for something so small, so simple and so inexpensive, but something that will have a gigantic impact on these irreplaceable, iconic creatures. I really encourage the Government to think again about their opposition to a measure that is wildly popular and would do so much good for this country.

9 pm

Lord Randall of Uxbridge (Con): My Lords, I support my noble friend Lord Goldsmith, and I am delighted to have been a co-signatory of his amendment along with my noble friend Lord Blencathra.

The hour is late and, like the swifts, most of the Benches have migrated somewhere else, possibly to cavities unknown. The people remaining in the Chamber probably do not need me to tell them about the marvels of swifts so, whereas I was going to spend a lot of time talking about this iconic species and the fact that the sound of swifts overhead is always in dramas when it is summertime, whether it is dubbed or recorded.

It is not just about a lack of cavities. The reduction in insects and everything else means that they need help. I say to my noble friend on the Front Bench that I admire the gamut of what we have to deal with in this Bill and she is doing admirably—in fact, more than admirably: magnificently. It is just marvellous. I do not see how a Minister can have so much knowledge and briefing about all these different subjects.

However, I say to her that Gibraltar has done this very successfully for several years, if not longer, and it is something that we should be looking at seriously. I do not believe the Government are opposed to it; I think there is that sort of bureaucratic looping in to which we should probably, as my noble friend Lord Goldsmith alluded to, have given more time.

I am sorry that we do not have more time today to discuss this issue and see where we are going, but I urge the Government to look at it. I have had a briefing from house builders today with some marvellous ideas, so they are sort of onside. This is something that we can really get behind because it would not cost the Government anything. It would just show that this country and this Government are nature-friendly, and I would welcome any comments from the Front Bench to that effect.

Lord Northbrook (Con): My Lords, I am not quite sure why the Control of Pollution Act is put in the same group as swifts. Anyway, my Amendment 282 is in this group.

My local authority, the Royal Borough of Kensington and Chelsea, unlike some local planning authorities, refuses to impose by planning condition any requirement on developers to mitigate noise, dust and vibration

during construction work in accordance with an improved construction method statement that the developer is routinely obliged to submit as part of its planning application for a major development. Instead, with respect to such developments, it promises to encourage developers to submit applications for prior consent under Section 61 of the Control of Pollution Act 1974, failing which it promises that the council will issue a Section 60 notice.

These consents and notices create legal obligations on the developers but the Royal Borough of Kensington and Chelsea can take action only if a breach has been notified. However, the Royal Borough of Kensington and Chelsea does not publish the consents and notices anywhere on its website or even the fact that a notice has been issued or a consent agreed to. As a result, residents are not aware whether or when a notice has been issued, what measures a developer has promised to take, what the obligations are under the notice or whether an obligation has been breached. They therefore cannot notify the Royal Borough of Kensington and Chelsea that a breach has occurred. As a result, the system is rendered useless.

My proposed solution is simply that local planning authorities should be obliged to publish all such consents and notices on their planning websites promptly upon issue and not remove them. In the other place, the Minister's response was that Section 69 of the Town and Country Planning Act 1990 requires local planning authorities to keep a register of applications. The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires that these registers contain parts 3 and 4 containing details of local development orders and neighbourhood development orders respectively. Part 3, for instance, must include copies of any draft development orders that have been prepared but not adopted by the local planning authority and any adopted local development orders.

The Minister's reply in the other place completely missed the point. Notices issued under Section 60 and consents given under Section 61 of the Control of Pollution Act are not planning applications or local or neighbourhood development orders. The reply in this place from the noble Baroness, Lady Bloomfield, in Committee showed that she did not seem to understand what the amendment was seeking to achieve or why. She said:

"Legislating for information to be published in a specific way would remove their ability to make decisions at local level, for little additional benefit".

This is incorrect. It would not affect in any way local authorities' ability to make decisions. She concluded, without explanation, that

"the Government believe the proposed amendment is unnecessary and cannot support it".

On being pressed by my noble friend Lord Bellingham, she replied:

"Since this is a Defra lead, I will commit to write to my noble friend and share the answer with the rest of the Committee".—[*Official Report*, 18/4/23; col. 577.]

She did not do so.

When an LPA imposes a planning condition to require compliance with an approved construction method statement, it is obliged by law to publish on its planning website the text of the condition and the fact that the condition has been imposed. No one argues that this removes or affects its ability to make a decision, nor have I ever seen it argued that there are any circumstances in which it would be justifiable to keep the imposition of a condition or its text secret. Measures whereby the developer promises to mitigate noise and disturbance during construction do not touch on privacy or national security. By analogy, I cannot think of any circumstances in which it would be justifiable for a local planning authority to keep the issue of a Section 60/61 notice or consent, or its contents, secret. The Government have not explained why keeping it secret might be justifiable, and that is why I tabled the amendment on Report.

Lord Blencathra (Con): My Lords, I declare my interests set out in the register. It was a delight to listen to my noble friends Lord Goldsmith and Lord Randall describe the importance of swift bricks to the preservation of this species and to stopping their decline. I am delighted to be able to support it.

Installing these bricks is an absolute no-brainer. They cost between £25 and £35. Last year, the big four housebuilders—just four of them, Barratt, Berkeley, Persimmon and Bellway—made profits of £2.749 billion. I am sure they can afford a £25 brick for the 300,000 homes they might or might not manage to build next year. Installing the bricks is a no-brainer.

I learned today—I hope, wrongly—that the Government may be opposed to this measure. That, too, would be a no-brainer if they are. I wonder where the opposition has come from. I hope they have not been lobbied by the Home Builders Federation—the organisation which lied, lied and lied again about the Government blocking the building of 145,000 homes because of nutrient neutrality. That was totally untrue. Of course, housebuilders are sitting on more than 1 million planning applications and are land-banking until they can release them gradually and make maximum profits. If that is legitimate, so be it, but let us not let them attack the Government for holding up housebuilding when it is not the Government doing it.

I understand that in the Commons the Government said they could not mandate this nationally and it must be left to local voluntary discretion. Housebuilding left to local voluntary discretion? You cannot build a house anywhere in the country without the Government almost dictating the colour of the curtains. Look at the national regulations on every aspect of housebuilding: electrics; plumbing; the type of cement; the way the damp-proof course is laid; the tiles and insulation. Nearly every mortal thing of importance in the house—the width of the doorways, the bannisters, the boilers you may install after 2030—is dictated by central government, and rightly so. I am not complaining about that, but I am complaining about the apparent hypocrisy if the Government I support are now saying "Oh, we can't order every house to have a little brick installed because that is taking national government interference too far". If that is the case, I think that is nonsense.

I know that some Government Ministers have already installed these bricks. They have done it voluntarily, without guidance. If it is good enough for some Ministers, quite rightly, to save swifts out of their own volition, then it should be quite right that the Government support a measure to impose this nationally.

[Lord Blencathra]

If it is the case that the Government are opposed to this, I would really like to know where that opposition came from in government. If it is true then some idiot—an adviser, spad or civil servant, but hopefully not a Minister—has decided to oppose this. I exempt my noble friend the Minister, as this is an environmental matter and nothing to do with her brief, but why in the name of God should a Conservative Government oppose this?

In the first three years of this Government, under Michael Gove and George Eustice in environment, we made the biggest strides forward in environmental and nature protection that this country has ever seen, with the 25-year plan and the Environment Act. Now we could lose that good reputation because of a trivial thing if we oppose installing a 25-quid brick in a house wall to save swifts.

Baroness Bennett of Manor Castle (GP): My Lords, I speak in support of Amendment 221A on swift bricks, as your Lordships might expect. My noble friend Lady Jones of Moulsecoomb has, in the terms of the noble Lord, Lord Randall, flown back from a nearby cavity just to be here for this debate, but she could not be here at the start, so your Lordships get me instead.

This is something that I have been talking about. I was on TalkTV, talking to Julia Hartley-Brewer about restoring biodiversity. I happened to mention swift bricks in that discussion and the presenter said in response, "Isn't that just a small thing? Don't we have to do much more?". Of course that is true, but, if you are a swift then a swift brick is not a small thing. The fact that you need somewhere to make your home and raise your young is a matter of life and death. As the noble Lord, Lord Goldsmith, said, there has been a 60% decline in the population in the last 25 years. These beautiful and utterly amazing creations of nature depend on having a place to rest and raise their young, and we are closing those spaces off.

The noble Lord, Lord Goldsmith, also made an important point about human well-being—how much we all benefit from having swifts around and what a wonderful addition they are to our environment. Think about young people, such as the toddler who says, "What's that?", and has it explained so that they learn more. That is crucial.

The state of our biodiversity is absolutely parlous. We are one of the worst corners of this planet for nature. As we heard passionately from the Benches opposite, surely the Government cannot oppose this—they cannot oppose what was said by MPs in the other place and is being said by so many petitioners. Please let us have some common sense here.

Lord Lucas (Con): My Lords, I too wish to support Amendment 221A. Swifts, by their nature, nest in holes in trees but took advantage of the advent of human buildings to transfer their allegiance in our direction. Now in our towns, any tree with a hole in it is immediately felled as a danger to people and we are blocking up the places where swifts used to nest in buildings. We need to do something about that—it is absolutely our obligation.

We also have to deal with the quantity of insects, so bringing 30 by 30 into towns is really important too, but swift bricks seem to me an absolutely symbolic act. We would be saying that we will start to make room for nature around us and in our habitations. It would involve people, as Dasgupta wished, in direct contact with nature, rather than nature being somewhere else where they do not have to go if they do not want to. That makes this a really important symbolic advance.

I like the amendment: it is just that you put in a swift brick. There are no downsides, no penalties and no rules. You could fill it with cement a year later and no one is going to prosecute you. I have got scaffolding on my house at the moment, so we are putting up some swift boxes because it is not suitable for swift bricks. The best supplier I found said, "If you're buying a swift box, why don't you put a bat box on the back?". I looked up the regulations as to what would happen if a bat actually occupied that box, and it is ridiculous. It would be tens of thousands of pounds off the value of the house, and all the regulations mean that you cannot do anything without bringing in a bat person if you have bats in a bat box. I could not paint it or shift it; I could not paint around it; I could not make noise next to it. The contrast between bat regulation and this proposal on swifts is stark. I am not putting in a bat box—I am not bats—but I am putting in swift boxes.

9.15 pm

This illustrates something that we will come to in our discussions next week: that more regulation is not necessarily better for nature. We need to look at what works, and work with and involve people; we need to understand how people work with nature and that overregulation is not the best way to protect nature. This amendment would be a superb way to look after swifts and other hole-nesting birds. I really hope the Government, if they cannot accept it this evening, will take it very seriously.

Baroness Hoey (Non-Afl): My Lords, I support the amendment from the noble Lord, Lord Goldsmith. I was very sorry when he resigned from his position because I thought he was an extremely good Minister. In a sense, if this amendment goes through—and I very much hope it will, and that the Government are listening tonight and texting various senior people to say that we need to support this—then I think it would be a really good legacy for the ex-Minister. He has come here tonight to move this amendment, which he would not have been able to do as Minister.

As the noble Lord, Lord Blencathra, said, it is common sense, and we begin to think why nobody thought of it before. Why have we not done it before? Perhaps the noble Lord has suggested it in the past, but it is a useful, common-sense approach to something that should be worrying us all.

As a young child, I grew up loving birdwatching—watching swifts and all kinds of birds. Knowing how much joy and pleasure that gave to me, my concern is that we could have a future generation growing up who would not see birds in the same way. I say to the Minister and the Front Bench that sometimes you have to accept that you have made the wrong decision; this is an opportunity now to put that right.

Baroness Pinnock (LD): My Lords, before I make a few comments about swift bricks, I thought I would address my remarks to the two amendments in the name of the noble Lord, Lord Lansley. He is making a case for large sites that take a number of years to build out and where, because of a change in circumstances, there may need to be a substantial change in the nature of the remainder of the site.

I have a bit of sympathy with that amendment, in that the principle has been agreed for developing the site. The question the noble Lord, Lord Lansley, is asking is whether it then matters if what goes on in the rest of the site does not comply entirely with the original planning consent. I then thought about the practical implications of his suggestion. For instance, if it changed from large executive four-bed properties to a higher density housing development for starter homes and so on for families, that would have potential implications for school places. They would not be funded under the planning conditions of the original application where a Section 106 agreement or an agreement under CIL would have enabled funding to be made available for school places, health facilities, play areas or transport requirements. Although I have sympathy with the approach that he has taken, there needs to be a new application if there is a substantial change. I will listen carefully to what the Minister says in response.

On buildout, I get frustrated by developers starting a site but not proceeding to complete it in a timely way. There is nothing worse in a community than seeing a site that has been started but not finished. It will not be like this now, but there was a fairly notorious one in the area of West Yorkshire where I live: the planning consent was derived in the 1940s and the first earth movements were made and tranches dug, but nothing substantial happened on that site until the 1990s. So I encourage buildout and, again, it would be good to hear what the Minister says about it.

That leads me to swift bricks—very swiftly, as one might say. I have an interest, as a member of the Royal Society for the Protection of Birds. Having said that, noble Lords will be able to tell that I favour and love watching birds, and I visit the RSPB sites as often as I can, because it is a joy. Over the years, I have seen a decline. Swifts are summer migrants, as everyone will know. I always look forward to seeing swallows and house martins when I am out delivering for the May elections—that is when I see my first swallow or swift. If it is a joy for me, it is a joy for many other people.

So swift bricks and nesting sites that have been lost, and swift bricks being an answer to the loss of those nesting sites, is important, and there has been a passionate argument in favour of the amendment in the name of the noble Lord, Lord Goldsmith. Obviously I obviously support swift bricks—who would not? I remember watching a "Countryfile" programme about them on the BBC, and about an individual, whose name I obviously do not remember, who made thousands of these swift bricks—perhaps they were swift boxes—because of his passion for that bird. So let us hear what the Government have to say; it is over to them to make a decision.

My final point is on Amendment 244 in the name of the noble Baroness, Lady Taylor of Stevenage, which would reduce barriers for SME builders to get contracts and to be part of the development process in localities. That has to be positive for the economy and local businesses. So I will support the amendment when the noble Baroness moves it, and I urge the Government to accept it.

Baroness Taylor of Stevenage (Lab): My Lords, I will speak to my Amendment 244 in this group and I will then make brief comments on the other amendments. Amendment 244 is designed to cover an issue that arises almost at the intersection of planning and procurement. It can be the case that, where local authorities undertake major development, the nature of the planning system is such that the subsequent tender process will be enacted only for the totality of the development. Of course, the major contractors can subcontract works out, but this process does not always accrue maximum benefit to the local economy. Our amendment aims to ensure that whatever can be done at the stage of granting planning permission is done, to enable SME participation in, and engagement with, those contracts being achieved.

Amendment 217, from the noble Lord, Lord Lansley, applies a provision for "drop-in permissions". We note that this is an acknowledged problem that may or may not require an amendment to planning law. I absolutely take the good point made by the noble Baroness, Lady Pinnock, about the provision of infrastructure where there is a drop-in permission, and we look forward to hearing the Minister's view on whether the existing wording is sufficient to enable the necessary change to unblock buildouts on large sites.

In relation to Amendment 219, proposed by the noble Lord, Lord Lansley, we would of course support refusing permissions to those who have not made buildout applications previously; that is a welcome change. We greatly sympathise with the noble Lord's point that doing this to someone with an undefined connection with the previous applicant is way too unspecific in terms of planning law, and who that undefined connection would be. We agree that this needs to be either tightened up or taken out altogether, because it could have unintended consequences if it is left in the Bill as it is.

Amendment 221, proposed by the noble Lord, Lord Carrington, recommends splitting planning applications into two stages for the purpose of encouraging rural economic development. We fully support the notion that anything that can be done within the planning system to encourage rural economic development should be done. But it is difficult to see how, in practical terms, a two-stage permission would work. There is already very strong provision and encouragement in the planning system for outline permissions to be submitted and then followed by detailed permissions for major developments. This is common practice, and I am sure rural areas are not excluded. I wonder whether that would be the type of process, or if there are things I am missing in the noble Lord's amendment.

We were delighted to see Amendment 221A, proposed by noble Lord, Lord Goldsmith, relating to the provision of swift bricks. We very much enjoyed his enthusiastic

[Baroness Taylor of Stevenage]
and passionate advocacy in his introduction, and all speeches made by noble Lords in favour of this. The noble Lord's amendment follows extensive public interest in introducing this step, which led to the public petition debate to which the noble Lord referred, and to very strong cross-party support. We note also that the Wildlife and Countryside Link is in favour of this measure, as are many recognised experts.

We believe that specifically including swift bricks as a measure in the Bill, to be incorporated in planning law, is justified because of the unique nature of these precious birds' nesting habits. They add to the biodiversity of urban areas, and I am particularly keen that we support that. I grew up as a townie and the swifts and house martins were a real feature of my childhood growing up in a town. Their decline has been very visible and sad to see. If there is anything we can do to either halt that decline or hopefully turn it around, we should certainly do so. There is definitely a clear and present threat to these species. We hope the Government will accept this relatively a small step, which could make a world of difference to protecting our swift population, and that it will not be necessary for the noble Lord, Lord Goldsmith, to divide the House—but I hope he knows he has our full support in this amendment.

Amendment 282, in the name of the noble Lords, Lord Northbrook and Lord Bellingham, may relate to issues the Minister referred to in Committee. We comment only that, while we accept that notices published on local authority websites would usually be appropriate, of course there are other ways of drawing the public's and stakeholders' attention. We have some concerns about stating that anything must remain permanently on a website, but we understand his point.

The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con): My Lords, Amendment 217, tabled by my noble friend Lord Lansley, would allow regulations to permit variations to an existing permission, without rendering that permission void. We recognise that there is concern in the sector about the impact of recent case law, particularly for large-scale phased development. This is an issue which we have looked at very carefully.

Clause 104 already introduces a new, more flexible route to vary permissions: Section 73B, where the substantial difference test can cover notable material changes. To assist the understanding of the new provision, we propose to amend the headings in the clause to make this clearer and avoid misapprehension. Existing powers in the Town and Country Planning Act 1990 would allow us to deal with this issue through secondary legislation, so we do not consider that a further power would be required. Instead, we propose to engage and consult the sector as part of the implementation of Section 73B and, if further action were needed, we would consider the use of our existing powers if warranted. I hope my noble friend is sufficiently reassured not to press his amendment on this.

9.30 pm

Amendment 219, also tabled by my noble friend, seeks to remove the connected persons test from Clause 107, which will allow a local planning authority to decline to entertain planning applications from developers who have not built out previous developments completely, or have been unreasonably slow. While I appreciate that the intention is to avoid those with an undefined connection to an earlier application from being in scope of the power, the rationale behind this test is to avoid the gaming of the system. An example of this would be a developer who previously built out slowly and who avoids becoming the applicant simply by having a subsidiary, for example, apply on their behalf. The types of connections will be defined in regulations. This will be drafted to ensure that only a party with a genuine connection to the earlier development will be in scope of the power, and I hope that reassures my noble friend.

Amendment 221 concerns permission in principle for rural economic development. I thank the noble Lord, Lord Carrington, for raising this amendment. I am afraid that we do not believe that this particular amendment is the way to achieve what the noble Lord wants. The permission in principle regulations already enable local planning authorities to grant permission in principle to any non-housing development, but these regulations are bounded by Section 58A of the Town and Country Planning Act, which requires such development granted by permission in principle to always be housing-led.

Nevertheless, we want to further support rural areas, and we recognise that the permission in principle could have a greater role to play. That is why, in *Unleashing Rural Opportunity*, published by the Government in June, we made a commitment to explore with stakeholders whether it could be used more effectively to deliver more rural housing. We will also be considering more generally how planning policy can support the rural economy, as part of our wider review of the National Planning Policy Framework, and the introduction of national development management policies.

The national policy already expects the needs of the rural economy to be taken into account, so we will also consider how planning policy can further support the rural economy as part of our wider review of the NPPF, and the introduction of the national development management policies. Planning in principle applications are determined in accordance with the NPPF, and we will explore how planning in principle applications and the NPPF can play a much stronger role in encouraging the rural economy.

Amendment 221A, in the name of my noble friend Lord Goldsmith, seeks to impose swift nests, boxes and bricks as conditions on relevant planning permissions. Personally, I love my swifts and I watch them every year. I believe they are a joy to us all. The Government really welcome the actions by developers that contribute to and enhance the natural and local environment. We support, in appropriate circumstances, planning conditions or obligations being used to require that planning permission provides for works that will measurably increase biodiversity. An example of this is the approach that Brighton and Hove City Council is taking to use conditions to promote nesting habitats for swifts.

We think that further specific measures, such as swift bricks and boxes, should be explored but through national policy, not legislation. We have announced a wider national planning policy review, in which we

have already committed to exploring the incorporation of nature into development through better planning for green infrastructure and nature-friendly buildings. We are not able to support this amendment, but we look forward to working with my noble friend further as we explore this issue. With that commitment, I hope that my noble friend will not move his amendment.

Amendment 244 tabled by the noble Baroness, Lady Taylor of Stevenage, seeks to restrict the granting of planning permission where the development would involve the granting of construction contracts, unless the local authority can demonstrate that it has considered the barriers to SME developers being awarded those contracts and how such barriers can be removed. While I agree with the underlying intention of the amendment, I do not think that using the planning system in that way is the right approach. The Government are taking forward the Procurement Bill, which is in its final stages, undergoing consideration of amendments in Parliament; it will address the issue of removing barriers faced by SMEs when bidding for procurements. In particular, Clause 12 of that Bill requires authorities, when procuring goods, services or works under the Bill, to have regard to the fact that small and medium-sized enterprises may face particular barriers to participation, and to consider whether those barriers can be removed or reduced.

Amendment 282 in the name of my noble friend Lord Northbrook is about construction noise from development. I share his view of the importance of ensuring that such noise is managed effectively. Current noise management legislation gives local authorities some discretion about publishing planning decisions on their websites. Legislating for information to be published on a specific platform, when it is routinely made available on local authorities' websites, would remove their ability to publicise decisions at a local level. It can also result in additional costs and burdens on the local authority. I point out to my noble friend that the British Standard 5228 sets standards for noise and vibration from construction work; local authorities must take it into account when managing the impacts of construction noise. My noble friend said that he had been promised a letter but had not received it; I will chase that up tomorrow.

Government Amendments 222 to 224 are about Clause 115 enabling temporary relief of planning conditions from enforcement action. Reflecting on comments made by both the Delegated Powers and Regulatory Reform Committee and the noble and learned Lord, Lord Hope, about the scope of that power, we agree that it would be appropriate to introduce certain constraints on its use. Therefore, Amendments 222 and 223 have the effect of allowing for the power to be used only for the purposes of national defence or preventing or responding to significant economic disruption, as well as limiting the duration of regulations to no more than one year. Finally, Amendment 224 is a minor amendment to correct a referencing error in the clause. I trust that your Lordships' House will approve those amendments when I move them formally.

Lord Lansley (Con): My Lords, in view of the lateness of the hour, I know that noble Lords will forgive me if I do not attempt to respond to the debate on several issues. I thank my noble friend for what she had to say about Amendment 217 and the actions that the Government will consider, and I look forward, if I may, to supporting my noble friend in actioning those. In view of her positive remarks, I beg leave to withdraw Amendment 217.

Amendment 217 withdrawn.

Amendment 218 had been withdrawn from the Marshalled List.

Clause 107: Power to decline to determine applications in cases of earlier non-implementation etc

Amendment 219 not moved.

Amendment 220

Moved by ***Baroness McIntosh of Pickering***

220: After Clause 108, insert the following new Clause—

""Agent of Change": integration of new development with existing businesses and facilities

(1) In this section—

"agent of change principle" means the principle requiring planning policies and decisions to ensure that new development can be integrated effectively with existing businesses and community facilities so that those businesses and facilities do not have unreasonable restrictions placed on them as a result of developments permitted after they were established;

"development" has the same meaning as in section 55 of TCPA 1990 (meaning of "development" and "new development");

"licensing functions" has the same meaning as in section 4(1) of the Licensing Act 2003 (general duties of licensing authorities);

"provision of regulated entertainment" has the same meaning as in Schedule 1 to the Licensing Act 2003 (provision of regulated entertainment);

"relevant authority" means a relevant planning authority within the meaning of section 84 of this Act, or a licensing authority within the meaning of section 3 of the Licensing Act 2003 (licensing authorities).

(2) In exercising any functions under TCPA 1990 or any licensing functions concerning development which is or is likely to be affected by an existing business or facility, a relevant authority shall have special regard to the agent of change principle.

(3) An application for development within the vicinity of any premises licensed for the provision of regulated entertainment shall contain, in addition to any relevant requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (S.I. 2015/595), a noise impact assessment.

(4) In determining whether noise emitted by or from an existing business or community facility constitutes a nuisance to a residential development, the decision-maker shall have regard to—

(a) the chronology of the introduction of the relevant noise source and the residential development, and

(b) what steps have been taken by the developer to mitigate the entry of noise from the existing business or facility to the residential development."

Baroness McIntosh of Pickering (Con): My Lords, I am delighted to move Amendment 220 in my name and in the names of the noble Baroness, Lady Henig, and the noble Lord, Lord Foster of Bath. I thank them both formally for co-signing it.

[Baroness McIntosh of Pickering]

The purpose of bringing forward the amendment at this stage is to seek clarification and an assurance from my noble friend the Minister about remarks that she made in her summing up on the amendment in Committee. If I receive the reassurance that I am seeking, I shall be reluctant to press the amendment to a vote, particularly at this late hour. I am sure my noble friend realises that the hopes of the hospitality sector and, in particular, the night-time economy rest on her shoulders this evening.

I am proud of the work done by both the Select Committee on the Licensing Act 2003 and by the follow-up post-legislative scrutiny committee. One of our main conclusions in those two reports chimes with the thrust of the Bill before us and in particular Amendment 220, namely, on the agent of change principle. It is fair to say that modern planning policies, both local and national, encourage regeneration of urban centres and the reuse of brownfield sites—previously developed land—which preserves our greenfield countryside sites, including the green belt, which we recognise is a diminishing resource.

The night-time economy is a very important part of the national economy. I remind the House of how large this sector is. In preparation for this evening's debate, I am delighted to have had a briefing from UKHospitality, which is the authoritative voice for more than 740 companies, operating in around 100,000 venues in a sector that, prior to Covid, employed 3.2 million people. My noble friend will appreciate that many of these hospitality businesses—pubs, dedicated music venues, restaurants, nightclubs and many others—utilise both live and recorded music, which is important for consumer pleasure, satisfaction, cultural benefits and for many other reasons.

It is fair to say that, so far, the agent of change principle is represented only in policy. It appears in paragraph 187 of the National Planning Policy Framework and, in virtually identical terms, in paragraph 14.66 of the Secretary of State's guidance under Section 182 of the Licensing Act 2003. The same definition of "agent of change" is given there as in the proposed new clause which I set out this evening. In my view, we need to put those protections on a statutory basis in primary legislation, and this is the ideal opportunity to do so. We need to spell out that developers and decision-makers should have statutory duties in primary legislation to protect heritage assets in any development decision.

I agree with the view of the industry that the agent of change principle needs to have more legislative teeth. Amendment 220 seeks to do this by ensuring that licensing and planning authorities should have special regard to the agent of change principle, that developers must undertake a noise assessment and that authorities should consider such assessments and the plans in place by the developer to mitigate any noise issues ahead of the granting of approval for new developments.

The weakness of the system at the moment is that, in the first place, the current policy—being purely policy—is, by its very nature, ambiguous. Secondly, we need to secure a planning balance, which lies at the very heart of the planning procedure. I think we have accepted that planning and licensing policies compete with each other in a balancing exercise, and we need greater clarity. Thirdly, this should be a mandatory requirement, not just a policy requirement that can be ignored, as is the case currently.

9.45 pm

The crux of my argument and the reason for bringing this issue back on Report is simply this: I want to rehearse what the Minister said in Committee. She said:

"the Government agree that co-ordination between the planning and licensing regimes is crucial to protect those businesses in practice. This is why in December 2022 the Home Office published a revised version of its guidance, made under Section 182 of the Licensing Act 2003, cross-referencing the relevant section of the National Planning Policy Framework for the first time".

The key words that I want to press my noble friend on are these. She went on to say:

"Combined with our wider changes in the Bill, we will make sure that our policy results in better protections for these businesses and delivers on the agent of change principle in practice".—[*Official Report*, 24/4/23; col. 995.]

I have been through the Bill—rather, other people have done so on my behalf—in its entirety. We cannot find any specific policy or legislative change to which my noble friend referred. I am simply asking for clarification. What is the policy or legislative change in the Bill that my noble friend said she has set out? That is what I seek to clarify.

In doing so, I repeat my simple and humble request: we need to have in the Bill a statutory basis with enhanced protections for existing hospitality businesses to mitigate against noise complaints generated by new residential developments. I think all noble Lords will be aware of specific instances in this regard. I am conscious of the fact that the hospitality sector as a whole and, in particular, parts of the night-time economy have suffered dramatically during and since the Covid outbreak in 2020. I applaud many of the decisions that the Minister, her department and the Government have taken but we need to go one step further and enshrine in the Bill the necessary statutory duty on developers so that they cannot shirk their responsibilities. We need a planning balance and it needs to be mandatory as well as absolutely clear and unambiguous. With those few remarks, I beg to move.

Baroness Pinnock (LD): My Lords, I thank the noble Baroness, Lady McIntosh, for raising what is often a bone of contention among residents of new properties where those properties have been built adjacent to businesses, often hospitality businesses. They are the latecomers. but they suddenly expect the business to comply with their requirements and not the other way round.

I will give one example that may illustrate the point made by the noble Baroness, Lady McIntosh. Near where I live, there is a long-standing working men's club with space. Some new properties were built on the land adjacent to the club's outdoor area. The club decided that, in order to increase its income, it would use the outdoor space as a pub garden. This is in Yorkshire where pub gardens do not get used all year round. The use would have been intermittent, let us say.

However, the residents of the new properties raised such a fuss about it that the working men's club was forced to remove the tables and chairs—it did not have planning consent or something. As a result, in the end, a couple of years later the working men's club closed. So I have a lot of sympathy with what the noble Baroness, Lady McIntosh, has said.

It is not just about places of hospitality but also existing business use and leisure facilities—particularly where flood-lights are used at night, on grass areas for football or whatever—that the complaints come. It would be good to hear what the Minister has to say in response to what is a very practical amendment from the noble Baroness, Lady McIntosh.

Baroness Hayman of Ullock (Lab): My Lords, this has been an interesting if short discussion which picks up on much of the debate that we had during Committee. I thank the noble Baroness, Lady McIntosh, for bringing this back to us again today.

One thing that came across very clearly when we debated this in Committee was that it really is time to review the status and look at the situation. It is important that we return to this. As the noble Baroness, Lady McIntosh, has said, now and previously, we have got the change of use from office to residential space in town centres, we have the problem of many empty town centre premises, and there have been a lot of changes on our high streets and in our towns in ways that we have not seen before. These challenges are particularly acute for the night-time economy.

The agent of change principle has been with us for some years. This is why it is important that we use this Bill to ensure that it is fit for purpose and doing what we need it to do. As we have heard, it is in the National Planning Policy Framework, but does the licensing guidance, as the noble Baroness said, reflect the principles of the NPPF itself? The NPPF needs to be fit for purpose, as well as the agent of change principle that sits within it.

I asked at Committee and would like to ask again: is the NPPF, when we get to see it, going to reflect the likely focus of future planning decisions on this? How is that all going to be taken into account? This is genuinely an opportunity to enshrine this principle in legislation and get it right. It needs to be fit for purpose and it needs to do what it is supposed to do: to protect both sides of the discussion and debate when you have change of use coming forward. As the noble Baronesses, Lady McIntosh and Lady Pinnock, said, we need to get this right and it has to have teeth—I think that was the expression that the noble Baroness, Lady McIntosh, used. We completely support her request for clarification on the legislative change referred to by the Minister in Committee and hope that we can move forward on this issue.

Baroness Scott of Bybrook (Con): My Lords, Amendment 220 in the name of my noble friend Lady McIntosh of Pickering tackles the important agent of change principle in planning and licensing. There was substantial discussion around this topic during Committee, a lot of it setting out the important conclusions of the House of Lords Liaison Committee follow-up report from July 2022. This built on the post-legislative scrutiny by the House of Lords Select Committee on the Licensing Act 2003. I thank the committee for its work and will briefly summarise how the Government are meeting the aspirations of that committee.

First, the committee's report called for licensing regime guidance to be updated to reflect the agent of change policy in the National Planning Policy Framework. This is why, in December 2022, the Home Office published a revised version of its guidance made under Section 182 of the Licensing Act 2003, cross-referencing relevant sections of the National Planning Policy Framework for the first time. The Government have therefore delivered on this recommendation.

Secondly, the committee set out that it believes that guidance does not go far enough and that the Government should

"review the 'Agent of Change' principle, strengthen it".

Recommendations such as this are one of the many reasons why we are introducing national development management policies. In future, and subject to further appropriate consultation, NDMPs will allow us to give important national planning policy protections statutory status in planning decisions for the first time. This could allow the agent of change principle to have a direct statutory role in local planning decisions, if brought into the first suite of NDMPs when they are made.

Finally, the committee called for greater co-ordination between the planning and licensing regimes to deliver better outcomes. We agree that such co-ordination is crucial to protect affected businesses in practice and it is why the updated Section 182 guidance, published by the Home Office in December 2022, is a significant step forward. The Government are committed to ensuring that their policies which embed the agent of change principle are effective, but we do not think that additional legislative backing is needed at this time. As such, I hope that the noble Baroness will understand why, although we entirely support its intention, we will not support the amendment. With that, I hope that she will be willing to withdraw it.

Baroness McIntosh of Pickering (Con): My Lords, I am grateful to all those who have spoken and for the support from the noble Baronesses, Lady Pinnock and Lady Hayman of Ullock.

I recognise what my noble friend the Minister said in seeking to support the conclusions of the follow-up report of the House of Lords Liaison Committee, which in itself was very powerful, but I know that the industry and practitioners who appear before licensing and planning committees will be hugely disappointed that my noble friend has not taken this opportunity to give the agent of change principle legislative teeth. I record that disappointment. I would like to discuss with the Minister, bilaterally if I may, how NDMPs can have legislative effect if they are not in primary legislation, but that is something that we can take bilaterally.

I am disappointed for the industry and for practitioners that we have not got a mandatory statutory basis as a result of agreeing the amendment before us, but for the moment I beg leave to withdraw the amendment.

Amendment 220 withdrawn.

Amendments 221 and 221A not moved.

Clause 115: Power to provide relief from enforcement of planning conditions

Amendments 222 to 224

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

222: Clause 115, page 145, at the end of line 35 insert—

"(1A) The Secretary of State may make regulations under subsection (1) only if the Secretary of State considers that it is appropriate to make the regulations for the purposes of national defence or preventing or responding to civil emergency or significant disruption to the economy of the United Kingdom or any part of the United Kingdom."

Member's explanatory statement

This amendment adds a restriction into the new power to make regulations to provide relief from the enforcement of planning conditions in section 196E of the Town and Country Planning Act 1990 (inserted by Clause 115 of the Bill), so that the power can only be exercised for certain purposes.

223: Clause 115, page 145, line 37, leave out "period of time specified in the regulations" and insert "specified period of not more than one year"

Member's explanatory statement

This amendment limits the period that may be specified in regulations (made under new section 196E of the Town and Country Planning Act 1990, as inserted by Clause 115 of the Bill), within which a failure or apparent failure must have occurred or been apprehended to be eligible for relief from enforcement, to a maximum of one year.

224: Clause 115, page 146, line 39, leave out the words "mentioned in that subsection"

Member's explanatory statement

This amendment corrects a reference to the "relief period", which is defined in subsection (2) and not mentioned in subsection (1).

Amendments 222 to 224 agreed.

Consideration on Report adjourned.

Energy Bill [HL]

Returned from the Commons

The Bill was returned from the Commons with amendments. It was ordered that the Commons amendments be printed.

House adjourned at 9.58 pm.

Grand Committee

Wednesday 6 September 2023

Arrangement of Business

Announcement

4.15 pm

The Deputy Chairman of Committees (Lord Geddes) (Con): My Lords, should there be a Division in the Chamber while we are sitting, which I am told is distinctly probable, the Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

Beyond Digital (COVID-19 Committee Report)

Motion to Take Note

4.15 pm

Moved by ***Baroness Lane-Fox of Soho***

That the Grand Committee takes note of the Report from the COVID-19 Committee *Beyond Digital: Planning for a Hybrid World* (1st Report, Session 2019–21, HL Paper 263).

Baroness Lane-Fox of Soho (CB): My Lords, I speak today at what I think might be my least last-minute event ever. We completed the work of this committee nearly two years ago and, after a year of hospitalisation, it is entirely on me why we have had to move the debate so far into the future. I thank the clerks for their heroic attempts in working to find time when I was able to be detached from a drip to come here to speak today. I also thank my colleagues for their patience; the incredible effort and work that they put into our committee should be aired and given the proper debate and time. I thank everybody for bearing with me.

I am reminded of how, in 1972, the Chinese Premier was asked about the effects of the French Revolution. At that time, he said:

"It is too early to tell".

That famous quote sat in my mind while I was chairing this committee, because we were set up in June or July 2020 when, as it now transpires, it was far too early to tell the long-term implications of Covid. Although I hate to start on a downbeat note, on reflection perhaps the biggest learning of this committee is that when considering long-term implications we have to think very carefully about when structurally to put work in place, when to set up committees and when to make sure that we have the right perspective and timeframe with which to reflect back.

Who could have imagined, as we sat in our first committee meetings on Zoom getting to know each other and trying to work out what we all thought, that the tsunami of the Ukrainian invasion, a cost of living crisis and an energy crisis would be upon us as they have been over the past year? None of us thought that there would be anything other than the fallout from Covid, which we were trying to analyse, as the main factor for policy-making over the next year. As it turns out—I will return to this—it is scary to think how little we returned to some of the themes and implications of Covid over that period, given how they are still profoundly in existence in our society. I will show how some of what we talked about in our report has come to be.

First, we decided to open up the work and gather evidence in a new way—with, to be frank, slightly mixed reactions from some of my colleagues—by asking people outside this building what they thought the long-term implications would be. We had many small focus groups and many declarations of evidence—thousands, in fact. We married them with some of the work from POST, the incredible team that sits here in Parliament.

One thing that I hope will be a lasting legacy of this work is that we now have that bank of data that Select Committees can use as evidence. If all else is ignored, I hope that Select Committees in the future will look back on this rich source of information, gathered, as I say, in a very new way. We asked people to send us anything: a drawing, a poem, a line, a tweet or more substantial evidence and data that they might feel was in our purview.

We did three sets of work. We looked beyond hybrid at the impact of technology, or the absence of it, at that time. We looked at the high street, and we looked at parents and families. This debate is focused mostly on that first piece of work, but it would have been a missed opportunity not to continually frame everything we did by thinking about the resilience of the UK and how its structures, both within and beyond this building, worked to ensure that, when we are faced with such moments in the future, as we inevitably will be, we are able to offer citizens the best services and the best opportunities to work and live as they deserve.

A lot of the recommendations in the final report on the resilience of the UK and living beyond Covid came down to quite structural and detailed things—about how Select Committees might work, how government departments should join up and how plans should be built. I will not dwell on them now, as I fear the Minister may not necessarily have prepared for all of them, but this was a constant theme in how we approached the work and how important we still think it is that government sees the planes that now run across all the work that it does. That requires a significant shift in how it thinks about how it organises itself.

For the majority of my comments I will turn to the hybrid world of work. It seems extraordinary now that this building managed to get itself online and doing all the business of government within a month. I salute the teams here that did that; I know that the Parliamentary Digital Service showed extreme levels of dedication to make that happen. As someone who came into the House of Lords and was frequently asked, pretty much from the get-go, how to make the wifi work, I understood in extreme detail how incredibly big these challenges were. It felt as though Covid really pushed through the institutional inertia here and across the entire corporate world and our society; where people had before not quite seen the benefits to using technology or had perhaps not imagined the possibilities, suddenly we were in the thick of a brave new world.

[Baroness Lane-Fox of Soho]

That was very beneficial for some and not for others. I often reflect on how many people probably wished that they could stay at home in their pyjamas but in fact donned their PPE gear and were made to go out on to the front line. One piece of evidence our committee heard was that half the British workforce could not work digitally. We truly were a hybrid country. In our race towards technology and the acceleration that we saw, it is very important not to forget all the other people who were working to save us at that moment and who continue to do so in the absence of that opportunity.

Within the digital landscape, we looked at a group of different areas: the way the digital divide dominated the discussion during Covid; how skills could be built and data could be used; how collaboration should be increased and research should be more deeply connected to policy-making; and how the resilience of the infrastructure of the internet stood up during that time. We made some recommendations across each of those areas. I will not go through each one, but there are three on which, even 18 months later, I feel we still have a great deal of work to do.

First is the inequality of digital technology. This is not just about the binary nature of the digital divide; the House of Lords Communications and Digital Committee released an excellent report at the end of last year, which we do not need to relitigate, on the digital divide. This is more than that. It is about our capacity to trade in businesses and to make sure that Ministers have the digital understanding they need to make policy, and that hospitals understand the opportunities available to them with technology.

As a country, we sometimes stand a bit shy of really facing into the future. We do it by halves. Many of the people we heard from and talked to in the committee gave the impression that they had made a big investment to help get online in order to function through Covid but that there were still significant challenges. The sharp end of that is those who had no access to technology at all. As noble Lords may have read in our report, at that time only 50% of families earning £10,000 a year or less had any access to technology at all. We heard that more than 2 million children—often two, three or four in a family—were sharing one device to do schoolwork. We also heard of people having to decide between data and feeding their families in what is still one of the richest countries in the world.

That was shocking at a time when everything had to move to the virtual world, but it is just as shocking now, 18 months later, when we are back living firmly in that hybrid world. I would like to know from the Government what specific plans they have and what answers they have to the recommendations that we made about how people could have different benefits wrapped up for the costs of broadband access and so on, which have escalated because of the cost of living crisis over the past year.

The digital divide is a fundamental building block that we have so much opportunity to right in this country. Again and again, we saw its terrible downside when we were doing the committee's work, but we also saw the upsides for people who had managed to embrace it—growing their businesses, running their charities and offering help online to people they may not have been able to reach before. There is a huge upside if we continue to focus on this with relentless urgency.

Another aspect that we came back to again and again concerned the skills of people working in the public sector and the government estate. We heard about schools where parents felt that teachers had less of a clue about how to use technology than they did, and about schools that did not have access. We also heard of hospitals that were doing pretty whizzy and exciting things and remote appointments, and doctors' surgeries that had cracked a lot of the problems, but we also heard of doctors that were absolutely unable to commit to this new way of seeing and working with patients.

We made a number of recommendations. I know there have been endless Civil Service skills commitments by the Government, but I would love to understand how they now see skills across the public sector in relation to digital. There is no ability to stop: this needs to be constant and embedded in all workforce learning. We made a number of recommendations about career development and how important it is that all these themes are put into the mix for people working across the public sector.

We have the profound issue of the digital divide, which is not just about people being with or without but about people who may have some but not all—different parts of our society may be better equipped than others—and we have the issue of how the public sector delivers digital. As someone who was instrumental in creating the Government Digital Service, I see the zig-zagging, which is probably inevitable. But we made a number of recommendations about the public services that we use and how much more improvement there could still be so that everyone is working to provide a really hybrid service—not always purely digital but whatever is appropriate—and making sure that we are listening to the patient, the benefits claimant or whoever might be on the other side of the desk.

Another important piece is about how we can use data to make sure that we really understand what happened during that Covid period and who was affected. We heard from many different groups who felt they were not really being seen in policy-making. The black community has been endlessly highlighted for the issues that it faced in the medical system during Covid. Health inequalities driven by bad use—and bad joined-up use—of data were addressed again and again to us in the committee. We made a number of recommendations about how to make sure that data and policy-making are linked together in a more effective way and that there is far less siloed decision-making in government and far more central planning and an acceptance that now, in this new hybrid world, we are living not in one or the other but across both and we need to make decisions across both.

My final point is about overall resilience. A couple of our evidence-givers told us that it was amazing how many things stood up and survived during Covid—I started my remarks talking about the incredible resilience of this organisation to get itself functioning again. But we felt that there was a huge opportunity to make sure that we were stress testing our digital

infrastructure in particular, and our other critical national infrastructure, to make sure that, should this happen again, or when it happens again in a different form, we are able to say with absolute purpose that we have tested it regularly and that we are constantly thinking about how the hybrid world has affected our critical national infrastructure, and not seeing it as one or the other.

Since the work was completed and we have come out of the dregs, if you like, of Covid, there have been so many more noisy headlines. I was reflecting on how AI is clearly now the dominant media story. You cannot open a paper, turn on the radio or watch a news programme without there being some element of the world being either about to be saved or about to be taken over and destroyed by robots. I really hope this does not mean that we forget some of the structural things that happened during the pandemic. We may be looking at a very different set of geopolitical circumstances to the ones that we faced during Covid, but we still have a huge number of issues that have surfaced because of this hybrid world.

Lord Hain (Lab): I am very grateful. I apologise for intervening. I put my name down but am not able to speak, because I cannot stay until the end. I pay tribute to the work that the noble Baroness did as chair of our committee in the most difficult circumstances for her personally. It is a very difficult group to chair, in some ways, but she did it with extraordinary sensitivity and ability. I would also like to stress, and I am sure she will agree, that the inequalities we saw were huge. Children on the 10th floor with a single mother did not have separate bedrooms, let alone separate laptops. That is just the tip of the iceberg of those inequalities. I thank the noble Baroness.

Baroness Lane-Fox of Soho (CB): I thank the noble Lord. I agree 100% and, if he had just allowed me 10 more seconds, that is where I was going to end. I hope that the noise now around the other issues that we face, both geopolitically and locally, and the enthusiasm with which the Government have embraced the dominance that we are going to create in AI and how we are going to become a global superpower, do not mean that we forget the very deep structural inequalities that were created because of Covid. We saw that in this hybrid world work, we saw it in our parents and families work and we saw it in our high street work. I beg to move.

4.31 pm

Baroness Fraser of Craigmaddie (Con): My Lords, the Covid committee was the first committee that I sat on after entering your Lordships' House. I have to note that I joined after this particular report was published, but I was involved with all the other reports that our wonderful chairman, the noble Baroness, has just referred to.

I commend this report to the Committee. It marks a very first step for me in learning lessons from the pandemic. I went on to serve on the Adult Social Care Committee and am now on the Communications and Digital Committee. Our report on digital exclusion, published in June, builds hugely on the work of this report. Many of its recommendations are echoed in the digital exclusion report. I want particularly to highlight the notable and distinct lack of overall responsibility for digital policies in government. Digital is an issue that cuts across the remit of all government departments. Being digitally literate and engaged is an expected skill and, as both reports make clear, digital skills are as important to everyday life as learning to read or count.

However, this report is not just about digital. Its title is *Beyond Digital*: it is about the world we all live in now, a hybrid world. As the report sets out, the future was always going to be a hybrid one; the pandemic just meant that the future is here now.

As the noble Baroness said and the noble Lord, Lord Hain, just mentioned, the committee exposed the huge inequalities in how people experienced life during Covid. People who had no gardens were severely restricted in their access to open spaces. People who could not afford computers or an internet connection were cut off from work, school, services and society. People, such as the disabled and the elderly, who relied on others to help them exist every day had vital services withdrawn with no notice or consultation and were basically left to get on with it. None of these inequalities is new, but they were multiplied enormously by the pandemic.

What is interesting to me is to ask: what has happened in the years since? My experience comes from the world of health and from Scotland. I need to declare various interests here: I run Cerebral Palsy Scotland and I chair the Scottish Government's National Advisory Committee for Neurological Conditions. The Covid public inquiries are under way in Scotland and in the UK, and I am giving endless evidence to the Scottish committee at the moment. I hope that both inquiries are able to learn lessons and do not just seek to apportion blame, because I do not think that would be helpful to anybody. I particularly want to learn the lessons of what we do not want ever to happen again.

It was concerning to see the arbitrary identification of what services were deemed essential and what services were dropped. For example, carers going into people's homes were classed as key workers, whereas support health service workers—AHPs—became online only. Disabled people were being told in all the national communications that they were more vulnerable to Covid and yet what happened was that the services that they rely on to keep them well and active were being cut. I can tell your Lordships that you can achieve only so much through an online physiotherapy appointment. However, people with long-term conditions such as cerebral palsy rely on allied health professionals such as physiotherapists to enable them to keep well and to be able to function, yet somehow these services were seen as less important and were withdrawn—I make the point again—without any consultation with the people who relied on them.

As a result of my lived experience—to coin a phrase that the Government seem to like—I know of various developments since the publication of this report. In my organisation, we have developed a "virtual first" way of triaging people who come to us to use our services. The Scottish Government have published guidance on virtual versus face-to-face acute neurology

[Baroness Fraser of Craigmaddie]
consulting and they are preparing work for neuro-psychology in this area. We have to acknowledge that for some people this is an efficient, effective and easy way to use services—I point to people who live on the Scottish islands, those who need to take time off work to attend appointments or people who have caring responsibilities. However, we have to be clear what "virtual" means. For example, an acute neurologist in Aberdeen can absolutely have a detailed virtual appointment with somebody living in Orkney but only because they might have local health professionals on site to assist with that virtual appointment. When in-person is essential—for example, making a diagnosis of such conditions or if people do not understand the terminology of what is being discussed—it is important that that is prioritised.

My experience suggests that the NHS is indeed moving in this direction and developing effective hybrid service provision, but I want to see much more movement in the digital space on data. Where is the data, how do we use data to support people moving from different services, who holds the health data and how is it safely accessed and shared? Such developments must incorporate health and social care. Although we may be seeing progress with the development of data platforms within the NHS, social care has a long way to go before the data that it needs and the data that it holds are accessed and shared with others to enable people who we, during the pandemic, labelled as vulnerable to be supported to live and thrive.

The report also touches on education in schools. We already know that many pre-existing problems were faced by children with exceptional needs. They are more likely to live in poverty and less likely to have had access to new technologies, both of which have been linked to less intensive home learning during the pandemic. The report highlights how children's social development was compromised by the closure of schools—again, I hope that we never do that again without serious consideration. Schools are so much more than places just for academic learning. I witnessed the impact on families who were struggling with children with cerebral palsy and trying to juggle the needs of their disabled child, without support and without the respite usually provided by schools, with the needs of siblings, perhaps trying to hold down a job while working from home, all at the same time—a frankly impossible task.

Granted, evidence from Scope to our committee outlines the advantages of online learning for some disabled children who are able to learn at their own pace. However, other evidence, such as that from the Nottingham Centre for Children, Young People and Families, emphasised that it is more difficult for children without traditional literacy or verbal communication skills to sustain interaction on-screen. While we learn from the pros and cons of online learning, it is my hope that we never again leave families with disabled children to cope on their own at home without access to local, in-person support.

In the report, Scope—I come back to Scope—highlighted some of the advantages of increasing reliance on digital technology in supporting some disabled people to work from home, facilitating more flexible working patterns and reducing the issues and stresses associated with commuting, for example, all of which I support. However, in my various working environments, from Parliament to my professional interests, as laid out in the register, there is too often an either/or approach to in-person or remote working. Insisting on just going back to a pre-pandemic way of working per se flies in the face of what is happening, whether that is in the retail sector, or about the impact of travel on the climate or on the ability to attract a wider pool of talent—or, frankly, on economic efficiency measures. Is hybrid working the best of both worlds or is it a tentative middle ground in which we find ourselves at this moment? I do not believe that we know where the world of work will land. This report recommends that the Government ensure that employment legislation is fit for the digital age. For me, this is still an evolving space and employers need to be supported to implement the flexibility required for their individual business needs.

In conclusion, if this report was a useful first step in looking at the impact of the pandemic, the intervening years since the first lockdown have seen some concerning trends that suggest that we have not done enough to make things better. Enabling people to flourish in a hybrid world means tackling digital exclusion and supporting digital skills. I look forward to future debates on our report from the Communications and Digital Committee. It also requires us to tackle the systemic inequalities exposed by the pandemic. We have to understand what we mean by essential in-person services. We need to work with disabled people and the organisations that represent them to understand the impact of online versus face-to-face services on their lives and we need to reimagine how we deliver social care. I also look forward to debating the report from the Adult Social Care Committee in due course.

The pandemic reminded us what really matters in our lives: personal freedom, celebrating with our loved ones, caring for friends and family, a stable economy, a vibrant NHS and happy, healthy, well-educated children. Let us not forget that as we move into our hybrid world.

Lord Hain (Lab): My Lords, I just want to notify the Committee that I am not able to speak because I cannot stay until the end. I should have been taken off the speakers' list, as I was told had happened.

4.43 pm

Lord Bilimoria (CB): My Lords, the Covid-19 pandemic was the worst global crisis since the Second World War, an event that changed the world for ever. It came from nowhere. How many people predicted that it would happen? How many people predict these black-swan events that change the world? How many people predicted 9/11? How many people predicted the financial crisis 15 years ago? I have learned from my own experience over the last three decades of building my business, Cobra Beer, from scratch—a business that I nearly lost three times—that crises almost always come out of the blue. No one predicts them. What matters is how you deal with these crises, how you survive, how you get through and how you learn from the crises and from the mistakes that have been made.

I thank the noble Baroness, Lady Lane-Fox, and her committee for their report, *Beyond Digital: Planning for a Hybrid World*. I emphasise a point she made: it was published more than two years ago, on 21 April 2021, but better late than never that we are debating this really important issue.

In her opening remarks, the noble Baroness highlighted how the committee looked at issues concerning hybrid, the high street, parents and children, as well as the resilience of the UK. The report clearly says that

"dependence on the internet as a result of the pandemic has led to a massive acceleration in many pre-existing digital trends: from online shopping to online GP appointments, automation of jobs to remote working".

From my experience, I remember that many of the financial transactions I have been involved in—the deals, mergers and acquisitions in my business over the years—used to be conducted face to face, with the lawyers and everyone gathering around a table in a boardroom. Then we moved on to conference calls more than face-to-face meetings. The technology for videoconferencing was there; we just were not using it. The pandemic led to this technology being used, which I will come to later.

The report also clearly highlights the "huge inequalities" that exist in our country, which have been spoken about; how children lost so much of their schooling; how businesses could not move to trade online because they just did not know how to do it; and the isolation created by the pandemic. The future was always going to be hybrid—a mixture of online, offline and real-time—but due to the pandemic, as the report says, the future "is here now".

I am happy to note that the report states that digital is

"a very poor substitute for 'in person' services and interactions".

There is no beating that. You can never replicate what we are doing here: having this debate face to face. Like the noble Baroness, Lady Lane-Fox, I commend the House of Lords for adapting so quickly and enabling us to continue to function as a Parliament even during the lockdown and to operate remotely. We did it, in many cases from abroad. We functioned, but nothing beats what we are doing now.

The report also mentions and recommends that, like many other cross-cutting issues, such as Brexit and devolution, responsibility for the Government's strategic response should lie with the Cabinet Office. I presume that is where it sits now. It also quotes Yuval Noah Harari as saying that, pre-internet,

"if you ordered the entire population of a country to stay at home for several weeks, it would have resulted in economic ruin, social breakdown and mass starvation".

The internet made it possible for us to stay at and work from home, and kept us safe.

In July, I was privileged to be the guest of honour of one of my old schools in India, the Hyderabad Public School, for its centenary investiture ceremony. The school has many illustrious alumni, including Ajay Banga, the president of the World Bank, and Satya Nadella, the chief executive of Microsoft. I have quoted many times what he said at the beginning of the pandemic, which the report also quotes:

"We've … seen two years' worth of digital transformation in two months".

That is where necessity becomes the mother of invention. We did it. Research by the Royal College of General Practitioners found that

"at the peak of the pandemic, around 71% of GP consultations were conducted remotely by telephone or video",

compared with 25% for the same period the year before. A hybrid world is very beneficial. We are now living in that world, where we make the most of in-person interactions and the virtual interactions that the technology allows us, which we demonstrated throughout the pandemic.

The problem is that we can have a truly good hybrid world only if it is truly inclusive and everyone has access and is able to use the technology and the internet. The reality is that at the end of 2019, before the pandemic, there were more than 600,000 premises that were unable to receive decent broadband. Of course, many of those were in rural areas. I ask the Government to confirm whether they have a target of 100% broadband coverage throughout the United Kingdom, and by when they hope to fulfil that.

Then there is the aspect that a huge proportion of the population are digitally illiterate. Up to 9 million people—some say more than 11 million people—do not have the ability to use this technology in the way that many of us, fortunately, can. Some 9% of households with children have access to the internet only through a smartphone. The Sutton Trust found that 15% of teachers in the most deprived schools said that more than one-third of their students did not have adequate access to an electronic device for home learning, compared with 2% of teachers in the most affluent schools. In the United States of America students and teachers in all government schools are able to have computers or laptops. Will the Government confirm how many of our students and teachers have that 100% access to computers and digital devices?

The noble Lord, Lord Hain, mentioned that many children missed out on their schooling because of the pandemic. I know, from personal experience, that children lucky enough to have access to broadband, their laptop, a room and teaching taking place—forget missing lessons, they did not miss even an art lesson or a music lesson. Yet at the other extreme, we had children on a council estate, in a tower block, who had no laptop, no broadband and no room in which to have access. They missed, many of them, a year of education.

Another area where the Government could have done more is that they were too late in implementing lateral flow testing. As president of the CBI from June 2020 until June 2022, I was one of the first people in the country, in August 2020, to recommend to the Government to implement lateral flow mass testing. The Government would not listen. As an entrepreneur, you never give up; I persisted and eventually the Government did listen. They listened in November 2020, and it was the noble Lord, Lord Bethell, who said, on the Floor of the House, "Lord Bilimoria, you have won this argument", and they started to implement lateral flow testing. By the time it was fully implemented, it was November 2021, running into December 2021 and January 2022. Noble Lords will remember that we ran out of lateral flow tests because they were being offered, as I recommended, free to the public and to businesses.

[Lord Bilimoria]

How many people—not many—have heard of the Oxford University test that was done in 200 schools with 200,000 children and 20,000 staff? Half used a bubble system, isolating, so that when one person got Covid, the whole bubble would isolate and miss their schooling; the other half used regular lateral flow testing. They found that the ones in the bubble missed out on schooling while the ones with regular lateral flow testing, except for the individual who tested positive, did not miss out at all. We could have saved so many more school days if we had implemented lateral flow testing earlier. I go further and say that if we had implemented lateral flow testing earlier, we would have avoided the second and third lockdowns and would have saved hundreds of billions of pounds, let alone lives wasted and school days wasted. I hope that is one of the lessons that is learned.

To conclude, we have a digital divide that has been highlighted by the pandemic, digital poverty, digital access, digital illiteracy. I make the point that, going back, my first government appointment was in 1999 as a member of the New Deal task force, which then became the national employment panel in the Department for Work and Pensions. I remember there that the whole idea of getting people from welfare to work was not just to save money and help the economy but to help those individuals, because experiment after experiment, research after research, showed that work is actually good for you. It is good physically and good mentally.

When you are in a face-to-face working environment, you have the ability to be more creative, to be more innovative, to have that buzz and to have the social interactions. There is also the ability for your local high streets to survive. I am sorry to say that the high streets have suffered hugely because of the pandemic. They need support, and one area would be a reform of our business rates. Will the Government acknowledge that we desperately need to reform our business rates to save our high streets?

I conclude by saying that good judgment comes from experience, and experience comes from bad judgment. We need to learn from our mistakes.

4.55 pm

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to follow the noble Lord, Lord Bilimoria, with the wealth of experience that he brings to your Lordships' House. It is also a pleasure to take part in this debate and, in doing so, I declare my financial services and digital interests as adviser to Ecospend and Boston Ltd, respectively.

Along with other noble Lords, I congratulate fulsomely the noble Baroness, Lady Lane-Fox of Soho, on the way that she introduced this debate and indeed the way that she chaired this committee at an unprecedented time. Almost every recommendation in the report rings true and, although we have waited two years for this debate, they are as relevant, fresh and important today as when they were inked just over two years ago.

I also congratulate the noble Baroness, Lady Lane-Fox, on everything that she has done in terms of digital inclusion, not least Doteveryone. In many ways, "doteverything" is what I would like to cover in my comments this afternoon. When it comes to digital and "doteverything", it if does not include "doteveryone", what is the point? Why are we doing it? As other noble Lords have commented, it is about how we thread so optimally those golden threads of inclusion and innovation—the golden threads that enable talent and technology to thrive. That is what this report really brings to bear. This should be the golden thread that runs through all our post-Covid build-back. If we do not do it in an inclusive manner, it is not really worth doing at all. Perhaps the greatest and saddest learning from the pandemic was that, although we were all in it, we certainly were not all in it together. We need to ensure that what we do going forward is very much altogether—altogether different, altogether better and altogether inclusive.

To bring this to light, I will focus on the three areas of financial inclusion, digital inclusion and new technologies for public good. In terms of financial inclusion, we had issues before the pandemic, but there are two examples where the pandemic exacerbated financial exclusion. First, we suddenly saw a rollout of card payment machines that had no keypads; they were flatscreen, thus completely inaccessible to me and millions of other people. It was another example of a phenomenon that has gone on for decades where health and safety—or something presenting itself as health and safety—was used to trump and wash away inclusion. I therefore ask my noble friend the Minister: in terms of everything that we do, products that are produced and everything that the Government have responsibility for, will it all be rolled out in an inclusive manner? Indeed, companies that bring out products or services that are inaccessible and not inclusive should rightly feel the full force of equalities law upon them as a consequence.

Similarly, there is the hybrid nature of not just work and education but life. At the height of the pandemic, we saw cash withdrawals decline by more than 80% in London and yet by less than 40% in other parts of the country. This demonstrates that cash still matters, materially, to millions. Will the Government consider designating the UK cash network as critical national infrastructure in terms of both resilience and ensuring financial inclusion?

So many of the recommendations in the report thread together what are often wrongly described as the "hard" and "soft" elements of digital inclusion. I prefer to call them the "material" and "human" elements. To echo my friend, the noble Lord, Lord Bilimoria, when will every single household, business and part of the United Kingdom have effective, reliable broadband connectivity? Without it, more than ever, it is now a case of not just being unable to get online but being socially and economically excluded.

I will bring this to life with the example of a payment app. If someone holds in their hand the best payment app ever developed, they may have great connectivity but without that social connection or the digital skills—the human part of it—they will not be able to make a payment. With the selfsame app in the hands of someone with those digital skills but without connectivity, that payment will also not be made. Will my noble friend the Minister confirm that the Government

are looking at the material and human elements and mapping this across the country to understand how we can enable true connectivity that combines both critical elements?

We saw examples of farmers being forced to go to McDonald's to do their VAT returns. The Government have often said that, if there are difficulties with connectivity, you can go to your high street or library, but does my noble friend think it acceptable for farmers and other businesses to have to do something as personal as their tax declarations and returns and VAT returns in a public space such as McDonald's or even a public library?

I move to technology for public good. It is interesting how, even in the midst of such a horrific situation as the pandemic, opportunities came through, particularly for disabled people. I was asked in 2018 to do a review for the Government on opening up public appointments for disabled people to the boards of public organisations responsible for well over £200 billion of our money. We have shameful representation of disabled people on those boards. One of the recommendations I made was that, at application, interview and onboarding, different and, at the time, novel approaches such as video interviews should be considered. This was seen as radical. Now, thankfully and positively, it has very much become the norm.

This demonstrates the opportunity we have for technology not to divide but to bring together and connect for positive good. I wrote a report in 2017 on distributed ledger technology for public good. Would it not be such a positive post-pandemic build-back for the Government fully to engage with the opportunities of distributed ledger technology? For example, currently the NHS spends 25,000 doctor days on ensuring the credentials of our medics. This is critical—you want to know that the person you are consulting or who is operating on you has the training, skills, qualifications and credentials they say they have—but with a relatively straightforward DLT solution those 25,000 doctor days could be converted into 25,000 doctor days of care. That would be a small but incredibly impactful and positive element to come out of post-pandemic planning. Are the Government looking at all the use cases for distributed ledger technology for public good?

On AI, as the noble Baroness, Lady Lane-Fox, rightly identified, it is all around us right now—it is everything everywhere, all the time—and we need to ensure that that is part of the positive build-back story. I was fortunate enough to attend the Turing summit earlier this year, where the institute had all its top researchers—its post-docs—doing 90-second presentations to pitch for funding for their particular idea. All the ideas were innovative and all had a social purpose—a people purpose. The winner was looking at how to scan early for ovarian cancer. What brilliant work is happening with our researchers at our universities up and down the country. Can my noble friend the Minister comment on whether the Government are gaining all the right connections from the academic powerhouse that we have, not just in this city but right across the country?

To conclude, the Covid pandemic was a once-in-a-100-year event, but we are currently in the midst of another pernicious and avoidable epidemic that is summarised best as: we have never been more connected, and yet, in that state, we are in the midst of an epidemic of loneliness. Can my noble friend the Minister comment on what the Government are doing to use both technology and human interaction to ensure that we move from this, for our young people and all our people? Ultimately, although video conferencing was successful during the pandemic, and it has a purpose, there is nothing better than the essential quality of the human relationship. Everything must be seen as relational, not transactional, and if we can weave so optimally those golden threads of inclusion and innovation, I believe that we can drive economic, social and psychological good. We can do it, we must do it, and I believe that we owe it not least to all those who tragically did not make it through.

5.07 pm

Lord Alderdice (LD): My Lords, it was a privilege to participate as a member of the Covid-19 Committee of your Lordships' House under the chairmanship of the noble Baroness, Lady Lane-Fox. I want to thank her, as I thank the clerks and advisers to the committee, and indeed all the witnesses, who sent in witness statements or appeared in front of the committee. A huge amount of work was undertaken. This is one of the reports that was produced—there are others—so I want to stick to the subject of this report and not speak to the others. I hope we will get a chance to address them subsequently.

I declare my interest as the executive chairman of the Changing Character of War Centre at Pembroke College, Oxford, because specific issues arise later in what I have to say.

Things moved very quickly, right from the very beginning. It has been said that in your Lordships' House we moved very quickly. The very first evidence that I had of that was at the end of the debate, which noble Lords may recall, on the massive Bill that we put through the House very quickly. I had spoken on the Bill, and I went to the clerks afterwards and said, "How quickly will we be able to get Her Majesty's approval?"—she was still with us at that time. "Oh", he said, "in less than half an hour". I said, "Oh my goodness. How are you going to get it out to Windsor and back?" because we all knew that that was where she was. "Ah", they said. "Her Majesty has agreed to do it digitally". How many years of negotiations that might have taken but for Covid and the creativity and imagination of Her Majesty?

Things changed, and they did so dramatically and quickly. However, the job of the committee was not to look at what was changing specifically at that time, nor was it to look at the problems and challenges of dealing with Covid at that time. Other committees were looking at that. Our job was to look at the future as best we could and to try to say, "What will things be like perhaps in two to five years' time?" The noble Baroness, our chair, kept saying this to the witnesses as they came, but it was extremely difficult to find witnesses who would speak to the future. People were so preoccupied with the problems of dealing with Covid in the here and now that it was very difficult for them to look to the future. That was a constant struggle that we had.

[Lord Alderdice]

There is no question that prediction is very difficult, particularly when it is about the future. That is what Niels Bohr said. Your Lordships will remember that he was a Nobel Prize winner in physics. He was doing a question and answer session in Copenhagen. He had been laying out the fundamental nature of quantum physics for the public—I reassure noble Lords that I do not intend to do that—and talking about Heisenberg's uncertainty principle, which basically says that you cannot predict where a particle will be at a specific place and time, and vice versa. The question that triggered the answer was: "What influence do you predict quantum physics will have on the world in the future?" He said, somewhat tongue in cheek, given the prominence of the principle he was talking about:

"It is exceedingly difficult to make predictions, particularly about the future".

It is not just the future that is difficult. There is some argument as to whether Niels Bohr was the first person to say that. Some people say it was the American baseball player Yogi Berra; others say, "No, it was a Danish poet"; and some have insisted that it was actually Mark Twain who came up with it. It is difficult to predict the future; it is not even easy to know what has happened in the past. Both these things apply when we think about the challenges that we had with Covid.

The other problem is that if we cannot predict the future, how can we try to deal with it? I think the answer is that we can plan for the future and we can try to protect ourselves from the future, even when we cannot predict exactly what it will be like. But here is where the problem arose in Covid. We had reports, we had plans, we had those who had set out the possibility that there would be such a thing, but the plans were not implemented. When it came to PPE, it was not that nobody reckoned we might have a pandemic—people knew there would be a pandemic at some point, but everybody hoped it would not be on their watch—but it was very costly to provide PPE and it did not last for ever. One of the questions I have for the Minister is not just how we can plan for problems that arise, but how we can make sure that those plans are actually implemented. There are all sorts of ways in which this is an issue, and I will come back to some of them.

One thing that has been said is that internet access is now a public utility. It is an absolute requirement. On page 15, we actually say that there ought to be

"a legal right to internet access",

as has been referred to by a number of previous speakers. In a sense, it is now like water and electricity: you really cannot function without it. Perhaps the Minister will say a little about what the Government have done and what they plan to do, because of course we always plan to have everything done marvellously and in no time at all, but let us try to be as realistic as we can.

Hybrid is what we describe, not just digital. It is not just a question of moving everything over to digital, and there are a whole bunch of reasons for that. I was talking to a young general practitioner of my acquaintance not very long ago and he was complaining about the way things are going. I know that the BMA has been talking about how many GPs want digital, but he said, "I did not go into medicine to work in a call centre. I went into medicine to work with people". That is extremely important, and I speak as a doctor and psychiatrist. It is crucial to be able to have the relationship directly with people and for them to be there.

There is a certain amount that it is possible to do on the internet, but there are other things that you cannot do. My eldest son started a relationship with a young woman in São Paulo, and I said, "How are you going to make out with that? You don't have the money to go backwards and forwards". He said, "We'll be on Skype every day", and they were. Then they got married, and a while after I said, "Wasn't it great that you were able to go on Skype?" and he said, "Yes, Dad, but there are some things you just can't do on Skype". The reality is that digital—Zoom, Teams, WhatsApp and all these things—is wonderful, but there are some important things about human relationships that you cannot do in that way. As a doctor, there are certain things it is much more difficult to do, such as making diagnoses. It is a lot easier when a person walks into the room with a limp than when they are already sitting down in front of the camera. It is hybrid we are looking to, not just digital. That hybrid may be different for different people—not just for the professionals I have already mentioned, but the patients. Some will prefer digital, but some people find it not just difficult but not to their taste or preference.

That business of working directly also helps to protect us when things run into problems digitally. When we wrote and published this report, there had not yet been an open Russia-Ukraine war—at least not one recognised as such. I mentioned the work of the Changing Character of War Centre. One of our reports looked at the vulnerability of our digital systems to attack. In 2017, there was an attack, probably from North Korea, called WannaCry, which had a huge impact on the NHS. One reason it had that impact was that the Microsoft software used by the overwhelming majority of NHS trusts was no longer supported by Microsoft. Everybody knew it, but they had not transferred to a system that was still supported. Tens of thousands of NHS appointments were missed. It was resolved by a young security researcher in rural Devonshire, who very quickly came up with a solution, but in the meantime a huge number of computers had been infected. It was a really serious problem.

We are now in a situation where it is not just North Korea. Thousands of people are working under the Governments of countries such as Russia and China, as well as North Korea and others, doing nothing but working out how to damage our resilience. I would like the Minister not to spell out exactly what the Government are doing—that would not be wise—but to give some reassurance that they are seriously addressing this. We are in a war, however we characterise or address it. It is a serious one and will go on for a long time. It might go on for longer than some of us are around. All sorts of things will be done.

This is an additional problem, not a replacement. In November 2021, one of the Members in the other place said that he was unhappy about cutting back on defence spending. Boris Johnson said, "Oh, no need to worry about that. Tanks and landmass wars in Europe are a thing of the past. It's not going to happen at all".

That was about three months before the invasion of Ukraine. He said, "It'll all be cyber and all that kind of stuff". He was right that cyber has played a part, but the problem with war is that you do not give up the old ways of doing war, you simply add new ones. I want some reassurance from the Government that, in doing what is recommended by this report, which is grabbing hold of the challenges and opportunities of digital, we maintain hybrid—that is, understanding that we also have to address the old ways of working with things.

These are difficult and dangerous times. We have to learn. We do not have the resources that we would like to have to deal with these things, but all of us would like some reassurance that the Government not only understand but grasp that and can give a degree of confidence that they are dealing with it.

5.18 pm

Lord Bassam of Brighton (Lab): My Lords, I join other Members of the Grand Committee in congratulating the noble Baroness, Lady Lane-Fox, on the report, which is hugely valuable. Although some time has passed since it was published, it is still fresh and useful for government and all of us to understand the changing nature of the digital world.

I feel humble to be in the noble Baroness's presence and privileged to be able to join in this debate. I am delighted that she is here and in better health than she has been. She is a terrific advocate for the benefit of expertise in this House. We owe her a huge debt of gratitude. Her background in the digital realm is legendary and speaks for itself. The Government should have availed themselves of her expertise and insight rather earlier—and, of course, that of her fellow committee members represented here.

I have taken part in many committee report debates over the years—in fact, I have been responsible for ensuring that committee reports have been authored—and rarely have we seen a committee feel so compelled to publish a follow-up document that criticises the Government's response. It is very much needed, and I say that not in an adversarial sense but because it adds to the quality of our thinking in debating this important subject. Of course, as the committee acknowledged, this may have been due to the cross-departmental nature of the report: it remains to be seen whether the creation of the Department for Science, Innovation and Technology will help or hinder efforts to facilitate cross-government co-operation on digital matters. I rather hope it helps.

As the report makes clear, the pandemic rapidly accelerated digital transformation—all speakers today have drawn attention to that very obvious point. People's habits changed quickly and, while we have thankfully returned to relative normality, many of those changes in behaviour have persisted and grown. It has certainly changed my working world: the time I give to a charity has been made much easier by the widespread adoption of Teams, Zoom and so on. Travel has been reduced but content has increased and output has certainly increased—my output, too.

Whether it is the digital strategy, which we acknowledge has been updated since the report was published, or the AI strategy, Ministers have faced legitimate criticism for being behind the curve on technological change, being too slow to spot opportunities and even slower to mitigate risks. Although the Government may not have been able to anticipate the precise speed of change brought about by the pandemic, the shift to a hybrid world, as all speakers have acknowledged today, was under way well before Covid-19 struck, and policy in some areas should have been more thought through than was evidently the case.

The report discussed issues around the availability of IT devices and speedy and affordable internet connections, noting, among other things, the regrettable reality of the thousands of schoolchildren unable to participate in remote learning during the lockdown. I know from my own charity world experience about the extraordinary steps we had to take to ensure that children could get greater access to IT—shared laptops; trying to log on using generally available wifi. We had to tackle all those things to try to provide a bit more of a level playing field for kids in hard-up communities where digital access was rare or very remote.

Although some progress is being made in rolling out fibre broadband connections and upgrading mobile infrastructure, it remains the case that central government targets are routinely missed and/or downgraded. With many families still struggling with the cost of living crisis, it is surprising that the Government have not done more to promote broadband providers' social tariffs. Instead, the department and the regulator are leaving it largely to operators, which have no incentive to proactively offer customers a cheaper product. The committee talked about the importance of improving digital literacy—again, all participants today have drawn attention to this—yet it has taken months of cross-party pressure to persuade Ministers to reinstate media literacy provisions to the Online Safety Bill after they were mysteriously dropped following the period of pre-legislative scrutiny.

Public service transformation is another important issue covered by the committee, and one where the Government's progress has also been slow. I was at a Google presentation today, and it is so obvious when you listen to what Google says that public services could be transformed with better use of data and a more advanced digital strategy.

My own party has been clear about how new technologies could make public services more efficient and responsive to users' needs. As we have heard this afternoon, AI tools can bring about better health outcomes, particularly for cancer patients, in terms of diagnosis; help spot mistakes or fraud in the welfare system; and provide more personalised plans for those seeking employment, changing career or training. Mind you, I am sad to say that it would not have been much use with crumbling concrete because the advice would have been ignored. The point here is that it is about making intelligent use of data and the insight that the new world of digital and the hybrid future of work bring about.

We are also clear that, as many jobs become hybrid or online only, employment rights must keep pace and workers' well-being must be safeguarded. The Government

[Lord Bassam of Brighton]
have pledged on several occasions to introduce an employment Bill that begins to reflect the new world of work, but still we wait.

Another salient issue covered by the report is that of resilience against cyberattacks and other threats. As more public services move online and more transactions are undertaken online—or should be—systems become more vulnerable to attack and individuals become more vulnerable to costly scams. The noble Lord, Lord Alderdice, drew attention to the cyberattacks on the health service. We know that the Government and their relevant agencies, including the National Cyber Security Centre, take these threats seriously—we all must —but it is clear from recent events in Northern Ireland that more must be done to safeguard systems and data.

I think we all recognise and understand that the internet is in general a force for good. It brings people closer together, but it can also make them feel more remote from one another. We have to balance those things and find a way through that. It gives us access to information and entertainment and it can enable us to be more productive, creative, thoughtful and thinking. However, when it comes to the Government's approach to the digital transformation accelerated by the Covid-19 pandemic, all is not well. The UK is by no means the worst but there is much more to do if we are to ensure that the benefits are spread not only evenly but fairly, and that risks are properly managed.

I have a few questions for the Minister. How will the Government keep their digital strategy fresh? That is essential. For instance, will they have a plan to ensure that we take advantage of the electronic trade documents legislation, which is urgent? I had no sense of a strategy when we were dealing with that Bill; I know that the noble Lord, Lord Holmes of Richmond, shares that view.

Can the Government assure us that they will build into the design of future public services a commitment to tackling the digital divide? I believe that to be a fundamental issue of fairness and probity and essential for us to maximise the benefits of the digital world. The noble Lord, Lord Bilimoria, made that point rather powerfully.

Finally, what assessment are the Government making to guarantee health resilience in the face of likely and future pandemics? I think somebody said—this is an advert—that nobody thought that we would have a pandemic of the sort that we did or could predict the pandemic that we had. I strongly recommend a film made in 2011 called "Contagion". It is a good watch, but it is scary.

I hope the Minister will deal with some of the issues that we have raised this afternoon. Again, I join others in thanking the noble Baroness, Lady Lane-Fox, for a really thought-provoking and valuable committee report, which I hope will help us all shape public policy in future.

5.28 pm

The Parliamentary Under-Secretary of State, Department for Science, Innovation and Technology (Viscount Camrose) (Con): My Lords, I join all those who have spoken in thanking the noble Baroness, Lady Lane-Fox, for tabling such an important debate. I do not know the exact optimal moment to have this debate but I find it not very agreeable to be plunged back into those miserable days when we were all locked at home. I remember reflecting, however much I was complaining, how far worse so many families had it—who were not lucky enough to have access to the internet or indeed the physical space to move around in. I also thank all members of the committee for their thoughtful, constructive and strongly reasoned report; it was much appreciated.

It is strange to think about the coronavirus now, 18 months since the last restrictions were lifted in England. But, as many noble Lords have observed today, the world that the pandemic ushered in or accelerated remains all around us. I thank the noble Lord, Lord Bilimoria, for his quote from Satya Nadella. In a very short time, so much of our lives moved online, including school classes and conference calls, not to mention hearings in court and committees in Parliament. That such a seismic change could happen in such a short time is testament not only to the brilliant inventions around digital but the decades of government investment in digital infrastructure and mobile connectivity.

Of course, it is no exaggeration to claim that the digital revolution has changed lives in the last half a decade, a great deal for the better but also in some ways for the worse. As many of today's speakers have rightly emphasised, we know that the digital revolution will work only if we bring everyone with us. That is why DSIT's mission, and the mission of the Central Digital and Data Office, is to ensure that tech does not diminish our lives but makes our lives longer, happier, healthier and safer.

I turn to some of the specific questions that were raised in the debate. Many noble Lords raised concerns about inequalities in our new digital or hybrid world. One priority of the new office is to increase the specialised talent and capability in all parts of government, so that the digital transformation of government remains supportive for all citizens. The work of the CDDO includes collaboration with the wider non-digital parts of government to drive the adoption of new technologies and break down those silos of digital and non-digital activity. That includes making sure that services are accessible to all users.

In June 2022, the CDDO presented its 21-point road map for digital transformation for central government. The road map sets out how the CDDO will achieve six missions, including transforming public services with efficient digital services. I reassure the noble Baroness, Lady Lane-Fox, my noble friend Lord Holmes and the noble Lord, Lord Bassam, that the UK digital strategy is a cross-government strategy that sets out the Government's ambitious agenda for digital policy. The strategy covers a wide range of areas, including digital skills, rolling out digital infrastructure and AI. DSIT continues to work across a broad spectrum of digital issues to continue building a more inclusive, competitive and innovative digital economy for the future.

Since the strategy was published last year, we have seen further progress of the Online Safety Bill in Parliament, which is being discussed at Third Reading as we speak. It will keep the UK safe and secure online

once in effect. As many noble Lords have highlighted, there is also the continued rollout of world-class digital infrastructure nationwide, with more than 75% of premises in the UK now having access to gigabit-capable networks and 92% coverage of 4G mobile infrastructure.

As the noble Baroness, Lady Lane-Fox, and the noble Lord, Lord Bilimoria, highlighted, access to affordable internet for vulnerable people is really important. Low-cost broadband and mobile social tariffs are available in 99% of the UK from 25 different providers. DSIT continues to work closely with Ofcom, operators and consumer groups to raise awareness among eligible groups.

On resilience, which was raised by the noble Lords, Lord Alderdice and Lord Bassam, the 2021 telecommunications Act introduced new powers for the Government to manage the presence of vendors when that presence in the UK networks poses particular national security risks. These set rigorous new obligations on public telecoms providers to ensure the security and resilience of their networks and services.

On digital skills, as the noble Baroness, Lady Lane-Fox, noted, as well as access to digital infrastructure and accessibility, digital skills are fundamental to addressing barriers associated with digital exclusion. In 2022, DCMS launched the Digital Skills Council, bringing together government and industry to drive industry-led action to grow the digital workforce. In partnership with FutureDotNow, the council co-funded a road map last year for collective action to build basic digital capability in working-age adults. Building on the £30 million investment made available in 2021 for the Connect the Classroom pilot programme, the Department for Education is investing up to a further £200 million to upgrade schools that fall below our wifi connectivity standards in priority areas.

The noble Baroness, Lady Lane-Fox, raised concerns about digital skills in the public sector, particularly in schools and hospitals. New teachers continue to benefit from mandatory training and the *Keeping Children Safe in Education* statutory safeguarding guidance, while employers in the health system continue to be responsible for ensuring that their staff are trained to the required standards.

Helping children and young people to fulfil their potential is a government priority, through an ambitious multiyear programme for education recovery, with almost £5 billion available. As the noble Lord, Lord Bilimoria, highlighted, access to devices is important. DfE delivered more than 1.95 million laptops and tablets to schools, trusts, local authorities and further education providers for disadvantaged children and young people as part of a £520 million government investment to support access to remote education and online social care services. To support levelling up education standards, DfE is targeting specific support in 55 education investment areas.

My noble friend Lady Fraser raised concerns about families who have children with special needs and disabilities. The Department for Education provides £27.3 million a year to deliver grants and support to low-income families raising disabled or seriously ill children and young people. These grants are for items and services not provided by the statutory system to improve quality of life and ease additional daily pressures; for example, paying for devices to help home learning.

On health, the Government agree with my noble friend Lady Fraser that a blended model with a mixture of face-to-face and digital services is needed to ensure that individuals receive the best treatment for them and their circumstances. The Department of Health is striving for digital services to improve access, outcomes and experience for the widest range of people, based on their preferences. Patients unable to use digital channels can continue to access services via telephone and through traditional face-to-face services. In June 2022, *A Plan for Digital Health and Social Care* was published. This set out a vision and plan for digitally transformed health and social care services, including a road map for providing additional functionality for patients and the public through our national digital channels.

My noble friend Lord Holmes highlighted the need to embrace new technologies. Work has continued to embed the digital technology assessment criteria within NHS organisations. In October 2022, the first NHS digital health technology audit was launched across secondary care to ensure that digital technologies continue to be incorporated safely and effectively.

The Government recognise that, for some people, interacting with the Department for Work and Pensions using digital technology brings challenges. From April 2021, jobcentres in England, Scotland and Wales returned to their pre-lockdown opening hours and restarted face-to-face appointments. The Chancellor announced a comprehensive package of measures at the Spring Budget targeted at increasing workforce participation and reducing economic inactivity. This includes investment to support disabled people and those with long-term health conditions, parents, over-50s, unemployed people and those on universal credit. The DWP Budget measures represent an investment of £3.5 billion over five years to boost workforce participation.

My noble friend Lady Fraser also highlighted the importance of the Government supporting flexible working. The Government remain committed to helping all individuals and businesses work flexibly. That is why we have supported the new employment relations Act, which updates and amends the existing right to request flexible working so that it better supports employers and employees to make arrangements that work for both sides. The Government have worked with the Flexible Working Taskforce to produce guidance on hybrid working. The guidance supports businesses in establishing this as best practice.

Finally, the Government are committed to building a more connected society, where everyone is able to build meaningful relationships. As my noble friend Lord Holmes has highlighted, we recognise that digital acceleration can be a barrier to as well as an enabler for social connection and we are taking action across government to support people who feel lonely. Since publishing our world-first tackling loneliness strategy in 2018, DCMS has supported thousands of people through targeted funding into community projects up and down the country. To help build communal spaces for business, education and community purposes,

[Viscount Camrose]
the Government have invested £2.35 million through the town deals fund and £830 million through the future high streets fund. These funds are transforming local communities across England.

In closing, I once again convey my thanks to the noble Baroness for securing today's vital debate and indeed to the whole committee for its report. I am grateful, too, for the many thoughtful contributions that we have heard during the debate. The Government are unwavering in their commitment to bridge the digital divides that were laid bare by the Covid pandemic, exposing a marked and unacceptable gap between the digital haves and have-nots.

As I have referenced in my remarks today, since the Covid committee's 2021 report, we have made real strides in closing that gap, whether that is in digital infrastructure, with over three-quarters of the country now accessing gigabit-capable broadband, or in digital skills and training, with roughly 42 million adults in the UK today having the essential digital skills that they need for day-to-day life. In our schools and colleges, we have delivered more than 1.95 million laptops and tablets to help some of the most disadvantaged children and young people. In our NHS, 47 million people can now book and manage their out-patient appointments.

At the same time, we are not complacent about the scale of the challenges that remain. That is why we are pressing ahead with the Online Safety Bill and are fulfilling our commitment to spend at least £20 billion per annum on R&D by 2024-25. Our upcoming AI Safety Summit will provide a unique opportunity for the UK to work with countries around the globe to ensure that this transformative technology works for humanity and not against it.

These are just some of DSIT's priorities over the coming weeks and months, and I can assure the noble Baroness and noble Lords across the Committee that we really are keen to work hand in hand with them to make this a success. Together, we will continue to build the stronger, safer and fairer post-Covid world that we all want to see.

5.42 pm

Baroness Lane-Fox of Soho (CB): My Lords, I thank the Minister for his concluding remarks, and I thank everyone for participating in the debate. These are complex issues and tricky to unpick, and this is the first of what I hope will be two or three debates about our work looking at the long-terms implications of Covid. It is impossible to do enough justice to the things that we uncovered in just this one short debate.

I end by saying that it feels bittersweet standing here: bitter, because we unearthed so many unbearable inequalities in our work and so many things that we felt needed to change, but somehow sweet, because pretty much every person in the debate reaffirmed the importance of face-to-face contact, human interaction and maintaining the combination of mechanisms that we have in order to build fulfilling lives. I beg to move.

Motion agreed.

5.43 pm

Sitting suspended for a Division in the House.

A Failure of Implementation (Children and Families Act 2014 Committee Report)

Motion to Take Note

5.53 pm

Moved by ***Baroness Tyler of Enfield***

That the Grand Committee takes note of the Report from the Children and Families Act 2014 Committee *A Failure of implementation* (HL Paper 100).

Baroness Tyler of Enfield (LD): My Lords, it is a real pleasure and privilege to open this debate. The purpose of the Select Committee's special inquiry, which I had the honour to chair, was to conduct post-legislative scrutiny on the Children and Families Act 2014, a seminal and wide-ranging piece of legislation. I declare my interest as co-chair of the All-Party Group for Children and my former interest as chair of Cafcass.

I start by thanking a number of people: my fellow committee members for all their highly insightful contributions; our excellent clerks, Theo Demolder and Christopher Clarke; our policy analyst, Sarah Jennings, who stepped up magnificently when Theo moved on; and our operations officer, Matteo Garelli, for whom no task was ever too much effort. I also thank Louise Shewey, our communications officer who was involved throughout, not just at the end. Finally, I thank our two special advisers, Professor Rob George and Professor Julie Selwyn.

The Act was envisaged as a landmark piece of legislation, giving greater protection to vulnerable children, including those being fostered and adopted; better support for children whose parents were separating; a new system to help children with special educational needs and disabilities; and help for parents to balance work and family life. Given the breadth of the Act, the committee focused on areas that we felt would be most likely to benefit from further scrutiny—principally adoption, family justice and employment rights.

One area we looked at which we felt was missing from the Act was mental health, because when those systems that I just mentioned fail, it is children's mental health that suffers. I hope that other colleagues will focus on that in the debate today. We also looked briefly at special educational needs but, to ensure that our insights could feed into the SEND Green Paper, we sent a letter to the Government in May setting out our concerns, well before publication of the main report.

So how did we go about our work? We took oral evidence from 44 expert witnesses and received more than 150 written evidence submissions. Above all, however, we wanted to hear directly from members of the public who might not otherwise take part in Select Committee inquiries. We visited a school and a SEND centre. We spent a day at the court in Oxford and an afternoon at the Maudsley Hospital in Camberwell. We held round-table discussions with birth parents, adoptive parents in Yorkshire, young people with experience of the family justice system and people working in mental health, as well as conducting an online survey.

Our reluctant conclusions were that, despite the admirable intentions of those who worked hard to get this Act on the statute book, the sheer breadth of the areas covered by the Act, a lack of any real focus given to implementation and a lack of joined-up action at all levels—compounded, I must say, by incessant churn by government—have contributed to too many children and their families feeling let down by the systems, resulting in poor SEND services, increasing mental health referral waiting lists and ever-growing delays in family courts. In short, we felt that it was a missed opportunity.

We concluded that much of the legislation had, frankly, sat on the shelf and languished as a result of that lack of focus on implementation, poor or non-existent data and inadequate monitoring of the impact of the Act to see how well it was working, hence the title of our report. In my view, it was not until our inquiry was established that the Government gave any thought to a comprehensive post-legislative review of the Act, eight years after it received Royal Assent. After pressing, we finally received a post-legislative memorandum, despite the Government's public commitment to produce such a memorandum three to five years after an Act receives Royal Assent. Eight years is a long time in the crucial early years of a child. Post-legislative scrutiny, by either the Government or Parliament, is not just a "nice to have"; it is crucial to ensure that legislation is achieving its goals, providing value for money and improving people's lives.

Why is it that we spend so many hours doing line-by-line scrutiny of legislation but next to no time following through to see whether implementation has happened and has worked? I cannot help feeling that we have the balance badly wrong. This is a wider point about how we govern and the purpose of legislation, which is way above my pay grade, but I hope that those in positions of power will reflect on how post-legislative scrutiny can be taken more seriously and not viewed just as a "nice to have". There is so much more that government and Parliament could do.

Our report made a number of specific recommendations on how the Government could realise their ambitions contained in the Act across adoption, family justice and employment rights. I shall briefly go through some of the main ones. They included establishing an outcome-focused taskforce, accountable to the Secretary of State and dedicated to addressing the unacceptable ethnic and racial disparities in the adoption system; reinstating the statutory national adoption matching register on its original terms, working with commercial service providers to build a more functional platform which combined the usability of existing services with the matching support and referral requirements of the statutory register; improving post-placement support for adopters and kinship carers, including the expansion of the Adoption Support Fund, allowing it to be used for more than therapy and ensuring that it is focused also on early intervention; and developing a safe and modern digital contact system for post-adoption contact. The committee felt strongly that the failure to modernise contact threatens to undermine the adoption system.

The report also recommended: addressing the ever-growing delays in public family law cases, which began in 2017, long before the pandemic. The latest data shows that the 26-week target now stands at 46 weeks, which is a huge issue of concern. That requires improved data gathering and sharing, and top-level leadership of a fragmented system through the Family Justice Board. Other recommendations were: producing an impartial information website for separating couples, providing clear guidance on the family justice system and reconsidering proposals to make mediation obligatory, replacing the current MIAMs and the mediation voucher with a universal voucher scheme for a general advice appointment; reviewing the current approach to empowering the voice of the child in family law proceedings, including recommending that the Family Justice Council reviews the guidance setting out the approach to judges meeting with children; and creating an ambition to move towards a new, dedicated 12-week parental leave allowance and making flexible working a day-one right to request. On the latter, I am pleased to say that the Government committed to that on the very day our report was published. Finally, we urged the Government to improve their systems for monitoring and assessing the implementation of legislation, particularly by robust data sharing and collection. I very much hope that other committee members today may be able to focus some of their remarks on some of these quite disparate issues.

I will say a quick word on special educational needs, which was not one of our main areas of focus but came up repeatedly in our engagement activities. Part 3 of the Act reformed the law on support for children and young people with special educational needs or who are disabled. It was intended to reduce the fight families faced to get the support their children need and to deliver integrated support across education, health and social care. The legislation received a great deal of detailed scrutiny, and it was widely supported. The consensus is that it remains the right legal framework. Sadly, however, the reality of implementation has not matched the ambitions of the legislation—a key theme of our report. At the time, the Government said that the test of the reforms working would be a reduction in the number of appeals to the tribunal. However, the opposite has happened: tribunal numbers have soared, and in the vast majority of cases, the tribunal finds in favour of the parent. I cannot help reflecting that the fact that there have been seven different Children's Ministers since the review was launched in 2019 is relevant here. Last year, the Government published a new Green Paper on SEND, and this year followed that up with an improvement plan. Could the Minister give me an update on what has happened since that plan was published?

Finally, we also looked at some critical cross-cutting issues, including mental health, early intervention, data collection and data sharing. On the latter point, the Health and Care Act 2022 introduced significant improvements to information sharing between health and adult social care. I had hoped that the Government's recent review of children's multiagency information sharing would achieve parity for the children's system, but I do not believe it has. The report does not go far enough to address the distinct barriers faced by children's

[Baroness Tyler of Enfield]
health, social care and other key partners, nor does it set out a clear policy on a consistent child identifier, which I find very disappointing. It is crucial that government moves forward with pilots of the NHS number as a consistent child identifier as soon as possible. Will the Minister agree to meet with me and other interested Lords on this issue?

The Government's response was published on 6 February; I thank Ministers for that. The committee's report contained 24 conclusions and 17 recommendations. Overall, the Government broadly agreed with many of the committee's findings but rejected many of our specific recommendations. In doing so, they often pointed to existing interventions and policy measures which they deemed sufficient to address the committee's concerns. I found this really disappointing after all the effort the committee had put in.

Finally, I turn to some specifics. Can the Minister give me an update on a few issues that were left vague in the response? In particular, when will the Government next publish data on the time it takes for ethnic-minority children to be adopted? What are the results of their reflections on what more can be done to ensure that the Family Justice Board is as effective as possible, including the committee's recommendation that there should be a senior independent chair? When can we expect to see the final report of the Government's review of the presumption of parental involvement? When will the Family Procedure Rule Committee publish a response to its consultation on early resolution of private family law arrangements?

The Government's response placed a strong focus on their new children's social care implementation strategy, entitled *Stable Homes, Built on Love*, published in February in response to *The Independent Review of Children's Social Care*. It stated that the strategy contained ambitious plans to take forward and build on the Children and Families Act, including issues raised by the Select Committee report that required further examination. I hope we will see that in practice.

It is perhaps worth remembering that the independent review called for the immediate investment of £2.6 billion to address the existing crisis in children's social care and a revolution in family help to prevent children entering care where possible. Yet more than a year later we seem little further forward on this reform and the Government are currently set to spend an additional £1 billion on children's social care over 10 years.

Finally, the Government's "test and review" approach to reforms is unlikely to lead to the level of investment and change that the system so desperately needs, so I conclude by urging the Government to reconsider the scope for further investment at the next spending review. We must not allow another eight years to pass before making the improvements that are so desperately needed. I beg to move.

6.07 pm

Lord Farmer (Con): My Lords, it is an honour to follow the indomitable noble Baroness, Lady Tyler of Enfield, a tireless campaigner for children and families—in particular for better mental health services for them. I acknowledge her diligence and that of the post-legislative scrutiny committee in taking on such a wide-ranging remit. Many of its conclusions chimed with the Children's Commissioner's *Family Review*, which reported at the same time, and *The Independent Review of Children's Social Care*.

Early intervention was recognised by the committee as being of essential value to the plethora of policy areas which the Children and Families Act 2014 cuts across, including in private family law proceedings. It cited the value of early legal advice and mediation in reducing demands on the family justice system. Its report also highlighted the need for better join-up of different public sector systems and of these with the voluntary and private sectors.

I will focus on how and, in particular, where we could deliver early intervention solutions in family law that integrate previously siloed systems. We also need a more joined-up approach to mental health and to support parents whose children are not attending school for reasons related to anxiety, depression and very low well-being. The Chief Medical Officer's recent guidance is that school non-attendance worsens these problems, but parents need help to overcome children's reticence.

Starting with family law, help for families who are struggling before, during and after separation needs to be integrated with a comprehensive system of family support which has prevention and early intervention at its heart. Since the early days of the welfare state, its Labour Party architects acknowledged that free healthcare and education would not realise their transformational potential without easily accessible help for parents struggling with a wide range of problems. The Second World War had a long tail of effect on families, particularly the emotional cost to children of high levels of divorce and separation from parents. These trends have continued: one-third of children now live in separated families, where there is frequently ongoing conflict between parents.

Welfare state architects' call for family centres in the late 1940s was not then heeded, but it was repeated in the Children Act 1989 and by the Audit Commission in 1994. Sure Start children's centres were an important development. However, provision did not move beyond children's early years or help relationships between parents before, during and after separation. Like so many other promising policies, Sure Start needed to be evolved, and this was the aim of the family hubs movement. At this point, I declare my unremunerated interest as director and guarantor of the Family Hubs Network Ltd, a not-for-profit consultancy on family hubs. When we set up the network to support this movement, there were around 150 family hubs in England; around 480 have now registered with us. Family hubs are key sites where early intervention takes place so that families can overcome difficulties and build stronger relationships. Crucially, they also network buildings, state services and other organisations providing family support in an area. The family hub enables families with children aged from nought to 19 to access this integrated offer. Family hubs are now official government policy and are being rolled out across more than half of local authorities in England.

When family hubs were first articulated by my parliamentary adviser, Dr Callan, in the Centre for Social Justice's 2007 *Breakthrough Britain* report,

she highlighted the need for them to incorporate the work of family relationship centres. In Norway and Australia, these provide mediation and quasi-legal support away from courts. The CSJ was concerned that the sharp reduction in legal aid for private family law following the Carter review in 2006 would restrict access to justice, while acknowledging that high reliance on the courts was both very costly to the public purse and drove an adversarial rather than a solutions-based approach. The President of the Family Division of the High Court, Sir Andrew McFarlane, recently said that 38% of separating parents were using court processes to sort out disputes.

The Family Solutions Group, a private family law reform group, says that while

"families at risk of harm or abuse or who have particular challenges may need the family court; most other families need high quality, holistic and affordable support away from court".

They should be steered towards the many state and other agencies who see the earliest signs that relationships between parents are becoming fraught. These include teachers, health visitors, GPs, advisors in citizens advice bureaux and possibly churches, but there needs to be a recognisable place where families can get that specialist help. This is where the family hubs model needs further development. Senior family court judges are keen to join up family courts with family hubs as part of the Government's wider family law reform programme, which includes the Pathfinder pilots in the family courts in Dorset and North Wales.

The role of the family court would be to liaise with the hub for out-of-court solutions and support in individual cases, to triage for urgency, safeguarding issues or co-parenting and to ensure appropriate support during and at the conclusion of proceedings. The family hub would also identify urgent and safeguarding cases and provide legal help. The Family Solutions Group has described how family separation consultants could be based there to provide information and assessment meetings alongside mediators, alternative dispute resolution services and supervised child contact. Parents would have access to all the other help in family hubs, such as parenting support, debt counselling, substance misuse programmes and mental health services.

Former senior family judge, his honour Martin Dancey, drew up plans for a future family hub to be properly networked with the family court involved in the Pathfinder because, he said:

"While Pathfinder can operate without hubs, I see hubs as integral to optimal solutions for families."

Our most senior professionals want integrated and accessible family support, but so too does the general public. Polling I commissioned before the summer found that 78% of the general public agree with the statement:

"Supporting families is not just about subsidising childcare or giving parents money, but providing a range of services, guidance and advice."

For 56% of people, drop-in centres are perceived to be a main priority for any government family policy. The most important family support and parenting services are deemed to be those that are low or no cost, provide immediate support and are accessible in one place.

Returning to this report, in their response the Government said that their prioritising of early intervention is at the heart of their own plans for reform. So, will the Government develop model plans for family courts to work with family hubs in the way Judge Dancey describes? Early intervention would save much delay, heartache and significant costs. The message is loud and clear that siloed, disjointed working is not helpful to families. Again, what steps are the Government taking to encourage the DHSC and DfE to work jointly in family hubs, not just schools, to deliver children and young people's tier 1 and 2 mental health support?

Anxiety and depression among young people are potent drivers of school absenteeism. Many parents feel powerless and at their wits' end. They want to be part of the solution but need support and know-how so they can help their children re-engage with education. Through a pilot in the Bury St Edmunds Bridge family hub, professionals work with parents and young people in a trusted local church base to address the perceived and actual barriers to attending school regularly. We need to evaluate and build on such promising practice elsewhere: family courts and schools urgently need hubs to fulfil their game-changing potential to support families.

Parental separation, mental ill-health and school non-attendance are costing the state billions. Early intervention and more joined-up working require a paradigm shift towards better, more efficient and more fruitful ways of working, which will also be cheaper. Key reports commissioned by the Government, as well as this committee, keep saying this: we need action this day.

6.17 pm

Lord Bach (Lab): My Lords, for me it was a real pleasure and honour to sit on this committee. I learned a huge amount, not least because I had effectively been away from the House for a period of five years, and this was my first committee back. However, the pleasure was largely because of the brilliant chairing of the noble Baroness, Lady Taylor of Enfield, who, with a diplomatic skill that many diplomats would envy, managed, with her charm and decisiveness, to get a, frankly, fairly disparate committee to quite easily agree to what is, in my view at least, an outstanding report which ought to guide the Government now and in the future. It is a massive report dealing with matters that, as we have just heard, touch directly on people's lives and can take over their lives if we get it wrong.

I intend to speak about one issue alone, which is around family justice and how, in my view at least, the removal of legal aid for private law cases has, in itself and when taken with other steps that have been taken, had a pretty disastrous effect on our family law system, so that it now faces long queues, long waiting lists and too many litigants in person. It has made judges play roles they should not be playing: for example, administrative roles and roles to help out litigants when they are in person. That is not their job, and it has added greatly to the administrative burdens on family courts and those who administrate those courts.

[Lord Bach]

The committee likely got just a little tired of hearing me bang on about this issue, but our unanimous recommendation in paragraph 141 is:

"We recommend that the Government urgently evaluate the impact of the removal of legal aid for most private family law cases, considering where reinstating legal aid could help improve the efficiency and quality of the family justice system".

That view ought to carry some weight, coming as it does from an all-party committee that heard expert evidence and came to a collective view.

Paragraph 60 of the Government's response is, to put it mildly, pretty disappointing. It just sets out that the Government reviewed the changes made by LASPO and published the post-implementation review in 2019, which, they say, is

"the most comprehensive assessment of the impact of LASPO on the civil and family legal aid system".

I am sure it is, but that does not answer the point we made in our report.

The sad truth is that the Children and Families Act came into being under a pretty dark shadow from LASPO, which came into force less than a year before. LASPO changed the rules of the game. Before it, parties in private family law could obtain some legal aid or help to get that crucial early legal advice. After 1 February 2012, that came to a shuddering halt. There were supposed to be exceptions for domestic abuse, but the rules were so strict that that often did not happen. When the Children and Families Act came into force in March 2014, all the good intentions in that Act, and there are plenty of them, came up against this problem: the parties could no longer get that early piece of advice that might, and often did, sort out the issues so that court proceedings were unnecessary.

LASPO pressed hard for traditional mediation. Of course, the 2014 Act insisted on MIAMs, with only the claimant made a compulsory attendee. Mediation plummeted under LASPO, as the senior Ministry of Justice official admitted in his expert evidence. We heard evidence that many people are just not using MIAMs, even though they are bound to in law. As the report states at paragraph 130, the Government themselves stated that take-up had been "lower than anticipated". Only 35% of those who were supposed to attend did so. There was much criticism of MIAMs during the course of our evidence.

There is nobody who does not support some attempt to settle cases without going to court, and various excellent methods are now employed as alternatives to traditional mediation, but what is urgently needed is a source of clear and impartial information on separation and some general legal advice. This is surely something that only the Government can ensure happens.

The almost certain outcome is that, by adopting such a scheme, public money would be saved and fewer cases would end up in court or in long lists never to be heard—or not to be heard for months. Also, the cases that went to court would have real issues for the court to rule on, rather than issues that really should not be anywhere near a court. The delays would be shortened and, as our report says in recommendation 25 in paragraph 141, the

"efficiency and quality of the family justice system"

would be improved.

There are examples galore in our report of expert witnesses making the points that I am trying to make so clumsily here today. For example, Dr Julie Doughty raised concern that the cuts to legal aid had just shifted costs to other parts of the court system. It is those working in the court service who have to deal with those cases; litigants in person understandably do not know how to conduct the case, taking more time than if they had some sort of advice. Professor Judith Masson said that

"there are cases going to court that lawyers would have headed off. With legal aid, a lawyer would have said, 'No, it's not worth taking this to court' or 'Try mediation'. That has been lost".

There was no enthusiasm for and much opposition to the present system from our experts. However, the Government should perhaps take special note of the evidence of the present President of the Family Division and his predecessor—Sir Andrew McFarlane, who has already been referred to, and Sir James Munby. At paragraph 133, Lord Justice Munby said in evidence to us that

"one of the great disasters and one of the great mistakes by government in 2013 was identifying mediation as the non-court solution".

He went on to say:

"Money properly spent at an early stage usually pays dividends later on".

That is so obviously true, and it is why all of us are in favour of early intervention.

The Government have now concluded their consultation on the future of mediation and will no doubt announce their decision in due course. I urge them seriously to consider the committee's proposals as the best way forward. There is a slightly depressing rumour going around that His Majesty's Government may be rather attracted by what is called the compulsory mediation solution. Two recent articles, one in the *Financial Times* on 7 July and the other in the *Independent* on 14 July, point out the profession's opposition to such a step. I do not want to embarrass him, as he is here today, but we are lucky in having in this House a Justice Minister who is open to debate and actually listens to suggestions. He met the chair and me shortly after the proceedings ended, which we were very grateful for. This week as well, we had a short conversation about these matters. He was an outstanding witness when he came before the committee. I have spoken to him already about this, and I am sure that he will follow *Hansard* after this debate.

In my view, the decision that the Government take on this matter is of considerable importance to the future of our whole family justice system. If they rely on traditional or compulsory mediation too much, the results will be very much as they have been in the past.

6.29 pm

The Lord Bishop of Durham: My Lords, I thank the noble Baroness, Lady Tyler, for securing this debate, and the whole Children and Families Act Committee for its work on this excellent report and for highlighting all the issues.

Our experiences of childhood and family life shape who we are and who we become. When children and families flourish, society flourishes. This is not a new

understanding: in the little we hear of Jesus as a child, the gospel writer Luke highlights how he grew physically, socially, intellectually and spiritually. His childhood shaped his adult ministry.

The Children and Families Act was a remarkable piece of legislation, taking huge steps to improve the lives of children and their families. However, I regret that I have to agree with this report that the promising policy changes that the Act was intended to make have not been implemented as all of us had hoped. This failure of implementation illustrates the vital need for post-legislative scrutiny. Eight years is too long to wait for post-legislative scrutiny of any Act, but the failure to produce scrutiny of the implementation of an Act directly impacting the lives of children has particularly striking consequences.

Eight years is a significant proportion of one's childhood, and the experience of a child in those formative years has a lifelong impact. Indeed, all the research shows that the first 1,000 days are utterly critical for a child's lifelong chances. Eight years is almost exactly three such generations of children. We must ensure that the policies we debate in this House are not simply words and fantastical ideals but become reality. I therefore support the recommendation from the committee that the Government produce a detailed plan for post-legislative scrutiny when an Act reaches Royal Assent. I ask the Minister why the government response disagreed.

As a co-chair of the Archbishops' Commission on Families and Households, I cannot speak in this debate without mentioning the report of the commission's findings, published earlier this year, entitled *Love Matters*. The members of the commission spent two years meeting and listening to children, young people and adults and came to the main conclusion that loving relationships are crucial to human flourishing and must be supported. However, when loving relationships break down and a couple decide to separate, the priority must become minimising harm, particularly to any children involved. Parental conflict and the process of separation can have a long-term detrimental impact on a child. It impacts their schoolwork, their friendships, their mental health and their overall well-being. Children must be prioritised throughout the separation and any court proceedings.

The report welcomes the more recent introduction of the no-fault divorce policy under the Divorce, Dissolution and Separation Act allowing parents to separate from one other without one party being blamed. This policy better serves the interests of children through reducing hostility and minimising the conflict between parents. Nevertheless, more changes in this area are required. The current delays within the family justice system are far too long. Few private law cases adhere to the 26-week limit for completing proceedings, and are instead—the noble Baroness, Lady Tyler, mentioned this—averaging 46 weeks to reach closure. I understand that in public cases, it is even longer. Children need stability and consistency, and delayed court proceedings are detrimental to this. There is no simple solution, of course, but I again echo the recommendations that the committee present in its report. There is a need for greater resourcing of the family courts and a detailed plan from the Government with the steps that they are going to take to address these delays.

For children to be at the heart of the family courts, they must of course be involved in the proceedings. Children need to be given the opportunity to speak, or express themselves in other ways when words are difficult. They need to be listened to and to be made aware of any decisions impacting them. There are, of course, plenty of examples of good practice already, but it is just not consistent enough. Children have a greater understanding of their situations than we tend to think, and they are often the ones best placed to propose and make decisions which put their interests truly first. Listening to children within the courts can actually also speed up proceedings, further minimising delays.

I urge the Government to ensure that more advice and signposting for support are available for those going through family court proceedings. An easily accessible website that provides information and advice should be made available to parents, alongside the Separated Parents Information Programme being made freely available at the beginning of the 20-week waiting period before the start of divorce proceedings. This would enable parents to better understand how to better prioritise the needs of their children while navigating the family justice system.

I note here that yesterday I had the privilege, with the co-chair of the Archbishops' commission, of meeting some of those involved with family justice system policy in the MoJ. I thank the noble and learned Lord, Lord Bellamy, who is here, for enabling that to happen. I was encouraged by their willingness to discuss these issues and co-operate in finding solutions. Here I will offer a word of comfort to the noble Lord, Lord Bach: from those conversations yesterday I got no hint that any firm decision on mediation had been made, and I believe the officials were being very open and honest with us.

I also concur with the noble Lord, Lord Farmer, that early support for families is utterly essential. If widely available, I believe the demands on the courts would actually be reduced and more families helped to move through their challenges healthily.

I want to take a moment to highlight the work of the Parents Promise, an initiative encouraging parents to make a positive commitment to putting the needs of their child first in the event of a separation or divorce. It has a particular HR initiative, which some of the UK's major companies have already begun to sign up to. It calls for businesses to better support their employees through recognising separation as a "life event", thereby allowing them access to more flexible working and pointing them towards counselling and support services. This initiative encourages parents going through separation to do so in a more compassionate and child-focused way. Can the Minister say whether the Government intend to support such an initiative as the Parents Promise?

As children and families are at the foundation of our society, it is vital that they are at the foundation of our policies. The introduction of the family test in 2014 was a step in that direction, but it is time for it to

[The Lord Bishop of Durham]
be seriously reviewed. For the test to be most effective, there must be transparency. I therefore ask the Minister: when will the Government introduce a requirement for each department to complete and publish their assessments under the family test?

However, the family test alone does not go far enough to ensure that children and families truly are at the heart of all policies. As highlighted in the report, the Children's Commissioner does a very valuable job; indeed, that is true of the Children's Commissioners in each nation. However, they are not enough on their own. I strongly believe that a Cabinet-level position is needed, responsible for examining all departmental policies to ensure that they do not hinder the flourishing of children and families. I highlight that the Treasury is most in need of this. Regular change of responsibility at a junior Minister level shows little commitment and lack of serious consideration for the impact that legislation and policy have on the lives of children. The same is true for Cabinet-level positions. For effective and lasting positive change to be made, consistent leadership, as well as adequate funding, is required. It is time that the revolving door of Ministers comes to a stop, that implementing policies is taken seriously, and that children and families are put at the heart and foundation of the decisions we make.

To conclude, Jesus was very sharp with his listeners when it came to the treatment of children. They are to be treated as those to whom God's kingdom belongs. They are to be kept from harm. Healthy families are critical to the well-being of children. So, when we have good legislation that helps to enact this, it is vital that we uphold and use it rather than fail to do so.

6.39 pm

Baroness Wyld (Con): My Lords, I remind the House of my registered interest as a non-executive board member at Ofsted. I recused myself as appropriate from the committee when those issues came up.

I warmly thank the noble Baroness, Lady Tyler, for her characteristically thoughtful and comprehensive speech. As others have said, it very much reflected her chairmanship of the committee, on which I was privileged to serve. She is one of the most fair-minded Members of your Lordships' House; I have never once seen her tempted by political point-scoring, but that should not lull anyone into thinking, as we have seen, that she will not fight hard for her chosen causes. Her commitment to the welfare of children knows no bounds and she brings great expertise from her wider career. I also thank the team who supported the committee and, in particular, a lot of the witnesses who came to see us, some of whom were very vulnerable and had experienced trauma. They were very brave and generous in what they shared with us, which was hugely helpful.

Although our report pulled no punches in holding departments to account, I often stressed to the committee that we should not underestimate the original initiative taken by the coalition Government back in 2014 with the passing of the Act. Although I worked in a different area during my time as a No. 10 adviser, there was a collective sense across that Government of the coalition partners' priorities. Life chances were up there in lights. Anyone who has worked at or near the centre of government, including probably most people in this Room, knows that central political will is the only way that priorities are felt across Whitehall.

I regret as much as anyone else the subsequent political instability and Whitehall churn that has, I have no doubt, resulted in patchy implementation and not good enough measurement of outcomes. That is entirely fair. However, we should recognise that the intentions were right. I think this Prime Minister and this Minister in particular are deeply committed to ensuring the best outcomes for the most vulnerable children and their families. We have had great stability with my noble friend Lady Barran, who has bravely held the fort—when I was speaking last summer, things were not great.

I am being a bit flippant but there is a serious point around responsibility. I accept that politics is politics and we all do it, but when you talk to children and young people about how the system works and where the levers are on what government can deliver, it is irresponsible to overstate failure. We can be robust about failure, but we must accept that there is will and good people working on these issues and that some progress has been made, which I will come to.

For once, the title of the Act is admirably simple: the Children and Families Act. It has often struck me how often in politics we talk about children with very little reference to families or parents. It is understandable that we devote much of our time to discussing, for example, curriculum content, online harms or, in the case of a Private Member's Bill that I sponsored, Botox and body image, but too often as policymakers we all forget the most important thing in the world for a child: who is the person, or people, who looks after them? Are they kind to them or do they harm them? Are they safe or dangerous?

I am glad that the Government have spelled this out in *Stable Homes, Built on Love* and that, for example, kinship care is at last recognised. That was an astonishing omission from the original Act. I know the Minister will underline the importance of the pilot schemes and taking time to get the strategy right, but I add my voice to the calls for pace. I go back to my opening point—when political will is there, Governments can cut through complexities and deliver.

Looking more generally at adoption, the committee observed that, in England, between 2,500 and 3,000 children are adopted from care each year—about 3% of the total care population. Most of these children, some 76%, first became looked after because of parental abuse or neglect. Adoption is the most stable of all placement types: approximately 3% of those adopted return to care over a 12-year period. It thus provides a family life for most children. However, the effects of children's pre-adoption adversities and maltreatment can be long lasting, and support for these young people and their families might be needed throughout the lifespan.

It is one thing to see the statistics but, like many others here I am sure, I had not fully appreciated the breadth and depth of support that many adopted children and their families need until I started to see it directly when friends adopted. Clearly, I am not going to share specific private stories as that would be inappropriate,

but I have no hesitation in arguing that, where difficult funding decisions have to be taken, expert support for children who have experienced trauma has to be at the top of the priority list.

Across the parts of the Act on which the committee focused, two worrying themes emerged. One was crisis, which others have alluded to. Why is it the case that too many children and families cannot access support until things have escalated, whether that be into mental health crises, which I will talk about, or relationship breakdown? The second was the voice of the child. Too often it is lost. We heard this when it came to court proceedings for separating parents and made recommendations accordingly; others have focused on those so I will not run through them.

Although this Act was well intentioned and necessarily had to deal with the reality of separation, I do not believe that, as a society, we have done enough to address the causes of family breakdown. As legislators, we of course have to use parliamentary time to deal with the reality of divorce and make sure that the law works as effectively as possible. However, as I said during the passage of the divorce Bill, I believe that all those in a position of leadership—including, of course, the Church—should talk more about families sticking together wherever possible. The Minister will be pleased to know that I am not asking her to become the nation's marriage guidance counsellor—she has a lot on her plate—but, as my noble friend Lord Farmer powerfully said, family hubs can play a role in relationship support at pressure points for families.

I hesitated about the next section of my speech, because I thought that people would say, "You're saying you should stick together if you're being abused or desperately unhappy". Of course I am not saying that, but we have national conversations about all sorts of issues—identity, beliefs, Brexit—but we shy away from conversations about, for example, the reality of marriage once the honeymoon is over, the huge responsibility involved in bringing up children and the fact that individuals have responsibilities for others beyond themselves.

I turn to mental health, which was not included within the Bill but the evidence the committee took was so powerful across nearly all areas of the inquiry that we felt we had a duty to include it as a significant part of the report. We took evidence from experts, and from children and their parents or carers. We were careful to consider the danger of medicalising normal reactions to difficult experiences—somebody mentioned the Chief Medical Officer, who talked about cases of mild anxiety and the importance of being in school—but, for more severe cases, the impact of lockdown in particular was stark.

Increased prevalence of mental ill-health has put strain on services. Between April and June 2021, 190,271 under-18s were referred to children and young people's mental health services. This compares with 81,170 in the same period in 2020. Responses to our online survey included:

"Appalling. We've been waiting for CAMHS for 9 months so far, and no indication how much longer",

and

"My teenage son attempted suicide THREE times CAHMS did not help".

Al Coates, the founder of the Adoption and Fostering Podcast and an adoptive parent, told us:

"I have a friend whose child made a viable attempt at suicide. They were put on an emergency referral to CAMHS—six months. That is an emergency referral".

We heard that there are long waiting lists for post-adoption trauma support and that post-adoption teams are asking untrained school counsellors to do life story work with children, which they do not feel qualified to do. Looked-after children are four times more likely to experience mental health issues than their peers.

I and others have brought this issue to the Minister many times before. I am willing to acknowledge that the Government have recognised the scale of the problem and supported initiatives such as counsellors in schools, but my concern is whether the strategy is tightly focused enough and adequately resourced. Perhaps the Minister could set out for us—in writing, if there is not time today—how she sees the pathway working for children and young people. I acknowledge that there is no one-size-fits-all approach but there should be clarity for parents and carers on who to go to at different points in a mental health journey, according to severity, and assurance that the provision will be adequate when they get there.

I just have time to make a few points on flexible working. We debated at length how far we wanted to go on this, to strike the right balance between the needs of employers, and the desire among many to address gender imbalances in the workplace, and domestic duties, which has been a topical issue in my household for 13 years since my first daughter was born. My view is that parental leave is very generous in comparison with many other countries, but it was right to set an ambition for paternity leave. I also put on record again my thanks to the Government, who supported the Private Member's Bill for additional leave for parents whose children are in neonatal care. We have to be nimble on this and recognise where the need is greatest.

In conclusion, it was an absolute pleasure to serve on this committee. I end by praising the resilience of the children and young people we heard from, and many more around the country from whom we did not hear. They are the leaders of tomorrow, and we must give them the chance to get there.

6.51 pm

Lord Storey (LD): My Lords, I start by thanking my noble friend Lady Tyler for her inclusive chairing of this Select Committee. She acted at all times with complete professionalism, anxious to understand, engage and find solutions. My colleagues on the Select Committee and our advisers were equally thorough in wanting to shine a light on the issues and see what solutions could be found. It has been interesting listening to the valuable contributions made by colleagues.

Three themes have come out. Obviously, the first is early intervention. It makes sense in life that if you deal with a problem early, it is sorted; if you leave it and do not intervene at an early stage, the problem gets harder and harder to deal with. Secondly, we recognise—as I am sure the Government do—the need to have post-legislative scrutiny. Thirdly, the voice of the child came out in what we said, as mentioned by a number of

[Lord Storey]
colleagues. I was taken by what the noble Baroness, Lady Wyld, said about the fact that children know and understand, and we should listen to them.

My noble friend Lady Tyler started by making the point that mental health was missing. We dealt with that issue thoroughly. She made the point about special educational needs, which I will come back to in a moment. I had forgotten the huge amount of consultation that took place with all sorts of stakeholders, which was very important.

There have indeed been seven Children's Ministers, but the noble Lord, Lord Nash, the Minister here who started all this off, was with us for quite some time. It was thanks to him that we got this Act together. It is also right that our current Minister has been with us for quite a while now. It shows that when people stay, working arrangements are much better.

I was really interested in the point made by the noble Lord, Lord Farmer, about being more joined up. He is absolutely right that with public and private, and local and central government, when you are joined up you can succeed more speedily. I have two regrets from the coalition period—I will not tell noble Lords what one of them was, but the other was certainly the decision to discontinue Sure Start centres. There was a lack of funding for local government, which was a huge mistake. Those centres gave parents the opportunity not just to help their children but to understand issues such as financial management and to get information about jobs that might be available. I was also really interested in the noble Lord's points about family hubs. Similarly, the noble Lord, Lord Bach, made a point about family justice—an area I know little about, which I think I made clear in Select Committee, but I recognise the importance of getting family justice right. It requires resources to be provided.

The right reverend Prelate the Bishop of Durham rightly made the point that the Children and Families Act 2014 was a huge piece of legislation that had potential. As we have probably all suggested, that potential was never really met. Children need stability and consistency. I come to the first point made by the noble Baroness, Lady Wyld, about the coalition Government and that Act, because I think that we are being a bit unkind to the Act, if I may say so. She also talked about adoption.

We did not examine the whole Act in detail; instead, we focused on specific policy areas that we felt would benefit from further examination. In all honesty, I gained more knowledge and understanding of many issues than I was able to contribute. As a former head teacher of a very large primary school, with 500-plus pupils and a 100-place nursery, I had particular expertise in special educational needs but limited expertise in the other issues that we grappled with. I was actively involved with the Children and Families Bill in 2014, when it went through under the stewardship of the noble Lord, Lord Nash. I remember that, at the end of Third Reading a few months later, all the Members had worked very closely together and it almost felt like a Select Committee; we met in this Room and actually celebrated that piece of legislation. We felt at the time that it was a piece of landmark legislation and the start of real changes for family.

I was interested to understand the issues that schools now face with special educational needs. The Bill replaced statements with education, health and care plans. Doing so gave us an opportunity to understand that we needed to be more holistic and bring education, health and social care together, so the EHC plans would be a blueprint for the needs of a child, and early intervention would be so important. Parents would have the right to appeal against any decision not to put a child on a plan; local authorities would have to publish facilities, resources and opportunities that were available. While children have benefited from the SENCO legislation, for many it has become an all too obvious challenge, with long delays before children are assessed for a plan, causing needless anxiety and stress to parents. Millions of pounds have needlessly been spent on the appeals mechanism, yet 90% of the appeals have been agreed. Why are we doing this? Why are we spending so much time going to court when the court upholds the appeal and the money is lost?

The Bill was brought in at a time when resources were limited, particularly for local authorities. It is little wonder that some LEAs delay as a way to conserve their stretched resources. The Select Committee was right to conclude that the Act struggled to achieve its goals, given the sheer breadth of areas covered and lack of due concern to implementation. The committee was right to conclude that lessons should have been learned about post-legislative scrutiny; its views about mental health were so important. Children and young people with poor mental health face long waiting lists for treatment while their mental health continues to decline, allowing waiting lists to grow to unsustainable levels. In my view, the Bill was a missed opportunity not to say that some important legislation was not achieved, benefiting the lives of children and families alike.

The Bill was a missed opportunity, but there are things in it that we should still be proud of—I have mentioned the education, health and care plans—but let us think of some of the other things that were included. It agreed on the statutory role of the Children's Commissioner for England to promote and protect the rights of children or the rights to shared parental leave and shared parental pay.

It was right to bring about EHSC plans, but wrong to dilute other special educational needs support in schools. Deleting school action and school action plan was almost a signal to say to schools, "You do not need to do special educational needs work, because we have put those children on a plan", and that has happened increasingly in schools. On the issues of looked-after children, fostering, post-adoption support, kinship care, family justice, employment rights and race and ethnicity in adoption, I hope that the Government will give serious consideration to the report's proposals. I know that the Minister genuinely cares about children and families and, despite what the noble Baroness, Lady Tyler, said, I hope she will look again at the proposals in the report and try to persuade her colleagues of the error, maybe, of their ways.

Yesterday, I was chairing Liverpool City Council's education scrutiny panel—a first for me. We were looking at paths into work for young people and at apprenticeships. We had a breakdown of the numbers of disadvantaged young people. I suddenly realised,

thanks to the work of this Select Committee, that there was no mention of children in care. I immediately said, "Where are the figures for looked-after children? After all, the local authority is the corporate parent". There were blushes from officers and they said "Yes, you are right. We will include those figures in our documentation". That would not have happened had I not been on the Select Committee and understood the importance of corporate parentship and making sure that we look at everything we can do to help those looked-after children. I thoroughly appreciated the work of the Select Committee, and I once again thank the noble Baroness, Lady Tyler, for her amazing chairing, as well as other colleagues.

7.01 pm

Baroness Wilcox of Newport (Lab): My Lords, I declare my interest as a vice-president of the LGA, as noted in the register. We are here today as a result of the House of Lords Children and Families Act 2014 Committee, as has been mentioned throughout the debate, and the launching of its post-legislative scrutiny inquiry on 9 March 2022. The introduction of the Act in 2014 was to make those substantial and wide-ranging changes that all Peers have noted in the debate today. It was about reforming services for vulnerable children, by giving them greater protection, paying special attention to those with additional needs, and also helping children, parents and the family as a whole.

Many of the recommendations of the 2010 family justice review were implemented by the CFA and were designed to improve child welfare and make court processes more effective and, crucially, quicker than they were before. The importance of the legal framework was cogently outlined by my noble friend Lord Bach. It further extended the rights to a personal budget for the support of children, young people and families. Local authorities—I have been a corporate parent and I know how important that is—have to involve families and children in discussions and decisions relating to their care and education. It was about providing impartial advice, support and mediation.

In the Act, the Children's Commissioner's role was increased from simply representing the views and interests of children to focusing on,

"promoting and protecting the rights of children".

It was so reassuring to see Dame Rachel de Souza, the current commissioner for England, speak out so persuasively and compellingly in the media in recent days when she commented on the current crisis affecting our children and young people at the start of the new academic year and the discovery about school buildings. She said,

"After years of disruption for children and young people, what they need most is stability and getting back to normal … Everything must now be done to ensure the impact on children's learning is minimised. And it is particularly important that everyone working with children prioritises those who are vulnerable and those with additional needs".

Those are very clear words.

The report under discussion today, published on 6 December 2022, contained recommendations across several policy areas. Strikingly, the committee said that the CFA

"has ultimately failed in meaningfully improving the lives of children and young people".

It attributed this failure to several things, including insufficient data collection, implementation and, as many noble Lords mentioned, scrutiny of the Act. For example, on adoption, there was a lack of support and inconsistent approaches for the early permanence placements created by the Act, and a lack of action on issues with ethnic minority adoptions. The committee recommended expanding the current narrow scope and complex application process.

The CFA does not contain any provisions on kinship care, despite it being the most stable option for children in care. I do not know what we would have done without grandparents, aunties and uncles when we looked to place children in Newport. The lack of provision for kinship care has been raised again in recent debates on the Government's new children's social care strategy.

There is a lack of data on the success of the introduction of parental involvement presumption in the CFA. In 2020, the Government promised a review on its success, but the findings are yet to be published.

On the introduction of rights to shared parental leave and pay, in 2018 the House of Commons Women and Equalities Committee proposed that shared parental leave should be replaced with a right to 12 weeks' parental leave. The CFA committee said that the Government should publish an assessment of implementing such a policy. Labour has committed to urgently review the shared parental leave system and extend statutory maternity and paternity leave as part of its new deal for working people. The committee further recommended that self-employed partners should be given the right to statutory shared parental pay like directly employed partners, something I believe the Government do not currently support.

The committee further noted that kinship carers have no legal right to paid time off. However, the Government have acknowledged the need to explore ways of better supporting kinship carers. This is to be welcomed.

Many Peers have mentioned that children's mental health was not directly covered in the Act, but the committee rightly described it as a crisis and a threat to the Act's overall success. Labour has committed to ensuring that there are mental health professionals in every school and mental health hubs in every community, and will guarantee mental health treatment within a month for all who need it. The committee further recommended that the Government continue to heed the advice of the Children's Commissioner and consider how they can better represent the voice of children at senior levels of Government—a most wise recommendation.

Last year, the Government set out plans to reform children's social care. Earlier this year, they undertook a consultation on reforms to children's social care, which closed in May but has yet to be published. The strategy has been broadly welcomed, but has been accused of taking a piecemeal approach rather than a wholesale reform of what is a broken system.

I have outlined what was hoped for in 2014 when the Act came into force, and I note the wholesale criticisms by the committee of the Act's implementation. I shall conclude, as some of my points have already

[Baroness Wilcox of Newport]
been covered and I am a firm believer in not repeating what has already been said, but I have a number of questions to put to the Minister. I do not expect a full reply to every question, but I would be most grateful if she would address the clear challenges that I pose and reply in writing.

The Government have said they will respond to the consultation on the children's social care strategy this month. Can the Minister confirm whether this is still the plan? Do the Government believe that the announcements made so far on the new strategy will lead to the current dire situation improving? Some 43% of children's service departments are rated as inadequate.

As almost all Peers have already mentioned, many of the issues with the Act outlined in the report come from a lack of post-legislative scrutiny, impact assessments or data collection, leaving the Government flying blind. How will they ensure that the same mistakes are not made when implementing the new strategy?

It is clear from the report and the reception surrounding the announcement of the new government strategy that kinship care has been greatly neglected. Do the Government believe that providing £50 for training and support for every child in kinship care will make a difference? The Government have said that a kinship care strategy will be published by the end of 2023. Is this still the case? Finally, are the children's social care national frameworks still on course to be published by the end of this year?

I thank the noble Baroness, Lady Tyler of Enfield, for calling this debate, and all members of the committee who have spoken today. We now need urgent action from the Government to ensure that what was a positive piece of legislation is no longer allowed to drift from pillar to post, trying to do what it set out to do: to improve the lives of our children and young people. There can be no more important challenge.

7.10 pm

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, I join other noble Lords in congratulating the noble Baroness, Lady Tyler of Enfield, on securing this important debate on the Children and Families Act 2014. I also thank all your Lordships who carried out post-legislative scrutiny of the Act last year and all who contributed to the debate today. I join others in paying tribute to the noble Baroness and her work over many years to improve the outcomes for children who access children's social care and the family courts. I also very much thank my noble and learned friend Lord Bellamy, who has reflected his commitment to this issue by being here in person to listen to your Lordships. To those noble Lords who are disappointed to get a Minister from the Department for Education, I say: you have two for the price of one.

As your Lordships have set out today, the Act took forward a range of commitments to improve services for vulnerable children and families. As we have heard in this afternoon's short debate, it sought to support: children in the adoption and care systems; those affected by decisions of the family courts; those with special educational needs and disabilities; and families with their home and work life. Although those sound like solid policy objectives, all your Lordships brought to the debate the human issues and the absolute imperative to try to improve our response for children who do not have the benefits of stability and love as they start their lives.

With that in mind, I want to touch on the Government's plans to reform children's social care, which many of your Lordships raised. As the Committee is aware, earlier this year, in response to the Independent Review of Children's Social Care and two other key reviews, the Government published an implementation strategy titled *Stable Homes, Built on Love*, which sets out how we plan to reform children's social care. It sets out how we will help families overcome some of the challenges they face, keep our children safe, and make sure that children in care also have stable and loving homes and opportunities to fulfil their potential in their lives. I am glad that my noble friend Lady Wyld was brave enough to leave the section in her speech where she talked about the importance of understanding our responsibility in relation to our children and the importance of our supporting families to stay together within their limitations that she rightly raised.

Before I turn to the recommendations and the points your Lordships raised, there were a number of questions about whether we are confident that the approach we are taking to the reform of children's social care will really deliver, in particular the test and review approach, which the right reverend Prelate raised and the noble Baroness, Lady Tyler, questioned. She raised the issue of funding for our reforms. Members of the post-legislative scrutiny committee understand better than most just how complicated it is to get this right on the ground. We believe that getting a balance between testing robustly and going as fast as we can—without going too fast—is the right approach. I would be happy to meet the noble Baroness again to talk about the unique child identifier; we met earlier but I am more than happy to meet with her again.

The noble Baroness, Lady Tyler of Enfield, and the noble Lord, Lord Storey, asked about what progress we have made on the special educational needs and disabilities and alternative provision improvement plan—less simply named than the elegant Children and Families Act—since March 2023. We have secured funding since then to design and test the proposals set out in the improvement plan and have identified local authorities in every region that will test many of the measures. They will start their work this autumn.

This ties into some of the questions from the noble Baroness, Lady Wilcox, in particular on the national frameworks being ready by the end of the year. We are still confident about that. We will respond this month to the consultation she referred to. I hope she will acknowledge the progress the Government have made on local authorities judged inadequate in relation to children's social care. I share her deep unease at the thought of what that looks like on the ground and feels like for vulnerable children in receipt of services, but I hope she acknowledges that our strategy to date is already working. We very much believe that this new approach will also build on it. Finally, we will publish on kinship care by year end. If I have not covered any of her points, I am happy to follow up in writing.

I will update on progress against the committee's recommendations. I heard disappointment from a number of your Lordships that there was no earlier post-legislative scrutiny of the Act. The Government found the recommendations made by the committee and the depth of the work it carried out extremely helpful, but I will move on to some of the practical issues for the future that noble Lords raised.

We published our adoption strategy in July 2021 and in March 2022 we announced that we would invest £160 million over the next three years to deliver it, including £5 million to improve the way in which we match children with families.

The noble Baroness, Lady Tyler, quite rightly raised the issue of improving the response for children from ethnic-minority backgrounds and asked how we are addressing racial disparities in the adoption system. I am pleased to inform the Committee that the number of minority-ethnic adopters has risen from 400 in 2020 to 698 in 2023 as part of our recruitment campaign, You Can Adopt.

We are also working with regional adoption agency leaders, who have made a commitment to develop an overarching strategy to address equality and diversity issues. Statistics on ethnic-minority children waiting for adoption are published quarterly, and the latest figures show an average of 10 months from the court granting a placement order. The noble Baroness is right to raise the issue until we can bring that delay down substantially.

Alongside that, since 2015 we have made £300 million available through the adoption support fund for therapeutic services for over 44,000 children, young people and their families. My noble friend Lady Wyld stressed quite rightly the importance of that mental health support and the unpredictability about how long one might need it for.

On the family courts and family justice, it is a real priority for the Government to address the delays in the family courts, which many of your Lordships mentioned. My department has recently invested an additional £10 million to test new initiatives to try to speed up the process. I know that colleagues in the Ministry of Justice are convening a conference with local family justice boards so that they can look together at how we tackle delays in the family courts.

The committee was very clear about the importance of data sharing and data collection—the noble Baroness, Lady Tyler, very much stressed that point. My department has invested more than £2.2 million to improve family justice pre-proceedings practice and data collection. I know that the Ministry of Justice is also investing in improved data collection so that we can give local family justice boards not just their own data but data from others so that they can compare, understand and improve their performance relative to others.

The noble Lord, Lord Bach, was very eloquent on the issue of private family law disputes and some of the problems that we and, more importantly, families and children are facing in that area. In March, the Ministry of Justice published a consultation so that we could support the earlier resolution of private law family disputes. The word "early" came up in many of your Lordships' remarks. As the right reverend Prelate touched on, we are considering our response, particularly in relation to mediation, and the whole question of early legal advice is also under consideration.

I thank my noble friend Lord Farmer for his work on family hubs, his insights into the need for early legal advice and his explanation of the Norwegian and Australian approaches. He also raised the important issue of joint work between the family courts and family hubs and between my noble and learned friend Lord Bellamy and me. I will make sure that we can follow up that conversation, if that would be helpful to my noble friend.

The noble Baronesses, Lady Tyler and Lady Wilcox, raised the critical issues around presumption of parental involvement. We will review that before the end of the year.

My noble friend Lady Wyld raised the issues of strengthening and enhancing the voice of children during proceedings. This is a core aim of a new approach to applications for child arrangement orders and other private family law proceedings. Your Lordships already referred to the pilots running in Dorset and north Wales and we really want to draw on this experience more widely. Of course, although the pilot will not be reviewed until January 2025, we want to learn as we go along and emphasise a non-adversarial approach.

We absolutely agree that better information for parents is needed and that we need better connectivity between all parts of the family justice system.

The noble Baroness, Lady Wilcox, raised the important issue of kinship care. As I said earlier, we will be publishing our kinship care strategy by the end of 2023. We have already made progress, working with the charity Kinship to deliver high-quality support across England. Like the noble Baroness opposite, we absolutely recognise—and I express our gratitude to—those in families who support other family members. We want kinship carers to get the financial help that they are entitled to. That is why we have extended the adoption support fund to cover children under special guardianship and child arrangement orders. As the noble Baroness mentioned, the Ministry of Justice extended legal aid entitlements to prospective guardians making applications for special guardianship orders in private family law proceedings. We are also committed to establishing a training and support offer for all kinship carers and have committed £45 million to deliver the Families First for Children pathfinder and family network pilots, which will promote the use of family group decision-making, as well as test the impact of family network support packages.

My noble friends Lady Wyld and Lord Farmer raised important issues, as did other noble Lords, in relation to mental health support for children, particularly the join-up between different government departments. The Department for Education is working with health partners across government, including, obviously, the Department for Health and Social Care, but also NHS England, to consider how we can better work together to deliver social care and health services for children with the most complex needs. In *Stable Homes, Built on Love*, one of our six key missions for care leavers in particular was that, by 2027, we would reduce the

[Baroness Barran]
disparities in the long-term mental and physical outcomes of care-experienced people and the activity to support that. I will happily write to my noble friend Lady Wyld to set out the pathway.

I always feel that something happens with the clock whenever I stand up to speak. If I may, on some of the comments in relation to employment rights, I will, with my noble friend's permission, set out some of the points in writing rather than overrun even more than I already have.

There are clearly areas where we are taking forward recommendations from the committee. There are others where we absolutely share the committee's aspirations in relation to vulnerable children, the family justice system and support for families, including those with children who have special education needs, but where our strategy and approach are slightly different from what the committee recommended. Our aspiration is very much the same.

I thank the noble Baroness and all noble Lords for contributing to this important debate and for the valuable scrutiny that they brought to the Bill. As my noble friend Lady Wyld said, our commitment to vulnerable children happily transcends party-political interests. I know that I can speak both for myself and my noble and learned friend Lord Bellamy in saying that we look forward to working across the House on these important issues.

7.29 pm

Baroness Tyler of Enfield (LD): My Lords, I thank the noble Baroness, Lady Barran, for that response. I personally found it extremely helpful and very informative, and I very much appreciated the warm words, which I know were sincerely meant, about the in-depth work that the committee has undertaken, because it does make it feel that that work was worthwhile, so thank you very much for that. I also acknowledge the presence of the noble and learned Lord, Lord Bellamy, which I very much appreciate. It is a really visible demonstration to me of the joined-up nature of the Government on this issue and I thank him for attending.

It has been a really excellent debate; it has really demonstrated the breadth and complexity of this issue, and its importance, but also the huge expertise, knowledge and commitment that we have in this House. I was hugely lucky to work with the colleagues I did on the Select Committee, bringing not just their knowledge but their passion and commitment to this area. We had excellent contributions, which I am not going to try to summarise, in the key areas of adoption and kinship care, how the family courts work, special educational needs and disabilities and employment law. I will say one point only, if I may, about the family courts. I feel very strongly that the voice of the child must be at the heart of the family courts. I am hoping that is something we can continue to work on.

We heard some excellent contributions about the committee's decision to highlight some very important cross-cutting themes. We heard about mental health, about the need early intervention and the need for really important information collection and sharing—all incredibly important. We heard about one or two more general issues, which was very interesting: the importance of couple relationships, relationship breakdown and the role of family hubs. This is all the broader context within which this report was operating.

I agree that it is important to put on record that I agree that the intentions of the Act were very good. I think the legislative framework was the right one. I called it a landmark piece of legislation, and I meant that. Of course, it is right to acknowledge the things that have happened as a result of it, but I think it is inevitable that when we have post-legislative scrutiny, we look at the things that have not happened—hence the focus we had.

Someone said a very good thing: where you get both political will and pace, the world can change and things can happen. I just hope from this debate that that is what is going to happen—that we are going to unleash some real momentum and change in this area. I know that all noble Lords in this Room would like to be part of that, and I hope we can have further debates on some of these key issues that I have just mentioned.

My final point is to return to the issue about the process of post-legislative scrutiny and why I think it is so important. I managed to have a quick word with the Senior Deputy Speaker earlier and I intend to write to the powers that be—the Leader of the House, the Lord Speaker, and the Senior Deputy Speaker—saying why I feel it is so important that post-legislative scrutiny is really taken seriously and there is so much more we can do, both in Parliament and in government.

Motion agreed.

Committee adjourned at 7.33 pm.