PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

LEVELLING-UP AND REGENERATION BILL

Twenty Third Sitting

Thursday 13 October 2022

(Afternoon)

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Monday 17 October 2022

The Committee consisted of the following Members:

Chairs: Sir Mark Hendrick, † Mr Philip Hollobone, Mrs Sheryll Murray, Ian Paisley

Bradley, Ben *(Mansfield)* (Con)
† Cartlidge, James *(South Suffolk)* (Con)
† Davison, Dehenna *(Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities)*
† Farron, Tim *(Westmorland and Lonsdale)* (LD)
Fletcher, Colleen *(Coventry North East)* (Lab)
Gibson, Patricia *(North Ayrshire and Arran)* (SNP)
† Huddleston, Nigel *(Lord Commissioner of His Majesty's Treasury)*
† Jupp, Simon *(East Devon)* (Con)
Lewell-Buck, Mrs Emma *(South Shields)* (Lab)
† Maskell, Rachael *(York Central)* (Lab/Co-op)
Moore, Robbie *(Keighley)* (Con)
† Mortimer, Jill *(Hartlepool)* (Con)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Pennycook, Matthew *(Greenwich and Woolwich)* (Lab)
† Rowley, Lee *(Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities)*
† Smith, Greg *(Buckingham)* (Con)
Vickers, Matt *(Stockton South)* (Con)

Bethan Harding, Kevin Maddison, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 13 October 2022

(Afternoon)

[Mr Philip Hollobone *in the Chair*]

Levelling-up and Regeneration Bill

Clause 155

Restriction on letting while initial notice in force

2 pm

Alex Norris (Nottingham North) (Lab/Co-op): I beg to move amendment 190, in clause 155, page 173, line 14, at end insert—

"(c) transfer the premises to a related entity."

This amendment would prevent the landlord from transferring the premises between related entities while the initial letting notice is in force.

It is a pleasure to resume proceedings with you in the Chair, Mr Hollobone. The amendment, which is in my name and that of my colleagues, deals with an important issue. Its substance is perhaps not my most elegant work, but I am interested to hear the Minister's views.

With this clause we move on to what a landlord can and cannot do while operating under the initial notice. As the Minister explained, in practice the notices are likely to act as a kind of kick-up-the-backside provision—a shock to the landlords to get them moving and renting out their premises, lest they end up renting to someone they were not intending to rent to, or for less than they were hoping for.

Subsection (1) prohibits landlords from entering into contracts for the building—other than sale of the site—without the consent of the local authority. In reality, it is a limited provision, as the local authority, as covered in clause 156, must grant approval, provided that the landlord has agreed a lengthy tenancy that starts shortly. We will cover that more fully in the next debate.

The restrictions at least seek to prevent landlords from using chicanery to escape their obligations—for example, entering into a bogus tenancy including an immediate break clause. A new tenant—possibly a friend or family member—might be a tenant for a day, then the break clause could be executed, the premises vacated and the clock restarted. We think it is right that these sorts of loopholes are closed.

Subsection (1)(a) states that landlords of a premises may not

"grant, or agree to grant, a tenancy of, or licence to occupy, the premises",

and paragraph (b) say that they may not

"enter into any other agreement"—

none of that—

"without the written consent of the local authority that served the notice."

They can sell the property or enter into a proper tenancy arrangement, but nothing else.

With the amendment, I want to probe the Minister about whether the clause leaves a gap where a landlord might seek to pass ownership of a premises to a friend or family member, or perhaps a related company, in order to establish new ownership and restart the clock when in reality nothing has changed. As I said, the amendment might not be the most elegant way to do this, but I am interested in the Minister's views on how to avoid any such loophole.

The Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities (Dehenna Davison): It is a pleasure to serve under your chairmanship, Mr Hollobone. The shadow Minister expressed a fair concern, and I hope I can reassure him.

The clause places restrictions on landlords in relation to any new lettings of the premises while the initial letting notice is in force. As discussed, the proposed amendment is intended to prevent landlords from transferring their interest to a related entity in order to avoid the high street rental auction process. We share the concerns that underpin the amendment, but we consider it unnecessary, because any related party that purchases the landlord's interest will still be bound by the initial letting notice, as made clear by clause 173(7), which tackles exactly that concern and removes the incentive for landlords to transfer the property to related entities in order to avoid the auction process. I hope that reassures the shadow Minister.

Alex Norris: Yes, it does. I had not seen that, so I appreciate the clarity. That closes the point. I thank the Minister and beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 155 ordered to stand part of the Bill.

Clause 156 ordered to stand part of the Bill.

Clause 157

Final notice

Alex Norris: I beg to move amendment 191, in clause 157, page 174, line 25, leave out "eight weeks" and insert "two weeks".

This amendment would reduce the period of time before a final letting notice can be issued to two weeks.

Clause 157 establishes final notices. These are used when a premise has lain vacant for a year or 366 days over two years and has been served its initial notice, and still no action has taken place and the premises continue to lay vacant, obviously having an impact on its local community. On the face of the Bill, final notice has to take place after eight weeks have elapsed from the serving of the initial notice, but not before the notice itself expires after 10 weeks, as per clause 154(2)(b). A final notice of intent to carry out a high street rental auction can take place between the eight-week marker and the 10-week marker.

As we stated in the earlier debate, the Labour party feel that that period is too long. Those communities have waited long enough, and those landlords have had long enough. Instead, amendment 191 would allow for the final letting notice to be served after two weeks have passed following the serving of the initial letting notice.

The amendment would have worked a little better had our earlier amendment been more successful in moving the Minister, because that would have established a regime whereby the initial notice lasted four weeks, with the final notice being served at any time after the first two weeks. As we said earlier, we believe that would be a good enough window to get the process going, but that was not the view of the Committee. On its own, this amendment would ensure that the initial notice still lasted for 10 weeks, but the final letting notice would be servable by the local authority at any time after the first two weeks. That is less good than it could have been, but it remains better than what is on the face of the Bill.

In our earlier discussion, we talked about the expectation that landlords would be using this time to seek a tenant, work with the local authority to find the appropriate tenant and move things on—which was why they needed 10 weeks rather than four weeks—and that the local authority would be an important part of supporting that process, both formally and informally. That probably leaves local authorities as good final arbiters to say, "Actually, this is not going anywhere. There is either no engagement, or no meaningful engagement. We have already been in this situation informally for a year, and have now been in the process formally for a couple of weeks. There is no prospect of this moving forwards." That decision could be taken after two weeks and a day, after six weeks and a day, or—as is currently on the face of the Bill—after eight weeks, but nevertheless, we are giving them a bit of case-by-case flexibility. I do not want to rehash the argument about the premises having been vacant for long enough, because that point has been made, but our amendment would add a bit of flexibility for some common sense to be applied. I would be interested in the Minister's views.

Dehenna Davison: I completely appreciate the concerns raised by the shadow Minister. I think he shares my real desire to get those vacant properties filled as quickly as possible, so we are at least starting from a common ground.

As has already been debated, the amendment relates to clause 157, which currently provides that a local authority may serve a final letting notice on the landlord of a vacant high street premises eight weeks after the initial letting notice has been served. The amendment would allow the local authority to serve a final letting notice two weeks after the initial letter had been served. It is important to note that service of the final letting notice allows the local authority to carry out a rental auction, and means that further, more significant restrictions on letting are imposed on landlords, as set out in clause 158. While reducing the period to two weeks could help to fill vacant premises more quickly, we consider that, on balance, landlords should be afforded a further opportunity for a reasonable period to fill the vacant premises after an initial letting notice has been served. We all know that property negotiations can be incredibly complex and often take parties several weeks to agree, so we consider a two-week period to be too short, and think that eight weeks is more realistic and reasonable.

We do want to enable local authorities to deliver high street rental auctions within 24 weeks when possible, as they are intended to be the quickest possible intervention that strikes the right balance between the public interest and the private interest. However, we need to provide landlords and local authorities with reasonable and realistic timescales and build appropriate safeguards into the process. That includes giving landlords a reasonable opportunity to respond to the initial letting notice by allowing them a further opportunity over an eight-week period to let the premises themselves, and a 14-day period to decide whether to appeal against a final letting notice.

Consideration also has to be given to the interests of the local authority, as making the process too quick could place an additional and unreasonable strain on local authorities that are looking to exercise these powers and deter them from using them at all. Local authorities are effectively given a 12-week period to run the auction process and complete the tenancy contract. Given those explanations, I really hope that the hon. Member will withdraw the amendment.

Alex Norris: I am grateful for that explanation. As we have discussed previously, there is a point of difference on what we consider sufficient time, notwithstanding that, as we have seen on other clauses, the period of time under a letting notice comes after a long period of vacancy already. I would make the case strongly that this is an issue of inclination rather than time for the landlords, but I accept the points that the Minister has made. We have different views on this issue. I am not going to pursue it today, but I suspect we will come back to it at a later opportunity. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 157 ordered to stand part of the Bill.

Clauses 158 and 159 ordered to stand part of the Bill.

Clause 160

Counter-notice

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

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

That schedule 15 be the Fifteenth schedule to the Bill.

Clause 161 stand part.

Dehenna Davison: Clauses 160 and 161, and schedule 15, deal with the issue of appeals by landlords against a final letting notice. Under clause 160, the landlord will be able to appeal against a final letting notice within 14 days of receipt by issuing a counter-notice to the relevant local authority. The counter-notice must set out the grounds for appeal.

Schedule 15 specifies what grounds of appeal are permitted. They include whether the vacancy condition and local benefit condition have been satisfied, the suitability of premises for high street use, and the opportunity for the landlord to re-let the premises within an eight-week window following the initial letting notice. Schedule 15 also provides for grounds of appeal based on redevelopment by the landlord or where the landlord intends to occupy the premises, which is taken from other similar contexts, such as the opposed lease renewal process in the Landlord and Tenant Act 1954.

[Dehenna Davison]

The right of appeal is an important safeguard for landlords, and the step of issuing a counter-notice allows both parties to take stock before matters are referred to the county court. Clause 160 gives the relevant local authority early warning of the landlord's intention to appeal, and clause 161 provides an opportunity to withdraw the final letting notice before any appeal application is made by the landlord to the county court. Local authorities may be reluctant to serve a final letting notice without that additional step, because they will want visibility on whether the landlord intends to appeal before matters are submitted to the county court. Clause 161 sets out further procedural requirements relating to the landlord's appeal against the final letting notice, particularly the role of the county court in considering such an appeal.

An appeal by the landlord must be limited to the grounds specified in the counter-notice and can be brought only in the county court. The court will then have the power to confirm or revoke the final letting notice. An appeal must be brought within 28 days of receipt of the counter-notice by the local authority. Where the landlord appeals, the clause also extends the 14-week window set for the letting procedure, as set out in clause 157, so that the local authority has sufficient time to complete a high street rental auction process if the landlord's appeal is unsuccessful.

These clauses and schedule 15 provide clear timeframes and requirements for a landlord to appeal a final letting notice. They also allow local authorities to establish quickly whether it is clear to proceed with the auction process without fear that a late appeal may disrupt it. On that basis, I commend the clauses and schedule to the Committee.

2.15 pm

Alex Norris: We appreciate that this is an important part of the process, so I will be brief. We made the same point prior to the break for lunch, but again I find it odd that the Government think they need to reserve to themselves, in subsection (5)(a), (b) and (c), the power to add grounds for appeal through a counter-notice.

This is a serious thing. We are talking about a rare situation, especially for a Conservative Government, whereby private property will essentially be transferred to the state, in terms of its agency, so that it can be used properly—although the receipts will of course still go to the private landlord. I would be surprised if the Government do not know, or think they do not know, the grounds on which that decision would be appealable. I therefore wonder whether they have really bottomed out the process. As with previous parts of the Bill, I think they are retaining too much power for later. They have broadly got the measure right and should commit to it, so these are not necessary provisions, and I will be interested to hear why the Minister thinks they are.

Dehenna Davison: I am grateful to the shadow Minister for voicing his concerns; I completely appreciate them. As I said earlier, it is important that we get this process right. Given that this is a novel policy, we want to make sure we get it right. Through experience of implementing the rental auctions, we may want to alter the grounds of appeal to ensure that the measure can target the right protections and make sure they are in place if, for example, there is evidence that the policy is preventing landlords from using the property in ways that are beneficial and complementary to the policy. It is all about ensuring we have the flexibility to get this right and make sure it works. We want to fill vacant properties while ensuring that landlords have adequate protections. I hope that has provided some reassurance.

Question put and agreed to.

Clause 160 accordingly ordered to stand part of the Bill.

Schedule 15 agreed to.

Clause 161 ordered to stand part of the Bill.

Clause 162

Rental auctions

Alex Norris: I beg to move amendment 193, in clause 162, page 177, line 36, at end insert

"These regulations must be laid before Parliament before the end of a period of 90 days beginning with Royal Assent."

This amendment would require the Secretary of State to lay any regulations under this section before Parliament within a period of 90 days.

The amendment reflects the Opposition's anxiety, which the Minister has gone some way to assuage, that there are significant portions of the Bill—those to be discussed and those that we have discussed—that are not likely to see the statute book. I know we cannot live and die by briefing in the media, but it has a habit of being on the nose very often. There is a sense that we will lose provisions from the Bill, and this is one that we are most likely to lose. It is of its time, given the Secretary of State when it was written, and less so of the supposed direction today. I want to probe that a little.

Clause 162 sets the rules for rental auctions—or, to be more precise, subsection (3) says that there must be rules, and the Government have reserved the power to set them. I think that would have been better done by schedules to the Bill, but that is the path chosen. The rules do not have to be very difficult. Subsection (4) says that the local authority must designate suitable use of the premises. That seems reasonable. We always argue for public engagement, but I suspect that the existing use classes are likely to guide that.

Beyond that, there needs to be an advertisement and an auction held. We support subsection (8), which allows a degree of local variance, although subsection (7) slightly contradicts that, in the sense that regulations set by the Secretary of State are likely to constrain that. I want to hear from the Minister that that is likely to applied rightly. I hope that local authorities will have the headroom to hold auctions in a way that is practical, otherwise central Government might as well conduct them themselves.

I do not think all the subsections in sum create a particularly complicated picture. Actually, I think those of us in this Committee could design a system very quickly; I think it is quite obvious how to hold an auction on a premises that has a use-class designation. The terms of the clause, and in particular subsection (7),

may delay the provisions coming into force, but public expectation is building and we must deliver on it. Amendment 193, perhaps ironically or perhaps elegantly, imposes a "use it or lose it" provision on the existing "use it or lose it" provision to ensure that the regulations must be laid within 90 days of Royal Assent. I cannot believe that that would not be enough time, so I am keen to hear from the Minister when we would be likely to see those regulations.

Dehenna Davison: Again, I am grateful to the shadow Minister for his clarity on the intention behind the amendment, which I think is well intentioned. It seeks to require that regulations to implement the rental auction process are laid within 90 days of the Bill gaining Royal Assent.

Clause 162 sets out the principles of the rental auction process. It is likely that a significant amount of detail will need to be provided in relation to the process that will be procedural and technical. I firmly believe that that would be more appropriately dealt with through regulations. Although we are looking to make those regulations as soon as possible, at this stage it is not possible to commit to a timeline of 90 days, because those regulations will be informed by extensive engagement with the sector on the rental auction process. There is a need to consult, and we would like the input of local authorities, which will be responsible for arranging the auction process, and landlords, who will have an interest in how that rental auction is run. We anticipate consulting on those measures shortly—this autumn—which will allow any feedback to be taken into account in the detail of the regulations. More details will be available later in the year, and I will ensure that I write to the shadow Minister as we have them.

Given that this is a new and innovative policy, the proposed engagement is crucial to ensure that rental auctions operate as intended and result in genuine regeneration and levelling up. I therefore ask the hon. Gentleman to withdraw the amendment.

Alex Norris: I am grateful for that response. I hear what the Minister says about the significant amount of detail and technical elements that are likely to follow. I am not 100% persuaded that auctions are that complicated. Anyone who has ever attended one will know that they are actually quite brutal and terrifying experiences, with very clear and defined outcomes. It never feels like there are many shades of the grey in the auction room. I hear what the Minister says, particularly about engagement, and I would never speak against that. I hope that there is a sense of purpose and a desire to get on with the provision, however, because communities are waiting for it, so the sooner we can do that, the better. On that basis, I am happy to beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 162 ordered to stand part of the Bill.

Clause 163

Power to contract for tenancy

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

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

Clause 164 stand part.

That schedule 16 be the Sixteenth schedule to the Bill.

Clauses 165 to 168 stand part.

Rachael Maskell (York Central) (Lab/Co-op): It is a pleasure to serve with you in the Chair this afternoon, Mr Hollobone. I have a few points to make about clauses 164 and 165. The first is a drafting issue with schedule 16, which is not mentioned at all in the substantive text of the clauses now under consideration, and which is the only schedule not to be referenced. I do not know what bearing that has on the schedule, because it refers to clause 164. The lack of reference to the schedule in the clauses does not follow the usual processes, so I draw that to the Minister's attention.

I want to pick up on two issues relating to the content of the terms of the contract for the tenancy. This is about practicalities. Many of our vacant high street premises were department stores. That is the nature of the businesses that have vacated the market over the last few years in particular, leaving large premises vacant on the high street. Few businesses will be able to replace that footprint.

In places such as York, where there is 65% penetration of independents, there is real opportunity for small and new businesses to get a foothold by occupying those premises, but the legislation is not clear on how such contracts would be handled. Would there be subcontracting opportunities whereby a body could take a major contract and then subcontract to a smaller business? Or could a multi-purpose auction allow a consortium bid from a number of businesses? We want those premises to be occupied in future, so can the Minister clarify how the legislation would deal with such a proposal, because I cannot see it written into the Bill?

Another issue in my constituency, which may happen elsewhere, is that of premises being opened to licensing. In York, a takeover by licensed premises is having seriously ugly consequences. One thing we do not want is those big department stores becoming super-nightclubs right in the middle of a designated shopping area. My concern is that some people might try to take advantage of the legislation to advance such businesses. What controls can be put in place so that local authorities have oversight of tenancies and can ensure that the use of premises is in keeping with the direction of travel they want for their local communities? I cannot see any clarity in the Bill about how such matters would be handled or about controls to ensure that the use of those premises is in keeping with the local community's aspirations.

Alex Norris: I have three questions. Clause 163(1)(b) provides the power to contract for a tenancy if

"the period of 42 days beginning with the day on which that notice took effect has elapsed".

I understand why there needs to be time, but I am not sure why a minimum time has been set quite so quickly. It might take a number of weeks to get a tenancy together, but why include a hard six-week period that will add to and elongate the process?

[Alex Norris]

Clauses 164(5) and 166(3) address, respectively, pre-tenancy works and work that the local authority might have to do

"in order to make an effective grant."

Are the costs incurred by a local authority in making a premises ready rechargeable?

Clause 165(7) provides for a reserve power to make regulation. I will not rehash that argument, but for clarity, do the Government expect a relatively simple tenancy equivalent to a general market or high street tenancy?

Dehenna Davison: I am grateful to the hon. Members for York Central and for Nottingham North for their remarks.

The hon. Lady raised a good point. On her drafting concern, clause 165(6) refers to schedule 16. Will she please let me know if that is not clear, and I will ensure that it is rectified? But my expert team have told me that that is the case. We can pick this up afterwards if need be.

Rachael Maskell: Schedule 16 refers back to clause 164, not 165, according to the note next to the schedule, on page 320. I am curious, shall we say, and that further adds to my curiosity, because there is no true cross-referencing, then, to the right clause.

2.30 pm

Dehenna Davison: I will pick that up afterwards and write to the hon. Member with some clarity on that point.

On the point about larger properties—department stores and so on—I think that we all have that concern. We can probably all think of, in our high streets or the places where we grew up, department stores that are sitting empty and that we want to be filled, but filled in the right way. The hon. Member made reference to super-nightclubs. I am sure that there would be a few people in favour of such measures, but I think the local community would much rather see pop-ups and small independent businesses appearing in these places. Again, we want to absolutely ensure that we get this right. There is the definition of "premises" in clause 177(3). It does envision powers applying to part of a building. This could be a potential solution, but I am happy to sit down with the hon. Member afterwards to see what more we can do to reassure her and, indeed, people across the country on the point.

On the point about chargeable costs, this is something we hope will get picked up in the consultation, but the intention is to spread this between the landlord and the tenant as far as possible. Again, I am happy to take some time with the shadow Minister, the hon. Member for Nottingham North, to provide some clarity on the point after Committee has concluded.

Question put and agreed to.

Clause 163 accordingly ordered to stand part of the Bill.

Clause 164 ordered to stand part of the Bill.

Schedule 16 agreed to.

Clauses 165 to 168 ordered to stand part of the Bill.

Clause 169

POWER TO REQUIRE PROVISION OF INFORMATION

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

The Chair: With this it will be convenient to discuss clauses 170 to 172 stand part.

Dehenna Davison: Clauses 169 to 172 relate to the powers of local authorities to acquire information about commercial properties in order to facilitate the process of running high street rental auctions. They also deal with circumstances in which that information is not forthcoming.

As I have explained, local authorities will need information on qualifying high street premises in order to enable them to pursue the high street rental auctions process. That includes details of the landlord, to enable a local authority to serve the letting notices. It also includes information on the premises that will need to be provided to prospective bidders as part of the auction process. Some of the information may be publicly available, but much of it will be in the possession of the landlord or those who have an interest in the premises. Clause 169 therefore gives the local authority the power to request information about premises in a designated high street or designated town centre from persons who appear to have an interest in those premises.

Some landlords may be less co-operative than others in complying with this process. Without this power, landlords could easily frustrate the process by refusing to provide information about their premises. We also consider it necessary to incentivise landlords to provide this information through the backing of criminal sanctions. That is why this clause includes an offence. If a person, without reasonable excuse, fails to comply with a request for information about premises or gives false information, they are liable on summary conviction to a fine not exceeding £2,500.

Clause 170 deals with the circumstances in which local authorities may need survey information on the condition of qualifying high street premises in order to assess the suitability of premises for high street uses and the rental auction process. This clause gives local authorities the power to enter and survey premises situated in a designated high street or town centre to obtain survey information, if they so choose. The power is necessary to ensure the effectiveness of the measures. Again, some landlords might be less co-operative than others and could frustrate the process by refusing access to local authorities.

Clause 170, however, also provides landlords with certain safeguards that usually apply to powers of entry. For example, local authorities are required to give advance notice of at least 14 days to the landlord before exercising the powers; and local authorities may only exercise the power at a reasonable time, and not in a way that involves the use of force, except on the authority of the warrant issued by a justice of the peace. Given the safeguards, landlords will have the opportunity to grant access. The premises are likely to be non-domestic and vacant, so the exercise of the powers is unlikely to harm the interests of landlords and should be only a mild inconvenience.

Clause 171 sets out the offences that apply in relation to the power of entry under the previous clause. As I said, we believe it best to incentivise landlords to provide access to premises that may be subject to high street rental auctions through the backing of criminal sanctions. This clause therefore provides for a fine of up to £1,000 for obstruction. It also provides the landlord with a safeguard by making it a criminal offence punishable by up to two years' imprisonment for a person in the exercise of their power of entry to disclose confidential information obtained in the exercise of the power for purposes other than high street rental auctions.

Finally, clause 172 gives local authorities the ability to apply to the county court for an extension to the period that applies to the high street rental auction process. That is considered necessary to prevent landlords from frustrating the process by seeking to time out the local authority by not complying with requests for information, providing false information or obstructing access to the premises. I commend the clauses to the Committee.

Alex Norris: I have two quick questions. First, I want to check that I am reading clause 169(5) correctly. When a local authority asks for information from a landlord—an important provision—that is in a non-prescribed form. The Government do not intend to prescribe the form; it will just be the form that the local authority sees fit to use.

Secondly, clause 172 is important and tries to prevent landlords from trying to take local authorities and communities for a long walk to run out the clock. The clause means that a court may add time, which is very welcome. Will the Government be clear about that to local authorities, because one thing that will put local authorities off is the possibility that they could just go on a quixotic journey through lawyers' letters, never actually getting anywhere? However, clause 172 should give us confidence that that will not be the case. I hope that the Minister can address those two points.

Dehenna Davison: Again, I thank the shadow Minister for his questions. My understanding is that his understanding is correct about the information being provided, but I will write to him for clarity.

On the shadow Minister's point about not wanting local authorities to go around the houses in this legal process, we are absolutely trying to make the process as straightforward as we can. Again, the ultimate aim is to get the vacant premises let out and in use, which is why we want to make the process as swift as possible, while ensuring that there are sufficient safeguards in the legal process.

Question put and agreed to.

Clause 169 accordingly ordered to stand part of the Bill.

Clauses 170 to 174 ordered to stand part of the Bill.

Clause 175

Compensation

Alex Norris: I beg to move amendment 194, in clause 175, page 185, line 16, at end insert—

"(1A) Compensation for damage under subsection (1) does not include damage that reasonably occurred gaining access to the site or premises where a landlord fails to grant such access."

This amendment would exempt from compensation damage that is caused when the authority, or their agent, needs to force access to a site following the failure to allow such access by the landlord.

If this part of the Bill is used proactively by local authorities and communities, as we and the Government want, it will doubtlessly be a disruptive one—it is meant to be a disruptive one. I have no doubt there will be cases where some landlords think the best course of action is to ignore the process entirely, especially in the cases of landlords based a long way away from the communities where the premises may be based. There have to be powers, as covered in clause 170, for the local authority to enter a premises, and we fully support that. It is necessary to have a look at the place, for a start, but it is also necessary to let it out to the winner of the auction.

Clause 175 provides that where this power has been used and damage has been caused, the landlord has a right to compensation. That is fair; it is wrong that landlords might sit on assets and help drag the community down, but nevertheless the premises are their property, and it is right that they are treated with respect. When that is not the case, they ought to be able to seek redress and compensation. I want to try and square the two circles; in a case where damage has occurred as the landlord has not been willing to grant access to the premises in line with the provisions of the Bill, they perhaps should not get compensation. If they refuse to remove a lock, it is reasonable to think that the lock might be cut off.

Amendment 194 would cover this. It would mean that damage could not be claimed for where it reasonably occurred when seeking access. There are two protections; first, that the damage happens reasonably—for example, cutting off the lock by knocking a wall through would not be proportionate; and secondly, that it follows the refusal of a landlord who has not availed the local authority of the opportunity to enter, so a reasonable action has had to take place. That is a fair balance between the protection of property, and compliance with law and the rule of law more generally. I am interested in the Minister's response.

Dehenna Davison: Again, I thank the shadow Minister for his clarity on the intention behind the amendment. He outlined that the amendment seeks to clarify circumstances in which compensation will be paid as a result of damage caused by the local authority or their agent entering the property, pursuant to their power of entry in clause 170 where a landlord has refused to grant access.

Although we fully understand the sentiment behind the amendment, we consider it more appropriate to provide landlords with a general entitlement to seek compensation for damage where local authorities have exercised their power of entry. The upper tribunal can then decide whether there are any circumstances that can be taken into account that affect the landlord's entitlement to compensation, rather than providing for specific exemptions within the primary legislation. This is the approach we have adopted in other legislation, such as the compensation provisions in section 176 of the Housing and Planning Act 2016, which relate to the

[Dehenna Davison]

power to enter and survey land. On that basis, we are not able to accept the amendment, and I ask the hon. Member to withdraw it.

Alex Norris: In general, I am quite sceptical, where arrangements rely on what are often relatively small sums of money, that there will be formal court backing. Given what the Minister has said about alignment with other provisions, that is probably enough to give me reassurance for now. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

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

Clauses 176 and 177 stand part.

New clause 55—*Resources*—

"(1) Within a period of 90 days beginning from Royal Assent the Secretary of State must publish a report detailing the new resources made available by His Majesty's Government to local authorities in order to exercise Part 8 powers.

(2) In order to discharge the powers under Part 8, Local authorities may charge landlords for associated reasonable costs.".

Dehenna Davison: As we have already debated, clause 175 entitles a landlord to compensation for damage resulting from the exercise of the power of entry by local authorities. This is an established approach, as powers of entry on to private land where compulsory powers are being considered are typically given to statutory authorities on the basis that compensation is payable by those authorities for damage suffered by the landowner, and as a result of the exercise of the power. Subsection (5) provides that, aside from those arising from subsection (1) in respect of the power of entry, there is no other entitlement to compensation in respect of the exercise of the rental auction process as defined by the powers in part 8. I commend the clause to the Committee.

Let me move on to clause 176. There is certain legislation that applies to premises that are let. In order potentially to reduce cost burdens on landlords as an effect of high street rental auctions, clause 176 provides a power to disapply or modify relevant legislation to avoid unfairness on landlords. An example is the Energy Performance of Buildings (England and Wales) Regulations 2012, which apply minimum energy performance requirements. Compliance with those regulations may require works to be carried out to improve the energy performance of premises before they can be marketed and let. That work would fall on the landlord and may, in some cases, impose a significant burden. The Government have agreed that, due to the temporary and select nature of high street rental auctions, only very few properties will be affected, and we have agreed a review point after five years to assess the impact of the disapplication.

Clause 177 supplements the main clause in part 8 by giving definitions and clarifications of various terms used throughout the part. In particular, subsection (3) clarifies that the high street rental auction powers can be used in relation to premises that are the whole or part of the building, designed or adapted to be used as such, but, also, part of the building that

"could with reasonable adaptation be so used."

2.45 pm

Rachael Maskell: If premises were to be wholly let, but let in separate lots, how would that be covered by those clauses? It seems that the Minister is talking about, for example, half a building being let. However, if we are talking about half a building to be used in 10 separate sections, how would the legislation cover that scenario?

Dehenna Davison: I will write to the hon. Member on that specific scenario and provide additional clarity. The definition of short-term tenancy is also found here, which limits the term of tenancies granted under high street rental auction powers between one and five years. It also includes setting out what is meant by local authority. They are district councils in England, and county councils where there are no district councils, London borough councils, the common council of the City of London and the councils of the Isle of Skye. The clauses underpin the workings of this part of the Bill, and I urge the Committee to support them.

On new clause 55, I am grateful to hon. Members for seeking to ensure that local authorities have the resources necessary to auction vacant high street premises. I agree that is incredibly important. I want to reassure hon. Members that we intend to work with local authorities to produce detailed guidance to help them through the auction process, minimising burdens wherever possible. The provision would permit local authorities to charge landlords for costs associated with the high street rental auction process. The details of the rental auction process, including how we will distribute the costs of the process, will be set out in regulations following consultation with local authorities, landlords and tenants. I do not believe publishing a report within three months of the Act being in force, when local authorities may only just be starting to engage with the process, will benefit the aims of the Bill.

To go back to the point about premises being partially or fully let, as raised by the hon. Member for York Central, we will consult on a standardised lease that will deal with sub-lettings. There will be a consultation on that point to ensure that we get the policy right.

Rachael Maskell: I am grateful to the Minister for raising that, but I wonder how will relate to the legislation. Obviously, this is the authoritative source. While the Minister may be consulting, is she saying that there will be greater clarity brought within regulations? How will that come forth? I think it will be of real interest across the country. It is the very scenario that the clauses are trying to address. Can the Minister bring more clarity?

Dehenna Davison: Absolutely. I go back to my earlier point; we all see those larger units that need to be let out, and we know that smaller businesses or community groups would be able to benefit from those smaller spaces. We intend to set this out later in regulations once we have consulted again to ensure that we get this absolutely right. It is a novel policy, so it will take some tweaking. We want to get it right to ensure that it works and fulfils the ultimate aim of getting our vacant high street premises filled.

Alex Norris: I shall speak to new clause 55. In an earlier answer, the Minister made the case for this measure because she characterised the new process as a strain—that is the word she used—on local authorities, and that is true. It is a new burden for which local authorities currently are not and will need to be funded for. The impact on local government funding over the past decade or more has been well stated, not least in this Committee. Our local councils have been hammered. The Government's best record on localism is localising blame by cutting budgets and shifting difficult decisions. That seems to be the phase we are—bewilderingly—entering into again, and I dare say it will happen again.

Local authorities are incredibly hard-pressed. Unless there is proper support, that will be a limiting factor on the success of the process, because many local authorities will be so hard-pressed that they will say, "We just can't get to that." The Minister has already resisted community rights to initiate the process, and I fear that will act as a handbrake on it. I strongly argue—I feel certain in my case—that the Minister could help us and give us some comfort on this point. I have managed to go all day—a new record—without mentioning the publication of the impact assessment for the Bill. We are trying this with Whip No. 3, and Ministers 9 and 10. We feel such a level of disregard and discourtesy because the Government will not produce an impact assessment. We know it exists. The Regulatory Policy Committee, on the Government's website on 19 July, said that the document exists.

The Minister is new to her role, but I know she is a plain speaker. I ask her please to release the impact assessment. If there is concern, as I think there might be on the Government Benches, that it will be writ large to the public that perhaps the provisions on levelling up will not make much of a difference, I gently say: the public already know. In the next stage of the Bill we will deal with hugely important decisions relating to planning, and we have no idea what the Government think the impact of those will be. That is no way to run a country. The Minister is not minded and I will not push the matter to a Division, but at some point that question needs to be addressed. I beg the Minister to do that at the earliest possible opportunity.

Dehenna Davison: I take issue with one thing that the shadow Minister said—we have done well today; we have got through almost two full sittings—about localism. I do not think that is to do with shifting blame. It is about empowering local areas. That is why we are running a very ambitious devolution agenda to make sure local areas have the powers and resources they need to succeed. We have seen fantastic examples in Tees Valley, Greater Manchester and the West Midlands. The powers really come into their own, and show what devolution and localism can do for local areas and the people living there. I had to get that on the record. We needed a point of proper disagreement today, and we have managed to find one.

I will take away the point made by the hon. Member for Nottingham North on the impact assessment and come back to him on it as a matter of urgency.

Question put and agreed to.

Clause 175 accordingly ordered to stand part of the Bill.

Clauses 176 and 177 ordered to stand part of the Bill.

Clause 178

REQUIREMENTS TO PROVIDE INFORMATION ABOUT OWNERSHIP AND CONTROL

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

The Chair: With this it will be convenient to discuss clauses 179 to 183 stand part.

Dehenna Davison: Part 9 of the Bill will greatly enhance our understanding of who owns or controls land and property. To assist the economy to grow, the Government need to break down any barriers and find key tools that ensure our property market is fair, open, competitive and resilient. One big barrier at the moment is information asymmetries. The land market in England and Wales currently lacks full transparency, particularly when land control arrangements are used—opaque arrangements short of ownerships such as options and conditional contracts.

The Government are determined, for the benefit of us all, to shine a light on complex arrangements used to control land and property. Clause 178 allows the Secretary of State to expand the collection of information about legal and beneficial ownership of land and property in England and Wales. We intend to use the power to dig deep into opaque ownership, and to control structures into narrow use cases.

First, the power will ensure that landlords responsible for the cost of remediating unsafe buildings under the Building Safety Act 2022 do not avoid their liabilities. Some are seeking to avoid their remediation responsibilities and frustrate the Act through the use of obscure structures. A targeted power will help to cut through that, and will allow us to ensure that works are carried out swiftly, so that we avoid continued costs for leaseholders and calls on the Government's legal budget. Secondly, the power will allow the intelligence and security agencies to identify opportunities for hostile actors to misuse properties in the vicinity of sensitive sites and put national security at risk.

Clause 179 further expands the Secretary of State's power to collect information on certain specified types of arrangements used to control land. The powers will allow us, for the first time, to collect information on arrangements used by developers and others to control land. I would like to share some facts and statistics about the extent of land control arrangements, and the impacts that the practice has on the housing market, but I cannot, because Ministers and the public are blindfolded on that point. We have no accurate data on the area of land that is subject to such controls, although we suspect that it is substantial. That means that it is hard for local authorities, communities and businesses to identify who controls developable sites. In many areas, that hampers good place-making and slows down development of new areas for people to live in and thrive in.

Collecting and publishing information about land control arrangements will give communities and local authorities a better understanding of who controls land in their area, and addresses those barriers. It will also provide Government with additional information that will allow them to understand who exercises control

[Dehenna Davison]

over land and property, even where that person is not the legal owner. It will provide the basis for assessing that hidden market and producing evidence-based policy.

To implement these powers effectively, we must retain the flexibility to respond swiftly to attempts to avoid or evade this legislation, and ensure that we have all the information we need to unpick the complex and opaque structures used by some to hide their ownership or control. Clause 180 specifies the key information that must be set out in statutory instruments before the powers under the previous two clauses can be used. Parliament will have the opportunity to debate and approve all regulations made under this part of the Bill before they come into force, and all draft instruments will be laid before the House under the affirmative procedure.

Clause 181 allows for the retention, sharing within Government and publication of information collected under clauses 178 and 179. In her Second Reading speech, the shadow Secretary of State, the hon. Member for Wigan (Lisa Nandy), expressed concerns that we were seeking to withhold information on arrangements used by developers to control land. I am pleased to reassure her, and members of the Committee, that we will publish such data as machine-readable open data, in line with our commitments, set out in the 2017 housing White Paper, to improve the transparency of those arrangements and—our key motivations behind the measure—to make the land market more transparent and competitive.

Bearing in mind privacy and security considerations, it is the Government's intention that other types of information collected—but not published—will be shared with and used by Government bodies to carry out their functions; for example, they could be used for the enhancement of national security and the implementation of the Building Safety Act 2022.

Clause 181 allows for the payment of fees to cover the costs of collecting that information. As our proposals are designed to work with the grain of existing processes, we expect that any fees, if charged at all, would be modest. To be clear, regulations creating any such fee must be made under the affirmative procedure, so Parliament would have to approve them first.

Clause 182 allows the creation of criminal offences by regulation, so that penalties could be imposed on those who failed to comply with requirements to provide information, or who provided false or misleading information. In the overwhelming majority of cases, we expect that people will comply, but the steps that we are taking through this legislation to increase transparency about the ownership and control of property will be disruptive to dishonest actors, or those seeking to conceal their ownership or control of land and property. The stringent transparency measures are, in part, designed to deter nefarious activity or the avoidance of other initiatives aimed at increasing transparency. It would be naive to assume that there are not those who will try very hard to avoid their obligations. That is why that power is so important. The final clause in this part, clause 183, is a technical clause that sets out key definitions. I hope that is non-contentious.

In summary, together, these clauses will provide crucial tools to ensure that our property market is fair, transparent, competitive and resilient. I commend them to the Committee.

Matthew Pennycook (Greenwich and Woolwich) (Lab): Part 9 is one of the less remarked-on parts of the Bill, but it contains important measures. As the Minister outlined, it provides for enabling powers that require the disclosure of information relating to the ownership and control of land in England and Wales, including transactional information.

Labour fully supports the goal of increasing transparency and accountability in respect of the ownership and control of land that could be used for development, as well as transactional information relating to instruments, contracts and other arrangements. We agree with the Government that reform in this area has the potential to help expose anti-competitive behaviour by developers, tackle strategic land banking, aid smaller-sized enterprises to acquire land for development, facilitate more effective land assembly by local authorities and others, and help communities to better understand the likely path of development in their area. As the Minister rightly said, reform will also help to ensure that where buildings are defective in terms of building safety and require remediation, those works are undertaken as swiftly as possible.

3 pm

As such, in principle, we have no issue with clauses 178 to 183. However, as with so much of the Bill, and as we have debated at length on many other occasions, much of the detail is to be fleshed out via future regulations. As we debate this legislation today, we have little to no sense of a range of important issues, such as precisely what information will be required, who will be required to provide it, under what circumstances and how it will be disclosed. I therefore press the Minister to expand on the helpful comments she just made, and to provide further detail on the Government's intentions regarding the use of the powers in the clauses in this part. If possible, I would like answers today. As I am sure she has picked up on, there is a certain amount of concern beyond this room about what these provisions entail.

First, can the Minister tell us whether the Government intend to require all those with contractual control interests in land to disclose information, or will the focus be targeted on a more limited range of persons or categories of person? Secondly, I believe I am right in stating that the Government have indicated that the current Land Registry arrangements in relation to the redaction of prejudicial information will be retained. Beyond that, are the Government now not minded to allow for any exemptions, as outlined in the 2020 transparency and competition call for evidence on data on land control, such as for information that is genuinely commercially sensitive? Thirdly, can the Minister give us some sense of how the disclosed information might be published? I think she mentioned machine-readable public data. Are we talking about a dataset that any member of the public can access to find out about land ownership and contractual control interests, or do the Government have in mind some less accessible form of register?

We do not oppose part 9 in its entirety, but we do think it is reasonable to get a better sense of how the enabling powers will be used. I look forward to the Minister's response.

Tim Farron (Westmorland and Lonsdale) (LD): It is a pleasure to serve under your watchful gaze, Mr Hollobone. I do not want to add much, and I will not repeat what was said by the Minister and the shadow spokesperson, the hon. Member for Greenwich and Woolwich. This is an important part of the Bill. We are talking about disclosure relating to those who would seek to keep their ownership of land out of the public eye, and therefore away from the interference of local authorities and others. That is crucial, and this is an important part of the legislation. I am glad that the Government are pursuing the issue.

I echo the questions levelled by the hon. Member for Greenwich and Woolwich, but I also have a question. We are talking about the disclosure of information where somebody, at least, knows who owns the land. However, clarity of ownership is equally important when nobody knows who owns certain land. In communities such as mine—more than many others, I imagine—which are more rural, or semi-rural, and were first developed long ago—some areas are medieval—there are significant chunks of land that are considered to be potentially common spaces. Nobody knows who owns them. Generally speaking, the desire is not to develop them, but to enhance them as public spaces—to make use of them as parkland, children's play areas and the like. As the Government explore this part of the Bill, it would be useful if they thought about the extent to which they are seeking clarity of ownership, or the extent to which who owns what can be adjudicated. To use a medieval term, could wastes of the parish be declared where ownership is unclear but the use of a piece of land is potentially in the hands of the local authority or local parish?

That could add real value—probably not in the development of commercial or residential property, but in terms of public amenity. In most parishes in my community, and in Cumbria as a whole, there will be at least one space that falls into that category. The issue is not just disclosure when someone is nefariously keeping the knowledge to themselves; it is clarity where there is none.

Dehenna Davison: I thank the hon. Members for Greenwich and Woolwich, and for Westmorland and Lonsdale, for their broad support for this package of measures. I will do what I can to reassure them on the points that they raise, but I hope that they appreciate that we will follow up on some of them in writing. I am relatively new in post, and still getting on top of the detail. I feel as if I am doing okay, but on certain points I do not want to mislead the Committee, so I will write to ensure that I hit all the points raised.

I referenced the publication of data and its accessibility by the public. The data that is made available through machine-readable open data will be accessible to the public, but further gathered data will be retained—for instance, for national security purposes—and held by Government, but will not be publicly available.

On exemptions for information, I will write to the hon. Member for Greenwich and Woolwich to clarify that point further. We aim to make the land market as transparent as possible, and as much data available to the public as possible, while ensuring that the privacy of personal data is absolutely protected. That is a very fine balance, but I hope that hon. Members appreciate that the intent is to make a more open, competitive and transparent land market, which will benefit all of us, and all parts of the UK.

Question put and agreed to.

Clause 178 accordingly ordered to stand part of the Bill.

Clauses 179 to 183 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Nigel Huddleston.)*

3.7 pm

Adjourned till Tuesday 18 October at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

LRB60 Stonewater

LRB61 Hampshire County Council

LRB62 Samuel Ruiz-Tagle, Research Associate in Administrative Law and Governance, Centre for Climate Engagement, Hughes Hall, University of Cambridge

LRB63 Gloucestershire County Council

LRB64 Home Builders Federation

LRB65 Royal Institution of Chartered Surveyors (RICS)

LRB66 Hertfordshire Police and Crime Commissioner

LRB67 Chartered Institute of Taxation

LRB68 Crisis

LRB69 Finance and Public Administration Committee, The Scottish Parliament

LRB70 Construction Industry Council