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Public Bill Committee

LEVELLING-UP AND REGENERATION BILL

Twenty Fourth Sitting

Tuesday 18 October 2022

(Morning)

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Saturday 22 October 2022

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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

Tuesday 18 October 2022

(Morning)

[Mr Philip Hollobone *in the Chair*]

Levelling-up and Regeneration Bill

9.25 am

The Chair: I have a few preliminary reminders that Mr Speaker has asked me to read out for the Committee. Please switch electronic devices to silent. No food or drinks are permitted during sittings of this Committee, except for the water provided. *Hansard* colleagues would be grateful if Members could email their speaking notes to hansardnotes@parliament.uk.

Clause 184

Pavement licences

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

The Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities (Dehenna Davison): It is a pleasure, as ever, to serve under your chairmanship, Mr Hollobone. The temporary streamlined route for pavement licences implemented in 2020 has been successful in supporting the expansion of outdoor dining during the covid-19 pandemic and the economic recovery. To continue supporting the hospitality sector, and to encourage better use of our high streets for our communities, we are making that measure permanent.

Clause 184 inserts a new schedule that amends the Business and Planning Act 2020, making the measure permanent subject to the amendments set out within the schedule. The clause is necessary to ensure that businesses, communities and local authorities have a sustainable process going forward, which balances the interests of all and enables better use of outdoor spaces. I commend the clause to the Committee.

Question put and agreed to.

Clause 184 accordingly ordered to stand part of the Bill.

Schedule 17

Pavement licences

Alex Norris (Nottingham North) (Lab/Co-op): I beg to move amendment 199, in schedule 17, page 321, line 27, at end insert—

"(A1) In section 1 of the 2020 Act (Pavement licences), in subsection (5)(b) at end insert 'but includes any part of a vehicular highway which is adjacent to a highway to which part 7A applies.'."

This amendment would enable the pavement licence to include part of the carriageway, where the carriageway were adjacent to, for example, an eligible pavement. This would enable a licensing authority to grant licences which occupy part of the highway shared between space for pedestrians and vehicles.

It is a pleasure to resume debate with you in the Chair, Mr Hollobone. We support the principle of pavement licences, along the lines of the Minister's introduction, but we have tabled a few amendments that would enhance them. We are interested in getting some views on the amendments, to ensure that the scheme works as well as it can, taking into consideration concerns about its implementation, whether of road users, walkers, businesses or disabled people. We need to ensure that all voices are heard, and the Bill provides a good moment to do so. As the Minister said, this was a very challenging time for business, but having gone through a dreadful couple of years of collective sacrifice we should seek to grab whatever good we can get from it.

One of the issues, with the benefit of hindsight, with the Business and Planning Act 2020, which legislated for pavement licences, is that a licensed area may take up part of the pavement but not part of the carriageway unless vehicles are already restricted or excluded from it. The existing provisions therefore protect vehicular space but reduce pedestrian space, which is contrary to the aims of "Gear Change", the vision of the Department for Transport to make England a great walking and cycling nation. If it is right to license extra space for use for commerce, I do not think that we should put a blanket limitation on the nature of the space available, and not include highways when local space could sensibly accommodate it. Again, it would be a matter for local discretion whether it was reasonable to encroach on the space used primarily by motor vehicles, not just by pedestrians.

The amendment would allow a pavement licence to use part of the carriageway adjacent to a pavement. Local authorities would then be able to decide where it was appropriate to allow use of the carriageway. We would expect them to refuse the use of busy roads, but perhaps to license space in other roads and to use road furniture creatively, just as a build-out can accommodate a bus stop, to ensure that the space is still available in its usage. The amendment would empower local authorities, which know best in this regard, to make the decision, thereby giving a bit of flexibility. I am interested in the Minister's thoughts.

Dehenna Davison: The Government are incredibly supportive of provisions making it as easy as possible for businesses and authorities to facilitate outdoor eating and drinking through the use of the streamlined pavement licence process. I am grateful for the shadow Minister's broad support for this measure.

There are already a number of ways in which a local authority can consider the pedestrianisation of a street—for example, through traffic regulation orders under the Road Traffic Regulation Act 1984 and through a pedestrian planning order under section 249 of the Town and Country Planning Act 1990. That includes facilitating the placement of furniture on the highway for al fresco dining. The regimes already in place to consider pedestrianisation include important processes to allow the consideration of any issues, including whether vehicular access is required at any time of the day. Pavement licences can then be granted for highways that have been considered under those processes. We have seen the success of that in practice across the country, including

in Soho in London and in the Northern Quarter in Manchester, so I kindly ask the shadow Minister to withdraw his amendment.

Alex Norris: I am grateful for the Minister's answer. I felt that there was a contradiction, however, because she started by talking about a desire to streamline the process, but it was explained essentially as a double process. Not only will there be a pavement licence process, but the local authority will then have to do the other process that she detailed in order to change the use of the space. I am not sure that that is streamlined. Nevertheless, the facility is there to do it and I think that I have made my point, so I will not labour the argument any further. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Alex Norris: I beg to move amendment 204, in schedule 17, page 322, line 7, at end insert

", together with any profit share, the maintenance fee and the cleansing fee"

This amendment and Amendment 205 would enable the local authority to share in the additional profit accruing from a licence enabling the licensed business to trade on the highway, and to recharge to the licensee the cost of maintaining and cleansing the licensed part of the highway.

The Chair: With this it will be convenient to discuss amendment 205, in schedule 17, page 322, line 10, at end insert—

"(1C) In subsection (1A)—

(a) 'the profit share' is such sum as the person who applies for a pavement licence, as part of an entity employing more than 250 people, and the local authority may agree represents one half of the additional profits arising from the grant of the licence during its term, or such sum as the local authority may reasonably determine to represent that amount in default of agreement;

(b) 'the maintenance fee' is such sum as the person who applies for a pavement licence and the local authority may agree represents the cost of maintaining that part of the highway comprised in the licence during its term, or such sum as the local authority may reasonably determine to represent that amount in default of agreement;

(c) 'the cleansing fee' is such sum as the person who applies for a pavement licence and the local authority may agree represents the cost of sweeping and cleansing that part of the highway comprised in the licence during its term, or such sum as the local authority may reasonably determine to represent that amount in default of agreement."

See explanatory statement to Amendment 204.

Alex Norris: A highway is part of the public realm. Every publicly maintainable highway is, under section 263 of the Highways Act 1980, vested in the highway authority. Pavement licences and the granting of public space to be used by private business must therefore strike the balance between commerce and the community.

Let us consider a very foreseeable example. Let us suppose that a large, national chain of pubs with an extensive frontage on a street—perhaps a pedestrianised street—seeks a licence for the use of that street for seats and tables. That, in and of itself, is a good thing. I love a decent pub garden. My hon. Friend the Member for Greenwich and Woolwich always complains that I make him stand outside. I hate being inside in a pub; I like being outside, and I suspect that there are a significant number of like-minded people who may wish to vote with their feet, so it is good that we are offering this facility. However, we should understand that it may well be a highly lucrative endeavour for the business. The business increases its capacity to trade, particularly in summer. We know that some of the very big chains can increase turnover by significant sums in this way.

At the moment, the local authority can charge a fee for the pavement licence. This Bill amends the fee from £100 per application under the 2020 Act to £500 for a new application and £350 thereafter for repeat applications. We say that this is a step in the right direction, but it is not likely to do much more than meet some of the administrative, monitoring and enforcement costs. Of course the public, under this process, lose their right of access to the area and, unless they are customers of the licensee, they do not gain any benefit from it, but, as I said, the licensee can derive significant benefit, so we have to try to find a balance, which is what I am seeking to do in amendments 204 and 205.

We know that things are tough enough, particularly for small and medium-sized businesses—often the local independents that populate much of our high streets—so I have removed them from this proposal by using the 250-staff threshold that the Government used with regard to calories on menus. I think that that is where I divined that they draw the line for small and medium-sized businesses. I would be interested to hear from the Minister whether she felt that that was not the case, because I am seeking to target the proposal particularly on larger companies, which perhaps can afford to pay a bit more.

It is incumbent on us to drive a hard bargain for our constituents and for a fair deal for this use of space, because the local authority will retain its obligation to cleanse, drain and maintain the street. Indeed, with more outside activity, the need for that could grow. It is important that those costs are reflected. Even when the licence is granted, the authority does not just offload its duties and obligations in this respect. Therefore these amendments would secure for the local authority a share in profits arising.

It is probably important to say at this point that these are probing amendments. There might be a different mechanism by which we could secure this outcome. If the Minister is minded that way, I certainly would be too, so I am interested in her views. I think that, in this process, a balance has to be found between private enterprise and the public interest and I do not think that we have quite found it yet, although what is in the Bill is a welcome move in that direction. I just wonder whether we can go a little further.

Tim Farron (Westmorland and Lonsdale) (LD): It is a continuing pleasure to serve under your guidance this morning, Mr Hollobone.

The amendment moved by the official Opposition gives us something to consider. For someone who represents an area such as Cumbria, where it is always sunny and al fresco dining can therefore happen at any time throughout the year, it is hugely significant. One of the learnings in the development of the pandemic that could have a

[Tim Farron]

positive ongoing legacy is the move towards dining and drinking outside, and making better use of the public realm. That is a positive thing.

Let us remember that pubs in particular have never been under more pressure than they are now. We lose many every week, with people losing their livelihood and communities the thing that holds them together. It is deeply troubling to see that happen. We should allow smaller pubs especially to gain the full benefit of anything that they can from the provisions allowing use of the pavement and parts of the highway to expand capacity and therefore increase profit.

I agree, however, that with larger employers and businesses we absolutely need to ensure shared benefit from the development for two reasons. First, we are giving local authorities more responsibilities. Planning departments—we have discussed this throughout the Bill—have an enormous role to play in ensuring that communities have genuine power. If we are devolving power to communities, we have to allow planning departments that work on behalf of those communities the resources—the scope—to be able to enforce their rules. This is an additional responsibility, so we should enable additional finance to go to the planning authorities to make sure that they can uphold the rules, protect the community and ensure that the costs to the local authority, the community and the council tax payer for highways, refuse collection and other things are borne jointly.

Secondly, many people will observe that throughout there has been a disconnect between the interests of the local authority and the business community. The proposed measure would integrate them—the fact that there is joint benefit shows that it is in the interests of the council tax payer and the business rate payer to do the same thing. Organised synergy is almost a consequence of the two amendments, which is why they are important. I hope that the Government will take them seriously.

Dehenna Davison: The thing that is most wonderful about today is that only seven minutes into the Committee's sitting, we have found some cross-party agreement, which is on the quality and value of a good pub garden. I hope that at some point we can share a pint in one, when the Bill Committee is over.

Clearly, in my last few trips, I have been in Cumbria on those incredibly rare rainy days, but the hon. Member for Westmorland and Lonsdale made a good point that pub and hospitality businesses are under pressure. According to our most recent stats, 73% of hospitality firms have outstanding debt as a result of the pandemic, so at this point we really do not want to put additional undue pressure on businesses.

In developing the proposals to make the streamlined pavement licensing process permanent, we have worked closely with local authorities, business, leaders of the hospitality sector and the community. That is why we are increasing the fee cap from £100. We will take detailed analysis of the actual cost to create a sustainable process, which will cover the cost to local authorities of processing, monitoring and enforcing the powers, while remaining affordable and consistent for businesses around the country. Businesses have seen inflated fees reaching thousands of pounds per application under the previous process.

Local authorities maintain flexibility to set fees at any level under the fee cap, to respond to local circumstances. For example, we have seen some areas make licences completely free in order to support their local high street. At a time of rising costs, we are not seeking to impose additional charges on business, in particular given that the hospitality industry was one of the hardest hit by the pandemic. On that basis, I ask the hon. Member for Nottingham North to withdraw his amendment.

Alex Norris: I am grateful for the contribution of the hon. Member for Westmorland and Lonsdale. His point about joint benefit is a good way to characterise this—we do not envisage a situation in which business and local authorities scrap it out, but take a sharing approach, with the benefit going to local rate payers as well.

I am also grateful for the Minister's response. She addressed well the point on cost, and we would not want local authorities and therefore rate payers to be out of pocket for the processes, so there should be cost recovery. However, I do not think she has addressed the point on the enhanced value through use of a public asset. As drafted, the amendment is not quite ready for inclusion in the Bill, but I hope that the Minister will reflect further on the point that it makes. We will certainly return to it in due course, but for the moment I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Alex Norris: I beg to move amendment 200, in schedule 17, page 322, line 19, at end insert

'(2B) In subsection (7), for "it is sent to" substitute "a receipt for the application is sent to the person who applies for a pavement licence by".'

This amendment would cause the public consultation period to begin from the date on which the local authority sends a receipt to the applicant.

The Chair: With this it will be convenient to discuss amendment 201, in schedule 17, page 322, line 30, leave out '14' and insert '28'.

This amendment would amend section 2 of the 2020 Act so that the consultation period for licence applications would be 28 days, rather than 14.

Alex Norris: Under the current provisions of the 2020 Act, the application and consultation process for a pavement licence do not adequately protect the public interest, particularly with regard to having suitable time to engage in a consultation. As it stands, the process is such that the applicant for the licence must immediately display a notice on their premises. The date of the application is the date on which it is sent to the local authority and that display is made. The local authority must then publicise the application for public comment. The public consultation period lasts seven days, starting the day after the application has been made. The Bill amends that to 14 days—that is welcome—but that is the sole change to the process. We think the process could be further improved and my amendments seek to do that.

Amendment 200 delays the date on which the application is deemed to have been made until the local authority issues a receipt. That delays the start of the clock on the public consultation period until the local authority has

been able to act and do something about it. Amendment 201 builds on the increase to 14 days and instead increases the period to 28 days, therefore protecting the public with such a period of engagement. As the 2020 Act currently applies, if the local authority fails to publicise the application until a week after receipt, the public have no time to respond. That is assuming that they have not seen the site notice, and we know there is a challenge there. That cannot be right or fair for the public, and is probably reflected in the decision to move to 14 days. However, we still think that is not enough time, especially if we consider that we are often talking about the summertime. We know local authorities already have limited resources. If the appropriate officer is away or unavailable, there might be a delay to that process, when the clock is running down and the public do not know that.

That is worthy of consideration in and of itself, to ensure that the right balance is struck regarding the public interest. I am also interested in the Minister's views on the following matter. In the 2020 Act, section 3(6) says that there may be circumstances in which the granting of a licence would have unacceptable effects on the use of a highway. That makes sense because, otherwise, why have a process? There are circumstances where the answer might be no. However, at the moment, if the local authority does not act quickly enough, the licence is granted notwithstanding those effects. There is a contradiction there. Can the Minister say whether the Government wish to draw the line at 14 days? Is it clear that there could not be a situation where what ought to be a rejected grant could, through delay, be granted anyway?

Dehenna Davison: I thank the shadow Minister for his clarity on the purpose of his amendments. The pavement licence process that we are seeking to make permanent has been successful over the past few years because it provides a simpler and more streamlined process to gain the licence. We feel that the amendments would place unnecessary new administrative processes on local authorities by requiring a receipt to be sent to all applicants. They also have the potential to create a delay in the process, meaning that licences could take longer to be determined should receipts not be processed within reasonable timescales. We are, however, seeking to double the consultation and determination periods, compared with the temporary process, to ensure that communities have sufficient opportunities to comment on applications.

We have worked closely with stakeholders, including groups representing disabled people, local community groups, businesses and local authorities, in considering the consultation period when making the streamlined pavement licence process permanent. In working with those groups, we have sought to achieve a balance between a quick and streamlined process and ensuring that process is sustainable for the long term and gives communities an opportunity to comment on applications. That is why we are setting the consultation period at 14 days—double that of the temporary process. We feel that the amendments would create a slower process than that which it replaces, adding unnecessary administrative burdens for local authorities.

The shadow Minister is correct that if the local authority does not decide within the 28 days, the licence will be deemed granted, but local authorities still hold control, as they are able to publish conditions in advance that will automatically apply to any deemed licence. That provides an additional layer of protection, so I kindly ask him to withdraw the amendment.

9.45 am

Alex Norris: I am grateful for that last point on protection, which addresses the issue. Where there is a difference is that the Minister characterises this as a possible delay in the process. I would say that that is the whole purpose. Our interest is in ensuring that the public get the full time to have their say. It is welcome that there has been consultation with groups who take an interest in this matter. I would be slightly surprised if the consensus among them was that less time is better, or that the weird period where the application has started and they just do not know about it is a desirable use of the first two or three days of the 14, but I might have to test that with them outside the Committee. However, that is probably a point to return to in due course, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Alex Norris: I beg to move amendment 203, in schedule 17, page 322, line 31, leave out paragraph 7 and insert—

"7 (1) Section 3 of the 2020 Act (determination) is amended as follows.

(2) After subsection (8) insert—

'(8A) A local authority, in deciding whether to grant a pavement licence under subsection (3), shall have regard to the desirability of maintaining the free flow of pedestrians and other road users along the highway, and the avoidance of inconvenience to such persons.'."

This amendment would confer discretion on a local authority to have regard to the needs of road users in deciding whether to grant a pavement licence.

As I said in the previous debate, under the 2020 Act the local authority can refuse to grant licences that prevent traffic from passing along the highway or that inhibit the passage of, say, mobility scooters. However, the Act is not clear—I want to test the Minister's views on this—about whether a local authority can refuse a licence that inhibits or unduly influences the free flow of people or their enjoyment of the public amenity. For example, what if an authority believed that the use of the licence would substantially interfere with the free flow of pedestrians or cycles at a peak time or deprive people of the use of street facilities such as benches? If residents living nearby, or in flats above shops, would be disturbed by the use of the licence above and beyond what we would normally expect under the alcohol licensing process, would an authority be able to refuse the licence on that ground alone? The Government's guidance states that

"1500mm clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway",

but 1.5 metres is not a particularly generous allowance in a shopping street. Would the Minister be comfortable with a local authority seeking more than that?

The amendment proposes a solution to the examples I have listed. It proposes that an authority should be able to refuse a licence if the use of it would interfere with pedestrian flow—for example, if it would leave the pavement so narrow that pedestrians might feel they

[Alex Norris]

had to step into the carriageway to pass each other, which obviously is not very desirable. I am keen to test the Minister's views on that, and to get on record the level of flexibility that local authorities have to balance the enjoyment of the amenity across various, possibly competing, interests.

Dehenna Davison: I thank the shadow Minister for raising an important issue that local authorities must consider when determining applications, which is the continuing flow of pedestrians and other road users on the highway. The Business and Planning Act 2020 already requires that local authorities take that into consideration when determining applications through section 3(6), and it prevents licences from being granted where they would prevent pedestrians or other non-vehicular traffic from entering or passing along the highway or having normal access to premises adjoining the highway.

Ensuring that pavements remain accessible to everyone, including disabled people, is a condition of the temporary pavement licences issued by councils. Where that condition is not met, licences can be revoked. To provide some reassurance, we have worked with the Royal National Institute of Blind People and the Guide Dogs for the Blind Association to refine the guidance to ensure that local authorities consider the needs of people who are blind when setting conditions and making these decisions.

We have carefully considered the issue of minimum distances, which the shadow Minister raised, and we judge that we should leave some room for reasonable local discretion, given the different physical environments involved. However, we have made it clear that 1.5 metres will be the minimum acceptable width in most circumstances. We therefore resist the amendment on the basis that the existing legislative framework already requires local authorities to consider these issues, and they cannot grant a licence if pedestrians are prevented from using the highway as they usually would. I therefore kindly urge the shadow Minister to withdraw his amendment.

Alex Norris: I am grateful for that answer. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Alex Norris: I beg to move amendment 202, in schedule 17, page 322, line 32, leave out "14" and insert "28".

This amendment would allow a local authority 28 days to determine the application, instead of 14.

If this feels a bit like a replay of the debate on amendments 200 and 201, I assure colleagues that it is slightly different—they might just have to squint to see that.

At the moment, the Bill retains the stringent regime whereby a local authority must determine an application for a pavement licence within a fixed period. Formerly, that period was seven days; it will now be 14 days. If the local authority fails to do so, the application is deemed to have been granted. Labour wanted to extend the period for consultation purposes, but we have not succeeded. I want to test the point of potentially amending it to give the local authority

"28 days to determine…instead of 14",

as it says in amendment 202.

We remember well the quick passage of legislation during the early knockings of the pandemic. As the Minister said, the industry was struggling and we needed to support it, and quick action was integral to that. The times for consultation and determination in the 2020 Act reflected that, but now that we do not have such time pressures, it is reasonable to expect a little more time for determination, not least because local authorities are hard-pressed. They will probably have only a single person, not teams of people, working on these applications.

The two-week period would not align with most applications people might make to their local authorities. For example, it would certainly not align with an alcohol licence—ordinarily, that would not be determined in 14 days, and it definitely would not be deemed to be granted if the clock had run out. Labour feels that having a little more time—28 days, rather than that two-week period—would give space for creative solutions in line with those the Minister set out in the previous debate and would ensure a fair balance between the business, the public and the local authority.

Dehenna Davison: We have worked closely with stakeholders, including groups representing disabled people, local community groups, businesses and local authorities, in considering the determination period when making the streamlined pavement licence process permanent. In working with those groups, we have sought to achieve a balance between a quick and streamlined process and ensuring that the process is sustainable for the long term and gives local authorities sufficient time to consider any issues and determine the application. That is why we are setting the determination period at 14 days—double that of the temporary process.

I refer the shadow Minister to comments I made on the previous amendment. Local authorities can publish conditions in advance, which will automatically apply to any deemed licence. However, even if a licence is granted, local communities will still be able to contact local authorities about any concerns they have, and authorities will have enforcement powers to tackle any issues raised. We deem that the period is lengthy enough, but local authorities will of course continue to have those enforcement powers should any issues arise. We fear that the amendment would create a slower process than that which it replaces. I therefore urge the shadow Minister to withdraw it.

Alex Norris: It absolutely would create a slower process, but that was the intention. I will not press it to a Division, but I hope the Minister will reflect on the fact that it seems considerably out of kilter with other decisions of this nature that are made for licences and permits. I cannot think of another that would be as quick as 14 days, with a deemed acceptance if the clock runs out. In those others cases—say, for a parking permit or an alcohol licence—there is good reason to have a little time for reflection, and I think those reasons probably apply here.

This is perhaps not a point to labour any further today, but I hope the Minister will keep thinking about it. We could be in danger of being just a little too streamlined. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Alex Norris: I beg to move amendment 206, in schedule 17, page 323, line 5, at end insert—

"(8A) (1) Section 5 of the 2020 Act (conditions), is amended as follows.

(2) After subsection (7) insert—

'(7A) The conditions to which a licence granted by a local authority may be subject include—

(a) a condition that any furniture which may be placed on the highway under the licence must be removed from the highway at times when the premises are not open to the public;

(b) a condition that, where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must ensure that smoking or vaping does not affect others.'.

(3) After subsection (8) insert—

'(9) But regulations under subsection (8) must not prevent a local authority imposing a condition, nor affect a condition imposed by a local authority for the purposes of subsection (7A)(b).'"

This amendment would allow a local authority to require that furniture is removed from the highway when it is not in use, as well as imposing a condition to require the licensee to prevent smoke-drift affecting those in the vicinity.

Me again. Sections 5(4) to (6) of the 2020 Act cover the imposition in a licence of a "no-obstruction condition" and a "smoke-free seating condition". These conditions require the licensee to avoid the effects specified in section 3(6), including

"preventing traffic, other than vehicular traffic, from…passing along the relevant highway"

and to make reasonable provision for seating where no smoking is permitted. The Bill does not affect these requirements, which the Opposition support. However, we might want to tighten up these provisions to ensure they have the desired effect.

Local authorities are already required to impose a smoke-free seating condition to ensure that reasonable provision is made to accommodate non-smokers. A smoke-free seating condition, however, does not give the public, people using the highway or neighbouring premises, or people living above the premises explicit protection to ensure that their enjoyment of the amenity is not affected by people smoking. Smokers are more likely to go to outdoor tables because they cannot smoke inside, and that can throw down a gauntlet, in that the public have to run through a cloud of smoke.

Amendment 206 would expressly enable local authorities not just to lay down conditions about smoke-free seating, but to require in those conditions that the licensed area should not affect passers-by, neighbouring shops or homes. If, for example, there are flats above a café, a condition could require steps to avoid the occupiers being affected by smoke drift. We are seeking a balance, so that people using a highway can do so peacefully and with the full enjoyment of the amenity. I hope the Minister will say that local authorities can already do that, but if that is not the case and if this amendment is not the right answer—though I think the principle is likely one that is shared—how do local authorities ensure that balance for people?

Dehenna Davison: I thank the shadow Minister for his dedication on this point. Pavement licences may be granted subject to any condition that the local authority considers reasonable, as set out in section 5(1) of the Business and Planning Act 2020. We are aware anecdotally of conditions that would, for instance, require licensed furniture to be removed when not in use and that go further than our national smoke-free condition.

We are all about empowering local areas and relying on local leadership. That is why we consider that local authorities have the local knowledge and appropriate powers to impose such conditions, should they consider that necessary. A number of local authorities have already implemented local smoking ban conditions for outdoor seating, including the City of Manchester, Newcastle and North Tyneside, so it is clear that local conditions can be implemented where it is appropriate and desired. On that basis, we do not think it is necessary or appropriate to create national conditions, and there are circumstances where it may not be necessary or appropriate on a local level. I would therefore ask the shadow Minister to withdraw his amendment.

Alex Norris: I am grateful for that very clear answer. There are areas where this is still a point of debate. I think the Minister's answer alone will resolve that. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Alex Norris: I beg to move amendment 207, in schedule 17, page 324, line 19, at end insert—

"(4A) If the person leaves or puts removable furniture on the relevant highway in contravention of the notice, the local authority may issue a fixed penalty notice of £500 to the person in accordance with guidance issued by the Secretary of State.

(4B) Subsection (4A) applies whether or not the local authority has taken the action specified in subsection (4)."

This amendment would enable local authorities to issue £500 fixed penalty notices to persons who leave or put removable furniture on a street in contravention of a notice.

The Chair: With this it will be convenient to discuss amendment 208, in schedule 17, page 324, line 19, at end insert—

"(4A) It is an offence to leave or put removable furniture on the highway in contravention of a notice issued under subsection (3).

(4B) A person guilty of an offence under subsection (4A) is liable on summary conviction to a fine.

(4C) A person may be prosecuted for an offence under subsection (4A) notwithstanding whether or not the local authority has taken action against the person under subsection (4)."

This amendment would make it an offence to contravene a local authority notice requiring a person to remove furniture or to refrain from putting it on the highway.

Alex Norris: This is my final amendment to schedule 17. This is a really important point, and I hope to find the Minister in listening mode. The provisions in part 10 of the Bill have addressed many of the problems with the temporary regime for pavement licences and have given local authorities a bit more say and strength in this matter. That is very welcome.

However, under the temporary regime we are seeking to replace, many licensing authorities highlighted the challenge of not being able to adequately enforce the

[Alex Norris]

regime they are overseeing, with district councils issuing licences under the temporary regime, while enforcement powers remain with county councils under the Highways Act. A couple of the answers the Minister has given have relied on enforcement, so the enforcement point is important. For example, if a premises puts tables and chairs outside its business without a licence, the licensing authority is not the one that can take action; it needs the highways authority to do that, so it already gets a little complicated.

10 am

That can have an impact because there have been cases across the country where, seeing a change in culture—suddenly all these tables and chairs are springing out—businesses that did not know that they had to apply stuck tables and chairs out in good faith. However, they had not gone through the processes, so they have not looked at passage, particularly for disabled people, noise nuisance and possibly even customers being at risk if they have to go into the road. Again, there is a reason why there is a regime around this.

Under the current provisions, if a business breaches its licence, licensing authorities can remove the furniture and store it, require the person to pay the authority's reasonable costs for removal and storage, and refuse to return the furniture until those reasonable costs are paid. If, within the period of three months, the person does not pay the reasonable costs or recover the furniture, the authority may dispose of it by sale or in any other way it thinks fit, and retain any proceeds of sale for any purpose it thinks fit.

For some licensing authorities, particularly bigger ones, those powers will be workable, but others have concerns about the logistical challenges involved and that those provisions will not be effective for them. For example, many councils have said that they will not have the capacity to collect or store that furniture and that removing it could place licensing or other officers in a confrontational situation with business owners and create other drama. There is therefore a case for licensing authorities to have alternative powers, which is what these amendments are designed to address.

Mr Hollobone, you, like many colleagues in this room, have done a lot of service in local government, and "works in default" is important for local authorities to be able to use. If a house is going to fall over and bring its neighbours down with it, the local authority must be able to do something about it, and those who ought to pay must be the ones liable for that final bill. However, getting that money is a real pain, and those who are inclined not to do the right thing in general will often not do the right thing in that instance. So perhaps having a slightly different tool in the armoury would help.

Amendments 207 and 208 would make it an offence to contravene a local authority notice requiring a person to remove furniture or to refrain from putting it on the highway. That would enable authorities to issue £500 fixed penalty notices to persons who leave or put removable furniture on a street in contravention of a notice.

The amendments will also offer licensing authorities an alternative approach to tackling non-compliance, by creating an offence of breaching a pavement licence or operating without one, and by giving councils the ability to issue a fixed penalty notice for those offences. Councils will then have a range of different enforcement approaches, such as seizing the furniture or issuing a notice, depending on the circumstances of each case.

I am pleased to have support on this issue from the Local Government Association, the Institute of Licensing and the National Association of Licensing and Enforcement Officers. They support these amendments, so I think we are in the right place regarding practicalities. I hope the Government, either today or at a later stage, will also back this approach, because it would give just a little more flexibility.

Dehenna Davison: The Government recognise the importance of having a system that can be properly enforced to deter and tackle the unauthorised placement of furniture. Powers introduced in the Bill enable local authorities to serve notice requiring that businesses remove furniture that has been placed on the pavement without a licence. If that notice is contravened, local authorities can remove furniture themselves or issue an instruction to have it removed, and can then recover the costs of that and go on to sell the furniture and retain the profits.

The Government's position is that the introduction of the powers proposed will lead to appropriate protection of our communities by giving local authorities powers that work as a deterrent and to directly tackle issues where notices are ignored, ensuring that the licensing system operates appropriately. Ultimately, local authorities will still have the power to revoke a licence.

It is also important to note that highways authorities already have powers in the Highways Act 1980 to tackle obstructions on the highway. That includes section 148, which creates an offence of depositing, without lawful authority or excuse, things that cause interruption to users of the highway.

The shadow Minister mentioned some of the groups that he has worked with, and I would be delighted to sit down with him to discuss their response. However, at this stage, I ask him to withdraw the amendment.

Alex Norris: I am grateful for that. It is of note that those who know of what they speak in this area, particularly on a day-to-day basis, feel the way they do. However, the Minister's offer is a good one and I will take her up on it. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 17 agreed to.

Clause 185

HISTORIC ENVIRONMENT RECORDS

Rachael Maskell (York Central) (Lab/Co-op): I beg to move amendment 130, in clause 185, page 190, line 2, leave out "an historic environment record" and insert

"or have access to an historic environment record and adequate specialist advisory capacity"

This amendment is intended to ensure that all current models for service provision of HERs are covered by the provisions of Clause 185 and that HERs have access to specialist archaeologists and conservation officers.

It is a pleasure to serve with you in the Chair, Mr Hollobone. We are making good progress. Although the provision in the legislation on historic environment records is good in itself, it simply does not go far enough. My amendment calls for specialist archaeologists and conservation officers to be engaged in the planning process to a greater degree.

Historic environment records extensively map the physically accessible historic environment and archaeological areas. However, they do not come with a voice, a brain or context. The amendment, which is supported by those who work in the field, recognises the unique importance of specialist archaeologists and conservation officers in the process and the need to draw on their skills and expertise to advance the understanding of a site, which often is missed when just looking at historic records.

Although HERs are an important starting point, it is about the interpretation of the relevance of a site and using that specialist knowledge combined with the records that makes a significant impact on the site and makes it significant. Eighty areas in England are covered by HERs; two thirds of records are held online and are accessible via local authorities. An archaeologist can interpret the HER data, bringing it to life, placing it into context and giving the site relevance, weighing the possibilities and asking the challenging questions about that site: why is it there? What is it about? How does it impact on us, past and present?

I use York as an example of the discoveries made, because there have been so many incredibly significant finds in the city that have led to further exploration and understanding of the context of our history. Ensuring that we engage specialist archaeologists and conservation officers extends the understanding of our past and the influences on us. In York there have been so many finds on the Coppergate site. People think about the Jorvik centre, but behind that is the understanding of our city as an international place of trade, and what that meant then and today for diversity in our country and where we all come from. Those issues are so important in the archaeological context, but we would not get that from an HER. That is why it is so important to extend the legislation to ensure that we have those minds and that knowledge applied to the records, to ensure that there is significance.

I think about the Richard III finding in Leicester. Had the minds not been there, that site could have so quickly been missed. Yet the discovery of Richard III has given a huge economic opportunity for that city, not least from tourism. It is important that the skills that we have educated people in, which they have applied in their science and their art, can be brought into the process. That will ensure that we have the specialist archaeological and conservation officers' engagement with the historic environment records, which will give real value to this process and ensure that we are not just looking at a paper exercise, but using the science and arts of archaeology and conservation to ensure the value of that site and build it into the identity of the community.

The Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities (Lee Rowley): It is a pleasure to serve under your chairmanship, Mr Hollobone. I am grateful to the hon. Member for York Central for introducing this amendment. We agree that historic environment records are an important source of information about the historic environment of any given area, especially its archaeology. I defer to the hon. Member for York Central in terms of her knowledge of the history, particularly in her area. HERs can help the public learn more about where they live and ensure that local plans and planning decisions are informed by an understanding of an area's history. I am glad that the hon. Lady and others have broadly welcomed clause 185 and the fact that we are putting historic environment records on a statutory footing for the first time. I know that the heritage sector has warmly welcomed that as well.

I completely understand the sentiment behind the hon. Lady's amendment. The first philosophical question we have to deal with is not whether this is a good thing in principle, but whether it is necessary to have it in primary legislation. My gentle challenge to the hon. Lady—and the reason that in a moment I will ask her to withdraw her amendment—is that I am not convinced this necessarily needs to be put forward in primary legislation in this instance, given what I am about to outline and the fact that there will be other opportunities for her to make her case and for the Government to consider what is possible.

Furthermore, though I understand the intent behind the amendment, we are concerned that the wording may potentially water down some of the statutory duties of local authorities, if it is looked at in certain ways. It may also be inconsistent with the current drafting of subsections (4) and (5), which provides for how the duty should be discharged by a local authority. I know that is not the intention of the hon. Lady, but it is something that has been raised by officials in discussion and appropriate assessment of this. Consequently, I will ask the hon. Lady if she would be minded to withdraw her amendment. She may be aware that we intend to publish accompanying guidance alongside the intention of putting HERs on a statutory footing. That will give some clearer views about how those records can be maintained. If she is willing, we will be happy to receive more detail about her concerns, and I will ask that officials give those concerns complete consideration when we are creating that guidance. I hope that some of the understandable concerns she has outlined today can be assuaged through that process. Therefore I will ask the hon. Member if she is content to withdraw her amendment.

Rachael Maskell: I welcome the Minister to his place. I take the challenge straight on. First, I reiterate the point that records themselves do not have application—they are presented in the way they are but they do not have a voice, they do not have context and understanding and they certainly do not have a brain, though they are written by those who do. Of course, archaeology is about a process and a journey; it is not static, but is moving the whole time. Therefore that context is really important to engage with.

I issue a challenge back to the Minster on the matter of watering down the role of local authorities. We all have a huge responsibility to preserve our heritage, understand our history and ensure that we are using the science of that. I know that archaeologists know more about science than we do, but we draw on the opportunities that that presents, which takes us into a stronger future as well as having commercial benefits. However, I am

[Rachael Maskell]

heartened to hear that there will be guidance that looks specifically at HERs and their application. I hope that when drafting the guidance the Minister ensures that specialist archaeologist resources are drawn on, as well as that of conservation officers, so that the maximum opportunity can be derived from looking at the historical context within the planning system. I will closely examine that guidance. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

10.15 am

Lee Rowley: I will not detain the Committee for long. Historic environment records are, as we have just discussed, an information service that provides access to comprehensive and dynamic historic environment resources. They relate, as the hon. Member for York Central indicated, to a defined geographical area, for public benefit and use. They are important sources of information for plan makers and applicants, as well as for the public and other Government bodies. We seek to put them on a statutory basis in order to provide clarity for the sector and those who wish to use the records. The clause will make it a statutory requirement that all local authorities maintain a historic environment record, which must be kept up to date, be maintained to an agreed standard, contain specified information as a minimum, and be publicly accessible.

Question put and agreed to.

Clause 185 accordingly ordered to stand part of the Bill.

Clause 186

REVIEW OF GOVERNANCE ETC OF RICS

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

Lee Rowley: The clause enables the Secretary of State to commission, from time to time, reviews of the Royal Institution of Chartered Surveyors. RICS, as many hon. Members will know, is the leading professional body for surveyors. Its members work across the UK, and RICS plays a vital role in these sectors. The guidance RICS publishes is valued by surveyors, industry and members of the public. The clause will enable reviews into RICS's governance and its effectiveness in meeting its objectives. The clause does not prescribe the frequency of reviews, but gives the Secretary of State the necessary power and flexibility to further specify the scope and timing of any review that is required.

The Government do not envisage enacting a review of RICS on a regular or specified basis, so long as RICS demonstrates its effectiveness and is reviewing its own performance to the satisfaction of Government and Parliament, but should a review be required the clause sets out that the person the Secretary of State appoints to carry out the review must be independent of both the Secretary of State and RICS. The reviewer must submit a written report setting out the results and any recommendations of the review to the Secretary of State, who will publish a copy of the report. The clause does not include powers for the Secretary of State to act on any such findings or recommendations; they would need the explicit approval of Parliament. That will ensure that the Government have the ability in law to review whether RICS is performing in the public interest, and I commend the clause to the Committee.

Matthew Pennycook (Greenwich and Woolwich) (Lab): It is a pleasure to serve with you in the Chair, Mr Hollobone. I thank the Minister for that explanation of the purpose of the clause, but he will be aware that the Royal Institution of Chartered Surveyors has expressed deep concerns about its precise wording, not least in terms of the precedent that it would set in relation to Government interference in other royal chartered bodies.

The issue is not the need for RICS to undergo periodic reviews of its governance and performance. Following the September 2021 publication of the Levitt report into the events that took place within the institution in 2018 and 2019, and the subsequent independent review undertaken by Lord Bichard, which examined its purpose, governance and strategy, RICS's governing council accepted that regular independent reviews should take place, with their findings laid before Parliament and the devolved nations. The case for periodic independent reviews is therefore uncontested.

From what the Minister said, I think what remains the point of contention is whether the Secretary of State should be given the power to commission reviews of RICS, the scope and frequency of which are not clearly defined in the Bill, or whether the clause should be revised to reflect the commitments made by the institution in the light of Lord Bichard's independent review. Given the serious concerns expressed by RICS, I will probe the Minister further on the Government's rationale for the clause's wording. Can he set out more clearly why, given that RICS's governing council has made it clear that it accepts recommendation 14 of Lord Bichard's review in full and will implement it subject to Privy Council approval, the Government believe that they still need to legislate to ensure that the Secretary of State can initiate reviews of RICS whenever they choose, as well as determine their scope?

Can the Minister also outline how such periodic reviews initiated by the Secretary of State using the powers in the clause would differ, if at all, from the parameters of independent reviews as outlined in paragraph 3.22 of Lord Bichard's review, and accepted in principle by RICS? Can he reassure the Committee that the Government have given serious consideration to the potential impact of approving this clause unamended on not only RICS's independence and ability to act in the public interest but the status of royal chartered bodies more widely?

As I say, we have no issue with the clause in principle, and we do not suggest that it should be removed from the Bill entirely; there is clearly a need to act to ensure that RICS is subject to regular independent review. However, we want the Government to properly justify the inclusion of the clause as worded in the Bill, rather than amending it to reflect developments following the publication of Lord Bichard's review. I look forward to hearing the Minister's response.

Lee Rowley: I am grateful to the hon. Member for his questions, which are entirely reasonable and on which I hope to provide some assurance. First, he asked why the

Government are asking for this power, given that the Bichard review has outlined a process to resolve the current situation. The view of the Government and of previous Ministers who instigated this was that a process was likely to be under way, but equally there is value in the Secretary of State having this power, should it ever be necessary in the future, which obviously we hope it would not, and we have indicated that it would be used extremely sparingly. The principle of having the ability to instigate a review is one that the Government believe is reasonable and proportionate.

Secondly, the hon. Gentleman asked how the terms of reference would differ from an independent review. That question would have to be asked in individual circumstances, so I hope he will accept that it is a difficult one to answer. However, I understand the sentiments behind the point he makes.

Finally, the hon. Gentleman asked whether the Government have given serious consideration to the impact of this approach on the ability of RICS and other bodies to operate. I am happy to confirm that the Government and I will engage in discussion with RICS about this in the coming weeks before further stages of the Bill, and I will be keen to discuss with RICS all elements of the Bill, to understand its concerns and to see what reassurances I can provide.

Question put and agreed to.

Clause 186 accordingly ordered to stand part of the Bill.

Clause 187

Vagrancy and begging

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

Dehenna Davison: We recognise that this is an issue on which there is a great deal of passion and heart. The Government agreed that the Vagrancy Act 1824 was antiquated and not fit for purpose. That is why we committed to repeal the Act once an appropriate and modern replacement was in place. I pay tribute to those who have campaigned so passionately on this issue, such as my hon. Friend the Member for Cities of London and Westminster (Nickie Aiken).

It is important that we balance our role in providing essential support for the most vulnerable with ensuring that the police and other agencies can protect communities, while embedding rehabilitation and support at the heart of our approach. We launched a public consultation to seek views and inform any replacement for the Vagrancy Act. This placeholder clause will allow Government to introduce appropriate legislation once the results of the public consultation have been analysed.

In the meantime, the Government have made the unprecedented commitment to end rough sleeping within this Parliament. We remain steadfastly committed to that goal. By autumn last year, rough sleeping levels were at an eight-year low, having reduced by 49% since 2017. In September we published a bold new rough sleeping strategy, backed by £2 billion of public money, which sets out how we will end rough sleeping for good. I commend the clause to the Committee.

Matthew Pennycook: We are extremely concerned about the implications of this clause, and the explanation just given by the Minister does not reassure me one bit. Clause 187 is a placeholder clause that allows for a substantive clause to be introduced via Government amendment at a later stage in the Bill's passage. Its effect is to disregard the full repeal of the Vagrancy Act 1824 that the House approved via amendments to the Police, Crime, Sentencing and Courts Act 2022.

There are two fundamental problems with the clause. First, in approving section 81 of the 2022 Act, the House made it clear that it wished the Vagrancy Act to be repealed in full, so that homelessness would no longer be criminalised. It did not seek to qualify the effect of that measure by stipulating that the repeal of the 1824 Act should be delayed until replacement legislation was brought forward, which appears to be the Government's intention in inserting this placeholder clause in the Bill. The House voted purely and simply for repeal in full.

Secondly, precisely because clause 187 is a placeholder clause, we have absolutely no idea as we debate it today what the "suitable replacement legislation" will look like. It could include positive measures that featured in the consultation that the Minister mentioned, which was launched in April, such as multi-agency outreach, but there is a clear risk that any replacement regime introduced via the powers provided for by this clause could once again criminalise people who are begging or sleeping rough. We take the view that replacement legislation is not required at all. Existing legislation—including the Anti-social Behaviour Act 2003, the Modern Slavery Act 2015 and the Fraud Act 2006—already provides the police with sufficient powers to tackle harmful types of begging, harassment, antisocial behaviour and exploitative activity. By expressly allowing for the reintroduction of criminal offences or civil penalties for conduct that is the same or similar to that under sections 3 and 4 of the Vagrancy Act, clause 187 enables the effective re-criminalisation of homelessness and rough sleeping, with all the damaging and counterproductive implications that that entails.

As the Minister has recognised, the Vagrancy Act is an embarrassing remnant of Georgian England's approach to the poor and destitute. It deserves to be consigned to the dustbin of history in its entirety, rather than being surreptitiously restored in a modern form to enable the criminalisation of rough sleeping or passive begging. As I said, the House made its views on this matter clear during the passage of the Police, Crime, Sentencing and Courts Act, but if the Minister is in any doubt about the strength of feeling on this issue, she need only look at the long list of names of Members from her own Benches who have signed amendment 1, in the name of the hon. Member for Cities of London and Westminster (Nickie Aiken).

We do not intend to oppose clause 187 today, but if the Government do not voluntarily withdraw it from the Bill, we will work with Members from across the House to ensure that it is removed on Report. I hope that the Minister can give some indication today that that will not be necessary, and that the Government will reconsider their position.

Tim Farron: Likewise, I am appalled and deeply troubled by this provision. Clause 187 feels gratuitous—unnecessary. As we have heard, plenty of provisions already exist to

[Tim Farron]

allow the police to deal with antisocial behaviour that could be associated with rough sleeping and people who are begging. This clause feels unnecessary and counterproductive. Above all, it feels like an act of bad faith, given what the Government have committed to doing—both from the Treasury Bench in the Commons and from the Dispatch Box in the other place.

Tomorrow, we will either celebrate or mourn the 100th anniversary of the last Liberal leaving No. 10 —notwithstanding the current sleeper agent, obviously. The legislation that is brought back to life by this clause was nearly 100 years old, and out of date, back then, but even saying that is not going far enough, because if something is morally wrong, it is morally wrong no matter how old it is—whether it is 200, 100 or new, and whether it is from Georgian England, Lloyd George, or the current era. It is morally wrong to criminalise people for being homeless. It is pointless as well.

I have spent a number of nights over the years raising money for our local homelessness charity, Manna House in Kendal. We do a night sleeping rough in January up at Kendal castle. Some of the people who work with Manna House have slept rough in reality—in many cases for years. As we went through the difficulties of one night out in the open, the casual way they would speak about their experience on the street I found more chilling than the night air. It was not just the poverty, the hardship, the hunger and the cold; it was the sense of shame, the sense of not being fully human. A Crisis poll of people who are street homeless found that 56% felt that laws that criminalise them added to that sense of shame.

People who are in desperate housing need, and are on the street, need more than just a roof over their head—though they need that. They need sustained help in rebuildibng their life. Often there are addiction and other mental health issues that partner their homelessness, and may even have fuelled it. The last thing that they need is to be criminalised. There is no value to society in doing so. All that happens is that they are displaced to somewhere else. Instead, our society should be compelled to do something to meet their needs.

10.30 am

At the beginning of the pandemic, the Government did good work—let us give them credit—in ensuring that the majority of people who are street homeless became not street homeless in a matter of weeks. That showed what we can do if we put our minds to it. However, even considering reinstating the essential principles behind the 1824 Act, through clause 187, is morally wrong in any era. The Government should withdraw the clause immediately.

Rachael Maskell: I, too, rise in disgust at the piece of legislation before us today, and I urge the Government to think again. It is an insult not only to Parliament, which strongly voted to abolish the Vagrancy Act 1824 just this year, but to those incredibly vulnerable people who find themselves on our streets, for whatever reason. It is not for us to judge them; we should provide support and pathways for people out of that situation.

Yesterday at the Dispatch Box, the new Chancellor announced a new era of compassionate Conservatism. Today, we have this legislation before us, which is anything but. It is about othering people—the most vulnerable people in our society. It is about calling them out, and using despicable language to describe them: "vagabonds" and "rogues". These people are incredibly troubled. Today, language has moved on. We recognise that people who have serious mental health problems or addictions need support. We recognise people who simply do not have the money to survive in our society. That population is growing. There are three people officially registered as on the streets in York, yet when I went out the other morning, there were 23 people sleeping rough.

This is not just about people who are sleeping rough. Many people who are living in hostel accommodation, sofa surfing, and so on find themselves begging on the street. Many people I talk to—and this is where the Government must engage with the community—simply find applying for social security too complicated. They are fed up of being rejected by the complex process of getting access to the public money to which they are entitled. They therefore turn to begging as a mechanism by which to survive, feed themselves and get through the day or night. Many people have multiple challenges pressing down on them, including financial debt and other things that they owe.

To put into legislation once again, having just repealed them, measures that criminalise people who are trying to find their pathway through life—trying to survive—is an abomination. It is completely unacceptable to criminalise those individuals. This measure is not just about civil penalties; it is about the criminalisation of the most vulnerable people. Any compassionate Government would reach out and recognise their duty, and would recognise their blame and responsibility for allowing people to fall into that state. The language used is horrific. It is a horrific piece of legislation. I urge the Government to U-turn on it, and will praise them for it if they do. It is prejudicial and insulting, and it is certainly not beign done in my name, or in the name of my hon. Friends who are signed up to the amendment, which is significant.

Although the Conservative party is desperately trying to rebrand itself, deep down the roots of prejudice seem to continue to exist. If this Government spent time with those vulnerable people across our society, and understood their pathways and stories, they would not write such appalling pieces of legislation. It is not for any of us to judge those individuals, or to place our prejudices on them. It is for us to provide support and pathways out, so that they have the future that we have been afforded, and the opportunities we have had the privilege of having. We need to enable people to have that fresh start, however many attempts it takes. We need restitution and opportunity, not blame and criminalisation of the most vulnerable people in our communities. It is therefore disgraceful to see this measure before us, and I trust that the Minister will withdraw the clause.

Dehenna Davison: The hon. Lady made a very good point when she said that it is for us not to judge, but to provide support and pathways, and the Government are absolutely committed to that. I have already outlined the rough sleeping strategy, which was announced just a few weeks ago.

I want to reassure the Committee that the Government are absolutely committed—we have repeatedly been clear about this—to not criminalising anybody simply for having nowhere to live. The intent of any replacement

legislation will not be to criminalise people for being homeless. I want to put that point very firmly on the record.

On our support for rough sleepers, we want to ensure that rough sleeping is ended in a way that is sustainable in the long term. That means preventing people from needing to sleep rough where possible and, where rough sleeping does occur, ensuring that those spells are rare, brief and non-recurring. We recently published our strategy, which is backed by more than £2 billion of funding over the next three years. As part of that, we announced the new £200 million single homelessness accommodation programme, which aims to provide up to 2,400 supported homes for rough sleepers by March 2025, and £500 million to provide 14,000 beds for rough sleepers and 3,000 staff to provide tailored support across England. That support is absolutely crucial in ensuring that those who are homeless can get back on their feet. The support includes helping individuals to find work, manage their finances and access mental and physical health services. We will fully enforce the landmark Homelessness Reduction Act 2017, which we believe is the most ambitious reform to homelessness legislation in decades.

Mrs Emma Lewell-Buck (South Shields) (Lab): The Minister is asking us to have faith that the Government do not want to criminalise rough sleeping, but is asking us to approve a clause that will allow them to do just that. We are not debating what the Government are doing on rough sleeping; we are debating this legislation.

Dehenna Davison: That is why I made the point about the consultation we are running. We want to make sure that we get this right, which is why we sought views on this issue in a public consultation that closed in May. Analysis of those responses is ongoing and will form the backbone of our response to any new legislation. The measure is a placeholder until we can bring something forward. I recognise that it is not an ideal situation, but that is where we are.

Matthew Pennycook: I want to challenge the Minister on that point. If I heard her correctly, I think she said that the intention behind the clause is not to recriminalise homelessness.

Dehenna Davison: Absolutely.

Matthew Pennycook: Can she explain why subsection (2) allows regulations to include provision to create criminal offences, in similar ways to sections 3 and 4 of the Vagrancy Act 1824, which the House voted to repeal? It effectively will allow for the recriminalisation of homelessness. I think she is wrong on that point, but if she could provide further clarification, I would appreciate it.

Dehenna Davison: As I outlined, this is a placeholder, and we are analysing the consultation responses. The commitment I have given is that no criminalisation will result from the fact that someone is homeless. I want to put that point on the record incredibly strongly.

I cannot pre-empt the outcome of the consultation, but I have spoken to the Minister with responsibility for rough sleeping, who has committed to writing to Committee members to outline the next steps. As I say, this issue does not usually sit within my brief, but we are limited by the number of Ministers we can have in Committee today. Hopefully, that Minister will be able to provide additional reassurance.

Rachael Maskell: This measure was not brought forward in the Police, Crime, Sentencing and Courts Bill, so we have had a period in which the Government have not had the opportunity to criminalise people for being homeless or begging on our streets. Nothing has changed since Parliament as a whole gave the Government a clear indication that it wanted to see off a 200-year-old piece of legislation, yet today, Government are trying to resurrect the opportunity to criminalise people.

The Minister says that there is no need for the measure, but it is hardwired into the legislation. It is the text of the statute, not what the Minister says, that decides what the Government have the capacity to do. The clause is completely unnecessary, yet the Government push it before us. Will the Minister explain the context of having such measures written into the Bill? We have not had them for the past six months; indeed, she says, while still analysing her consultation, that we will not need them moving forward. The measure is seen as a draconian move, and should be taken out of law.

Dehenna Davison: I genuinely thank the hon. Member for her passion on this issue, which is prevalent in the City of York, and she has campaigned on it well and strongly in recent years. The best thing that I can do is ask the Minister with responsibility for homelessness to write to her directly. Indeed, he has committed to writing to all Committee members to set out the next step. I hope that he can provide some reassurance. However, at this stage, I ask that the clause remain part of the Bill.

Question put and agreed to.

Clause 187 accordingly ordered to stand part of the Bill.

Clause 188

DATA PROTECTION

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

The Chair: With this it will be convenient to discuss clauses 189 to 191 stand part.

Lee Rowley: The clause stipulates that any duty or power in the Bill, or provision made under the Bill, to disclose or use information must be in accordance with data protection legislation. This is subject to an exception, which I will come to, that provides for "data protection legislation" to be interpreted in line with the definition in section 3 of the Data Protection Act 2018. This is a standard provision to make it clear that relevant provisions in the Bill are subject to data protection legislation. As was discussed in the debate on the planning data clauses, the Government are clear that nothing in the Bill should jeopardise the proper protection of data.

Hon. Members will note the exception from the clause: they will immediately recall that clause 77, which is part of our digital powers, will enable the open

[Lee Rowley]

publication of prescribed planning information to anyone for free. Clause 77(2) ensures that planning authorities cannot publish planning data that is otherwise restricted in law, including under the DPA. The exclusion in clause 188 preserves that position. There is therefore no intention to allow our digital powers to operate outside the framework of data protection legislation.

Clause 189 provides that the Bill will bind the Crown, except where it amends legislation that does not bind the Crown. There are two exceptions to that: part 8 does not apply to the Crown in relation to land that is Crown land for the purposes of part 13 of the Town and Country Planning Act 1990; and part 9 does not apply in relation to land belonging to His Majesty in right of his private estates.

Clause 190 is a technical provision that sets out the abbreviations used throughout the Bill in order to ensure that the abbreviations used are clear and consistent. Finally, clause 191 provides a power to make consequential provision, which includes the power to amend primary legislation to ensure that the statute book remains coherent and legally operative as a result of the provisions made in or under the Bill through regulations. It confers no power to make policy changes.

Question put and agreed to.

Clause 188 accordingly ordered to stand part of the Bill.

Clauses 189 to 191 ordered to stand part of the Bill.

Clause 192

Regulations

Lee Rowley: I beg to move amendment 77, in clause 192, page 195, line 7, at end insert "(fa) under Part 8;".

This amendment corrects a drafting omission by applying the negative procedure to regulations under Part 8 (unless they amend primary legislation, in which case the affirmative procedure will apply under the existing drafting of the clause).

The amendment relates to the high streets rental auctions measures in part 8 of the Bill and seeks to correct a drafting omission. Clause 192 prescribes the parliamentary process applicable to the regulation-making powers of the Secretary of State. Under the existing drafting, the affirmative procedure applies to regulations made under clause 176, or where they amend primary legislation, which is the case for regulations made under clauses 152 and 160.

10.45 am

Clause 192 does not, however, specify that regulations made under other clauses in part 8 are subject to the negative resolution procedure, which is the drafting omission. That includes regulations made under clause 162 making provision about the rental auction process, and regulations made under clause 164 making provision for the terms of the contract for tenancy. That is the position set out in the delegated powers memorandum for the Bill, but it was not reflected in the Bill's drafting. Government amendment 77 corrects that omission, and I commend it to the Committee.

Amendment 77 agreed to.

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

The Chair: With this it will be convenient to discuss clauses 193 and 194 stand part.

Lee Rowley: This series of clauses covers a number of technical matters in the Bill. Hon. Members will have noted the number of delegated powers taken by the Bill. Clause 192 deals in particular with the parliamentary procedure to be followed in making certain of those regulations. It also allows those regulations, for example, to deal with incidental or transitional matters arising from them. It is a standard provision found in legislation, and allows us to protect against unintended disruption of the legal position.

The Committee has already debated specific delegated powers in the substantive clauses. My predecessors and colleagues have already committed to consulting on various regulations to be made under powers in the Bill. That will ensure that the public and sector stakeholders are brought into the detailed design of the new policies that the Bill will introduce. The delegated powers memorandum published alongside the Bill sets out the Government's view on the necessity of the powers, and the approach to scrutiny as a result.

Clause 193 authorises the spending of money for the purposes of this Bill. It is a standard provision included in Bills that incur costs on the public purse. Hon. Members will note that clause 194 sets out the territorial extent of the provisions in the Bill and whether each part of the Bill extends to England and Wales, Scotland and Northern Ireland. The devolution position has been debated in relation to each part during the discussion of that part. As a consequence, I commend the clauses to the Committee.

Question put and agreed to.

Clause 192, as amended, accordingly ordered to stand part of the Bill.

Clauses 193 and 194 ordered to stand part of the Bill.

Clause 195

Commencement and transitional provision

Lee Rowley: I beg to move amendment 197, in clause 195, page 197, line 1, after "sections 107" insert

", (Power to shorten deadline for examination of development consent order applications)".

This amendment provides that the clause inserted by NC60 will come into force two months after the Bill is given Royal Assent.

The Chair: With this it will be convenient to discuss Government new clause 60—*Power to shorten deadline for examination of development consent order applications.*

Lee Rowley: The Government and the country need to ensure that world-class sustainable infrastructure can be consented to, vitally, in a manner that can support our ambitions for economic growth. To achieve that, we must have a robust planning system that is able to accelerate infrastructure delivery and to meet the forecast demands and complexity of projects coming forward in order to attract strong investment in infrastructure.

Through these changes, the planning system can continue to lead in its approach to supporting the delivery of nationally significant infrastructure, which incentivises investment and makes it quicker to deliver that infrastructure.

The Government have an ambition in the national infrastructure strategy for some development consent applications entering the system from September next year to go through the process up to 50% faster from the start of pre-application to decision, but to achieve that a national infrastructure planning reform programme was established to refresh how the nationally significant infrastructure project works and to make it more effective and deliver better and faster outcomes. New clause 60, as a consequence, will amend the part of the existing NSIP process that concerns the examination of a development consent order application. Under existing legislation, the relevant Secretary of State can set an extended deadline for the examination of an application for development consent, but there is no corresponding legislative power to enable the same Secretary of State to set a shorter deadline for such an examination.

Our measure will rectify that, providing the means for the Secretary of State to set a shorter examination period for projects that meet quality standards as part of wider NSIP reform and the fast-track consenting route that we plan to put in place, as set out in the energy security strategy. The mechanisms and criteria that could trigger the exercise of that power by the Secretary of State will be set out in supporting guidance and we will commit to consulting on that in due course. I commend these measures to the Committee.

Matthew Pennycook: We have serious concerns about the potential implications of Government new clause 60, which, as the Minister has made clear, will provide the Secretary of State with the power to impose a shorter statutory timeframe for the examination stage of some NSIP applications.

In the policy note entitled "Improving performance of the NSIP planning process and supporting local authorities", which was published in August to accompany the tabling of the Government new clause, the rationale cited for its introduction is specifically the need significantly to reduce the time it takes to gain consent for offshore wind projects in order to realise the commitment set out in the British energy security strategy. That objective is entirely laudable, but while we support efforts to improve the overall performance of the DCO system—a reform, after all, introduced by the last Labour Government to expedite decisions on large-scale infrastructure projects—the Government have not provided any convincing evidence that the length of the DCO examination stage is the reason why project consents can take too long to secure.

As the Minister will know, the DCO system already specifies a fixed timeframe of nine months for the planning inspectorate to make a final decision, with only six of those months being allocated to the examination stage. The Minister might have some convincing evidence that he can share with the Committee to explain why the six-month examination process is the reason why the Government believe that offshore wind projects are taking up to four years to gain consent, but we are not aware of any such evidence that has been published.

Allowing an appropriate time for a DCO examination is important not only because that enables inspectors to gather and analyse all the available evidence and the social and environmental impacts of projects properly to be interrogated, but because it is the part of the statutory process in which communities have a say over developments that are often likely to have a significant impact on their lives. If the Government want to hand themselves the power to curtail the timeframe in which that important part of the DCO process takes place, we feel strongly that they need to bring forward the evidence to justify such a measure, and they have not done so yet.

However, beyond that in-principle concern over reducing the time available for the public to engage with a detailed process, there is a further reason why we are concerned about the possible implications of the Government new clause, which is that its scope is not limited simply to offshore wind projects. Instead, the powers provided to the Secretary of State by the measure will seemingly apply to all DCO applications and any large-scale infrastructure project that meets as-yet-to-be-specified qualifying criteria.

To take a topical example, the powers could be applied to schemes for hydraulically fractured shale gas production, which I know is of deep concern to the new housing Minister and other Government Members. With the Government having abandoned their manifesto commitment by signalling the end of the fracking moratorium and with UK onshore oil and gas already gearing up to convince Ministers to designate fracking projects as nationally significant, the obvious concern about Government new clause 60 is that the Government will use it to facilitate fracking applications with only the most limited opportunity for local communities to have their say on them. That concern is made more acute by the fact that Ministers have so far failed to provide any detail on precisely how it will be determined that local consent for fracking schemes exists.

Given the serious nature of those concerns, I would be grateful if the Minister answered the following questions. First, what evidence do the Government have that the examination phase of the DCO process is unduly holding up consent for offshore wind and other large-scale renewable energy projects? Secondly, given that the new clause allows the Secretary of State to set an unspecified date for a deadline below the current six-month timeframe for DCO examinations, can the Minister give us a sense of how much shorter the Government believe the examination stage should be under the proposed fast-tracked DCO application process? Thirdly, when will the Government tell us what the qualifying criteria will be for large-scale infrastructure projects subject to shorter examination stage timeframes via this route? Lastly, do the Government intend to designate schemes for hydraulically fractured shale gas production as "nationally significant" and bring them within the purview of this new fast-tracked DCO process—yes or no? I look forward to hearing from the Minister and to returning no doubt to this matter as we consider the Bill further.

Lee Rowley: I am grateful to the hon. Gentleman for his questions. Again, they are entirely reasonable and I will answer as many of them as I can. We recognise that this is a change to the approach, but it is a change that comes directly from a recognition, which I hope we all share, that where there is a desire to move quicker on important infrastructure for this country that we are able to do that. We have an in-principle ability to extend this process, which has been in place for a number of

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years, and—although I do not know the history—presumably ever since the Labour party started this process a number of years ago, as the hon. Gentleman indicated. Given that, it is not necessarily conceptually problematic that we have the ability to vary that in the other direction, while accepting the understandable challenge of ensuring that there are appropriate reassurances within the process that mean that it will be used in a reasonable and proportionate manner.

While I understand the hon. Gentleman's point about the evidence base and working through all the detail and ensuring that it is reasonable and proportionate, we are trying to establish the principle that while there is already an ability to vary this timeline in one direction, we can also vary it in another direction. In that narrow sense of what we are trying to achieve, that is a reasonable thing to do. I will try to answer the hon. Gentleman's questions as directly as I can. On evidence, I am happy to have a further discussion with him—either verbally or in writing, whatever his preference—going through why the Government think this is reasonable and proportionate. This is all part of a broader attempt to improve this in aggregate, and I hope that the Opposition will accept that pulling multiple levers to try to secure incremental improvements in all parts of the process is a laudable aim to pursue.

On the hon. Gentleman's specific questions on the length of time the stage should take and the qualifying criteria, that can be dealt with in guidance. I will ensure that the officials have heard his concerns and I hope we can deal with them at the guidance stage. In addition, because we have given a commitment to consult, there will be an opportunity for that. We have an interest in providing that information in the detail that is sought, so that the Government can consider it in appropriate detail as well.

Finally, on fracking, I have strong views on hydraulic shale gas and hydraulic fracturing, which I have put on the record many times in this place, and I will continue to share those views. At the same time, and I hope the hon. Gentleman accepts that there are times and places to debate policies like this one, I am no longer a Minister in the Department for Business, Energy and Industrial Strategy. I am sure that there will be regular opportunities to develop this matter, but my own position is known and understood. On his specific question, hydraulic fracturing is not within the NSIP process. There was a consultation in 2018-19 in which the Government decided not to put it in the NSIP process at the time. Should that change, I would be happy to debate with him at the appropriate moment.

Amendment 197 agreed to.

Lee Rowley: I beg to move amendment 198, in clause 195, page 197, line 1, after "sections 107" insert—

", (Additional powers in relation to non-material changes to development consent orders)"

This amendment provides that the clause in NC61 will come into force two months after the Bill is given Royal Assent.

The Chair: With this it will be convenient to discuss Government new clause 61—*Additional powers in relation to non-material changes to development consent orders.*

Lee Rowley: A key benefit of the NSIP regime in the Planning Act 2008 is that it puts forward statutory timeframes for consideration and determination of applications concerning NSIPs, thereby providing a degree of certainty to developers and others in order to ensure a timely outcome, as we discussed in the previous debate. The outcome of a successful application is the granting of a DCO. Subsequent changes to a scheme after a DCO is granted—regardless of whether they are material or non-material changes—require consent from the relevant Secretary of State. Although there are statutory timeframes in place for the consideration and determination of DCO applications for material change, there are none currently for non-material change.

11 am

Unlike the previous amendment, which was designed to provide greater clarity in another part of the NSIP regime, we are seeking here to ensure that there is greater clarity around non-material amendments. Feedback from stakeholders has highlighted that there is an inconsistency here and a desire to rectify this and to provide certainty of outcome in respect of non-material change applications, just as there is for material change.

Consequently, amendment 198 and new clause 61 will enable the Secretary of State to introduce regulations that relate to the decision-making process associated with non-material change applications, which will allow for the introduction of time limits in respect of non-material applications, together with the ability to extend the timescales if necessary, among other things. Alongside this, we are exploring non-legislative reforms to support the non-material change process, to see how these can achieve a reduced timescale prior to the introduction of any statutory timeframe. I commend the amendment and the new clause to the Committee.

Amendment 198 agreed to.

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

The Chair: With this it will be convenient to discuss clause 196 stand part.

Lee Rowley: This group contains the two final clauses in the Bill. Clause 195 governs the commencement or coming into force of the various provisions. It enables certain provisions to commence immediately on the Bill gaining Royal Assent—for example, some devolution measures, notably clause 42, which allows proposals to establish combined county authorities to be made. That will facilitate proposals coming into effect as rapidly as possible. Other provisions commence two months after Royal Assent—for example, the levelling-up missions in part 1. The remaining provisions will come into effect on a day appointed by regulations. In all cases, clause 195 provides additional powers to make such transitional, transitory or saving provision as appropriate in connection with the coming into force of any provision in the Bill. The final clause, clause 196, contains the short title for the Bill. I commend both clauses to the Committee.

Question put and agreed to.

Clause 195, as amended, accordingly ordered to stand part of the Bill.

Clause 196 ordered to stand part of the Bill.

New Clause 60

POWER TO SHORTEN DEADLINE FOR EXAMINATION OF DEVELOPMENT CONSENT ORDER APPLICATIONS

"(1) Section 98 of the Planning Act 2008 (timetable for examining, and reporting on, application for development consent order) is amended as follows.

(2) After subsection (4) insert—

'(4A) The Secretary of State may set a date for a deadline under subsection (1) that is earlier than the date for the time being set.'

(3) In subsection (6), after 'subsection (4)' insert 'or (4A)'."—*(Lee Rowley.)*

This new clause allows the Secretary of State to set a shorter deadline for the examination of applications for development consent orders and makes related provision. The new clause will be inserted after clause 110.

Brought up, read the First and Second time, and added to the Bill.

New Clause 61

ADDITIONAL POWERS IN RELATION TO NON-MATERIAL CHANGES TO DEVELOPMENT CONSENT ORDERS

"In paragraph 2 of Schedule 6 to the Planning Act 2008 (non-material changes), after sub-paragraph (1) insert—

'(1A) The Secretary of State may by regulations make provision about—

(a) the decision-making process in relation to the exercise of the power conferred by sub-paragraph (1);

(b) the making of the decision as to whether to exercise that power;

(c) the effect of a decision to exercise that power.

This is subject to sub-paragraph (2).

(1B) The power to make regulations under sub-paragraph (1A) includes power to allow a person to exercise a discretion.'"—*(Lee Rowley.)*

This new clause gives the Secretary of State the power to make provision about the decision-making process for non-material changes to development consent orders (for example, by setting time limits for making decisions). The new clause will be inserted after clause 110.

Brought up, read the First and Second time, and added to the Bill.

New Clause 62

PROSPECTS OF PLANNING PERMISSION FOR ALTERNATIVE DEVELOPMENT

"(1) The Land Compensation Act 1961 is amended as follows.

(2) In section 14 (taking account of actual or prospective planning permission in valuing land)—

(a) in subsection (2), for paragraph (b) substitute—

'(b) of the prospect of planning permission being granted on or after that date for development, whether on the relevant land or other land, other than development for which planning permission is in force at the relevant valuation date.';

(b) for subsections (3) and (4) substitute—

'(2A) If a description of development is certified under section 17 as appropriate alternative development in relation to the relevant land (or any part of it), it is to be taken as certain for the purposes of subsection (2)(b) that—

(a) planning permission for development of that description would be (or would have been) granted on the relevant valuation date, and

(b) the permission would be (or would have been) granted in accordance with any indication given under section 17(5B).

(2B) In relation to any other development, the prospects of planning permission are to be assessed for the purposes of subsection (2)(b)—

(a) on the assumptions set out in subsection (5), and

(b) otherwise, in the circumstances known to the market at the relevant valuation date.';

(c) in subsection (5), in the words before paragraph (a), for 'subsections (2)(b) and (4)(b)' substitute 'subsection (2B)(a) (and in section 17(1B)(a))';

(d) in subsection (9), in the words before paragraph (a), for the words from 'to' to '15(1)(b)' substitute 'in subsection (2) to planning permission that is in force'.

(3) In section 17 (certification of appropriate alternative development)—

(a) in subsection (1), for the words from 'containing' to the end substitute 'stating that a certain description of development is appropriate alternative development in relation to the acquisition';

(b) after subsection (1) insert—

'(1A) Development is "appropriate alternative development" for this purpose if it is development—

(a) on the land in which the interest referred to in subsection (1) subsists (whether alone or together with other land),

(b) for which planning permission is not in force at the relevant planning date, and

(c) in respect of which the following test is met.

(1B) The test is whether, had an application for planning permission for the development been determined on the relevant planning date, the local planning authority would have been more likely than not to grant the permission—

(a) on the assumptions set out in section 14(5),

(b) on the assumption that it would act lawfully, and

(c) otherwise, in the circumstances known to the market at the relevant planning date.

(1C) For the purposes of subsections (1A) and (1B), the "relevant planning date" is—

(a) the relevant valuation date, or

(b) if earlier, the date on which the application under this section is determined.';

(c) in subsection (3), for paragraphs (a) and (b) substitute—

'(ba) must set out the applicant's reasons for considering that the description of development given in the application is appropriate alternative development, and';

(d) for subsections (5) to (8) substitute—

'(5A) The local planning authority may issue a certificate under this section in respect of—

(a) the description of development given in the application for the certificate, or

(b) a description of development less extensive than, but otherwise falling within, the description given in the application.

(5B) A certificate under this section must give a general indication of—

(a) any conditions to which planning permission for the development would have been subject, and

(b) any pre-condition for granting the permission (for example, entry into an obligation) that would have had to be met.

(5C) The test to be applied for the purposes of subsection (5B) is whether the local planning authority would have been more likely than not

to impose such conditions, or insist on such a pre-condition, on the assumptions, and otherwise in the circumstances, referred to in subsection (1B).'

(e) in subsection (10)—

(i) for 'there must be taken into account any expenses reasonably' substitute 'no account is to be taken of any expenses';

(ii) omit the words from 'where' to 'favour'.

(4) In section 18 (appeals to Upper Tribunal)—

(a) in subsection (2)—

(i) after paragraph (a) (but before the 'and' at the end) insert—

'(aa) must consider those matters as if, in subsections (1B) and (5C), the references to the local planning authority were references to a reasonable planning authority,'

(ii) in paragraph (b), after sub-paragraph (ii) insert—

'(iia) cancel it, or';

(b) after subsection (2) insert—

'(2A) Where the local planning authority have rejected an application for a certificate under section 17, the person who applied for the certificate may appeal to the Upper Tribunal against the rejection.

(2B) On an appeal under subsection (2A)—

(a) paragraphs (a) and (aa) of subsection (2) apply as on an appeal under subsection (1), and,

(b) the Upper Tribunal must—

(i) confirm the rejection, or

(ii) issue a certificate,

as the Upper Tribunal may consider appropriate.';

(c) in subsection (3), for the words from 'the preceding' to the end substitute 'subsection (2A) applies as if the local planning authority have rejected the application';

(d) after subsection (3) insert—

'(4) The references in sections 14(2A) and 17(5A) and (5B) to a certificate under section 17 include a certificate issued, or as varied, by the Upper Tribunal under this section.'

(5) In section 19 (applications by surveyors)—

(a) in subsection (3), for 'paragraphs (a) and (b)' substitute 'paragraph (ba)';

(b) after that subsection insert—

'(4) In the application of section 18 by virtue of subsection (1)—

(a) subsection (1)(a) of that section is to be read as if it included the surveyor, and

(b) subsection (2A) of that section is to be read as if the reference to the person who applied for the certificate included the person entitled to the interest.'

(6) In section 20(a) (power to prescribe time limit for issuing certificate under section 17), for the words from 'time' to the end substitute 'period within which an application under that section is to be determined'.

(7) In section 22 (interpretation of Part 3), after subsection (2) insert—

'(2A) The completion of the acquisition or purchase referred to in the applicable paragraph of subsection (2) does not affect the continued application of that subsection.'"—*(Lee Rowley.)*

This new clause (to be inserted after clause 149) changes how prospects of planning permission are taken into account when assessing land value for purposes of compulsory purchase compensation. Planning permission will be taken for granted only if the planning authority certifies that it would have granted it, and such certificates will be reduced in scope.

Brought up, read the First and Second time, and added to the Bill.

New Clause 1

INDEPENDENT BODY TO MONITOR LEVELLING UP MISSIONS

"(1) The Secretary of State must assign an independent body to assess the Government's progress on levelling-up missions and make recommendations for improvements to delivery of them.

(2) The body must prepare parallel independent reports for each period to which a report under section 2 applies.

(3) Each parallel independent report must—

(a) assess the progress that has been made in the relevant period in delivering each of the levelling-up missions in the current statement levelling-up missions, as it has effect at the end of the period, and

(b) make recommendations for what the Government should do to deliver each levelling-up mission in the following period.

(4) The Secretary of State must lay each report under this section before Parliament on the same day as the report under section 2 which applies to the relevant period."—*(Alex Norris.)*

This new clause would require the Secretary of State to establish an independent body that can provide reports on the Government's progress on levelling-up missions and outline recommendations for their future delivery.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 5, Noes 8.

Division No. 17]

AYES

Farron, Tim	Norris, Alex
Lewell-Buck, Mrs Emma	
Maskell, Rachael	Pennycook, Matthew

NOES

Bradley, Ben	Mortimer, Jill
Cartlidge, James	Rowley, Lee
Davison, Dehenna	Smith, Greg
Huddleston, Nigel	Vickers, Matt

Question accordingly negatived.

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

11.8 am

Adjourned till this day at Two o'clock.