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PARLIAMENTARY DEBATES
(HANSARD)

# HOUSE OF LORDS

## OFFICIAL REPORT

*ORDER OF BUSINESS*

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

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

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

# House of Lords

*Tuesday 18 April 2023*

*2.30 pm*

*Prayers—read by the Lord Bishop of Leeds.*

## Universal Credit
*Question*

*2.36 pm*

*Asked by* ***Baroness Thornhill***

To ask His Majesty's Government what assessment they have made of the report by the Trussell Trust and Joseph Rowntree Foundation *An Essentials Guarantee: Reforming Universal Credit to ensure we can all afford the essentials in hard times*, published on 27 February; and in particular, the recommendation to introduce an 'Essentials Guarantee' to support those living in relative poverty.

**The Parliamentary Under-Secretary of State, Department for Work and Pensions (Viscount Younger of Leckie) (Con):** My Lords, the department is aware of the report, but no formal assessment has been made. We have a long-term approach to tackling poverty and supporting people on lower incomes. The Government are increasing support for low-income and vulnerable households, with welfare expenditure forecast to rise from £251.8 billion in 2022-23 to £275.6 billion in 2023-24. As the Spring Statement made clear, the focus is on supporting workforce participation, helping people move into work and higher earnings.

**Baroness Thornhill (LD):** I thank the Minister for his Answer. Of course, all increases will be welcome after years of freezes and below-inflation rises. However, the key issue is that universal credit levels today are based simply on the result of historical precedent and subsequent political assessments of what the Government can afford. Does the Minister agree that it is time for an objective, independent assessment based on evidence of real need and actual costs? Does he agree with the Rowntree analysis that the universal credit standard rate falls well below what is needed to afford basic essentials?

**Viscount Younger of Leckie (Con):** We are certainly aware of the severe difficulties in some cases that households are experiencing. Our way of dealing with this—we are aware of the report, as I said earlier—is that, following the Autumn Statement announcement, measures directly aimed at helping households with cost of living pressures in the coming year 2023-24 are now better targeted to low-income households. Support provided from the £3,000 EPG and cost of living payment is on average more generous for households in the bottom four income deciles than our £2,500 cap alone.

**The Lord Bishop of Leeds:** My Lords, could the Minister remind the House what the point of the two-child limit is and what its impact is on the provision of essentials?

**Viscount Younger of Leckie (Con):** The House will be very aware of this subject, which does keep cropping up. The House will be aware that, since 6 April 2017, families have been able to claim support for up to two children and there may be further entitlement for other children if they were born before 6 April 2017 or if an exception applies. As the right reverend Prelate will know, there are a number of exceptions, including any child in a household who is adopted, any child living long-term with friends or family or who would otherwise be at risk of entering the care system.

**Baroness Stedman-Scott (Con):** My Lords, can the Minister tell us what the Government are doing to help those having difficulty purchasing essentials due in some part to mandatory deductions from their universal credit?

**Viscount Younger of Leckie (Con):** The Government recognise the importance of supporting claimants to manage their liabilities. It is true that some households get into quite severe debt. Under universal credit, there is a co-ordinated approach to deductions from benefits which supports claimants to manage their financial obligations. The primary aim of deductions from universal credit is to protect vulnerable claimants by providing a last-resort repayment method for arrears of essential services. The House might be aware that the Government have reduced the standard deduction cap from 40% to 25% of the standard allowance in recent years.

**Baroness Meacher (CB):** My Lords, quite clearly, the universal credit level in recent years has not been sufficient to meet the cost of essentials. I would be grateful if the Minister could clarify what the Government now include as "essentials" to make sure that people can survive adequately on universal credit, without accessing food banks or starving.

**Viscount Younger of Leckie (Con):** It is right to say that, although the Government are very aware of the severe issues at the moment, we do not look at every single essential item because we think that individuals and households have the right to spend how they like. The benefit cap, which is probably the gist of the noble Baroness's question, provides a strong work incentive and fairness for hard-working tax-paying households, and it encourages people to move into work where possible. Let us not forget that households will still be able to receive benefits up to the value of gross earnings of around £26,500, or £31,300 in London.

**Baroness Sherlock (Lab):** My Lords, of course households make their own choices, but the point of this report is that we all need certain things: somewhere to live, clothes to wear, food to eat and the ability to heat our homes. The suggestion is that there simply is not enough money in the system to do that. For most of the last decade, the Government have not uprated benefits by the rate of inflation, which results in a disconnect between the cost of living and what the social security system gives people to live on. Now, we are seeing poverty, destitution, homelessness and the use of food banks are all going up. Does the Minister think it would make a difference if benefits and tax credits were automatically uprated by inflation, rather than simply being down to what Ministers want to do that year?

**Viscount Younger of Leckie (Con):** The noble Baroness will be well aware that we have raised many benefits—particularly the benefit cap, by 10.1%, which we think is pretty generous. But we also acknowledge that it continues to be tough for households and businesses across the UK at the moment, which is why we continue to provide support with the cost of living, as I alluded to earlier. This totals £94 billion over the next two years, which is equivalent to an average of £3,300 per household this year and next year.

**Lord Forsyth of Drumlean (Con):** My Lords, should we take that as a pledge that the Labour Party will uprate benefits by inflation, or is this just another example of the Opposition attacking the Government and having nothing to say?

**Viscount Younger of Leckie (Con):** My noble friend makes a good point. I will add to what I said: we are still on track to deliver the Government's pledge, with the OBR—it has to be the OBR—forecasting that inflation will reduce to 2.9% by the end of the year. In my newspaper today, I noticed that there are signs that food prices, which have been extraordinarily high, are beginning to slip, so I very much hope that this is going in the right direction.

**Lord Watts (Lab):** Is it not correct that the Government have decided to increase pensions by 10%, for example, but not to do anything to change the system for families with more than two children? Is this not a direct choice of the Government? What are the implications for children living in those families?

**Viscount Younger of Leckie (Con):** I think I made my position clear on the two-child limit, as I have over my three months in this role. Obviously, putting children first is extremely important, and that is why we have given huge support, as I said—a total of £94 billion over this year and the next—to help households and individuals. The focus on children is a very important point: that is key.

**Baroness Bennett of Manor Castle (GP):** My Lords, the Centre for Health Economics found that the cost to the NHS of poverty in in-patient care alone was £4.8 billion. The Joseph Rowntree Foundation said that poverty was costing the NHS and social care, collectively, £28 billion a year. Putting aside the social and human cost, are the Government not being penny-wise and pound-foolish by not providing an essential guarantee, which would take a huge amount of pressure and cost off our schools, our NHS, our criminal justice system and so many other parts of public services?

**Viscount Younger of Leckie (Con):** I made clear the Government's position on essentials earlier, and I do not want to go over that again. On the noble Baroness's point about poverty, I remind the House that in 2021-22 there were 1.7 million fewer people in absolute poverty after housing costs than in 2009-10, including 400,000 fewer children, 1 million fewer working-age adults and 200,000 fewer pensioners.

**Baroness Watkins of Tavistock (CB):** My Lords, I will ask the Minister about the Healthy Start vouchers for the under-fours. They are really important and have moved from vouchers to a card system. Many people lost those benefits in the transfer system, because it was not simplified. Could the Minister look at how we ensure that benefits are simplified so that people can actually get what they are entitled to?

**Viscount Younger of Leckie (Con):** The very fact that we have been rolling out a universal credit system over the last few years since 2013 comes to the essence of what we have been trying to do, which is to simplify the system. The noble Baroness makes a very good point about putting children first, as I said previously. One example of that is what we have done with free school meals.

**Baroness Browning (Con):** My Lords, I declare a family interest in this Question. Over the next two years, people with long-term disabilities who currently receive employment and support allowance will be moved to universal credit, and there is already an acknowledgement that there will be some differences in the amount of money they will receive. What analysis has my noble friend the Minister and his department done to check whether that particular group—people with long-term, life-long disabilities—will not become part of the group we are discussing today, who cannot afford essentials?

**Viscount Younger of Leckie (Con):** My noble friend makes an excellent point, because, apart from the fact that we spent around £67.9 billion last year on benefits to support disabled people and people with health conditions, we are doing more, as the Spring Budget said, to help those who are disabled, and particularly those who wish to go into work.

## Young Female Racing Drivers

*Question*

*2.47 pm*

*Asked by* ***Lord Strathcarron***

To ask His Majesty's Government what steps they are taking to support young female racing drivers to ensure that they enjoy the same opportunities as their male counterparts.

**The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con):** My Lords, the Government are committed to supporting women's sport at every opportunity, pushing for greater participation, employment, commercial opportunities and visibility in the media. We warmly welcome the creation of the F1 Academy in providing opportunities for young female drivers to progress to higher levels of competition in motorsport and we support its focus on uncovering the next generation of young female drivers.

**Lord Strathcarron (Con):** I thank my noble friend the Minister for his reply. While the UK remains the £9 billion-a-year epicentre of world motorsport and Formula 1 itself and seven out of 10 of the Grand Prix teams are based in the UK, and while three out of five of the fastest male drivers in the world are British

and the fastest female driver in the world is British, last year the women's W Series championship was curtailed through a lack of funding. Should the same fate befall the F1 Academy series, which my noble friend the Minister mentioned, would he use his legendary powers of persuasion to convince the motorsport hierarchy that investing in women's motorsport is a good idea, not just in itself but to maintain the UK's position as the premier leader in world motorsport?

**Lord Parkinson of Whitley Bay (Con):** I certainly agree with my noble friend that it is definitely a worthwhile investment. As recent achievements in football, rugby and tennis have shown, women's successes in sport not only bring delight to the viewing public but inspire women and girls to take part and to get more active. As a Formula 1 fan myself, I warmly welcome the creation of the F1 Academy and look forward to its first race in Austria later this month. I am also pleased by the news that its races will align next season with Formula 1 race weekends. It is run by Susie Wolff, who is an inspiring role model. At the British Grand Prix in 2014, she became the first woman to take part in a Formula 1 race weekend in 22 years. With a British team taking part, and with British drivers including Chloe Grant, Abbi Pulling and Jessica Edgar hoping to follow hot on the heels of the three-time W Series winner Jamie Chadwick, it is clear that there are many reasons for British fans to be especially excited.

**Lord Hain (Lab):** My Lords, is not the problem that initiatives around women's participation in motorsport begin far too late, when all the best racing drivers start in karting at six or seven years old? Likewise, Ministers need to start promoting more women engineers, beginning with schoolgirls. Could the Government be much more positive towards motorsport, in which, as the noble Lord, Lord Strathcarron, said, the UK is a world leader? As such, the sport is a great ambassador for British high-performance engineering and talent, including championing sustainable fuels which are carbon neutral.

**Lord Parkinson of Whitley Bay (Con):** The noble Lord is right to point to the many ways that women can get involved in motorsports, not just as drivers but as team principals, nutritionists, psychologists, talent scouts and in many other roles. Lots of people have obviously been inspired by the recent Netflix series, "Drive to Survive", which perhaps did not give enough screen time to all the women who take part. There is definitely a role for the sport itself, as well as for government and parliamentarians in exchanges such as this, to draw attention to that and to inspire people to get involved at every level.

**Lord Addington (LD):** My Lords, can the Minister assure us that there will be a slightly more open and coherent attitude towards the full participation of women across non-traditional groups? At the moment, the Government seem to be following behind the sports themselves as opposed to leading. Will they tell us where that guidance will come from and who will be leading it?

**Lord Parkinson of Whitley Bay (Con):** My department is in the process of finalising a new government sports strategy. Central to that is tackling the inequalities that exist in activity rates and making all sports more inclusive. We want to see people getting involved. I have pointed to recent successes of the Lionesses and the achievements of the Red Roses and the Great Britain team in tennis. Those British heroes are inspiring women and girls to get involved and we are keen to amplify their successes to inspire others.

**Baroness Sugg (Con):** My Lords, is my noble friend the Minister aware of Extreme E, the off-road electric series that requires teams to put up one male and one female driver? They use the same equipment, they race the same track, and they both make an equal contribution to the team's performance. Will the Minister join me in welcoming that as creating new opportunities for female motorsport drivers?

**Lord Parkinson of Whitley Bay (Con):** I certainly do, and I know that Extreme E was important to Jamie Chadwick's career progression before the W Series. I had the pleasure of taking part in the Lords versus Commons full-bore rifle match alongside my noble friend Lady Sugg, which is another sport in which men and women compete alongside each other on equal terms. In some settings, that is of course possible and to be encouraged.

**Baroness Merron (Lab):** My Lords, as the Minister referred to, while the "Drive to Survive" series has been hugely successful, females in motorsport found that women spoke only for some six minutes and seven seconds of the six and a half hours of the series. They did that as fans or as workers providing food or applying make-up to drivers, which reflected that women are, to make an understatement, very much in the background of the industry. What discussions has the department had with key motorsport stakeholders about addressing the presence of women across the industry? Could the Department for Education perhaps be prevailed upon to do more to ensure that relevant apprenticeships and vocational courses are signposted to everyone, irrespective of their gender?

**Lord Parkinson of Whitley Bay (Con):** I certainly agree with the noble Baroness: we want to hear more from the women who are involved at the highest levels in motorsport, inspiring women such as Susie Wolff, and to remind people of the trailblazing women who have paved the way, such as Lella Lombardi and Desiré Wilson—who has a grandstand name after her at Brands Hatch. Officials at the department have spoken to Formula 1 about the creation of the F1 Academy. As I say, we warmly welcome that as a way of inspiring more people, and are working on the cross-government sports strategy, which, of course, involves liaising with the Department for Education to make sure that in schools we are enabling people to get involved, try new sports and go as far as their talent and ambitions take them.

**Lord Kirkhope of Harrogate (Con):** My Lords, I declare an interest as a driver of a fast car, but I suggest that the game is up as far as your Lordships are concerned. The truth of the matter is that statistic after statistic says clearly that women are better drivers than men. Indeed, four times as many reckless driving cases are brought to our courts in relation to men than in

[Lord Kirkhope of Harrogate]
relation to women. Does my noble friend agree that the time is now ripe for us to return to the issue of insurance premiums and to stop women being discriminated against with regard to them, reflecting their better driving?

**Lord Parkinson of Whitley Bay (Con):** My noble friend's point is a matter for colleagues in the Department for Transport, but I shall certainly pass it on. I agree with him. Motor sports are ones in which women and men can compete on equal terms; they have done in the past and we would like to see more of that in future. We welcome initiatives to ensure that all women get involved and able to do so.

**Baroness Deech (CB):** My Lords, is the Minister confident that the category of women drivers will be confined to those who are born women?

**Lord Parkinson of Whitley Bay (Con):** Transgender participation in sport has been looked at by the UK sports councils, which have produced well-researched and well-considered guidance. As the sports councils concluded in that guidance, balancing inclusion, safety and fairness at all times is not possible in every sport setting. When it comes to competitive sport, the Government believe that fairness has to be the primary consideration.

**Baroness Bray of Coln (Con):** Can my noble friend assure me that the Government will do all that they can, in the light of the fact that women are increasingly successful in the world of racing, to encourage young girls to start practising their driving skills early on go-carts—or girl carts, as I am told they are now known?

**Lord Parkinson of Whitley Bay (Con):** The age of Formula 1 drivers shows that this is a young sport, and the track record of those who have been successful in it shows that they start at a very young age. That is why we want to make sure that we break down all possible barriers to participation, one of which is visibility. It is why it is so important to have prominent competitions in which women and girls can participate and inspire others.

**Lord Dobbs (Con):** Can I encourage my noble friend not to get too involved in trying to run Formula 1 but instead to concentrate on drivers in London—ordinary Londoners who want to drive their kids to school in the morning, who want to drive their teenage sons and daughters to sports fields in the evening and who perhaps want to drive their elderly parents to the doctor or a hospital—by knocking on the head the bonkers plan of the Mayor of London to penalise everybody who wants to drive on any street in London?

**Baroness Jones of Moulsecoomb (GP):** Nonsense!

**Lord Parkinson of Whitley Bay (Con):** My noble friend's point will, I am sure, have been heard on the Benches opposite, and I am sure that they will pass on to the Mayor of London the strong views in this House and from drivers across the capital about his policies.

## Council of Europe: Reykjavik Summit

*Question*

*2.57 pm*

*Asked by* ***Lord Foulkes of Cumnock***

To ask His Majesty's Government what proposals they will be putting to the Fourth Summit of Heads of State and Government of the Council of Europe in Reykjavik on 16-17 May.

**The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con):** My Lords, the United Kingdom attaches great importance to the Council of Europe summit in Reykjavik. We see the event as an important opportunity for member states to renew their commitment to human rights, democracy and the rule of law across the continent. We will play a full part in the proceedings, including ensuring strong support for Ukraine, a united response to Russia's aggression, strengthening multilateralism in Europe and ensuring reform and efficiencies in the institution.

**Lord Foulkes of Cumnock (Lab Co-op):** My Lords, I am really grateful for the positive response from the Minister, which we always get from him in relation to the Council of Europe, because he recognises that it is now the one organisation in which we can co-operate with the countries of the European Union and other European countries on human rights, democracy and the rule of law, as he said. Will he pass a message back to the Home Secretary? By constantly speculating on withdrawal from the European Convention on Human Rights, which is the cornerstone of the Council of Europe, she is giving us a bad reputation throughout the world.

**Lord Ahmad of Wimbledon (Con):** My Lords, the United Kingdom has been historically a supporter of the Council of Europe—indeed, we can go back to the times of the great Winston Churchill in our support for it and, indeed, as architects of it and of the fundamental principles of standing up for the human rights of all. The United Kingdom is and will remain a key part of the Council of Europe. On the noble Lord's question, I can do no better than to quote my right honourable friend the Prime Minister, who said during a parliamentary debate on this very issue:

"The UK is and will remain a member of the ECHR".—[*Official Report*, 27/2/23; col. 594.]

**Lord Purvis of Tweed (LD):** My Lords, in light of the human rights abuses in Ukraine, it is absolutely right that the summit will put the strengthening of the European Court of Human Rights at the centre of its agenda. Is it not jarring, therefore, that the UK Government are planning, in Clause 51 of their Illegal Migration Bill, powers to set aside interim measures of the European Court of Human Rights on safety and security? Why is the UK's response to calls to strengthen the court legislation to ignore it?

**Lord Ahmad of Wimbledon (Con):** My Lords, I am sure there will be an opportunity, when the Bill passes through the other place and comes to the House of Lords, to debate it extensively. It is important that we stand up for our obligations, including those we have

made to conventions we signed up to, and for the role that the ECHR has played historically and continues to play. The United Kingdom agrees that, when we look at certain issues, including the illegal invasion of Ukraine by Russia, the ECHR and indeed the Council of Europe are playing a very important role.

**Lord Browne of Ladyton (Lab):** My Lords, I will follow on from that question on interim measures. The Minister will be aware that last summer the European Court of Human Rights, in an interim measure, spared two British citizens from being executed by Russia. In the case of Ukraine versus Russia, President Zelensky presently holds an interim measure against Russia to constrain the use of military force against civilians. Given our history of seeking and supporting interim measures, and their importance for people facing imminent risk of irreparable harm, does the Minister agree that the Council of Europe in Reykjavik would be an appropriate forum for the Government to reaffirm their commitment to legally binding interim measures which a number of our citizens hold?

**Lord Ahmad of Wimbledon (Con):** My Lords, the noble Lord has mentioned a number of cases of interim measures, and of course I recognise the important role that the Council of Europe has played. On our priorities for the summit, which he also alluded to, we will ensure the strengthening of the Council of Europe. It will see representation at high levels of government, but reiterate our important role—he mentioned our support for Ukraine in Russia's illegal war.

**Lord Russell of Liverpool (CB):** My Lords, like the noble Lord, Lord Foulkes, I have the enormous privilege of being a member of the Parliamentary Assembly of the Council of Europe. I gather, through what one might call unusual channels, that our Prime Minister will not be able to go to the Heads of State meeting in Reykjavik. My understanding is that the Deputy Prime Minister will go in his stead. Can the Minister reassure me that his department has a plan B in place in case the findings of Mr Adam Tolley's inquiry into the Deputy Prime Minister mean that he is unable to go to Reykjavik?

**Lord Ahmad of Wimbledon (Con):** My Lords, I am not going to speculate in any shape or form. The United Kingdom attaches great importance to this summit and at the moment the invitation is being considered by the Prime Minister's office.

**Lord Collins of Highbury (Lab):** My Lords, it is absolutely right that Russia is excluded from the Council of Europe, but that exclusion does have consequences, and my noble friend alluded to them. Of course, Russian citizens will no longer be able to take cases to the European Court of Human Rights. Therefore, while rightly stopping the Government of Russia, what are the Government doing to defend the people of Russia and their human rights? How will we hold the Russian Government to account at the summit for their breaches of human rights and their crimes, including war crimes?

**Lord Ahmad of Wimbledon (Con):** My Lords, the noble Lord asked quite a wide-ranging question. We will work with all the other member states in the Council of Europe to ensure that Russia abides by all the conventions, even beyond the obligations that it has in its former membership of the Council of Europe—that it abides by those other international protocols that it has signed up to. Of course, he is right about the avenue for Russian citizens, and later this week we will discuss yet another case of the appalling abuse by Russia of its own citizens and opposition figures. I remind the noble Lord, as he will be aware, that we are working closely with other institutions, including the ICC, to ensure that those very much at the heart of decision-making, no less than Mr Putin himself, are held accountable for the abuse of their position and their continued violations against the Ukrainian people.

**Lord Cormack (Con):** My Lords, is it not very important at the Council of Europe that we stress the cross-party, all-party support for that institution? In that context, as a general election moves ever closer, should we all not be very careful about indulging in snide, personal attacks? Remember Dean Swift:

"He lash'd the Vice but spar'd the Name."

Some of the adverts currently appearing completely ignore that dictum.

**Lord Ahmad of Wimbledon (Con):** My Lords, I agree with my noble friend but I add, as someone who served —it seems a long time ago—as a member of the team assembled from across this House and the other place at the Council of Europe, that I have always found that every member, irrespective of party affiliation, has acquit themselves in the finest traditions of our democracy. On a lighter note, when it comes to diplomacy, I always say that one thing many notice on the international stage is that we travel well irrespective of our party affiliations.

**Baroness Foster of Aghadrumsee (Non-Afl):** My Lords, the noble Lord will be aware of the determination of a Russian court just yesterday in relation to Vladimir Kara-Murza, who has been put into a penal colony in Siberia for 25 years. We have heard, rightly, noble Lords raising the issues of Russian citizens, but this man is a dual passport holder—he is also a British citizen—and I wonder what the Minister has to tell the House about his current position.

**Lord Ahmad of Wimbledon (Con):** My noble friend raises a very important point. In one of my earlier responses, I alluded to an Urgent Question which will be repeated in your Lordships' House later this week, but she is right to raise the issue. We summoned the Russian ambassador yesterday, and our own ambassador attended the court proceedings and issued a joint statement with a number of key partners. We want to ensure that we have access. Vladimir Kara-Murza is, as my noble friend says, a dual citizen. Equally, we want Russia to abide by the conventions it signed up to, including the Vienna conventions and their accords that allow for consular access.

**Lord Tomlinson (Lab):** My Lords, I think the whole House is grateful to the noble Lord for the very clear message that he gave as his personal commitment when he quoted the Prime Minister's words from the other place concerning the European Convention on

[Lord Tomlinson]
Human Rights. However, that message is not getting through to member states, other than this country perhaps, in the Council of Europe. Particularly as the Prime Minister is not, it appears, going to attend the Reykjavik summit next month, can we make sure that whoever leads the British delegation will give that clear commitment that the noble Lord has given, so that the lingering doubts among many states in the Council of Europe concerning our commitment to the European convention are eliminated and no longer persist?

**Lord Ahmad of Wimbledon (Con):** I assure the noble Lord of the best of British diplomacy in that respect.

## Diphtheria

*Question*

*3.08 pm*

*Asked by* ***Lord Roberts of Llandudno***

To ask His Majesty's Government what plans they have to provide medical support to prevent the spread of diphtheria in the light of reports of a sharp increase in cases linked to Channel migration.

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con):** In response to an increase in cases of diphtheria in November 2022, the UK Health Security Agency issued guidance recommending that new arrivals into initial accommodation sites be offered a diphtheria-containing vaccine and a course of antibiotics in addition to wider health protection interventions. The UK Health Security Agency is working with the Home Office, NHS England and local NHS teams to ensure that this ongoing intervention is delivered.

**Lord Roberts of Llandudno (LD):** I thank the Minister for those words. It is amazing that the Home Office has rejected the support and experience offered by the Association of Directors of Public Health, whose president criticised

"the lack of information, co-ordination and engagement from the Home Office".

This resulted in the situation being

"far worse than it could have been"

and

"put both asylum seekers and … hotel workers at avoidable and preventable risk".

Why was the assistance offered by the directors of public health "rebuffed"? That is their word. Who in the Home Office took that decision, and why? Will it be immediately reversed?

**Lord Markham (Con):** All I can say is that the Department of Health co-operates very closely with the Home Office. We have a screening programme for all migrants coming in, as I mentioned, and an 88% vaccination rate for diphtheria among them, compared with 93% of UK children. It is a very high rate indeed; that record speaks for itself.

**Baroness Manzoor (Con):** My Lords, as the Question implies, the UK has an excellent record on uptake of vaccinations, but my noble friend will know that the level has fallen among children for the MMR vaccine. What action are the Government taking to ensure that the most vulnerable are given this vaccination and that rates go back up to pre-Covid levels?

**Lord Markham (Con):** We are all aware of the rumours and allegations about the safety of the MMR vaccine, which we are all delighted to know were totally unfounded. As my noble friend says, it has been quite a task to regain confidence in it, but we are doing so and vaccination rates have gone up. I will provide her with the exact details of those new take-up rates.

**Baroness Finlay of Llandaff (CB):** How are the Government working with those countries through which migrants pass when fleeing for their lives from war zones, given that many of them are held in very poor conditions where they pick up infectious diseases, including such things as scabies—which are parasites—TB and other diseases? They may also be exposed to chemicals because they take on farm work or factory work in a desperate attempt to get some money prior to arriving in this country. By working with other countries, we may decrease the burden on our NHS and prevent people presenting late with conditions such as diphtheria or even cutaneous diphtheria, which is extremely rare in this country but is now being seen in some of these very deprived populations.

**Lord Markham (Con):** To be honest, I think the most effective method is to have the screening when people enter. Refugees come in from across the world so, to concentrate resources, it is best done on entry. The record speaks for itself; an 88% take-up rate is very high, comparable to that of the general UK population. I think we have got it right.

**Lord Hunt of Kings Heath (Lab):** My Lords, coming back to the original Question, does the Minister accept that during the Covid pandemic the role that directors of public health played locally was critical to ensuring a co-ordinated and effective response? Does he agree that it is a great pity that the Home Office seems to have refused to engage with the Association of Directors of Public Health on this? Will he assure the House that the Home Office will start to engage with this organisation?

**Lord Markham (Con):** I am probably best placed to speak about how we engage with the Home Office, which we have been doing pretty successfully. I agree with the noble Lord about the role that those public health directors played during Covid and will play going forward. UKHSA is very much committed to doing that as well. As I said, our record on interactions with the Home Office speaks for itself—it is pretty good.

**Baroness Blackwood of North Oxford (Con):** My Lords, I am very pleased to see that UKHSA has issued guidance in response to the increased number of cases, but it will be important to know how effective the response and the screening are. What plans are there for pathogenic screening and other forms of surveillance going forward?

**Lord Markham (Con):** I thank my noble friend. I was just talking about the first stage; we have a follow-up where we look at not just diphtheria but HIV, hepatitis, TB and other cases, on top of surveillance measures that UKHSA takes into account, such as wastewater surveillance screening. We have a full toolset to make sure that we capture any potential diseases early on.

**The Lord Speaker (Lord McFall of Alcluith):** My Lords, we have a virtual contribution from the noble Baroness, Lady Brinton.

**Baroness Brinton (LD) [V]:** My Lords, to follow on from the question by the noble Baroness, Lady Blackwood, last week the European Congress of Clinical Microbiology and Infectious Diseases published a report on the rise of diphtheria cases, noting that:

"Linked to an increase in migrant arrivals via small boat in … 2022, the UK experienced a sharp increase in diphtheria cases".

Its report recommends that border officials and doctors should all have training on screening and identification of symptoms of infectious diseases, such as diphtheria and others outlined by other speakers. Will the Government implement this specific recommendation? Can the Minister say whether, on arrival, all asylum seekers are now offered a full health check and vaccination with doctors?

**Lord Markham (Con):** As I mentioned, we are doing the screening. We lead Europe on this; my understanding is that no other European country is taking the extensive measures that we are. I can also reassure the House—I was speaking to Susan Hopkins on this just yesterday—that UKHSA has deemed that there is a very low risk to the general population. The uptick in cases that we are talking about is in the migrant population, and the fact that we are vaccinating 88% of them against diphtheria shows that we are on top of the problem.

**Baroness Merron (Lab):** My Lords, we know only too well from pandemics that diseases do not respect borders, and though, as the Minister says, we ought to be well protected against diphtheria in this country given the vaccination programme, recent increases in vaccine hesitancy have given cause for concern. On the steps that the Minister referred to that should be taken to maximise vaccination rates, can he indicate whether this will reflect regional variations, bearing in mind that the National Audit Office has reported a lower level of vaccine take-up in London?

**Lord Markham (Con):** Absolutely. As the noble Baroness is aware, vaccination take-up is the responsibility of the ICBs in their areas. Like many other places, London has unique demographics. As I mentioned, our record is pretty good in this area, but it needs to be done nationally on a uniform scale.

**Lord Allan of Hallam (LD):** My Lords, in response to the questions from my noble friend Lord Roberts and the noble Lord, Lord Hunt, the Minister has twice told us how well his department's officials are working with the Home Office. But his department's officials are not present in local communities; directors of public health are. Can the Minister undertake to lobby the Home Office on behalf of the public health officials to make sure that they similarly have a good dialogue with the Home Office, which does not seem to be the case to date?

**Lord Markham (Con):** Clearly, I am always going to support good dialogue—that is common sense, and we should do that. The proof of the pudding is in the eating, and 88% is a very good result. That notwithstanding, clearly it makes sense that they should work closely with local officials as well.

**Lord Watts (Lab):** My Lords, 88% is very good, but why is it not 100%?

**Lord Markham (Con):** As I say, compared with 93% in the UK population—who have many bites of the cherry, for want of a better term, because there are many opportunities for them through schools and everything—88% is very good. Is it perfect? No, but it is very good and definitely better than anywhere else in Europe.

## Levelling-up and Regeneration Bill

*Committee (9th Day)*

*Relevant documents: 24th Report from the Delegated Powers Committee and 12th Report from the Constitution Committee*

*3.18 pm*

***Schedule 7: Plan making***

*Amendment 201*

*Moved by* ***Lord Lansley (Con)***

**201:** Schedule 7, page 281, line 26, at end insert "to the extent necessary to meet the obligations of the participating authorities to secure net zero carbon emissions by 2050 and in respect of nature recovery and biodiversity in the joint spatial development strategy area."

Member's explanatory statement

This amendment would require the joint spatial development strategy contribution to mitigation of, or adaptation to, climate change to be consistent with the authority's carbon reduction and other environmental targets.

**Lord Lansley (Con):** My Lords, the first group today relates to the ways in which planning contributes to our objectives in respect of climate change. I remind the Committee of my registered interest as chair of the Cambridgeshire Development Forum. I will speak to my Amendments 201 and 214, and refer to Amendments 226 and 309, which I believe make helpful suggestions to a similar effect.

The law relating to plan-making already requires that a local planning authority, when making a plan, must

"secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change".

This is presently in Section 19(1A) of the Planning and Compulsory Purchase Act 2004 and is carried forward into the provisions of this Bill as regards both

[Lord Lansley]
local plans, which one can see in new Section 15C inserted by Schedule 7, and joint spatial development strategies in new Section 15AA(8).

The purpose of my two amendments is to specify that, when we refer to "contribute to", we mean that the local authorities should have policies designed fully to meet their statutory obligations in relation to the adaptation to climate change or its mitigation. Amendment 201 would do this by reference in the statute to the obligations of the participating authorities to meet net-zero targets and, given that spatial development in particular extends to the impacts of wider development in an area, to their obligations in respect of nature recovery and biodiversity. Amendment 214 more specifically references the guidance which the Secretary of State can issue to authorities in order for them to adapt to climate change.

Amendment 226 in the name of the noble Baroness, Lady Hayman of Ullock, takes the approach of defining the terms "mitigation" and "adaptation" by reference to the Climate Change Act itself. Amendment 309 takes the approach of creating additional statutory duties for the Secretary of State in setting policy and seeks to extend the scope of the requirements for climate change mitigation and adaptation to individual planning decisions. I have to say to the noble Lord, Lord Teverson, that I would not go that far. The risk of creating a stand-alone statutory criterion for planning decisions, distinct from its incorporation into the plan-led approach, is too great. The focus of my amendments is plan-making itself, which leads into the subsequent decision-making.

I want this debate to enable my noble friend the Minister to set out how the provisions in new Sections 15AA and 15C inserted by Schedule 7 give statutory force to the requirement for local authorities, when creating spatial strategies or local plans, to meet their carbon emissions targets and achieve net zero, and what guidance the Government can give in securing adaptation to climate change and what measures they can take if local authorities fail to plan accordingly. I would also be grateful to hear to what extent these provisions or other statutory requirements for nature recovery or to secure our biodiversity are applicable to plan-making.

These are key elements in future land use strategies. As we have heard in a previous debate, our buildings represent over a third of our greenhouse gas emissions. Adapting to climate change will demand radical thinking about spatial strategies. The Cambridge City Council environmental assessment prior to its local plan consultation clearly identified the advantages of urban densification and development on public transport corridors in reducing the carbon consequences of development. Developers are increasingly coming to terms with the need for nature recovery and biodiversity net gain to be integral to place-making in the future.

The statutory framework for the planning system needs to reflect the significance and centrality of these environmental principles to plan-making, and indeed place-making. I hope the Government will agree, and that we might use this debate to look at how these principles can be reflected in statute more effectively through this Bill. I beg to move Amendment 201.

**Baroness Hayman of Ullock (Lab):** My Lords, I thank the noble Lord, Lord Lansley, for the introduction to his amendments. We fully support these extremely sensible additions to this part of the Bill. We have a number of amendments in this group, so if noble Lords will bear with me, I shall go through them.

Amendment 226 requires references to climate change mitigation and adaptation, to which the noble Lord referred. It ensures that plan making is interpreted in line with the Climate Change Act 2008. My Amendment 270 further defines and prioritises adaptation and resilience in order to have greater action to deal with flood risk and overheating. One of the reasons for tabling these amendments is that we do not believe that climate change is given sufficient attention in the Bill. We need to ensure that it is taken into account, particularly within planning. People talk about mitigation, but there is not enough talk about adaptation. Particularly when it comes to planning, it is something that we need to start looking at very seriously for the long term. I also thank the noble Earl, Lord Devon, for his support for Amendment 270.

Looking in more detail at Amendment 270, obviously I live in an area that is highly affected by flood risk. We know that at least one in six people in England is at risk from flooding from rivers and the sea, with many more at risk from surface water flooding. I am concerned that not enough attention has been given to flooding in the Bill. The Environment Agency estimates that the number of at-risk homes will double by 2050 due to the impact of climate change because of more volatile weather patterns, more intense rainfall and, therefore, more floods.

The Government are failing to build the efficient homes, strengthened flood defences and resilient natural habitats that are necessary to adapt to rising temperatures and flood risk. We need to do much more to ensure that the planning system effectively contributes to the delivery of our emission reduction targets and that any new development produces resilient and climate-proofed places. My Amendment 226 seeks to achieve that aim by ensuring that the process of plan making is fully aligned with the commitments set out in the Climate Change Act, and also in the Flood and Water Management Act 2010. It would do so by clarifying the meaning of climate change mitigation and adaptation in the Bill in such a way that they are directly tied to those Acts, thereby strengthening the duty placed on plan making via a 2008 amendment to the Planning and Compulsory Purchase Act 2004 that ensured that all plans contribute to the mitigation and adaptation of climate change. It is important that we ensure that all existing legislation is tied together effectively when we look at the challenges of climate change.

By ensuring that there is genuine coherence between the country's planning system and its climate commitments, the amendment would also provide the foundation for more detailed national policy on how planning can actually contribute to achieving net-zero emissions by 2050 and mitigate climate change as fully as possible in the forthcoming NPPF review. Is the Minister able to provide us with an update on when we might see this issue addressed in that NPPF review?

My Amendment 270 is needed to reflect the fact that the climate crisis and, in particular, the impact of flooding is having a major impact on the social and economic viability of places and the mental and physical health of individuals. As a result, securing climate resilience should be central to the levelling-up agenda. The amendment seeks to give much greater specific legal weight to climate adaptation, which has become a Cinderella issue in planning decision-making.

There are a number of gaps in the current planning and legal framework that need to be addressed. While there is general duty to have regard to climate adaptation, this applies only to plan making and not to the actual decisions that are taken on individual planning applications. The fact that decisions can be taken contrary to planning policy weakens the connection between climate objectives and climate-proofed decisions. The absence of any definition in the Planning Act of the precise meaning of adaptation and resilience is also problematic. The absence in any part of planning legislation of a link to the vital provisions of the Climate Change Act also needs to be resolved. This amendment would both define and prioritise adaptation and resilience in a way that enables greater action to deal with flood risk and overheating.

*3.30 pm*

On overheating, I will just comment on the two amendments to my amendment by the noble Earl, Lord Caithness, which add wildfires to the matters which the local planning authority must consider. I thank the noble Earl for adding his extremely important amendments to mine. We know that the escalating climate crisis has driven an increase in extreme wildfires. The UN report says that there could be a 30% increase in wildfires by 2050, and that there should be a radical change in public spending on wildfires and that Governments are putting their money in the wrong place by focusing on emergency services when preventing fires in the first place would be a much more effective way to approach this. Clearly, in the UK we do not suffer in the same way as Australia or California, for example, but we have seen an increase in wildfires in this country and we need to address mitigation and adaptation for the future. Again, I thank the noble Earl for drawing our attention to this.

Our Amendment 312C in the name of my noble friend Lady Taylor of Stevenage, and my Amendment 504D are about a strategy for planning reform with the aim of net zero emissions but also asking the Secretary of State to publish an annual report on when decisions have been taken against the advice of the Environment Agency. Our concerns here are about the lack of attention in the Bill to the environment. If we are to have any hope of meeting our net zero targets, all future legislation which impacts the environment should include a strategy on how it will contribute to reducing our emissions. Planning is clearly a crucial area if we are to address this.

We support Amendment 273 in the name of the noble Baroness, Lady Bennett of Manor Castle. I have put down an amendment to her amendment which looks at the fact that we should not look just at opportunities for reclamation, reuse and recycling from demolition processes but should do an assessment of the viability of the proposed development and the demolition in the first place before we look at how we reuse and recycle. That was the point that we were looking at there; viability should be the first thing to be considered in any decision-making.

Finally—there are a few more amendments but I do not want to take up any more time—I would like to say to the noble Baroness, Lady Bennett of Manor Castle, on Amendment 272 that of course we all love hedgehogs. They have had an alarming decline, and if there is anything small that can be done to help, why do we not do it?

**The Earl of Caithness (Con):** My Lords, I will take this opportunity to speak to my Amendments 270A and 270B, which are amendments to the amendment just spoken to by the noble Baroness. I added wildfires because it is an area of increasing concern to which the Government at the moment are not paying enough attention. They are not the only Government in the world who do not pay enough attention to it, but I think we have fallen into the habit of thinking that we are a wet country and have a lot of south-westerly winds and get deluges of rain—and we look at the flooding. However, the other side of that coin is the question of wildfires.

We are not the only country in this position. Portugal is a country that gets considerable downpours and the Atlantic winds but suffers the highest rate of wildfires in Europe. We are in a position where it could be our turn next. It is therefore very important that the Government get their act together now in anticipation of what is coming, because we have no comprehension of the size of the coming inferno.

Some in the House may ask why we are talking about wildfires, as they happen only on peatland up in Caithness or on the North York Moors or at Saddleworth. No, my Lords: last year on 19 July, the London Fire Brigade had its busiest day since World War II because of wildfires within London. It was the occupation of all those fire engines which must cause concern, because those fire engines were then not attending to other duties. There is a compounding effect from the damage that wildfires can do. I thought it appropriate to add this to the amendment because of its importance.

It is also worth bearing in mind that, just as with flooding, with wildfires you do not know the true cost for some weeks, months or years after the event, because it affects people in different ways. If one goes back to the Saddleworth Moor fire, 4.5 million people were affected by PM2.5 or less. That is a huge number, and it degrades the life of those people who have been affected. When you transfer that to the much more urban area of east London, again the situation is compounded.

I ask my noble friend what the Home Office is actually doing on this. It is the lead department under the *Wildfire Framework for England*, but the Home Office did not turn up to a workshop with the Climate Change Committee in January this year, when the other government departments did, as well as the Scots, the Welsh and COBRA. It was hugely important that the lead government department was at that workshop, but it was not there. Is the Home Office fit to continue its role as lead in this area? Why did the Home Office

[The Earl of Caithness]
not attend that workshop? Why has it not updated the *Wildfire Framework for England*, which was due to be updated last year—and we are now in April? This is not a sign of a Government who are concerned about this problem and showing a lead. I hope my noble friend will be able to give me some answers.

The year 2022 was a wake-up call for us all in the number of wildfires as a result of manmade climate change. That needs to be addressed, and I hope that my noble friend can help us with some answers on that.

**Baroness Jones of Moulsecoomb (GP):** My Lords, I shall speak to the amendments in the name of my noble friend Lady Bennett, and in mine. It is such a pleasure to hear the words "manmade climate change" coming from the government Benches. It is a real pleasure, because when I first came here in 2013, I was the only person talking about it, so thank you everybody who has mentioned it today.

I support quite a lot of the amendments in this group, but I am slightly concerned about the amendments of the noble Lord, Lord Lansley, and perhaps he would like to clarify. It looks as if his amendments would prevent a spatial plan or a local plan from targeting net-zero carbon emissions earlier than 2050. It is not enough to achieve it by 2050; we must make sure that it is done incrementally, not all at the last moment. That would create problems for, for example, the Green-led Stroud District Council, which is targeting achieving net zero by 2030. It would be madness to try to delay anything like that. I am not sure if that is the intention, but I would like to know. Sorry, does the noble Lord want to answer me now, before I have finished?

**Lord Lansley (Con):** I just want to say that my purpose was to incorporate into the legislation what are existing statutory obligations on local authorities. That would not constrain them from planning for something more ambitious.

**Baroness Jones of Moulsecoomb (GP):** I thank the noble Lord; ambitious is good.

On Amendment 226, we need to define "mitigation" and "adaptation" in relation to the Climate Change Act 2008, because that Act's target is again 2050, and we cannot risk any council plans that seek to achieve net zero sooner.

Moving on to hedgehogs, I think that everyone that I have mentioned this to today is so supportive of holes in fences and hedges for hedgehogs. I am really pleased about that because hedgehogs are an indicator species, which means that we can monitor what is going on with other ecosystems because of hedgehogs. If they become rare or even extinct, it will be harder to track damage to ecosystems and the environment. They indicate the health of the environment and of nature as a whole. The *State of Britain's Hedgehogs 2022* report found that numbers are down in rural areas by between 30% and 75% since 2000. Clearly, we have a problem here. Globally, hedgehogs are of least concern, but here in the UK the population is now classed as vulnerable. Therefore, I beg everybody to support this tiny but important amendment.

On Amendment 273, in the name of my noble friend Lady Bennett, I am delighted that it is being supported by Labour, which has an amendment to that amendment. I personally have been talking about this since I was elected in 2000, and I do not know why it is still not understood. All buildings have a carbon content and when you destroy them, when you knock them down and throw the debris away, you are wasting carbon and you are then generating more carbon by replacing them, so, please, something along these lines must go into this Bill. I do not understand why the Government have not woken up to that yet.

On my Amendment 293, I really wish I had put something in, after the hedgehogs, about swift habitats. There are real concerns about the swift population in Britain. Obviously, preserving and enhancing habitat has a big impact on all birds, but particularly swifts. They arrive in the UK during the summer, lay their eggs and incubate them here. They like to live within houses and churches, and they need spaces to get into nesting sites. A lot of developers are now using swift bricks with little holes, which allow swifts spacious housing very safely within houses. Also, we can retrospectively put swift boxes up, which can do the same. Swifts play a crucial role in controlling insect pests, for example, so we need to support them. Numbers have plummeted, with a 53% decline since 2016, which is very disturbing. The Labour council in Ealing is doing its best to develop a site that has got a lot of swift habitats, so I would be grateful if any noble Lords who know anyone on Ealing Council could point out to them how destructive this is and that they should not be developing an area which swifts desperately need in London.

Of course, you need ecological surveys. Most noble Lords here care about nature, and if you do not know what nature is there, then you do not know whether you will disturb it or damage it in any way. A survey is basic to everything that is part of development of any kind. I thank your Lordships for listening.

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, I declare my interest as a vice-president of the LGA. I apologise for my late arrival at this debate, and for missing some of the comments of the noble Lord, Lord Lansley.

I wish to speak in support of Amendment 293 in the name of the noble Baroness, Lady Jones of Moulsecoomb, to which I have added my name. The noble Baroness, Lady Jones, introduced her amendment clearly. I fully support the introduction of ecological surveys taking place prior to planning applications being submitted, and mitigating measures taking place. Having been a member of a county council for 20 years and a district council for 10 years, I am only too well aware that the information provided to councillors taking planning decisions is often very sketchy and sometimes non-existent. Proposed new subsection (2)(a), (b) and (c) is extremely important to ensuring success in preserving vulnerable species of both animals and plant. Proposed new subsection (2)(d) should be absolutely the last resort: offsite mitigation should be avoided at all costs, and considered only after all other avenues for mitigation onsite have been exhausted.

*3.45 pm*

The list of vulnerable species will be dependent on the location and area of England and of the site. There will be no exhaustive list, but otters and great crested newts, along with dormice, harvest mice, voles, and birds such as bullfinches and maybe swifts should be considered. The habitats of migrating species—some visiting in the summer and others which are overwintering—should be considered, along with indigenous bird nesting sites, including owls and bat roosts.

Proposed new subsection (3)(a) and (b) is vital to ensure sufficient penalty for those who carry out tree clearance and other measures in an effort to prevent either the application going forward or mitigation measures taking place which may hold up the development.

Local planning authorities need to step up and protect their local vulnerable species. Currently, the Environment Agency provides information to local authorities, but it is underfunded and understaffed so its ability to provide the necessary information is limited. Perhaps now is the time for groups of local authorities to employ their own environmental experts to carry out this work. The cost of this could be recouped through the planning fees that are part and parcel of every development application.

Before finishing, I would like to say a few words in support of a couple of the other amendments in this group. Amendment 270 in the names of the noble Baroness, Lady Hayman of Ullock, and the noble Earl, Lord Devon, alongside Amendments 270A and 270B from the noble Earl, Lord Caithness, raises the importance of both flood risk and wildfires. The need to control and manage both is an essential element of protecting our wildlife and species habitat.

The noble Baroness, Lady Bennett of Manor Castle, put her name to Amendment 272, spoken to by the noble Baroness, Lady Jones, to protect hedgehogs by ensuring that there are holes included in domestic fencing, so that these much-loved but very scarce creatures are able to move around their territory freely to find both food and shelter.

Finally, my noble friend Lord Teverson put down Amendment 309 to ensure that climate change is dealt with, and that consistency in mitigation of and adaptation to all measures becomes a reality in the near future. It should not be something which we bitterly regret not tackling properly in the future, when it will all be too late.

This is an important and excellent group of amendments, and I look forward to the Minister's response.

**Lord Bellingham (Con):** My Lords, I will speak to Amendment 504 in this group, standing in my name and that of the noble Lord, Lord Northbrook. Nothing is more exasperating and debilitating for residents than to suffer prolonged disturbance, noise, vibration, lorry movements, dust, aerial pollution, and traffic jams et cetera from developments in their neighbourhood. As I know from my time as a constituency MP, life can be made an absolute misery for residents.

Some local authorities set extremely high standards, and impose planning condition requirements on developers to mitigate all those nuisances that I mentioned. For example, most of the councils in Norfolk and East Anglia will have in place the practice of imposing these high standards and making sure that the planning conditions are imposed.

It came as a surprise to me when I researched this that some councils do not adopt the same practice, and that includes, for example, many London councils, the Royal Borough of Kensington and Chelsea being one. Councils that do not adopt this practice rely on what I would describe as a hopeless and outdated system whereby developers are encouraged to submit applications for prior consent under Section 61 of the Control of Pollution Act 1974, which was enacted a long time ago. Failing this, councils can issue a Section 61 notice, and consents then create legal obligations on developers, and councils can take action. However, they can do so only if they have been notified, and often the system is completely useless if consents and notices are not published on their websites. How, therefore, do local residents find out? The answer is that, unless a local board member tells them or unless they hear from other sources, most residents very often do not find out what is going on, so they cannot take action.

My and my noble friend Lord Northbrook's solution is very simple: under our amendment, local planning authorities "must"—at the moment under the legislation, they "can"—publish such consents and notices on their websites and not then remove them. Back in the days of the Control of Pollution Act 1974, the internet did not exist and councils did not have websites. My noble friend and I are simply updating the law to make life a lot easier for residents who suffer this appalling nuisance. I really do not see why the Government could have any objection to this amendment. It would be an improvement for many local residents and residents' associations up and down the country and make their lives a great deal easier, at no cost whatever to the local planning authorities. I commend it to the Committee.

**Lord Teverson (LD):** My Lords, it is a great pleasure to follow the noble Lord, Lord Bellingham. He says that he cannot see any reason why the Government should not agree to his amendment. I say the same thing in every speech and it has never worked yet, but let us see if we can get a change today. I hope that proves his case.

I rise to speak to Amendment 309, but first I want to congratulate the noble Lord, Lord Lansley, on including biodiversity in his work. I very much hope that, on Report, he will support the local nature recovery strategy amendment of my noble friend Lady Parminter; indeed, I am sure he will. I absolutely agree with the noble Baroness, Lady Hayman of Ullock, regarding adaptation. As the Environment and Climate Change Committee—I still want to call it a sub-committee, but it is no longer that—has said so often, we are way behind on adaptation. As the National Infrastructure Commission has said in respect of flooding, we need to invest in adaptation and take it into consideration in the planning procedures.

I turn to the contribution of the noble Earl, Lord Caithness. London is an issue in terms of fires, as we saw so graphically on the television, but I still come back to the peatlands that he mentioned. While we in the south-west try to revive our peatlands, we still have those fires every summer, as I am sure is true in Scotland as well. They degrade our carbon stock in this country.

[Lord Teverson]

This group of amendments—given that I speak particularly on climate change, I would say this, wouldn't I?—is one of the most important. Why? Because, as the Committee knows, climate change is one of the fundamental challenges that not just this country but the whole planet faces, along with the threat to biodiversity. That is why, when the IPCC report on updating climate change came out at the beginning of this year, United Nations Secretary-General António Guterres said that we need to do everything everywhere, all the time, right now. Clearly, the planning regime has to be a core part of that, which is why all the amendments in this group are particularly important.

I understand entirely that, as the Minister I am sure will say, we have had a planning duty in legislation since 2008 and that this Bill rolls it forward. It does not ignore it or try to take it away; it is still there. Since 2012, climate change and net zero have effectively been in the National Planning Policy Framework as well. However, the point is that they have had hardly any effect, and this is why these amendments are so important. That is the problem.

I looked up how many local authorities now have climate emergency resolutions. Not all these local authorities will be planning authorities, so I do not have an exact number, but 75% of local authorities now have climate emergency resolutions within their council—that is 308 of them. Some of those may be greenwashing, I do not know, but I know that certainly in the south-west they are for real. There are councillors of every stripe and party, and independents, and ratepayers who want to move ahead on this agenda but find it very difficult.

We have had the example in West Oxfordshire, in Lancaster City Council, where the Planning Inspectorate has pushed back against local authorities trying to take control and move forward on some of these policies. Because of the cost of going through planning inspectors and appeals, the effect is that local authorities, cash-strapped as they always are, tend to be very cautious about the policies that they then try to implement. That is why I think there is a golden opportunity in this Bill to up the ability to deliver at a local level—not just at the top level of UK Government and beyond but at the grass roots of our communities—and to move ahead and implement real policies that produce a major contribution towards net zero.

As members will be well aware, a number of recent reports have looked at this. We had the excellent *Mission Zero* report, and I congratulate the Government on getting Chris Skidmore to produce this report. He said:

"The planning system should be an essential tool in delivering the changes needed for net zero".

He went on to say that

"the planning system is undermining net zero and the economic opportunities that come with it"

and that there should be

"a test for all developments to be net zero compliant".

I will come back to the comments from the noble Lord, Lord Lansley, about decision-making as opposed to policy.

The Climate Change Committee in its 2022 report to Parliament—including, obviously, this House—said that the Government should:

"Make clear the importance of ensuring that all developments consider how best to minimise lifetime emissions and adapt to climate change as part of the planning process".

This is absolutely in line with government policy on net zero and the various other routes to decarbonisation that the Government are committed to.

Amendment 209, put forward from these Benches, builds on the duty in legislation at the moment. It stresses both mitigation and adaptation, as the noble Baroness made clear. It makes the climate and net-zero obligations real and certain, so that local authorities and planning authorities can, with confidence, move forward on their decisions in this area.

I do not believe the amendment would get in the way of development. In fact, planning and taking into account net zero, as the Chris Skidmore report said, actually helps development. It helps economic growth and is something we should aspire to; it does not get in the way. The noble Lord, Lord Lansley, is right that this amendment affects not just policy-making but planning decisions. That makes it a hard amendment, but that is what this is about. We are talking about a real crisis; we need action and we need to make sure it takes place. I believe this amendment would not get in the way of development.

I particularly thank the Better Planning Coalition and the We Are Here campaign for working with me to put this amendment together. This planning Bill can be a cornerstone of this Government's and this Parliament's policy and route map towards net zero, which is why this amendment, and all these groups, are important. I hope that the House can come together on Report to find a way forward, with the Government's consent.

*4 pm*

**Baroness Young of Old Scone (Lab):** My Lords—

**Baroness Parminter (LD):** My Lords, can I briefly follow my noble friend Lord Teverson? There is no need to replicate what he said, but I have to dash off and meet someone at Peers' Entrance, which is why I was desperate to get in. I hope that the noble Baroness, Lady Young, does not mind.

I have two points. I put my name to the amendment of the noble Baroness, Lady Bennett of Manor Castle, on hedgehogs. As the noble Baroness, Lady Hayman, said, we all love hedgehogs, but I wanted to add two points, because I am sure that the Minister will come back and say why the Government cannot do this very simple thing which would make such a massive difference to our hedgehog population, which is in desperate decline.

The two points are as follows. Many Members may not know that, on an average night, those little fellows travel about two miles and, when it is mating season, even further than that. Having holes in fences makes a massive difference to them getting food and mates to survive. That is a very small thing. Remember that fact: they travel two miles every night and, when it is mating season, even more.

We are not talking about a big amount of space; we are talking about a quarter of a piece of A4 paper, so people do not have to worry that their cats or dogs will get out unnecessarily. Fencing with holes of that size is commercially available now. I am sure that the developers will come back and say to people, "Oh, we can't do it because it will put up the costs of housing applications". However, hedgehogs have consistently been voted the favourite animal of people in this country, so developers could market and sell these homes as hedgehog-friendly.

I hope that the Minister will not come back and say that the Government will not do this because it would put up the cost of planning applications. This is a major way to help one of our iconic species, and it would have the full-hearted support of the British public. I thank the noble Baroness, Lady Jones. I will be back.

**Baroness Young of Old Scone (Lab):** My Lords, speaking in this debate is fraught with danger: you either follow the noble Baroness, Lady Parminter, who spoke about much-loved small animals with pointy noses and whiskers, or you follow the noble Lord, Lord Teverson, who said everything that I was hoping to say. But the tradition in this House is to barrel on regardless. I declare several interests: I am chairman of the Woodland Trust and president or vice-president of a range of environmental and conservation organisations.

This is quite a meaty group but, as the noble Lord, Lord Teverson, said, it is very important. I speak in support of Amendments 201, 214, 226, 270 and 309. I very much support Amendments 201 and 214 in the name of the noble Lord, Lord Lansley. They typify the most important theme of this group: the whole business of getting the planning system joined up with climate change objectives and targets and with nature recovery objectives. Noble Lords who were here yesterday will know that the noble Lord, Lord Deben—who is not in his place—from the Climate Change Committee, said that this was absolutely vital.

Amendments 226 and 270 in the name of the noble Baroness, Lady Hayman of Ullock, talk again about joining up climate change mitigation and adaptation in the plan-making process. It is important that adaptation is brought to the fore—I will talk more about that.

On the amendment of the noble Lord, Lord Teverson—on making planning policies and local decisions consistent with the mitigation and adaptation climate change measures—I am afraid I do not agree with the noble Lord, Lord Lansley, that delegating this to an even lower level of individual planning decisions is wrong. This is a crisis, and we need action now, everywhere, in everything, and at the same time. Local planning decisions absolutely have to be joined up with these objectives as well.

For me, there are two main principles here. One is the whole joining-up issue. In this country, we are incredibly bad about operating in siloes—I am sure all Governments are—as far as policies are concerned. We have to learn to walk, talk and chew gum at the same time, and to deliver policy objectives from other siloes, not just those that are in the policy area of the department concerned.

The one I always cite and bang on about endlessly is the land use issue, where we are about to see the publication of a land use framework for England that takes account only of Defra's issues—agriculture, climate change and biodiversity—and none of the development, infrastructure or energy issues. It is a clear example of where we are failing to join up policy, and that will be the case if we do not get these very important climate and biodiversity objectives into the planning system at every level. Lots of bodies are calling for it, including the Climate Change Committee and the Skidmore report—I want to put a small wager with the House as to how many comments on the Skidmore report can be made in glowing terms in one debate, because, quite frankly, it comes up in every single item we talk about. I am delighted to see the noble Lord, Lord Deben, here, even though I was quoting him in his absence.

The Climate Change Committee, the Skidmore report, the National Audit Office and the House of Commons local government committee, as well as the Blueprint Coalition and UK100, both of which are local government networks, are all calling for climate change and biodiversity recovery objectives to be built into the planning system. The one rogue in all this is the Planning Inspectorate, which appears to have lost the plot. It made two very important individual decisions in west Oxfordshire and Lancaster, referred to by the noble Lord, Lord Teverson, which told local authorities that they were going too far if they adopted net-zero policies. That is just tosh, and the Planning Inspectorate must be made to get back into line. It will have a hugely chilling effect on other ambitious local authorities, and we must remember the high number of local authorities now committed to a state of climate emergency and doing audits of their local plans to see what contribution they make to net zero. However, lurking in the background are those two dreadful decisions by the Planning Inspectorate, which will put them off mightily, because planning officers spend a lot of their time watching their backs. We have to do something about the Planning Inspectorate, and legislation to bring together the climate change and nature recovery objectives with the planning system would be a huge move forward.

Before I finish, I will make a point about adaption. If I am conscious when I die, I will utter the immortal words, "I invented the Adaptation Sub-Committee". When we put together the Adaptation Sub-Committee of the Climate Change Committee, it was not popular—not even with the Labour Government—and it took a lot of standing on tails to get it to happen. It has since graduated and is no longer called a sub-committee, which is great, but a few of the teeth originally in the legislation proposed by that the committee were taken away quite early on, and we see some of the impact of that. The noble Baroness, Lady Brown, who is not in her place but is doing a wonderful job of chairing the committee, has, through repeated reports, indicated how we are not coming up to the mark as a nation in preparing for the undoubted impacts across the board, including not just flooding and heat effects but a whole range of other impacts. The Climate Change Committee's last stirring words were that adaptation was

"the Cinderella of climate change, still sitting in rags by the stove"—

a fine phrase. Its advice on the UK's third climate change risk assessment says that

"adaptation policy and implementation is not keeping up with the rate of increase in climate risk"

[Baroness Young of Old Scone]
and that all climate-related risks have increased over the last years and not declined. So we have a real problem with coping with the undoubted impacts that are already happening and will only get worse, as they already have been.

In this respect, it is not enough just to fiddle with adjustments to the National Planning Policy Framework. The last set of fiddling did not deliver; we need clear statutory policies to embed the links between planning policy and plans, local decisions, and climate and nature recovery. They are needed now, and I hope that noble Lords will feel able to support the amendments that enshrine them.

**The Duke of Montrose (Con):** My Lords, I will say a few words in support of my noble friend Lord Caithness. I can well understand him introducing the question of wildfires, because in my lifetime I can remember a couple of horrendous wildfires in Caithness. This legislation, as noble Lords will be aware, is intended to involve Scotland. We must produce a holistic approach to all these elements. If we are looking at controlling wildfires, we need a policy that includes firebreaks—there is no other way. It is not a question in this Bill, but finance will have to be provided to create firebreaks.

The Scottish Parliament, as far as I can remember, is considering a complete ban on moor burning. The trouble with moor burning is that it affects so many elements, and they must be taken into account. I declare an interest, because my family owns about 2,000 acres of blanket bog, and we are involved in peat restoration in quite a bit of it. All elements should be considered.

**The Lord Bishop of St Edmundsbury and Ipswich:** My Lords, I speak in general support of this group of amendments. I agree with those who have said that they are both crucial and urgent. Specifically, I speak in support of Amendment 309 in the name of the noble Lord, Lord Teverson. I will take a leaf out of the book of the noble Baroness, Lady Young, in that, despite the points I will make having been made, I will barrel on regardless. I will not, necessarily, reflect on what my dying words might be.

The Government have set bold and ambitious targets to reduce carbon emissions, and no one doubts the need for action to address those and to address the climate crisis. The Church of England has identified 2030 as the target for net-zero carbon for all its church buildings—its churches, parsonages and church halls. That is a huge undertaking, and it is in the specificity that we are discovering that we need to be really careful and clear about what we mean by it at the most detailed level. This is why I am supporting the level of detail that the noble Lord, Lord Teverson, is asking for. The planning system is at the centre of many decisions that are crucial not only to how we reduce carbon emissions but to how we adapt to the climate crisis. Therefore, it is vital to ensure that planning decisions are, in detail, consistent with the mitigation of and adaptation to climate change—just as this amendment proposes.

Notwithstanding the concerns of the noble Lord, Lord Lansley, I believe that the extent proposed by this amendment is necessary. I would be grateful if the Minister would indicate if she would be prepared either to meet those of us from this Committee who want to prioritise climate change concerns in this area or to bring forward proposals to achieve the same ends intended by this amendment in particular but by the group of amendments in general on Report.

**Baroness Bloomfield of Hinton Waldrist (Con):** My Lords, there is a lot to unpick in that rather meaty debate. I applaud all noble Lords for their contributions. They will have bear with me, as I will no doubt lose my place a few times and will not be able to read my own writing.

The first group of amendments I shall explore, and try to reply to, concerns planning, development and environment. Amendment 214 in the name of my noble friend Lord Lansley, Amendments 226 and 270 in the name of the noble Baroness, Lady Hayman of Ullock, with related Amendments 270A and 270B in the name of noble Earl, Lord Caithness, Amendment 309 in the name of the noble Lord, Lord Teverson, and Amendment 312C in the name of the noble Baroness, Lady Taylor of Stevenage, all have very similar intentions.

I want to reassure noble Lords that the Government recognise that the planning system must address the challenges of climate change. Through the Climate Change Act 2008, the Government have committed to reduce net emissions by at least 100% of 1990 levels by 2050. The right reverend Prelate outlined the Church's ambition to achieve net zero in its buildings by 2030. I applaud those ambitions and would certainly welcome a meeting between Ministers and his group.

*4.15 pm*

In addition, the Planning and Compulsory Purchase Act 2004 sets out that local planning authorities must design their local plans to secure that the use and development of land in their area contribute to the mitigation of, and adaptation to, climate change. This is restated in the Bill, and is found in new Section 15C of the Planning and Compulsory Purchase Act 2004, as inserted by Schedule 7 to this Bill.

The National Planning Policy Framework sets out that local planning authorities should plan in line with the objectives and provisions of the Climate Change Act 2008. The framework must, as a matter of law, be taken into account in preparing the development plan, and is a material consideration in planning decisions. The NPPF climate risks, in paragraphs 153 and 154, apply to all adaptation matters, including wildfire. The national policy highlights the risks arising from climate change that need to be addressed, including overheating, which was added in 2018. That is another matter that we will consider again through the forthcoming review of the NPPF.

As mentioned in response to Amendments 179, 179A and 271 in the debate on the purpose of planning on 22 March, we recognise that more can be achieved, which is why the Government recently consulted on immediate changes to the framework relating to renewable energy, as well as seeking views on carbon assessments and other changes that could strengthen their role in this vital area. A full review of the framework, taking the responses to this consultation into account, will take place following Royal Assent and will address adaptation to and mitigation of climate change.

The noble Baroness, Lady Hayman, asked what the National Planning Policy Framework would say on health and well-being. It already covers policy on how to plan for sustainable transport facilities and services, including open-space, healthy and safe places and climate change mitigation and adaptation. Planning policies and decisions should aim to achieve healthy, inclusive and safe places, ensuring an integrated approach to considering the location of housing, economic uses, community facilities and services.

All these amendments aim to achieve very similar intentions to those of the previous amendments, Amendments 179, 179A and 271, related to the purpose of planning.

The noble Lord, Lord Teverson, and the noble Baroness, Lady Young of Old Scone, were particularly concerned with what the Government were doing to help local authorities and developers adapt to climate change. The Government recognise the importance of central and local government collaboration effectively to adapt to climate impacts, and are working closely with local partners. Defra, the Local Government Association and local partnerships have developed the local partnerships adaptation toolkit, and Defra co-ordinates the Local Adaptation Advisory Panel, a forum for dialogue on adaptation between central and local government, which includes 15 local authorities and seven UK government departments. The panel has also produced good practice guidance to support local authorities. The Government will set out how they intend to work with local partners to deliver the UK's third national adaptation programme when it is published this summer.

The Government do not feel that they can support this group of amendments, for the reasons outlined.

**Baroness Young of Old Scone (Lab):** Before the noble Baroness moves on, will she address the issue of why, if everything is already fairly clearly laid out in both statute and the National Planning Policy Framework, the Planning Inspectorate is busy telling local authorities that they cannot do net zero?

**Baroness Bloomfield of Hinton Waldrist (Con):** As I mentioned, this summer there will be a review of the whole framework, based on the responses already received. That will take place after the Bill has received Royal Assent. If there is any further detail I can add on the specific question about planning, I will either manage to get an answer while I am still at the Dispatch Box or write to members of the Committee. I will not make a commitment as to when that letter will be available, because we are coming back here on Thursday and that might be a little ambitious, but I will address those points separately.

Amendment 201 in the name of my noble friend Lord Lansley proposes that the joint spatial development strategy contribution to mitigating and adapting to climate change be made consistent with authorities' other environmental targets, such as carbon reduction. I accept and understand the positive aims of this proposed amendment; however, new Section 15AA(2), as he mentioned, already contains requirements relating to climate change and environmental protection and improvement. In addition, the Environment Act 2021 has further strengthened the role of the planning system through mandatory biodiversity net gain and local nature recovery strategies, setting the foundations for planning to have a more proactive role in promoting nature's recovery.

My noble friend also asked whether the provisions in Schedule 7 will ensure that local authorities meet their share of net zero. The net-zero target in legislation applies to the Government rather than individual authorities, recognising that net zero requires action across all aspects of policy, not just those within the remit of local authorities, and will therefore have different implications across different parts of the country.

As previously mentioned, chapters 14 and 15 of the current National Planning Policy Framework already contain clear policy that promotes the mitigation of and adaptation to climate change, as well as protection and improvement of the environment. The Government will carry out a fuller review of the framework following the Bill's Royal Assent, as I said, to ensure that it contributes to climate change mitigation and adaptation as fully as possible. In light of these factors, planning authorities are already bound to address these issues when setting their planning strategies and policies. Indeed, including specific references within this legislation could be counterproductive if those requirements are replaced, updated or added to with other requirements at some stage in the future. Therefore, we do not believe that this amendment is necessary and it is not one that we shall feel able to support.

Amendment 272 in the name of the noble Baroness, Lady Bennett of Manor Castle, proposes that all planning permissions be subject to a new condition that requires any fencing granted by the permission to allow for free passage of hedgehogs. It would also give powers to the Secretary of State to publish guidance on design. The Government are committed to taking action to recover our threatened native species, such as hedgehogs, red squirrels, water voles and dormice. Our planning practice guidance already acknowledges the value of incorporating wildlife-supporting features into development, such as providing safe routes for hedgehogs to travel between sites. Our *National Model Design Code* additionally acknowledges the importance of retaining, improving and creating new natural habitats, through hedgehog highways, bee and bird bricks and bat and bird boxes.

Local planning authorities, in producing their design codes, need to ensure that nature is integrated into the design of places through the protection, enhancement and promotion of biodiversity. These small measures can have a large impact on enabling nature to thrive among developed areas, but the Government do not feel that mandating this through a standard national planning condition would be appropriate. There will be circumstances in which development proposals will not impact on hedgehog habitats. Those permissions would, if this amendment were accepted, be subject to additional and unreasonable requirements to accommodate species that are not present in that area, while creating financial burdens to comply with and discharge the condition. As a consequence, while the Government accept the positive intentions behind this amendment, it is not one that we feel able to support.

[Baroness Bloomfield of Hinton Waldrist]

Amendment 273 in the name of the noble Baroness, Lady Bennett of Manor Castle, seeks to ensure that opportunities for reclamation, reuse and recycling from demolition processes are considered during the assessment of planning applications. As I have already made clear, the Government are committed to ensuring that the planning system contributes to addressing climate change. For example, the national model design code encourages sustainable construction, focused on reducing embodied carbon, embedding circular economy principles to reduce waste, designing for disassembly and exploring the remodel and reuse of buildings where possible, rather than rebuilding. The implications of demolition are already something which local planning authorities may consider when assessing applications for development. They can, if necessary, grant planning permission subject to conditions.

I understand the desire to look more broadly at the implications of construction activity for climate change. That is a desire that we all share. Evidence on the impact of carbon assessment tools and how they can work effectively in practice is, however, not yet clear-cut. We have sought views on methods and actions that could provide a proportionate and effective means of undertaking a carbon impact assessment in planning, which could take demolition into account. We also intend to consult further on our approach to the measurement and reduction of embodied carbon in new buildings, and it will be important for this work to happen before we can commit to any intervention that affects the planning decision-making process. For these reasons, the Government believe this amendment is not appropriate at the present time, and thus it is not one that we feel able to support.

**Baroness Hayman of Ullock (Lab):** Obviously I put an amendment to that amendment, which was about viability assessments for proposed developments. I see the Minister is coming to it. Thank you.

**Baroness Bloomfield of Hinton Waldrist (Con):** I turn next to Amendment 273A in the name of the noble Baroness, Lady Hayman of Ullock, which indeed seeks to ensure that a viability assessment is taken when considering the opportunities for reclamation, reuse and recycling from demolition through a new pre-demolition audit proposed in Amendment 273. As has already been set out in response to earlier amendments, we have committed to making sure the planning system contributes to climate change mitigation and adaptation as fully as possible. We need to make sure that further steps we take are deliverable and effective. Building a viability assessment into any new pre-demolition audit would cut across the direction of the infrastructure levy, where we aim to reduce the use of viability assessments in the planning application process due to the uncertainty and delays they could cause.

I understand the desire to look more broadly at the implications of construction activity for climate change. That is a desire that we share, and that is why the Government have already consulted on implementing a form of carbon assessment in planning. This could take demolition into account. We will take responses to this consultation into account in designing the next steps on this. We also intend to consult further on our approach to the measurement and reduction of embodied carbon in new buildings, and it will be important for this work to happen before we can commit to making an intervention that affects the planning decision-making process. For these reasons, again, I believe this amendment is not appropriate at the present time, and thus it is not one that the Government feel able to support.

Amendment 293 in the name of the noble Baroness, Lady Jones of Moulsecoomb, looks to make ecological surveys mandatory in all planning applications to ensure that data on vulnerable species is robust and accurate and prevents assumptions being made about the presence or absence of species. The Government appreciate the spirit of this amendment, which was considered in the other place, and I would like to reassure this House that strong measures are already in place to promote and secure ecological conservation and enhancements where new development comes forward.

There is significant overlap with this amendment and existing legislation within the habitats regulations 2017 and the Wildlife and Countryside Act 1981. In particular, under the habitats regulations, if a development is likely to have a significant effect on a protected site, an appropriate assessment of the impacts must be undertaken and appropriate mitigation measures need to be in place to ensure that the proposed development can take place without a harmful impact on the integrity of that protected site.

Additionally, the current biodiversity circular also reinforces the need to establish the presence or otherwise of protected species before planning permission can be granted, and we are taking steps in accordance with the principles in the Environment Act 2021 to ensure that development results in environmental improvement, rather than merely preventing harm. This includes, for example, the introduction of mandatory biodiversity net gain which will require biodiversity assessments for all relevant developments in future.

The provisions in Part 6 of the Bill relating to environmental outcome reports also put the mitigation hierarchy at the centre of the new system of assessment which will apply to relevant major projects. Indeed, the Government have just laid an amendment to clarify the way the hierarchy should work for these reports, bringing it more into line with current practice. Therefore, while the Government agree with the intentions behind this amendment, existing legislation, in combination with national policy and our proposed reforms, will safeguard the ecological value of sites, so this amendment is not one that we feel able to support.

*4.30 pm*

**Lord Teverson (LD):** The Minister mentioned the habitats regulations. Can she remind me whether the Government intend to retain them after the end of this year?

**Baroness Bloomfield of Hinton Waldrist (Con):** That is my understanding; if that is wrong, I will certainly put it right on the record.

I turn to Amendment 504 in the name of my noble friend Lord Northbrook, so ably introduced by my noble friend Lord Bellingham. It aims to amend the Control

of Pollution Act 1974 to create a legal duty for local authorities to publish—promptly, permanently and in all events on their planning websites—the consents and notices around any works to which Section 60 of the Act applies. I share the view of how important it is to ensure that construction noise is managed effectively. However, I question whether a duty to publish consents and notices on a website and in all events will be the appropriate action in all circumstances.

Current noise management legislation allows local authorities the discretion to publish notices and consents as they see fit within a local context. Legislating for information to be published in a specific way would remove their ability to make decisions at local level, for little additional benefit. The Government have provided a range of legislation giving local authorities powers to manage construction noise, including specific measures in the Control of Pollution Act 1974 along with statutory nuisance and planning regimes. I point to British Standard 5228, setting standards for noise and vibration from construction work, which local authorities must take into account in managing the impacts of construction noise. Therefore, the Government believe the proposed amendment is unnecessary and cannot support it.

**Lord Bellingham (Con):** Before the Minister moves on, I am very grateful for her full explanation on this amendment, but can she give some comfort and satisfaction to these residents about problems in future, as on many past occasions they have not been informed about these nuisances, and state clearly that future concerns will all be taken care of?

**Baroness Bloomfield of Hinton Waldrist (Con):** Since this is a Defra lead, I will commit to write to my noble friend and share the answer with the rest of the Committee.

Amendment 504D, tabled by the noble Baroness, Lady Hayman of Ullock, addresses the need for transparency when decisions are being made against the advice of the Environment Agency, which provides important expert advice on matters relating to flood risk. I reassure noble Lords that its advice is taken very seriously. In July 2021, Defra published the findings of a review of planning applications in which the Environment Agency commented on flood risk. It showed that, from 2019 to 2020, 95.4% of these planning decisions were made in accordance with the Environment Agency advice.

Where there is a difference of view, existing powers in the Town and Country Planning Act enable the Secretary of State to issue directions to local planning authorities restricting the grant of planning permission or to consult with such authorities as may be prescribed before a decision is made. Our consultation direction requires that local planning authorities consult the Secretary of State where they intend to grant planning permission for major development in a flood risk area to which the Environment Agency has made an objection that it has not been able to withdraw, even after discussions with the local planning authority.

Local planning authorities are also required to publish all their planning applications and decisions on their planning register. This includes representations where a government department or an agency such as the Environment Agency has expressed the view that the permission should not be granted as it is unacceptable or should be granted subject to conditions to ensure that the development is acceptable.

As part of our digital agenda, we want to ensure that these decisions become more accessible so that it is easier for all to identify where development is coming forward against advice, whether that be the Environment Agency, the Health and Safety Executive or a local highway authority. We believe that this is best addressed through open access to data rather than further statutory obligations to produce reports.

Lastly, the noble Baroness, Lady Bakewell of Hardington Mandeville, asked about planning fees. We are not changing fees through this Bill, but we are consulting on proposals to increase planning fees to ensure that local planning authorities are properly resourced to improve speed and the quality of their decisions.

I hope that, with these reassurances that I have been able to give today, my noble friend Lord Lansley will feel able to withdraw his amendment.

**Baroness Jones of Moulsecoomb (GP):** My Lords, I know this is the standard format—we put forward improvements and the Government bat them away, saying "It is all under control. Do not worry about it. We are dealing with this". But it is clear that there are huge problems within the planning system that some of our amendments would fix, and I do not understand how the Government can be so complacent about rejecting these. I know that this is the convention, but surely somebody somewhere in the Government is looking at these and thinking they are not such bad ideas.

**Baroness Bloomfield of Hinton Waldrist (Con):** Of course the Government are doing that, but we have to consider everything in the round, and we are doing a huge amount through the Environment Act and other legislation in order to allay some of the concerns that have been voiced today in the Committee.

**The Earl of Caithness (Con):** My Lords, before I come back to my Amendments 270A and 270B, and Amendment 270 in the name of the noble Baroness, Lady Hayman of Ullock, I need to correct one small thing that the noble Baroness, Lady Jones of Moulsecoomb, said. The noble Baroness said that she was the only person talking about manmade climate change and that made me giggle—I was talking in this House about manmade climate change before she even joined the Green Party, when I was a Minister for the Countryside.

**Baroness Jones of Moulsecoomb (GP):** I dispute that, but I do admit that I overstated the case. It was a struggle, and it still is a struggle, but I would like to know which date the noble Earl is using for that.

**The Earl of Caithness (Con):** I knew that would get a rise out of the noble Baroness.

[The Earl of Caithness]

Coming back to my amendments, I think my noble friend said that there was legislation already on the statute book to cope with the situation. Why is that legislation not being utilised and implemented? One of the key factors with wildfire is fuel load, and we are now learning more about fuel load and wildfires that we did not know before in the legislation that she made reference to. We know that at the moment we have got fires occurring in this country that the fire and rescue services cannot cope with because of the fuel load within the fire itself. What are the local authorities doing about that? If they have got the powers, why are they not using them? Why has the Climate Change Committee, in its latest report to Parliament, stressed the need for, and asked the Home Office to create and implement, a strategy to identify and mitigate the risks of wildfire? My noble friend did not answer the question I asked her about the Home Office earlier. Can she now answer these questions?

**Baroness Bloomfield of Hinton Waldrist (Con):** I do not underestimate the serious concerns that wildfires increasingly present to local authorities and, indeed, to us all. These are matters that are spread across a number of different departments, I can say that the NPPF does apply its climate risk to all adaptation matters, including wildfires as I have said. There are issues that cross over between the Home Office and indeed Defra, and I shall do some further exploration between those departments and come back to my noble friend and the Members of the Committee in writing.

**Baroness Hayman of Ullock (Lab):** Very briefly on flooding, there was no mention of flooding in the Environment Act, and it is not here—and that really worries me. I wonder if the Minister would be prepared to meet to discuss how we can build in flooding mitigation and adaptation better into our legislation?

**Baroness Bloomfield of Hinton Waldrist (Con):** Absolutely, we are very happy to meet on all these issues.

**Lord Lansley (Con):** My Lords, I am grateful to my noble friend for her full response to this debate, which admirably demonstrated the degree of consensus and agreement there is that this issue is both important and urgent, and that, as I think the noble Baroness put it, the planning system is not adapting. It is not securing the adaptation to climate change that we require or, arguably even more so, the mitigation of climate change. It is not even seeking in any substantial way to mitigate climate change. As the Government presently put it in the National Planning Policy Framework, the system is simply seeking to try to respond to the potential impacts of climate change. That is not sufficient; we require something more than that.

I say to my noble friend Lord Caithness that there are 14 paragraphs about flooding and coastal erosion in the draft National Planning Policy Framework. The only reference I can see that might bear upon his concern is the reference to the risk of overheating from rising temperatures. There is nothing about a planning response to the risk of fires and wildfires in the way that my noble friend expressed.

I say to my noble friend the Minister that the point is that, if we could look at the National Planning Policy Framework and see that it set out in very clear terms how the planning system s to secure the necessary level of mitigation and adaptation to climate change, I do not think we would have an argument. We have an argument because we cannot look at it. Chapter 14 of the draft NPPF is simply about making the necessary adaptations to deal with the impacts of climate change. It does not say that the planning system should be seeking to shift in any major, radical way so as to reduce the contributions which development in this country makes to continuing climate change risk.

Indeed, where biodiversity is concerned, there is more in chapter 15. I will look at it very carefully to see whether the NPPF tackles that. However, in this debate, the next debate and a subsequent debate on the design code, we are all going to be trying to use amendments to this Bill to achieve things which ought to be, by the Government's own admission, in the National Planning Policy Framework. They want to have general legislation which allows them to specify what should then happen, but we need to see it in there.

The noble Baroness, Lady Hayman of Ullock, in her first speech asked when we are going to see the NPPF. My noble friend more or less said that it would be after we have finished with the Bill. That, I am afraid, will not wash. We have to see it before Report. If not, it is an inescapable conclusion that we will have to amend the Bill on Report in order to be sure that the subsequent instructions, as it were, to local authorities about what they need to do are clear from Parliament and the Government—otherwise it is simply left to the Government, and the Bill is silent. Where the environment is concerned, as things stand there are references to the Climate Change Act 2008, but the Government are proposing to leave them exactly as they are. The expectation is that, by doing the same thing as they did in the past, the results will be better. As Einstein might have said, that way lies madness. If we carry on doing the same things, we will get the same result. We have to think hard about how we do things differently.

I will return to this issue in the next group and in a subsequent one, but I think we have made our case to look at this again in the future. I beg leave to withdraw Amendment 201.

*Amendment 201 withdrawn.*

*Amendments 202 to 206 not moved.*

*Amendment 207*

*Moved by* ***Lord Best***

**207:** Schedule 7, page 290, line 3, at end insert—

"(ha) the assessments of need for older people's housing carried out in respect of the authority's area, and"

Member's explanatory statement

This amendment would ensure that local authorities consider the needs for housing for older people when preparing local development plans.

**Lord Best (CB):** My Lords, I am grateful to the noble Lord, Lord Young of Cookham, and the right reverend Prelate the Bishop of Chelmsford for adding their names to Amendment 207. Indeed, when this House had a dress rehearsal for this amendment, discussing the related Amendment 221 last month, the noble Lord, Lord Young, expertly outlined the case for the planning system to do more to reflect our ageing population, and the right reverend Prelate the Bishop of Manchester—in place of the right reverend Prelate the Bishop of Chelmsford—gave invaluable support to this theme.

*4.45 pm*

It was very helpful, too, to get the views of the Minister in response to that first instalment in our efforts to improve the Bill from the perspective of housing for older people. We want the Bill to trigger a real breakthrough in provision of suitable housing for older people. Amendment 207 would ensure that local authorities recognise the needs in their area for such housing and, alongside Amendment 221, would enable the outcome of assessments to feed into local plans, as I shall explain in a moment. In this context, I warmly welcome the eagerly awaited announcement of an older people's housing taskforce, to be chaired by Professor Julienne Meyer. We all have high hopes that this government initiative will lead to real progress in tackling the housing needs of our aging population.

I declare my interest as chairman of a series of HAPPI inquiries—Housing our Ageing Population: Panel for Innovation—initiated by the APPG on Housing and Care for Older People, which I chair jointly with Peter Aldous MP. I am also drawing on the professional input of the Retirement Housing Group, which brings together the developers and providers of most new homes being built for later living. I am grateful for this group's input.

At the last Committee sitting, the case was made for the building of many thousands more new homes for the older generation, particularly perhaps the extra-care assisted living projects that combine independent apartments or bungalows with social and care facilities on tap when needed. Retirement housing schemes enhance health and well-being, keep people out of expensive residential care and out of hospital, and save NHS and care budgets. They also achieve two for one by releasing family homes for the next generation. However, total output of all forms of retirement housing is running at around 8,000 homes per annum, compared with national estimates of need for 30,000 to 35,000 homes. We have no chance of achieving this growth so long as we simply hope that market forces will do the job.

The housebuilding industry is dominated by an oligopoly of volume builders that concentrate on the easier market of first-time buyers and young people. Developments for older people are less profitable because sales are slower, since prospective buyers wait for the whole development to be completed and the management to be in place, because older buyers demand higher standards of space and accessibility, and because schemes have the expense of communal areas and shared gardens. These extras are the very essence of specialist developments of different sorts. They combat the epidemic of loneliness and isolation, not least in supporting couples where one is a carer—maybe with a partner who has been diagnosed with dementia—and there is help and companionship there for both. These schemes also make formal care much easier to provide in one place. However, the extra land requirements and additional capital costs are hard to recoup simply by demanding a higher price, so those building for younger people, where profits are higher, will outbid the specialist providers of retirement homes in the competition for land.

Intervention through the planning system represents the key opportunity to create a more level playing field. Central government has an important leadership role through its National Planning Policy Framework and related guidance. Already, this gives encouragement to local planning authorities to take on board the housing needs of older people. The current consultation on the NPPF indicates the Government's desire to improve the diversity of housing options available to older people and to boost supply. However, research by Irwin Mitchell and Knight Frank in July 2022 found that just 22% of local authorities have a clear planning policy in place for older people's housing. This amendment attempts to change that depressing statistic and ensure that planning at the local level enables and supports provision of retirement housing.

Government has more levers to pull in respect of social housing provision and could—and should—use its grant funding through Homes England and the Greater London Authority to secure a more appropriate proportion of its affordable housing programme for older people's housing. However, this amendment uses the powers of local planning to make things happen for social and private sector providers. Most importantly, this could mean incorporating requirements for older people's housing into local plans. As other clauses in the Bill emphasise, establishing a rigorous local plan is critical, and so is the determination and insistence of the planning authority to uphold that local plan. Including a firm requirement in the local plan for retirement housing in the mix of new homes would give the specialist private and social housing providers the impetus they need to boost production.

I will address one objection from some councils to supporting planning applications for older people's housing. This is the spurious argument that such housing will encourage migration of people needing social care into the area. This is a complete misunderstanding of what retirement apartments and communities are achieving. Some more affluent home purchasers may be moving some distance to the retirement development from elsewhere—for example, leaving London to move to a seaside resort or a more rural locale. However, those movers will pay for their social care, and more broadly they will bring spending power that supports local economies the year round.

For the great majority of developments, surveys of residents show that most people move only a short distance when rightsizing to purpose-built new accommodation. Most residents are already living in the local authority's area, and the more suitable accommodation will actually mean that the council can expect significant savings to its social care budget. Those savings will accrue because home care needs are likely to be reduced when people

[Lord Best]
are in safer, more accessible accommodation, where support, including mutual support from fellow residents, is available, and because the greater expense of residential care is likely to be prevented or postponed. Moreover, it is far easier to deliver care to older people in one retirement development than for care workers to spend endless time travelling between their numerous visits.

The plan-makers should have no concerns that retirement housing will add a burden to social care services. As Amendment 207 spells out, plans should take on board a full assessment of the need for older people's housing in the area and, in the highly likely event that this demonstrates unmet supply, clear requirements on housebuilders and developers can be justified in the local plan.

Housing for later living can and should be treated in the same way as planning for affordable housing, through specifying an obligatory proportion of new homes—perhaps 10%—in all developments over a certain size to be for older people. Thus larger schemes can include, for example, an extra care development, usually of between 40 and 60 apartments. This achieves an intergenerational mix within all major new housing developments. In addition, planners can earmark and allocate individual sites specifically for older people's housing—for example in town centres, where such developments can be important community anchors and can help broader regeneration. The same treatment can go for windfall sites that emerge after preparation of the local plan. I should add that neighbourhood plans can play a key role in highlighting and supporting local requirements for retirement housing.

I will conclude with one or two statistics. The number of us who will be over 80 is set to rise from 3.3 million to 4.5 million in the coming decade and, even more striking, those over 85 will double from 1.6 million to 3.2 million. Yet we are seeing the numbers of specialist apartments and bungalows for older people decline: supply per thousand population aged 75 and over has fallen from 139 homes in 2015 to 110 in 2021, not least following the closure of older social rented stock without replacement.

It is clear that this issue is becoming more and more urgent. Amendment 207 would help create the conditions necessary to achieve that elusive tipping point in making rightsizing for one's older age the norm and providing for the thousands more who need and want a suitable home. I hope the Minister agrees, and I beg to move.

**Lord Lansley (Con):** I will speak to Amendments 215 and 218, tabled by me and my noble friend Lord Young of Cookham. That might be helpful because there is a substantial additional issue in this group which, I have to say, even after eight and a half days of debate on the Bill, may prove to be the most significant of all our debates thus far. It is about future housing supply.

The Government assert that the planning system is broken, and the fact that only 40% of local planning authorities have an up-to-date local plan might suggest that that is true. The public anger at the approval of planning permissions as a result of the lack of a five-year housing supply has created a deep lack of confidence in the system. The Government have a target of building 300,000 homes a year; we are 200,000 homes short of that target since it was set in 2018—possibly as much as 100,000 short in the past year. Even at that rate of new build, it would take decades to bring our housing supply up to anything comparable to other western European countries.

I do not think the issue is whether the planning system is broken; the issue is whether these reforms mend it. Unfortunately, the Government's proposals for reform over recent years have not led to any acceleration in the building of new homes or the processes leading to it. On the contrary, the rate of plan-making has slowed to half the rate before the housing White Paper was published in 2020. Since the ministerial Statement in December last year concerning changes to the NPPF, 33 local plans have been delayed. Among the changes in the draft National Planning Policy Framework were that the standard method for the assessment of housing need should become an advisory starting point. It also included the watering down of the housing delivery test and, consequently, that the limitation on the use of the presumption in favour of sustainable development would also be watered down. It proposed the removal of the test of "justified" in the examination of plans, so local planning authorities can make the plans they wish to without having to justify them. Since those changes, fewer plans are being approved, fewer planning consents are being granted, and, consequently, fewer homes will be built. This is not mending a broken system.

I see nothing in the Bill and have heard nothing in our debates so far that leads us away from the idea that there should be a plan-led system. However, as my noble friend and I made clear in a debate on his earlier amendments, it requires the preparation, publication and approval of up-to-date local plans. If those local plans are approved timeously, we will have as a consequence a basis on which more homes can be built—particularly if those plans incorporate the necessary assessment of housing need.

Amendment 215 would place a statutory requirement on local planning authorities to plan for a housing supply which "meets or exceeds" that which would be specified by the standard method and the Government's housing target. They can deploy an alternative method, but not in order to diminish the number of homes that the Government's target would imply for their area. Amendment 218 would require local planning authorities to have regard to the Government's housing target and to the standard method in assessing their housing requirements.

*5 pm*

The proposition in these amendments, in my name and that of my noble friend, is very simple. The country needs more homes to be built, and the Government's housing target recognises and quantifies this. If the Government have a target, they should have a means of delivering it. These amendments, and those which reinforce the requirement for an up-to-date plan, are the basics which are needed to deliver on such a policy. The Government would have broad public and political backing for stating this and putting it into practice as quickly as possible.

I urge my noble friends on the Front Bench that, if they agree with the spirit of these amendments, the Government should come back on Report with their

own amendments, and that they should before that date publish a revised National Planning Policy Framework, as I mentioned previously, showing that as a consequence they propose to reinstate the housing target and the standard method as the basis for local planning authorities to assess their housing requirements.

**Lord Jackson of Peterborough (Con):** My Lords, I will speak to all the amendments in this group. I support them all, with the exception of the amendment tabled by the noble Lord, Lord Bradley, on which I am agnostic at the present time.

The comments made by my noble friend Lord Lansley were interesting and I completely endorse them. I was extremely disappointed by Ministers resiling from their original commitments to planning targets that arose from the ministerial Statement last December. Noble Lords might wish to look at the excellent paper that was published in January by the Centre for Policy Studies, *The Case for Housebuilding*, which disabuses people of the canard that housing targets, and local housing in particular, are unpopular. Qualitative and quantitative data collected in that paper by the CPS shows that this is not the case.

My noble friend Lord Lansley is absolutely right that Ministers now have the opportunity to restate their commitment to housebuilding—a commitment made in the 2019 general election manifesto. Clearly, it is imperative. There is an urgent need to reassure people, particularly people under the age of 40, that they have a Government who are committed to providing them with the options to at least think about owning their own home. It is difficult, of course, because there are competing interests. It is basic economics that, if you own capital, you do not want to diminish the value of that capital by giving capital to other people. However, the bigger issue here is one of fairness and social equity, particularly for younger people. The Government have an obligation to look again at ways they can facilitate more homes to be available through strategic planning policies, not just in cities but on brownfield sites and urban extensions in rural and suburban areas.

I commend the Home Builders Federation for its unfortunately titled *Planning for Economic and Social Failure*, published in March, which contains a lot of interesting data, and the *Housing Today* magazine's campaign, A Fair Deal for Housing.

I want particularly to talk about the very interesting remarks made by the noble Lord, Lord Best, who brings great expertise and experience to this issue around housing for older people. He is absolutely right that the figures are pretty stark. There will be around 500,000 new over-75s within the next five years. As he said, by 2032, there will be 5 million people over the age of 80. This is not a luxury that we can dismiss with any degree of insouciance. Older people's housing is an important issue, for a number of reasons.

If I can take noble Lords back to 2015, I was fortunate, or unfortunate, enough to attend a barbecue at No. 11 with the then Chancellor, George Osborne, as a bright-eyed and bushy-tailed—well, slightly addled—Back-Bencher in the other place. He asked: "What policy do you think I should put forward in this Parliament that would really make a difference?"—this was just after the general election. I said tax breaks for extra-care facilities to help older people in need into extra care and to alleviate the cumulative impact over time on acute district hospitals, general practice and social care. Clearly, I did not make much of an impact, because successive Administrations have not necessarily followed my advice.

I think the beauty of the amendment from the noble Lord, Lord Best, is that it is a probing amendment that begins the debate. Ultimately, the debate will land at the feet of the Treasury, because in our centralised system it makes the decisions. For very narrow financial reasons, because of the demographic time bomb we face, it makes sense that we focus, look again and review housing for older people.

McCarthy Stone makes the assertion, which I am sure it can support by data, that pursuing a policy of encouraging downsizing of older people into extra-care facilities might release 2 million rooms across different tenures of housing. That accommodation would be available to families, younger people and those who are languishing on social housing waiting lists. It is something we need to look at; we desperately need new national guidance. We should require local authorities to assess local housing need and to include policies for older people in their local plans. We also need to think, potentially, about exempting older people moving into a retirement community home from paying stamp duty; that is extremely important.

This will have a wash-through into the health service and social care. It is about not only money but providing good-quality facilities for older people to support their dignity and independence, because too much of social care is about trying to solve a problem. I will finish with some statistics. If noble Lords remember the excellent report published by the Built Environment Committee in January last year, entitled *Meeting Housing Demand*, they will remember that by international comparison the UK is in a very poor place in the provision of housing for older people. In Australia, New Zealand and the United States, approximately 5% to 6% of over-65s have access to housing with 24/7 staffing, community facilities and bespoke care facilities. In this country, it is a pitiful 0.6%.

We can do better. I do not expect Ministers to develop policy on the hoof straightaway, but by accepting this excellent amendment by my noble friend Lord Young of Cookham and the noble Lord, Lord Best, we can begin the debate and discussion. I think there is a political consensus across parties that this is an issue and a problem that we cannot turn away from for very much longer.

**Baroness Fox of Buckley (Non-Afl):** My Lords, I like this group of amendments. We have just had a group of amendments in which we talked a lot about protecting species' habitats. I am an enthusiast of the hedgehog as much as anyone else, but I am worried that the Bill neglects human habitats: housing. I am really glad that we are going to focus in on that.

We heard an imaginative, problem-solving amendment from the noble Lord, Lord Best, who brilliantly motivated homes for older citizens, something that I would like to see developed. I have added my name to Amendments 215 and 218.

[Baroness Fox of Buckley]

I am grateful to the noble Lords, Lord Lansley and Lord Young of Cookham, and the noble Baroness, Lady Hayman of Ullock, for focusing on housing supply. I made that the focus of my Second Reading speech and I continue to raise the issue, but it has been explained and motivated so well so far that I will confine myself to Amendment 210 in my name. However, unless there is some movement from the Government on tackling the blocks to building more homes and increasing the stultifying and sluggish housing supply, I will happily support the noble Lords and the noble Baroness if they table similar amendments on Report, because this is an issue of great urgency.

Amendment 210 is a modest amendment that deals with how homes are categorised and marketed in local plans. It would ensure that any local plans are honest and transparent about housing data and targets. Housing is usually categorised as either rented or owned, but I suggest that we need a third category that might more honestly reflect reality. If you go into an estate agent's or look longingly in the window, you look at either rented accommodation or accommodation for sale. If you are lucky enough to buy a home, you assume that it is fully yours, but the sad reality is that the one in four so-called home owners who buy a leasehold property—nearly 5 million homes are in this category—are not home owners at all.

People should know what that means. When they go to an estate agent, we need to ensure that there is less mis-selling and that the estate agent advertises in its window "homes to lease", rather than "homes to sell", when it comes to leaseholders. This is important, because a lot of the Government's rhetoric on housing and levelling up is intended to motivate an increase in the number of home owners. Arguably, leaseholders should not be counted in those figures.

I will give a few definitions and a bit of history. The reality of what the nature of leasehold really means came as rather a shock to many of us when it was exposed by the post-Grenfell building safety crisis. It has become increasingly apparent, at least to leaseholders, that we are not home owners—I declare an interest as a leaseholder. We realised that what we had purchased was a time-limited licence to occupy a concrete shell, of which the leaseholder does not own a brick, even after the mortgage has been redeemed.

In contemporary debates on this issue—of which there have been many recently, in both Houses—leasehold is often described as feudal serfdom. When I heard that, I thought it was just a bit of political hyperbole, but in fact leasehold tenure harks back to an age when land was correlated with power; and even in 2023, leasehold is indeed still firmly rooted in a sense of serfdom and manorialism. The medieval aristocracy enjoyed perpetual land ownership by allowing serfs to occupy premises on their land in return for labour and, later, in exchange for financial contributions.

As if to emphasise how much of that ancient history continued well after the end of feudalism, for many years leaseholders did not have the franchise. Why? Because the property qualification that was required in order to have the vote meant that you had to own your own property before you could choose who governed you. Because leaseholders did not count as owning their own property, they were not given the vote. When the democratic struggles succeeded in abolishing this egregious property requirement for voting, there was, unfortunately, no abolition of leasehold—but not for the want of trying. Even in 1884, Lord Randolph Churchill decried leasehold for empowering landowners to

"exercise the most despotic power over every individual who resides on his property".

Indeed, between 1884 and 1929, there were at least 18 attempts to legislate against leasehold. It seems ridiculous that this has been going on for so long. But here we are, in 2023, with seeming cross-party unanimity, at last, on abolishing leasehold altogether.

*5.15 pm*

Lisa Nandy, the shadow Levelling Up Secretary, has made Labour's position clear. Labour will abolish leasehold, and, on this this at least, agrees with the Housing Secretary Michael Gove, and many Cross-Benchers, Bishops, Liberal Democrats and everybody in this Committee who seems to have been passionate and vociferous on the issue. So, you might think, why am I going on? Maybe this amendment is totally redundant. However, until I see it in the King's Speech, I remain sceptical. At least, I want to ensure that we are honest before then about what leasehold means. This Bill aims to increase home ownership and says that it is an important part of levelling up. I want to ensure that leasehold properties are not counted under this category of home ownership.

I would like to welcome a new grass-roots campaign organisation, Commonhold Now, set up by the tireless leasehold activists Harry Scoffin and Karolina Zoltaniecka. It is calling for a mass shift to commonhold, a system widely used in Scotland, Canada and Australia. Interestingly, the organisation is committed what it calls "real homeownership". It is focused on what makes ownership real: autonomy and control. People aspire to buy properties precisely so that they can have greater freedom, autonomy and control. They feel that that it will be different to being dependent on a landlord as a renter. It is very disillusioning to then discover that leasehold actually robs you of that control.

I learned that the hard way shortly after I became a first-time buyer over 20 years ago, partly to fulfil my father's rather forlorn deathbed request that I settle down and take some responsibility. Some local footballing kids cracked my new flat's window, so I decided to take my father's advice and acted responsibly to replace the window. The response of my freeholder, Haringey Council, was to fine me for interfering with its property without permission.

My father, who worked in the construction business, also warned me that I should always get lots of comparative quotes from a range of contractors before getting any work done. But, as a local authority leaseholder, I have no right to do that. It is the council which enters into long-term agreements with contractors, who do not even have to tender for each project. Those of us who have to pay for the works have no right to decide on their scope, timing or even necessity. Being a leaseholder makes it almost impossible to budget, as you have no control over and or even cannot find out

the extent of forthcoming costs because you do not control spending. For private sector leaseholders in the midst of the energy crisis, it is even worse. One article on this was titled:

"I am writing the cheque yet I have no control over what is being spent".

Even legislation designed in this House to protect leaseholders by making homes safer has been turned into yet another mechanism for extracting cash and diminishing the choice and autonomy of many private leaseholders. One shocking example, in light of the fire safety legislation we passed, is a block of leaseholders who were told they would collectively be charged £500,000 to replace wooden terraces with special composite materials. Those leaseholders, at their own expense, consulted independent experts, who told them that the terraces did not need replacing; they were not a fire risk or in breach of any new legislation—and, anyway, paving stones were a lot cheaper and would do just as well. In other words, being a leaseholder means that you do not own your own home and this Bill needs to reflect that.

I of course do not want my amendment or any critique of leasehold to become an excuse for not building new homes, such as blocks of flats. As I have mentioned, the solution to the housing crisis, in terms both of rental and buying, and the solution to the affordability issue, is to focus on increasing supply with urgency. In a recent article in the *Financial Times*, John Burn-Murdoch made a plea for apartment living in high-density, high-rise blocks. I am all for that, but such developments are inevitably leasehold at the present time. Focusing new housebuilding and urban development on blocks of leasehold flats could lead to creating more second-class home owners, locked and entrapped in the costly and miserable limbo of leasehold. Even much of the retirement accommodation spoken of by the noble Lord, Lord Best, is at present leasehold and there are problems of exorbitant service charges.

We need to make sure that those who are desperate to get their foot on the first rung of the property ladder are not exploited by believing that leasehold means that they now own and control their homes. At the very least, any new-build homes that offer leasehold, rather than shared freehold or commonhold, must be honestly reflected and labelled in government data. They should not be counted as home ownership or cited as proof of fulfilling levelling-up targets. So, until leasehold is abolished, let us call it for what it is—and it is not home ownership.

**Lord Bradley (Lab):** My Lords, I will speak to my Amendment 219A, which has been attached, rather inelegantly, to this group. I fully support the amendment on housing for older people so eloquently moved by the noble Lord, Lord Best. I declare my interests in the register, particularly as chair of council at the University of Salford.

My amendment is straightforward, but the issue is important. However, I will be brief. The amendment seeks to add a requirement that, in the development of local plans, the housing needs of students are taken into account by fully consulting local higher education providers and housing and planning authorities in that process.

We are all aware that there is a significant undersupply of student accommodation across the country—this has been widely reported in the media throughout this academic year. It is a particularly acute problem in our cities, including Manchester, where I live—but there are also reports from Durham, Bristol, Glasgow, Brighton, Nottingham, London and many more. The student accommodation charity, Unipol, reports that UK student housing is reaching a "crisis point" as bad as in the 1970s. Just before Christmas, Property Reporter said that the student rental market is reaching "breaking point". Furthermore, purpose-built student accommodation specialists Cushman & Wakefield report that new-build schemes are failing to keep pace with demand, at the same time as supply is being lost from the private rented sector, with many landlords switching from student accommodation to rental for professionals because of a more compelling business case, lower management requirements and more consistent demand.

As a consequence, we know that students are forced into accommodation they cannot afford; are forced to live far away from the university they are attending, with consequential higher travel costs; or are choosing unsuitable, or even unsafe, accommodation. This has a detrimental impact on the health and well-being of students, as well as significantly undermining the overall student experience. The situation has clearly been exacerbated by the current cost of living crisis.

The Government have made their position clear. In response to a Written Question in the other place, Robert Halfon, Minister of State for Education, said:

"Neither the Department for Education nor the Department for Levelling up, Housing and Communities have made … an assessment"

of student housing. He went on:

"It is for local areas, through their Local Plans, and in response to local needs and concerns, to determine the level of student accommodation required in their area. Universities and private accommodation providers are autonomous. The department plays no direct role in the provision of student residential accommodation, whether the accommodation is managed by universities or private sector organisations."

That is absolutely clear, and we must therefore consider local solutions to the problem.

If we look across the country, we see examples of good practice, such as in Nottingham, where the city's student living strategy explicitly involves collaboration between the universities and the local council to ensure that Nottingham realises the many socioeconomic benefits that students bring, without putting pressure on the local housing stock. But such collaborations can be more difficult in places such as Greater Manchester, where you have many higher education providers and 10 district planning and housing authorities trying to co-ordinate the demand and supply of accommodation of many thousands of students.

The student union in Salford, ably led by its president, Festus Robert, and working closely with student unions across Greater Manchester, have been in discussions with the Mayor of Greater Manchester to try to address this problem. However, this complication could be overcome through this amendment. It will introduce a statutory requirement at the local level, with the development of local plans, to ensure the collaboration of all interested parties—principally, universities and

[Lord Bradley]
local authorities—to take into account the housing needs of the students when they are developing their local plans.

This important issue must be tackled, and I hope that my amendment will ensure that it is. I also hope that the agnosticism of certain noble Lords will be overcome by my argument. It clearly chimes with the purpose of the Bill and, more broadly, with the devolution agenda. In that spirit, I hope that the Government will support it today.

**The Earl of Lytton (CB):** My Lords, I will speak to this group of amendments, doing so as a property professional. For very many years, the development process, housebuilding and the construction process have not been far from my daily life—at any rate until a few years ago, when I ceased to do that sort of thing on a day in, day out basis throughout the week.

I will start with the point raised by the noble Lord, Lord Lansley, in his superb explanation of the matter. I will throw some light on that, because, whether you have targets or whether you make an allocation at local level, none of these of themselves build a single unit of residential accommodation. There is a stage in between that is occupied by a commercial cohort of developers and housebuilders. I have worked for a few—although not recently—so I have no intrinsic bias against developers and housebuilders. They are, after all, the delivery system whereby the government targets will be met and, ultimately, one assumes, the affordability and availability of housing for those who need it and wish to occupy it will be delivered. However, they control the build-out rate—the more so if they control large strategic sites.

So far as I have a current interest, it is one that occupies an area within a local authority within which I reside and involves sites that are not many miles from where I live. To give one example, there is a site 6.5 miles from where I live, next to a major town, with consent for 2,700 homes. The consent was granted some years ago. Material commencement within the normal three-year period was made to construct the access. So far, the school—which I am told is fully occupied —and about two dozen houses have been built, but not much else. So, although it may fall short of what I might call the Letwin definition of land banking, it is an expandable pipeline of balance sheet assets that is not about delivery as such, but rather about managing profit and income streams.

It is very easy to make that material start and preserve your consent more or less in perpetuity. There has been some recent case law where that has wobbled a bit, but I will not go into that.

*5.30 pm*

The societal need to build out is effectively farmed out to the private developer sector. There seems no way in which this can be accelerated—we are stuck—and therefore, there is more pressure to create more allocations that then do not get built out. I asked CPRE for an update not long ago—I am not a member of CPRE, but it seems to have a very good handle on this—and it tells me that according to its calculations there are 1.1 million consented plots up and down the country that are, as yet, unbuilt. At a 300 dwellings per annum buildout rate, we can do the maths as to how many years' land supply that amounts to.

It gives one pause for thought, because this feeds into a high level of resistance. It has occurred locally to me and is something I should say my wife has been acutely involved with. A local neighbourhood plan, that had gone through all its stages and had got to the stage of being a made neighbourhood plan and was therefore a material part of the local plan, is in effect capable of being overridden because the local plan itself is out of date. Yet we have this candid demonstration of local desire and acceptance that more development is needed, and it is at risk of being overridden. Needless to say, the local likely lad developers who are already in the local village have stuck in a speculative application for another 1,500 homes, thank you very much.

I accept that the part of Sussex I live in has long been regarded as a development area. It is not that far from Gatwick Airport; it is quite close to the borough of Crawley, which has very important commercial infrastructure in terms of its industrial area and its manufacturing. It is not that far from the main motorway system. Crawley sits on the London to Brighton railway line. So there are good links and I understand that, but if we are to have a situation where the targets are somehow set according to a metric produced by central government without regard to capacity—and I am thinking particularly about infrastructure—then it is not very surprising if local people feel pretty hard done by, even as if their local neighbourhood plan, which was no doubt done on the back of a lot of people's effort and with no small amount of public money involved, has been summarily trashed. That is not good enough.

I turn to the point made by the noble Lord, Lord Best. He has been a doughty campaigner for the housing needs of the elderly. I see that as being where the development process meets the infrastructure requirement—it is that interface—except the infrastructure required is a piece of social infrastructure rather than a piece of hard infrastructure like all the other stuff. However, it has been overlooked along with all the other things: roads, water, electricity, health, education, provision for age, transport—you name it, they have all been overlooked. Far too often, they are not in place sufficiently early on to avoid causing an overload.

In my part of west Sussex, we run into a particular problem referred to as water neutrality. It is not something that was created by dint of Ofwat or anybody like that—indeed, I think Ofwat and the water utility company would be happy to continue pumping for as long as there was stuff in the ground to do it. No, it was Natural England that said, "You're depleting the water supply underneath an important wetland area and you've got to stop doing it". That was the trigger that caused it. My fear about water neutrality is that we will end up with a fudge and it will become just another form of tariff that gets paid for, without anybody addressing the problem that the abstraction is too great. The rest of us, connected as we are to what you might call old-tech taps, baths, showers and that sort of thing, are not reducing our consumption. Indeed, we are using expensively treated water to water the garden or the lawn, or to wash the car or the dog. It is really not acceptable to have got to this stage. Who knows how

long it will take before some other pipeline, into another catchment area, can bring water in, or another reservoir is constructed, in order to enable all this to happen? Meanwhile, one supposes, the multiplier effect of housing need will build up until it reaches some sort of breaking point.

I think I have explained to your Lordships what I see as one of the fundamental problems of where we are. I do not have a ready-made solution, but I see people looking at bits of this process at local and community level, at government level, and in various utilities and strategic bodies, and I fail to see how they are knitting together and getting us to where we need to be. I do not have the answer to it, but I can see that there is a significant problem.

I turn now to something different, which was raised by the noble Baroness, Lady Fox of Buckley. I am acutely aware as a chartered surveyor that leasehold ownership has not been the flavour of the month for a very long time, but I would counsel caution. I am not an advocate for any particular form of tenure. I am an agnostic as far as that is concerned; if it works, let us have it. Leasehold is not specifically a feudal overhang based on medieval principles and, even worse, medieval practices between the participants. It is a means whereby someone has a form of ownership in part of a larger building, the fabric of which provides the common envelope for many similar units. One cannot get away from the fact that, philosophically, that is what it is. Whatever form of occupation rights one might devise, the essential friction between the ownership and occupation of a unit and the ownership and control of the block will always be apparent, especially if the owners, or one or two of the owners, of the units fall on difficult times and find themselves in difficulty about paying the ground rent, service charge or whatever it is and therefore come under pressure from managing agents—they are a breed, I have to say, I am not terrible in favour of; I once managed a block myself and never again. Thankfully, I am past the age where I need to be worried about that, but we fail to understand the friction between these various things. There are other forms of tenure, such as commonhold, but that does not necessarily get rid of the issue. Of itself, it may be fine, but if you introduce that, and the mortgage lenders and insurers put their ears back, there is then a lot of suspicion—a two-tier operation in the marketplace if you are not careful—and you end up damaging what you already have.

In my professional career, I have known leaseholder-owned blocks where a small cohort of those who sat on the committee that controlled the freehold and management ran the thing as their own personal fief and not, as far as I could see, in the best interests of the collective of all the people they were ruling the roost over. This is to do with attitudes. There is something anthropomorphic in why this is happening, which is one thing that does not go away whatever tenure you have; this exploitative approach by the few against the many, if I can put it that way, is not easily overridden. But if one wants to start looking at that, maybe there are things that can be done and duties that can be imposed on people that make it unproductive or actually dangerous to enter into these exploitative situations.

I pay tribute to the noble Baroness, Lady Fox of Buckley, because it is very valuable that she raises these points—but I suggest that we need to look beyond tenure alone and start to look at behaviour. That is the common thread between the developer middlemen and the leasehold management, which I would commend the Committee to look at as something outside the framework of some of what we have been discussing.

**The Lord Bishop of St Edmundsbury and Ipswich:** I shall speak very briefly in support of the group of amendments, on none of which would I dare wish to claim to be an agnostic. I particularly support Amendment 207 proposed by the noble Lord, Lord Best, to which my colleague the right reverend Prelate the Bishop of Chelmsford has added her name. The amendment addresses the important role of local authorities to consider older groups' housing needs when developing local plans. Together with Amendment 221 from the noble Lord, Lord Best, these changes to the Bill would deliver a more effective response to the shortfall in appropriate housing for older people at all levels of government.

The Mayhew review for future-proofing retirement needs recommended

"closer working between planning and social care departments to ensure the need for retirement housing with access to care is factored into local authority plans".

This amendment would be a step towards making that kind of joined-up thinking and development a reality.

**Lord Young of Cookham (Con):** My Lords, I was going to make the shortest speech in this debate, but the right reverend Prelate has set such a high bar that I do not think that I can clear it.

I have added my name to Amendment 207 moved by the noble Lord, Lord Best, and Amendments 215 and 218 in the name of my noble friend Lord Lansley. The reason why I can be brief is not because the amendments are not important—I think that Amendments 215 and 218 are the most important amendments to the whole Bill—but because we touched on both subjects in earlier debates, in what the noble Lord, Lord Best, referred to as a dress rehearsal. In those earlier debates, I set out as best I could the cases for doing more for older people and building more homes.

In the debate on my Amendment 221 on older people, I was very critical of the delay from the Government in setting up the taskforce for older people, which was actually trailed two years ago, but nothing happened until last month. A week after I raised this with the noble Lord, Lord Best, a chairman was appointed, and I hope that there will be a similar positive response to all the other speeches that I am going to make on the Bill.

In a nutshell, the problem that the noble Lord, Lord Best, outlined is quite simple. The pace of demographic change in this country and the growth of more smaller older households has resulted in a huge imbalance in the housing stock that we have, which has been built up over many decades. To get a better balance, which is the thrust of the amendment from the noble Lord, Lord Best, we need to do more than we have done so far—and we have heard a wide

[Lord Young of Cookham]
variety of suggestions. He suggested that a percentage of new homes should be focused on the needs of older people, or specific sites should be earmarked for older people, or there should be a separate use class for specialist housing for older people. My noble friend Lord Jackson suggested a stamp duty exemption; others have suggested an infrastructure levy exemption for older people's housing. Without repeating the speech that I made last time, I hope that the Government will accept that we need to do a bit more than we are doing at the moment if we are to get a better balance between the needs of the population and the housing stock that we have. We need to promote mobility so people can move into the new homes built for older people.

*5.45 pm*

On Amendments 215 and 218, we are all agreed that we need more houses. As my noble friend Lord Lansley explained, we are way behind target. But the problem is that all the good things in the Bill to promote more housing are totally overshadowed by the announcement before Christmas when the Government climbed down in the face of a rebellion in the other place and watered down the commitment to build more homes. The sheer starkness of the Government's climbdown was revealed in an article in the *House* magazine by Theresa Villiers, who led the rebellion. She said that her amendment was

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

You cannot rely on the good will of local authorities to deliver the homes that the country needs. There is a central government mandate, mentioned by my noble friend Lord Jackson, referring to

"our progress towards our target of 300,000 homes a year by the mid-2020s".

What a local MP may regard as an arbitrary target imposed from on top by Whitehall is actually a goal that a democratic Government are trying to deliver. My own view is that the votes that an individual MP may lose if an unpopular development goes ahead will be massively outweighed if the country as a whole does not believe that the Government are taking housing seriously. As my noble friend Lord Lansley said, the impact of that document is already being felt. Since it was published, 47 local plans have been delayed with the clear intent of delivering lower numbers; he said 33, but the figure I have is 47.

My noble friend also mentioned other concessions in the document, but the main concession was in the chapter headed "Introducing new flexibilities to meet housing needs". I think we can all crack the code as to what that means. The document states that local authorities do not need to meet housing needs—then it sets out the circumstances.

I very much hope that between now and Report the Government will recognise that there is a strong feeling in this House and out there in the country that we need to do more. We need to revert to what the Government originally planned before the climbdown before Christmas and give the other place time to think again and reflect on what happened in December, then revert to the Government's original policy, which was a manifesto commitment, enabling the country to build the 300,000 homes each year that we need.

**Lord Stunell (LD):** My Lords, this is an extremely important debate with a large number of amendments of great importance. Having recently been recruited to the rapidly increasing cohort of the over-80s, I am entirely with the noble Lord, Lord Best, and his amendment. Certainly the Liberal Democrats support the case that has been made.

I was interested to hear what the noble Lord, Lord Bradley, had to say in relation to his amendment about making an assessment for student accommodation. As a resident of Greater Manchester, I understand the issue very clearly. I am sure that the Minister will want to tell us about how it is possible to have such a requirement applied in a proportionate way, bearing in mind that for a neighbouring planning authority such as High Peak it may be a very small consideration, whereas for an authority such as Manchester or Salford it is very significant.

I wonder if I might impersonate the noble Lord, Lord Kennedy, in respect of the amendment of the noble Baroness, Lady Fox of Buckley, and ask where the leasehold reform Bill is, of which the Government have spoken so much and delivered so little. I shall leave my remarks there. I think we need to hear from the Minister not simply that she does not particularly like the amendment that the noble Baroness has tabled but that there is actually a positive plan by the Government to tackle the issues the noble Baroness has identified.

I want to focus my remarks on Amendment 219 and Amendment 218, tabled by the noble Lord, Lord Lansley. Amendment 219 would require local planning authorities to have a local plan that reaches or exceeds the requirement for housing prescribed by the Secretary of State. Amendment 218 would nail this down further by requiring strict conformity with the Secretary of State's targets, using a method of calculation specified by the Secretary of State. We should be clear that, taken together, these amendments would mean that local land allocations for housing would essentially be taken away from local planning authorities and placed back in the hands of the Secretary of State. This would be a reversion to the statutory situation that obtained at some very distant time in the past—some 12 months and three Prime Ministers ago. It is a policy position that was denounced by the previous Prime Minister as Stalinist, and was this week repudiated by the current Prime Minister when speaking on the BBC. He said he saw an urgent need for change to the existing policy, assisted materially by conversations he had had last summer with Conservative councillors all over the country, who spelled out to him its consequences and the damaging impacts it was having locally.

A close reading of the two amendments suggests that, actually, they may seek to go slightly further back, to something that is even more Stalinist than the preceding Prime Minister was suggesting. The drafting of Amendment 218 appears to say not only that falling below the target would not be permitted but

neither would exceeding it, because it has to be in strict conformity with the targets that have been set by the Secretary of State—not a house more, not a house less.

Noble Lords who are proposing this pair of amendments are certainly quite right to point out that the current situation suits nobody, least of all the tens of thousands of families on council waiting lists or the many others for whom a house purchase is hopelessly beyond their means and for whom renting can only ever be an inadequate, insecure and expensive option, given the current size and nature of the housing stock. They are also right to point out that the current policy uncertainty has paralysed local plan decision-making, slowed site allocations, and infuriated the development and housing industries.

We need more homes urgently. Specifically, we need many more social homes for rent. If money was switched from the Help to Buy programme to investing in those homes, as we on this side have often advocated, that would make a start, but the supporters of these two amendments need to explain in more detail how going back to the status quo ante will deliver the outcome that they desire. Not once did the system to which they are now encouraging us to go back deliver 300,000 net new homes a year, or even near it. The noble Lord, Lord Lansley, drew that to our attention. The old system was not delivering, so reinstating it seems unlikely to work miracles. Indeed, I shall quote the noble Lord, Lord Lansley, in respect of another matter he spoke about: repeating something that you know does not work is verging on madness.

There are even more Stalinist options available, and maybe these two amendments point the Government in that way. There is no doubt that a centrally imposed national five-year plan for housing construction could deliver such numbers, but only provided there was state funding for anything over the 150,000 or so homes that would be funded by the private sector—and with the proviso that the party in government that put this policy in place was ready to forego its local democratic representation on the shrivelled local planning authorities that would be left.

There is an alternative—one that has proven to work in practice over the last 10 years, one that produces more land allocated for housing than the local plans have previously done for that area, and one that has popular consent, validated by a public vote locally. It is an alternative that meets local housing needs, has local popular consent and routinely exceeds government housing targets. You might think that that was a far better policy option than resurrecting a system of failed top-down targets that will not meet local housing needs anytime soon, raises huge opposition, and is constantly gamed and warped by developers, politicians and local interests, while Ministers in Whitehall can only stand around, flummoxed and frustrated at the failure of the plan to deliver. I am referring to neighbourhood plans, and here I need to redeclare my interest as a member of a neighbourhood planning forum. Now that neighbourhood plans are seen as a success—this was debated to some extent earlier in our proceedings—everybody claims to have invented them. I say only that it was quite lonely at the Dispatch Box in 2010, steering them through in the Localism Act.

There is a later group of amendments in which I shall have more to say about neighbourhood plans—I am sure noble Lords will be delighted by that news—and the impacts of some of the clumsy proposals in the Bill, which I think will damage and hinder their prospects. However, for this debate, I look forward to hearing the Minister set out what the Government's plan for reaching 300,000 new homes will actually be. If it is not going to be Amendments 215 and 218 from the noble Lord, Lord Lansley, or spending absolute shedloads of money on a massive state investment programme, or facilitating a much-expanded neighbourhood planning programme, what on earth is it going to be?

Leaving the Bill as it is, as the Government would obviously prefer, may well be seen as their best expedient short-term fix for the forthcoming local elections. They may even hope that it might be a middle-term fix for the general election next year. I do not think it will achieve either of those things, but one thing is certain: it will definitely not be a long-term fix for the homes that are vitally needed in this country. Leaving the Bill as it is will provide no help at all for those stuck on endless housing waiting lists, for those desperately saving for a deposit at a time of rising interest rates, or for those stuck in overpriced short-term lets with no hope of rescue. It really is time for the Government to set out their plans. I look forward very much to hearing a constructive reply from the Minister.

**Baroness Pinnock (LD):** My Lords, this group of amendments exposes the conundrum at the heart of planning for housing. At this point, I repeat my interests, as in the register, as being a councillor in Kirklees, with its up-to-date local plan, and as a vice-president of the Local Government Association. My noble friend Lord Stunell is of course right to say that the simple statement of a number of new house builds per year has failed and will continue to fail: top-down diktats are the last resort of a failed policy. As the noble Earl, Lord Lytton, helpfully reminded us, there are more than 1 million unbuilt homes with current planning consents. That seems to me to indicate that a top-down planning policy is failing to produce the number of new home builds that the country needs and wants.

Amendment 207 in the name of the noble Lord, Lord Best, points to a challenge in housing development that is considered far too rarely: housing and planning policy should have a focus on fulfilling need. There is ample evidence of which housing units are needed, such as those for older people. As my noble friend Lord Stunell has said, we know that there is a desperate need for housing at a social rent. There are current applications from over 1 million people for social housing. Their chances of success are very limited indeed, as successive Governments have continued with the right-to-buy policy while ignoring the need to build replacements. The challenge of supplying housing that meets expressed need is not being addressed by the changes to planning policy in this Bill.

*6 pm*

Councils already have to make an assessment of their housing requirements, as set out in the National Planning Policy Framework, and every council has to prepare a strategic housing market assessment to assess

[Baroness Pinnock]
the full housing needs. We have that bit. Every local authority, before it draws up its local plan, has to do a strategic housing market assessment, which should identify the scale and mix of housing and the range of tenures that the local population is likely to need over the planning period. The local plan must then reflect that assessment in the housing site allocations, so that bit is already there in planning policy. The assessment and planning stage to meet housing needs exists.

Where it all fails, which is what I hope we can begin to discuss and debate in this Chamber, is in the delivery of the housing types, sizes and tenures, as well as numbers. Local councils and local planning authorities can use only the limited levers they have to encourage developers to build to meet need rather than to maximise profit—which is, of course, their purpose. That is precisely the explanation that the noble Earl, Lord Lytton, gave at the very start of his contribution. We can have fine and worthy policies, which have been expressed across the Chamber today, to meet various housing needs, but if there are no levers to ensure that they happen, they are fine words that are never going to be implemented.

I will give some examples in relation to housing numbers. Sites in local plans have a potential housing number attached to them. They all have to be assessed: how many houses can we get on to this site? For example, a site in my locality allocated 413 units in the local plan. Of course, it never works out quite like that; from theory to practice, it is going to be different. In the end, the planning consent was for 291 houses, which is a significant 25% difference. The units developed will not reflect the stated assessment of local and subregional need for two and three-bedroom properties. The majority of the development will be of four and five-bedroom properties. So local need is not being met, and more families in my locality will be in inadequate housing, with the consequent long-term impact on their lives.

That, to me, is the conundrum at the heart of housing and planning policy: how do the Government provide local authorities with the levers they need to match housing need to the housing developed? Currently, there is only influence. For example, let us take affordable homes. My council has a policy of 20% affordable homes on sites. But along come the developers; they will do a viability assessment, which ensures that the 20% goes down to 10% or less. It will be the same if there is an allocation of, say, 15% to housing specifically designed for older people. They will argue that this cannot be done because of the need for this, that and the other expense; hence, we end up with maybe one unit or something.

This is where the failure is. Everybody is saying where we want to be in order to meet need, so how do we get high-volume house developers, which the noble Lord, Lord Lansley, referred to, to do it? If they will not do it, the Government have to provide the levers to match one with the other. I feel quite strongly about this, because otherwise we have loads of warm words and worthy policies but nothing will happen.

I would like the Minister to tell the Committee how we are going to address the challenges set out by the noble Lords, Lord Best and Lord Lansley, and others and how we are going to meet the needs of older people, families who need social housing, those who need supported accommodation and families who need smaller units and can only afford a small unit within their budget. How are we going to get that? Local plans and the social housing market assessment will say that but, when it comes to the crunch, developers get their own way. Something has to change if we are to achieve what we want to achieve, which is appropriate, high-quality, high-standard housing for people in this country.

It could be something to do with land allocation to enable housing numbers; then there has to be a change in the way that sites are developed out—or not developed at all. Another thing that happens is that there are several sites in a locality, and housing developers wait—they have a little arrangement and wait until one is developed out, so that not too many come on to the market at the same time, which of course would reduce the price and reduce their profits.

There are big challenges here for the Government if their stated aim is to be achieved. I look forward to hearing the Minister's answers to those challenges.

**Baroness Taylor of Stevenage (Lab):** My Lords, this group of amendments—and the subsequent group on social housing, which we will probably get to on Thursday—goes right to the heart of the role of housing in levelling up. I should, of course, draw attention to my interests here. I am a serving councillor on both a county council and a district council and, as a former council leader, I am a battle-scarred warrior of the broken planning system. That is not an interest, just a fact. It is a painful process.

We would certainly support the provisions set out in Amendments 207 and 219A from the noble Lord, Lord Best, and my noble friend Lord Bradley to incorporate the housing needs of older people, and the student population where applicable, in the plan-making process. My only caveat to that is the issue I mentioned in your Lordships' House during a previous debate on the Bill, which is that supported housing is a much wider category than just older people, as it can also include housing for adults with disabilities and those with learning disabilities, which would also benefit from specific attention within the planning process.

Some local authorities will use small-site development to make up for deficiencies in all types of supported housing, but our view is that it would be preferable to consider this as a strategic requirement and build it into the consideration of housing at the plan-making stage. This will also allow due consideration to be given to the importance of the location of those sites, with appropriate infrastructure requirements such as health, transport, social facilities and access to green space.

It was a great honour to take part in a debate on 30 March, as did many other noble Lords here today, on supported housing, where the excellent work of Imogen Blood & Associates and the University of York for the National Housing Federation was widely quoted. During that debate, the Minister, the noble Baroness, Lady Scott, made very encouraging remarks:

"Our planning rules, which will be strengthened through the LUR Bill, mean that, in councils' local plans, they must consider the needs of these people, which is perhaps an important change in attitude."—[*Official Report*, 30/3/23; col. GC 105.]

In response to an earlier question from the noble Baroness, Lady Thornhill, the Minister indicated that the Levelling-up and Regeneration Bill is the place to make this change, so perhaps I can afford to be a bit more optimistic than the noble Lord, Lord Teverson, in hoping that these amendments may be accepted.

In his characteristically powerful and knowledgeable speech, the noble Lord, Lord Best, referred to the older people's housing taskforce. We look forward to that, but I hope that to some extent we can pre-empt the obvious conclusion that local authorities must plan for older residents and those who need supported housing. I was grateful to the right reverend Prelate for his timely reminder of the Mayhew review and its powerful recommendations. I hope we will consider them as we go forward with this Bill.

On Amendment 210 from the noble Baroness, Lady Fox, my noble friend Lord Kennedy has campaigned tirelessly for many years for the abolition of the feudal leasehold system. I am afraid that I disagree with the noble Earl, Lord Lytton; I think it is a feudal system, although I bow to his greater knowledge of the subject. It seems from recent comments by the Secretary of State that he too is now persuaded, so perhaps the Minister can persuade her Secretary of State to put the abolition of leasehold into this Bill rather than wait for another one.

On Amendment 219A from my noble friend Lord Bradley, his role with Manchester University gives him great expertise on this subject and he eloquently described the increasing challenges in student accommodation. Listening to his speech, I think we would all be concerned that they are connected with issues of student welfare that we have heard so much about in recent times. As with other areas of specialist housing, he gave examples of very good practice, and we heard many other examples of good practice in the debate on 30 March. However, good planning would not leave this to chance or deliberately allow disparities between areas with good practice and those without it. Areas with large numbers of students should absolutely plan for their accommodation in safe, affordable and sustainable housing.

Amendment 215, in the names of the noble Lords, Lord Lansley and Lord Young, my noble friend Lady Hayman and the noble Baroness, Lady Fox, requires a local plan to meet or exceed the housing need for a local authority's area. I appreciate that housing numbers have proved notoriously controversial in many areas, which is partly why fewer than 50% of local authorities currently have a local plan in place. However, housing is key infrastructure, so it is vital that the Government work with local government to develop policy and practice to determine what housing numbers should be. We heard in the debate that the Government's stated target is 300,000 homes a year—the National Housing Federation says that 340,000 a year are necessary—but we are nowhere near that number being either built or planned for. I agree that reference to meeting housing need for the area should be in the Bill. To avoid repetition, I will comment on this further on the next group, but I share the disappointment of the noble Lord, Lord Young, about the huge government U-turn on the subject at Christmas.

Noble Lords referred earlier today to the fact that achieving net zero must be a key priority of this Bill, which I agree with, but so should meeting the needs of the housing emergency. Some of us would have preferred a separate planning Bill so that due attention could have been given to the many issues, such as those in this group, that certainly merit a stand-alone Bill. However, we are where we are with a Christmas tree Bill such as this, so we must do our best with amendments to tackle the issues of net zero and housing and the many others that this Bill attempts to deal with.

*6.15 pm*

**Earl Howe (Con):** My Lords, as we have heard, these amendments relate to housing need and the homebuying process.

I will address Amendments 207 and 219A together. Amendment 207 tabled by the noble Lord, Lord Best, seeks to enable the Secretary of State to include older people's housing needs assessments in documentation related to local plans and require that local authorities consider the needs for housing for older people when preparing such plans. Amendment 219A in the name of the noble Lord, Lord Bradley, seeks to enable the Secretary of State to require local planning authorities to have regard to the housing requirements of the student population, developed in conjunction with local higher education providers, when preparing their local plans. I recognise the noble Lord's personal knowledge of this subject.

I entirely understand the sentiment behind both amendments and offer words for the comfort of both noble Lords. I believe I can first do so by highlighting that national policy already sets strong expectations in these precise areas. The existing National Planning Policy Framework makes it clear that the size, type and tenure of housing needed for different groups in the community, including older people and students, should be assessed and reflected in planning policies. In 2019, we also published guidance to help local authorities implement the policies that can deliver on this expectation. Therefore, as regards student housing, we already have a clear policy in place, backed up by guidance, to deliver solutions designed locally. Any proposals to amend this would be considered as part of our review of the National Planning Policy Framework once this Bill receives Royal Assent.

I listened with a great care and respect to all that the noble Lord, Lord Best, said to draw attention to the housing needs of older people. The Government are absolutely on his wavelength in that regard. He was right to point out that there should be a variety and diversity of housing options for older people, as underscored by my noble friend Lord Jackson of Peterborough. To further improve the diversity of housing options available to older people and boost the supply of specialist elderly accommodation, we recently consulted on proposals to strengthen the existing policy by adding a specific expectation that, when ensuring that the needs of older people are met, particular regard is given to retirement housing, housing with care and care homes. We know that those are important typologies of housing that can help support our ageing population.

Furthermore, it would be remiss of me not to point out that there is already a provision in the Bill setting out that the Secretary of State must issue guidance for

[Earl Howe]
local planning authorities on how their local plan and any supplementary plans, taken as a whole, should address housing needs that result from old age or disability. This is a key statutory provision.

So, again, we already have a clear policy in place on this issue, and we are proposing, as I have explained, to strengthen it to further support the supply of older people's housing. I hope that this provides the noble Lord, Lord Best, with the assurances that he needs to withdraw his Amendment 207 at this stage.

**Baroness Pinnock (LD):** I thank the Minister for his explanation of what is already in the policy and how it is going to be strengthened, and the national planning policy guidance. However, so far that has not brought forth anything like the numbers that are needed, so perhaps the Minister will be able to explain how that policy—which is very worthy and which I support—can be put into practice?

**Earl Howe (Con):** I say to the noble Baroness that I will try to do so as I go along. First, though, I will address Amendment 210, tabled by the noble Baroness, Lady Fox of Buckley, which would require local authorities to adopt policies to ensure that the marketing of housing accurately describes the nature of the tenure. I listened to all that she said about the need to review, or indeed do away with, leasehold tenure, and I hope she will forgive me if I do not repeat what I said on that subject in one of our earlier Committee debates. We shall also be debating Amendment 504GJG in the name of my noble friend Lord Moylan on leasehold reform later on in Committee.

Buying a home is the largest investment that many of us will make in our lifetime, and we all want to be sure of what we are buying before we commit to purchase, so I absolutely understand the motivation behind the amendment. However, we do not believe that local plans have the legal remit to specify how property agents can market property in a local area. Even if they could, such an approach would create a complicated patchwork of requirements which would vary between one local planning authority area and another. That would be very difficult for property agents operating on a regional or national basis to navigate, and it would be confusing for buyers as well.

That is not to dismiss the concern that the noble Baroness has expressed—in the levelling up White Paper, the Government committed to working with industry to make sure that buyers have the critical information they need to know, including tenure type, lease length and service charges. The Government have also signalled our intention to legislate if this is required. We are currently considering options which will set a common approach to all property listings across England and Wales, providing certainty for buyers, sellers and estate agents, and we will set out further information in due course.

I turn next to Amendments 215 and 218, tabled by my noble friend Lord Lansley. These amendments both relate to local authority housing need, and this is where I hope I can answer the question posed by the noble Baroness, Lady Pinnock. Amendment 215 seeks to require a local plan to secure a sufficient supply of housing to meet or exceed the authority's area requirement for housing over the plan period. The amendment also sets out that an area's housing requirement must be derived from the housing targets and standard method prescribed in guidance by the Secretary of State. Amendment 218 seeks to set out in legislation that local authorities must have regard to any housing targets and the Government's standard method for calculating housing need when preparing their local plan.

While I entirely understand the sentiment behind these amendments, the proposals would impose unnecessary constraints by seeking to put into primary legislation matters that are already addressed effectively, I contend, through national policy and guidance. My noble friend Lord Young of Cookham made the point, as did the noble Baroness, Lady Pinnock, that national planning policy already sets out that local authorities should make sufficient provision for housing, including affordable housing, and that they must take this into account when preparing their local plans.

Additionally, again in response to the noble Baroness, policy and guidance set out how local authorities should establish their housing requirements, and they make it clear that the standard method for assessing local housing need should be the starting point for establishing housing requirements in the plan-making process, in all but exceptional circumstances. That is not a straitjacket and nor is it laissez-faire; our planning policies already allow authorities to choose to plan for more homes than required to meet need, and we have consulted on proposed changes to national policy designed to empower local authorities to go further where that is right for their area.

It is right, however, that local communities can respond to local circumstances. To introduce more flexibility to take account of local circumstances, we are proposing some changes through our consultation on reforms to the National Planning Policy Framework. These are expressly designed to support local authorities to set local housing requirements that respond to demographic and affordability pressures while at the same time being realistic, given local constraints.

I say to the noble Lord, Lord Stunell, that we will be talking about neighbourhood plans later this evening if we get there—I hope we do, otherwise on Thursday—and we can return to the issues that he has raised on that topic. But I would just like to make a general point about housing targets: local housing need is not a housing target. The standard method for assessing local housing need is used by councils to inform the preparation of their local plans. Local areas are then free to take into account constraints and opportunities when determining their actual housing targets such as green belts, AONBs, and so on, that prevent them allocating enough sites to meet need. There are some councils that choose to plan for more homes than their local housing need number; nor does the local housing need method dictate where homes should go. It is up to councils to decide what sorts of homes can be built where.

**Baroness Thornhill (LD):** Can I put the question the other way around? The noble Lord used phrases like "councils can choose" and "in conjunction with their local authority". Can I ask about councils that choose not to provide supportive housing for people in need, that choose not to provide places for ex-offenders, and that rely on councils with a conscience to do those things? It seems to me that councils can choose to do very little if they want, including building homes, and certainly to not provide for the other groups that we have heard about—that is what worries me. We need more compulsion across all councils to provide for all of the population.

**Earl Howe (Con):** In those circumstances, local plans can be checked against the assessment of need and can be shown to be defective where that is deemed to be the case—so it is not as if there is no oversight of what local authorities are doing. What we do not want to do—and I hope the noble Baroness agrees—is to get perilously close to a one-size-fits-all, top-down target mode of acting. We are trying to strike a balance between showing local authorities how to do the job that they are there to do and have been elected to do, while at the same time not being guilty of dictating or second-guessing local circumstances.

We do already have a clear policy in place on these issues, and we are proposing to clarify and strengthen this further. I hope my noble friend will feel comfortable in not moving his amendments when they are reached.

Before I finish, I will respond briefly to the noble Earl, Lord Lytton, on his points about buildout. In large part, he was anticipating the debate we look set to have in a later group, which begins with Amendment 261 to Clause 104, in the name of the noble Baroness, Lady Taylor of Stevenage. However, I just say that the Bill already contains provisions to tackle slow buildout by developers. Clause 105 gives local planning authorities powers to determine planning applications made by a person connected to an earlier permission on that same land which was not begun or has been carried out unreasonably slowly. Developers should know that planning authorities expect new residential developments to come forward at a reasonable rate.

*6.30 pm*

**Baroness Taylor of Stevenage (Lab):** I have two points on what the Minister said in his response. First, I am not sure that the Planning Inspectorate has entirely got the message about local choice in the planning system, particularly on housing numbers, otherwise it is hard to see why 50% of plans are still not confirmed by the Planning Inspectorate. That is still an issue, and we need to consider it further and whether anything can be done about it as we go through the Bill. It is right that local people should have a say in what happens, but that is not always upheld by the Planning Inspectorate when it comes in.

I think we have mentioned my second point already this afternoon, but it bears repeating. We are constantly told that the things which are not in this Bill will be in the National Planning Policy Framework, but as I understand it we are not going to see the framework before the Bill is completed. It is very difficult for those of us who are trying to make sure that, somewhere, these very important issues—such as supported housing, student accommodation, housing numbers and so on—are covered properly in one of those places or the other if we have not seen one of those documents. Can I urge again that the Minister and his colleagues on the Government Front Bench consider that and what we might do about it so that we have an idea of how these issues are going to be dealt with in the forthcoming National Planning Policy Framework?

**Baroness Fox of Buckley (Non-Afl):** I want to clarify just one thing. I understand the balancing act between not wanting to impose on local communities and, as the Minister has indicated, the one-size-fits-all approach. However, what is confusing about the issue of targets versus localism is that the national housing targets were set by the Government, who then backed off in the other place. At one point, they thought it worth having national housing targets, so it cannot always have been some sort of communist plot to impose a national plan. The Government thought that this was a good idea and then backed off.

There is a second important point that people have made. The noble Lord, Lord Young of Cookham, used a quotation I had also wanted to use—he used it the other evening as well—from Theresa Villiers MP, when she boasted that the success of the amendments in the other place was leading to less housing being built locally. We have seen recent figures on the front page of the *Times* indicating that fewer homes are being built—that there is a hold-up. What do the Government suggest one does in a situation where local councils, for whatever reason, are not building the homes and there are no targets to hold them to account? These amendments at least try to rectify that situation.

**Lord Best (CB):** My Lords, I thank all noble Lords for joining in and for nearly everyone commending the amendments that would lead to more housing for older people. I am extremely grateful for all those contributions. This has been twinned with a separate, and in some ways rather bigger, debate on the whole question of whether we should have national targets for the number of homes that we build, or whether that should be left to local authorities to determine. That huge question of the balance between those two things will run and run, and there will be more to follow.

I want to pick up one or two of the points which relate more to the needs of older people. I was delighted that the noble Lord, Lord Jackson of Peterborough, championed that cause too, and I liked his statistic that there will be another 500,000 more people aged over 75 in the next five years. It is an extraordinary phenomenon that we are getting older in such numbers. He advocated tax breaks to stimulate the production of new homes to meet this need. My all-party parliamentary group has advocated stamp duty relief for those who downsize because of the impact in terms of those homes that are left behind and then occupied by families. In fact, although the Treasury has resisted any attempts to reduce stamp duty—one can understand that—the net figure for the Treasury would rise, because once an older person has moved out of their home, a chain reaction follows. Two and a half or just under three sales would flow from that,

[Lord Best]
from which the Treasury picks up stamp duty, so this would be a very sensible contribution to the national coffers.

The noble Baroness, Lady Fox of Buckley, raised one or two points. In relation to housing for older people, she made the point that there are cases where those managing these properties are not behaving well—for example, service charges are being abused in some way. I am afraid that I have had to repeat this many a time, but this is where we need the regulation of property agents, estate agents, letting agents and managing agents of leasehold property. The report on RoPA—the regulation of property agents—was delivered to the Government in 2019 and acclaimed as the way forward, but we are yet to see progress. We may see some progress in either the renters' reform Bill or the leasehold reform Bill; I certainly hope so.

The noble Lord, Lord Bradley, mentioned the problems facing students. In a way, you can list almost every category of need and discover that the overall shortages we are suffering from as a country are hurting the people in that category, and students are no exception. They need to be taken fully into account.

The noble Earl, Lord Lytton, talked about slow buildout. I am a great fan of Oliver Letwin's report, which addressed a lot of those issues. I think the noble Earl knows this, but water neutrality, nutrient neutrality and biodiversity net gain—all these issues which are affecting the housebuilders' willingness to build—are being explored at present by the Built Environment Committee of your Lordships' House. The committee is having a good look at the impact of this accumulation of different environmental requirements and how best we can handle that, so your Lordships should watch that space.

The right reverend Prelate the Bishop of St Edmundsbury and Ipswich reminded us of Professor Mayhew's recent review of housing for older people. Professor Mayhew got to a figure of 50,000 homes being required every year, which is further than others have taken this. That was a seminal and very important report, and he made the fundamental point—which is in my original amendment that started this debate—that the local plan needs to incorporate a requirement for a proportion of housing for older people.

The noble Lord, Lord Young of Cookham, really got us going on the government retreat from the requirement on local authorities to deliver the 300,000 homes that the Government still stand by, quite properly, as a national target. He also reiterated his support for housing for older people, which I much appreciated.

The noble Lord, Lord Stunell, raised an issue which he has raised before—and rightly so—that we can boost housing supply in various ways, one of which would be to give a lot more money to housing associations and social housing providers in grants. However, another would be to have more emphasis on neighbourhood plans, because when people get around and talk about these things, some of the resistance we have been hearing about evaporates. I must admit that I am one of the people who have been surprised by this, but neighbourhood plans are producing more homes for development, not fewer, in the end, when they have decided what is needed for their neighbourhood.

The noble Baroness, Lady Pinnock, made the point—and reiterated it—that these were all wise and helpful words, but the developers will find a way—they have done so far—to evade responsibilities and plead feasibility and other excuses for not doing the things that everyone knows that they should. This means having a very clear requirement in a local plan, sticking by it and ensuring that there is no retreat from what is in it on those various spurious grounds.

I was delighted that the Minister was able to say soothing words that the NPPF will take further the Government's commitment to achieving more diversity of provision for older people, and indeed will be about boosting supply. I hope the taskforce that the Government have now established will help promote that and put some flesh on the bones of it, and that guidance—which will be statutory—will be helpful in pressing the case. With that, I beg leave to withdraw my amendment.

*Amendment 207 withdrawn.*

*Amendment 208*

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

**208:** Schedule 7, page 290, line 7, at end insert—

"(j) whether the authority will provide small site opportunities in the local plan."

Member's explanatory statement

This is to probe the role of local SMEs in local plans.

**Baroness Taylor of Stevenage (Lab):** My Lords, I shall speak also to my Amendment 213 and Amendment 504GJA in the name of my noble friend Lady Hayman of Ullock, and will also speak in support of Amendment 274A in the name of the noble Baroness, Lady Thornhill. Amendment 208 simply tries to ensure that the important roles of SMEs in our communities are recognised; that we incorporate in Schedule 7 a provision for plan-making authorities to include specific provision for small-site opportunities for SMEs.

I have some great figures from the Federation of Small Businesses, which provides wonderful, up-to-date information on its website and which I worked with very closely as a council leader. It says that SMEs account for 99.9% of all businesses; 5.5 million businesses; three-fifths of all employment and half of the turnover in the United Kingdom. They employ 12.9 million people. Surely, we simply cannot overlook this sector in our local plan-making. I cannot see any reason why the Government would not want to incorporate an amendment like this to encourage the allocation of sites for SMEs.

Amendment 213 again refers to Schedule 7 and suggests, first, the incorporation of provision to meet the housing needs of the local authority's area so as to secure the long-term health, well-being and safety of residents. We have had extensive discussions during the debate on the previous group and on previous days on the Bill on similar amendments, but this would be an opportunity to ensure due consideration of all the issues raised in previous groups and their incorporation into the planning process.

The second part of the amendment refers to the critical issue that planning authorities should be able to take proper account of the affordability of both

house prices and rental costs in their planning process. Your Lordships have heard many figures cited on the affordability of housing in recent months, and I am most grateful to Shelter for its continued attention to this and its excellent briefings. It points out—without apology, I shall quote it:

"These days, the prospect of saving for a deposit for a home isn't just a far-off dream; for many, it is nearly impossible. Not only are house prices prohibitive but soaring private rents can make it difficult to sustain a tenancy."

That has added to the increasing homelessness numbers that we have seen.

Home ownership is declining. The English Housing Survey shows that 63.5% of households owned their homes in 2017-18; that is down from 68% a decade ago. The average home in England in 2018 cost eight times more to buy than the average annual pay packet. The average share of income that young families spend on housing has trebled over the past 50 years. The steep decline in social housing and a fall in home ownership have led to heavy reliance on the private rented sector. The number of people living in the private rented sector has doubled over the past 20 years. The cost of housing, which has risen much faster than incomes, has put immense financial pressure on people, adding to pressures on the health service, including mental health services, and other services.

*6.45 pm*

Private renters on average spend 41% of their household income on rent. The majority—57% of private renters—say that they struggle to cover their housing costs. One in three low-earning renters have to borrow money to pay their rent; 800,000 people who are renting cannot even afford to save just £10 a month. Those are shocking figures in our country.

In response to your Lordships' Built Environment Select Committee report on meeting housing demand, the Government said that they shared the committee's concerns about long waiting lists for social homes and the number of families housed in temporary accommodation. In mitigation, they said that 154,600 social homes had been built, but the independent commission, convened by Shelter, called on the Government to recognise that 3.1 million new social homes would be needed over the next 20 years. There cannot be any disagreement: we have a long way to go to meet the need for truly affordable housing. This small step of incorporating an amendment into the Bill to allow local authorities to properly consider the affordability of housing as part of the planning process is a long overdue measure.

In relation to the earlier comments of the noble Earl, Lord Howe, perversely the Planning Inspectorate will push back on any authority that wants to put more than what it considers to be the norm for affordable housing in their plan. Then, when applications come before a planning committee, it is not able to specify the inclusion of social housing, even where it is able to demonstrate that the housing needs for its area are ones that only social housing can meet.

We support Amendment 274A in the name of the noble Baroness, Lady Thornhill, which makes provision for small sites to be used for affordable development. My noble friend Lady Hayman's amendment—Amendment 504GJA—inserts a new clause after Clause 214 to ensure that information on rogue landlords and property agents is made public. With renters now spending huge sums of money to secure rental properties— some of it just as a finder's fee—it seems only fair that they should be able to access data that is already held to reassure themselves that the landlords and property agents they are dealing with are bona fide and will not put their money at risk or deliver the associated risks of them being housed in substandard properties. This will also help ensure that the majority of landlords who act in good faith do not see the market undermined by rogue landlords and agents who do not act in the interests of their tenants. I beg to move.

**Baroness Thornhill (LD):** My Lords, I think I could possibly make the shortest speech with regard to the amendments that have just been discussed and just go #MeToo. In fact, I want to say—and I hope that the Minister takes this as a compliment—that I feel that among the people who work within the local government parameters in the House, and particularly with housing, there is an amazing consensus about what needs to be done. What we will argue about is how quickly it needs to be done and why it has not all been done yesterday. Therefore, the noble Baroness should perhaps take heart from our belief that we know she understands where we are coming from. We probably sense that she is sometimes as frustrated as we are, considering her own background.

On the rogue landlord register, will the Minister tell us, if there is to be such a thing and if it is to be effective—which is the really important point about data and who goes on any register—whether it will be public? The question should really be: why not?

It is a pleasure today to speak to Amendment 274A, tabled in my name. In short, it would introduce new requirements to encourage the development of small sites. My motivation is twofold: I was the elected mayor of the smallest geographical council area in the country, so we never had large sites. Every single attempt to meet the needs of our community was always on small sites, and those can be particularly problematic to build out. We also have a demonstrable shortage of affordable homes, as we have all said—again, there is a huge consensus on this—which, as we know, is well evidenced.

Secondly, as shown by reports from the Barker report to the Letwin report, as well as by recent evidence from across the housing and construction sector, small and medium-sized builders have been really squeezed out of building homes over the past decades, yet they can and should be part of the solution to the housing shortage—and indeed they want to be. I see this amendment as a simple, straightforward way of achieving that, and I believe that the Government wish to see more SME builders contributing to resolving our housing problem. We can do this by changing how we deal with small sites, while at the same time bringing forward affordable housing as a sort of Brucie bonus.

As I said, I have chosen to focus on small sites because, in my view, the case for enabling easier and more streamlined development of these small areas of brownfield land is a strong one. We are currently underutilising such sites, which are often the areas of

[Baroness Thornhill]
blight in neighbourhoods. They are the disused garage sites or the place where the old industrial warehouse building was. They really blight certain areas.

I recently came across some interesting research by Pocket Living, an award- winning SME developer in London that specialises in delivering affordable homes. Its research shows that there is currently the potential to deliver 110,000 homes on brownfield sites across the country. Despite their potential, these sites are not being developed—they are just not coming forward. Less than a quarter of small brownfield sites suitable for housing are coming forward, and half of councils allocated fewer than 15% of their potential small brownfield sites.

Why are they not being better utilised? In short, the planning system itself is a major barrier—no surprise there—and does not take into account the complexities of complying with many local plan requirements on a small site. Most of those come with a price tag attached that prices out a lot of SME builders; we know this because they tell us that this is their main reason for not being in the market. I deduce from that that we need to treat them differently if we want them to contribute more. Small sites are by their very nature tight and constrained, and they cannot possibly achieve every development management policy set out in the London plan, the local plans or even neighbourhood plans—I am looking at my noble friend Lord Stunell. At present, small sites take an average of 60 weeks to gain a planning determination, which is almost five times the statutory period. This is not beneficial to our economy, our pipeline of affordable housing or the millions of young people unable to get on the housing ladder due to a lack of appropriate housing supply.

The amendment seeks to encourage councils to bring forward small sites for development, and in reality it would say that we are tilting the balance in favour of development on small sites below 0.25 hectares where it is believed that high levels of affordable housing can be demonstrated. Therefore, as the pay-off it would provide a fast-track route for viability assessment and would incentivise a more streamlined delivery across the country. The sites would need to be a specific size and contain more than 50% affordable housing. The important pay-off for communities is that it is used for this in order to get their fast-track permission.

This change could potentially free up tens of thousands more sites for development in suitable locations, particularly in urban areas where this kind of development is most needed. It would also give the SME housebuilders a vital boost. Since 1988, the number of SMEs actually in operation and building has decreased by 80%—I was staggered by this figure. I welcome the inclusion of the small sites reform within the most recent NPPF consultation but believe there is an option right here and now, through Amendment 274A, to act sooner and faster to get homes delivered and to give that boost to our SME sector.

This amendment also has huge support from across the development sector and housebuilding industry. I am grateful that a coalition of more than 40 high-profile organisations are supporting it, including Barratt Homes, Optivo, the National Housing Federation and a range of SMEs. Small sites have incredible potential to improve both the supply and the diversity of market stock, but without policy intervention it is an underutilised resource just sitting there, looking a mess. I look forward to the Minister's response.

**Baroness Bennett of Manor Castle (GP):** My Lords, it is a great pleasure to follow the noble Baroness, Lady Thornhill. I will not say anything more on Amendment 274A because the case for it has clearly been overwhelmingly and comprehensively made. I will briefly focus on Amendment 208 and the final amendment in this group—which is something of an alphabet soup.

First, on the role of SMEs and small sites in local plans, I have come across many cases where I have been pleased to see that Green councillors around the country have been able to look at that classic development we see now: a new block of what is almost invariably labelled as luxury flats, in the basement of which is a single, fairly extensive shop that is one of a handful of supermarket chains—one more piece of dominance in our economy of what is already an oligopoly in our food supply. But what sometimes has been possible, and should be encouraged and supported through the development of local plans, is dividing that space into three. You can then have a small independent greengrocer or a small independent hardware-homeware shop that stocks that kind of thing that you suddenly find yourself needing, which can be almost impossible to find in our residential retail deserts where you just see identical supermarkets again and again. Maybe the third of those shops could be something we urgently need to see—earlier today I was at an event with the University of Manchester talking about scaling up the green transition—namely a repair shop, where, when something is broken, you can go and get expert help to fix it instead of throwing it into the rubbish: the circular economy in action. That kind of simple, clear thinking about what we need in our communities, building not just homes but communities, can really work.

I also want to draw on the work of my noble friend Lady Jones of Moulsecoomb from her London Assembly days. She produced a report, *The End of Industry in London?*, in 2015. In the previous seven years London had lost the equivalent of 750 football pitches of sites where many small industrial businesses were based. That was in a situation where flipping industrial land into residential land could see a doubling of the price. I would be surprised if, since that report was published, we have not seen a continuation or even an acceleration of that trend. We need those small independent businesses as part of our thriving, strong, local economies.

Finally, on Amendment 504GJA—if I have that right—this is important and it is, in a piecemeal way, already being done. Here in London there is the London Rogue Landlord and Agent Checker, but Green London Assembly member Siân Berry did some research on this and found that only 3% of tenants had used it, although 20% of tenants had complaints that were relevant to it. If we had a situation where this was expected and everyone knew, wherever they moved in the country, that this resource would be there for them—something that could be publicised around the country and was built into the requirements for all

local authorities—that would be a useful and practical tool to help us know how much private renters are being exploited. I have just come from the debate on the economic crime Bill and the problems of fraud and the way in which people are literally being robbed of cash, such as their rental deposit. We need to tackle these issues and this is a practical step towards that.

*7 pm*

**Lord Berkeley (Lab):** My Lords, I support all four amendments in my colleagues' names, because it is very important to follow up the housing issue of "small is beautiful". It comes when we have small builders doing rather more interesting things than some of the big ones. Living in Cornwall, I was particularly surprised by some statistics I got from the county council recently, showing that 6,000 affordable houses had received planning permission but only 600 were being built. I know that it is a timescale thing, and we can go on about that, but it is another example of what many noble Lords have talked about: builders holding things back and going for the properties that make the most money. In my little village of Polruan, there is nowhere for someone who wants to retire from running the shop to go to live. What do they do? They cannot afford to buy, the county council does not really help them very much, but they do not want to leave. So it is very important that we encourage small builders to develop small sites. It might cost a bit more, but it is something that councils must do.

I am particularly keen, as a member of the Built Environment Committee, along with several noble Lords who have been speaking today, to think about the issue in Amendment 504GJA—I think that is right—of a database of rogue landlords. It is a serious problem, and it goes back to the reason why, 30 or 40 years ago, Margaret Thatcher and others wanted everybody to be part of the property-owning democracy—because the rental market was so awful. Now people cannot afford to buy, and the rental market may have got better, but it has not got very much better. We have compared it with the situation in cities in France, Belgium, Germany and other places, where many more people rent, because they are professional people who think it is the right thing to do and do not have to worry about the landlords. Here, there are many too many cases of rogue landlords. I hope the amendment will deliver what it needs to—perhaps it needs a bit more detail before Report, but it is time we put the whole thing on a proper, reputable financial basis so that people feel happy to rent and the renters feel happy to let them. I support all the amendments.

**Lord Best (CB):** My Lords, I support Amendment 274A on small sites in the name of the noble Baroness, Lady Thornhill. Mine is slightly qualified support, but I am supportive. The amendment has been devised by the innovative people at Pocket Living, a company that specialises in imaginative developments on small sites, which are always difficult to develop. The amendment proposes a fast track through the planning system for smaller operators of this kind working on smaller sites—a quarter of a hectare and smaller—in return for delivering 50% affordable housing in every case.

It is a tempting proposition. We certainly need a boost for SME builders. In their evidence to your Lordships' Built Environment Committee last year, the Federation of Master Builders explained that the output of SME firms had declined from about 40% of all new homes in the 1980s to around 10% today. One clear reason for this loss of their input has been the time and expense of trying to secure planning consents. My reservation is that the 50% affordable housing offer is not quite so tempting if all the homes are for shared ownership or the 80% of market rents of the so-called affordable rent variety. I would want to see half these new properties being for truly affordable social renting. Then we would have a really exciting proposition from the sector. With that reservation, I support Amendment 274A.

**The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con):** First, I will respond to the first remarks of the noble Baroness, Lady Thornhill. Yes, I think everybody in this Chamber who has taken part wants the same thing: we want more of the right type of housing across our country. The difference is on how we deliver that, and that is what we are taking many hours and days to deliberate on—but it is important that we do that, because it is a really important issue for the country well into the future. The way the Government see it is that we need to give clear guidance on the big issues that need to be taken into account, but that we must ensure that local planning authorities start producing local plans that no longer need to take into account the national guidance, because that will be there anyway, but that work with all the data in their local area to ensure that what is in their local plan is what is required. That is not just numbers; it relates also to the view of the noble Lord, Lord Best, and others that we need to look at demography and the types of houses that we want to deliver.

If a local plan has strong evidence, I think it is then up to local leadership to stick to that plan. There may be some government work that needs to be done on the Planning Inspectorate, but we must stick up for what the evidence shows is required in our local area, reflected in our local plan. That is the way I see it; I wanted to get that off my chest.

I turn to the amendments in this group, which relate to planning and housing, starting with Amendment 208, tabled by the noble Baroness, Lady Taylor of Stevenage, and Amendment 274A, tabled by the noble Baroness, Lady Thornhill. These amendments both relate to the provision of small housing sites and are therefore considered here together.

The National Planning Policy Framework already sets out that local planning authorities should identify land to accommodate at least 10% of their housing requirement on sites no larger than one hectare, unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved.

The framework sets out that local planning authorities should use tools such as area-wide design assessments and local development orders to help bring small and medium-sized sites forward; and to support the development of windfall sites through the policies and

[Baroness Scott of Bybrook]
decisions in the local plan, giving great weight to the benefits of using suitable sites within existing settlements for homes. Local planning authorities are asked to work with developers to encourage the subdivision of large sites where this could help to speed up the delivery of homes—we heard about that earlier.

The framework also sets out that neighbourhood planning groups should give particular consideration to the opportunities for allocating small and medium-sized housing sites. However, we have heard views that we could strengthen these policies to further support the Government's housing objectives. This is why we invited views, as part of our recent consultation on reforms to the National Planning Policy Framework, on how national planning policies can further support developments on small sites, especially those that will deliver high levels of affordable housing and, particularly in urban areas, to speed up the delivery of housing, giving greater confidence and certainty to smaller and medium-sized builders, and to diversify the housebuilding market. The consultation ended on 2 March and responses received will help to inform our policy thinking on this important issue, as will this debate. We will look at the ideas that have been put forward, together with the responses. This is something on which there will be further consideration.

Amendment 213 tabled by the noble Baroness, Lady Taylor of Stevenage, seeks to create a legal requirement for local authorities to set policies in their local plans which ensure that housing needs are met in a way that secures the long-term health, safety and well-being of local people and ensures that such housing is affordable to those on average and lower incomes. We have, as she rightly said, debated this quite a lot. While I entirely understand the sentiment behind this, as I have said on previous groups, and consider the goal to be laudable, the Government are already committed to ensuring that new development, both market and affordable, meets high standards of quality. The National Planning Policy Framework is clear that planning policies in local plans should aim to achieve healthy, inclusive and safe places, and local authorities should ensure that they properly assess the needs of different groups when planning for new housing.

Ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations is part of achieving sustainable development. Local planning authorities should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for housing. Furthermore, the framework is clear that planning policies and decisions should promote an effective use of land in meeting the need for homes, while ensuring safe and healthy living conditions. Local authorities are empowered to ensure that developers deliver a defined amount of affordable housing, including social housing, on market housing sites, unless exceptions apply. Our initial consultation on revisions to the NPPF seeks views on whether the role of social rent should be strengthened and whether we could go further to promote the delivery of housing for older people, as we discussed earlier.

Finally, under the community infrastructure levy, we will introduce a new "right to require" through regulations, in which local authorities can require that a certain amount of affordable housing is delivered in kind as a levy contribution. The noble Baroness, Lady Taylor, asked why the Government are not doing more to deliver this affordable housing. The Government are totally committed to increasing the supply of affordable housing. That is why, through our £11.5 billion affordable homes programme, we will deliver tens of thousands of affordable homes, both for sale and for rent, right across the country. The levelling up White Paper made a commitment to increase the supply of social rented homes. The affordable homes programme will respond to that commitment by increasing the share of social rent homes that will be delivered through the programme, helping those most in need. Since 2010 we have delivered over 632,000 new affordable homes, including 441,000 affordable homes for rent, of which 162,000 are homes for social rent.

Although there is a comprehensive legislative code within which local plans and decisions are made, the content of local plans is produced on the basis of national policy, which is flexible to allow updates to be made without new laws being passed. I hope this provides the noble Baroness with the clarification and assurances she needs to not press this amendment.

Amendment 504GJA tabled by the noble Baroness, Lady Hayman of Ullock, would require all local housing authorities in England to publish the contents of the database of rogue landlords and property agents. The Government have stated their commitment to improving standards in rented accommodation and driving out rogue landlords. We will legislate to amend the Housing and Planning Act 2016 and make certain landlord offence information public as part of the forthcoming renters reform Bill. Opening up this information will ensure that tenants can make informed rental decisions, leading to a better rental experience, as was asked for by the noble Baroness, Lady Bennett of Manor Castle.

*7.15 pm*

The property portal, and the renters reform Bill which will legislate for it, are the right vehicles to take this forward. The new portal will bring together offence information and a range of other information about private landlords and rented properties. Integrating these plans will address some of the limitations of the current database, enhancing the enforcement benefits for local authorities and making information accessible and meaningful to tenants, at the same time carefully balancing the privacy rights of landlords. In the light of our forthcoming legislation, this amendment is not necessary. We cannot see clear links between publishing the contents of the database of rogue landlords and property agents and the implementation of the provisions in the Levelling-up and Regeneration Bill.

I hope noble Lords are reassured that the Government's commitment to reforms to the private rented sector is unwavering and that there will be ample opportunity for scrutiny of the proposed legislation. On that basis, I hope that the noble Baroness, Lady Taylor of Stevenage, will feel able to withdraw her amendment.

**Baroness Taylor of Stevenage (Lab):** My Lords, I am grateful to all noble Lords who have spoken on this group and to the Minister for, as ever, her thoughtful response to the discussions.

I thank the noble Baroness, Lady Thornhill, who rightly focused on the balance between large developers and SMEs in constructing homes, something that we all need to put our minds to. She commented on sites that blight areas. It is absolutely correct that, very often, the small sites that are the subject of her amendment are the sites that we turn our eyes away from when we walk around our local neighbourhoods.

I have taken a great interest in developing such sites in my own area, including a brownfield site that was an old factory and is now a good housing development, with a mix of social and private housing. The noble Baroness, Lady Thornhill, has the smallest area in Hertfordshire, while mine is the second smallest. We had a great focus on this in our roles on our councils, using small sites to expand our council housing stock, and a regenerated shopping centre and pubs which had closed. A doctor's surgery had outgrown its site, so a land swap gave it a new surgery and us a good housing site, and a low-demand garage site provided bespoke accommodation for those who were street homeless. I totally support her points about using SME builders for this work; when you work regularly with a group of SME builders, they get to understand what your area needs, the things that you are looking for, and the standard and sustainability that you need.

I am grateful to the noble Baroness, Lady Bennett, for her comments on the vital role of small businesses in our community, particularly retail businesses. It will help us all enormously if we can eventually get that enshrined in law, so that we can do that. It would be a great help to our communities. Having those key businesses in communities makes them more sustainable. I love the idea of a repair shop—a repair club has just started in my borough, which I was delighted to hear about.

I am grateful for the support of the noble Lord, Lord Berkeley. It was lovely to hear about Polruan when we are sitting here in London—I am very fond of Cornwall—and his support for the rogue landlord database. That is a very important thing that we could introduce into the Bill, although I note the Minister's comments on it.

The noble Lord, Lord Best, knows that I completely agree with his points about the definition of affordable housing. It also speaks to comments made by the Minister about affordable housing being delivered as an in-kind benefit of the infrastructure levy. Unfortunately, the definition of affordable housing can mean, for example, that in renting terms it is 80% of market rents. When I look at the average salary of people in my area, I see that 80% of market rent is way outside the pocket of many of the people who live there. We have to focus very much on this definition, between affordable housing which is—let us face it—not affordable to a lot of people, and social housing, which in many places is the only tenure of housing that many residents can afford. But I was pleased to hear the Minister's comments, and look forward to discussing all those aspects further when we get to the infrastructure levy discussions.

I hear the Minister's comments that if a local plan has strong evidence, it is for local leaders to stick to that. I hope that can be passed on to the Planning Inspectorate. We are charged democratically to make decisions on behalf of our communities, and too often they come up against this barrier of the inspectorate, and we are asked, at the best of times, to look at them again, and at the worst of times are told that they are not acceptable and we have to go back on them.

I was also pleased to note that there is a target of 10% of housing on small sites. I agree that the provision that local planning authorities can be encouraged to split larger sites is helpful, but I just come back again to this issue around the NPPF, which we do not have and will not have before the Bill has gone through its stages. I am sorry to go on about this, but to deal with any of the issues we have discussed this afternoon, we need to know where they are going to sit between the NPPF and the Bill. If they are not going to be in the NPPF, we certainly want them in the Bill. We need to think more about that.

On the amendment of my noble friend Lady Hayman of Ullock on rogue landlords, I ask the Minister: when are we going to get the renters' reform Bill? We have heard it mentioned many times in this House now, at Question Time and in other debates. Is it going to come in this Session, or can she confirm whether it will be in the forthcoming King's Speech? We have heard very good assurances, both from the Secretary of State and from Ministers in your Lordships' House, on this commitment to reform, but to have it moved sort of indefinitely into the future is very worrying. This sector is in crisis now; we have people now who are struggling, who have to pay thousands of pounds in finder's fees and so on just to rent properties. This is urgent, and I hope we can have some clarity about when that Bill might come forward. That said, I will withdraw the amendment for the time being.

*Amendment 208 withdrawn.*

*Amendments 209 to 213 not moved.*

*House resumed. Committee to begin again not before 8.10 pm.*

## Short-term Holding Facility (Amendment) Rules 2022

*Motion to Regret*

*7.24 pm*

*Moved by* ***Baroness Lister of Burtersett***

That this House regrets that the Short-term Holding Facility (Amendment) Rules 2022 (SI 2022/1345) remove important safeguards and reduce the standards for the lawful detention beyond 24 hours of migrants, including children and vulnerable adults, at the immigration detention facility in Manston, Kent; that the Home Office has not consulted on these changes nor provided an adequate policy justification for them; and that this potentially contentious legislation was brought into effect while the House was in recess.

*Relevant document: 25th Report from the Secondary Legislation Scrutiny Committee (special attention drawn to the instrument)*

**Baroness Lister of Burtersett (Lab):** My Lords, the wording of this regret Motion is taken in large part from the highly critical report of the Secondary Legislation Scrutiny Committee, which draws the rules to the special attention of the House. Its report reflects the grave concerns expressed in a joint submission from Medical Justice, Freedom from Torture, Bail for Immigration Detainees, Rainbow Migration, JRS UK, the Helen Bamber Foundation, and Detention Action. I am grateful to Medical Justice and Freedom from Torture for their help with this Motion, and refer to the register for support from RAMP.

By way of background, a short-term holding facility is a type of immigration detention centre governed by legal rules that regulate the amenities and services that different types of facility must provide. There are two types: residential STHFs, and non-residential "holding rooms". Normal maximum detention times are five days in the former and 24 hours in the latter. These rules create a new category called "residential holding room" which is now being applied to the Manston facility, a non-residential holding room, which attracted considerable criticism recently for its dreadful conditions and unlawful operation. Residents of RHRs will be detained for a normal maximum of four days, extendable in "exceptional circumstances". Exceptional circumstances are not defined, but in its written response to the SLSC's questions, the Home Office gave us an example: "unexpected and very large numbers of small boat arrivals". Could the Minister tell us what would constitute an unexpected and very large number, given that the Government give the impression that large numbers are far from exceptional or unexpected at certain times of the year? Can he explain why there are no absolute time limits, as with residential STHFs?

Criticisms of the rules in the SLSC report and the joint submission concern both their substance and the process of their introduction. The joint submission draws attention to how the safeguards applied in existing residential short-term facilities are being "dramatically downgraded", and standards regarding healthcare, communications, sleeping accommodation and access to legal advice are being reduced.

Modifications to Rules 32 and 30 mean that detainees with particular vulnerabilities and at risk of harm, who are especially likely to suffer damage from detention, are less likely to be identified. This includes torture or trafficking victims, and those experiencing suicidal ideation and other serious mental health conditions. Yet the existing statutory guidance on adults at risk recognises the need to ensure that vulnerable people are not detained inappropriately. The amended Rule 32 does not, for example, include a reporting mechanism for those with evidence of torture, so there will be no process for identifying and safeguarding this highly vulnerable group. The amended Rule 30 changes the deadline for medical screening from within two to 24 hours of admission, and even that can be lengthened in "exceptional circumstances"—again, that is not defined, but the same example of unexpected and large numbers of boat arrivals has been provided.

Examples of reductions in the standards applied in residential STHFs include the absence of a firm requirement for separate sleeping accommodation for people of the opposite sex, and for minors or families to be in sleeping accommodation that is inaccessible to unrelated detained persons. Others reduced rights to communication: can the Minister clarify whether those held in an RHR will be permitted face-to-face visits, such as from external organisations? If so, will any restrictions be placed on who may visit? Of particular importance is the ability to meet a legal adviser; can the Minister confirm that RHRs will make provision for legal advice and representation, including the right to face-to-face meetings?

The SLSC underlines that:

"The overall effect … is that the facilities and amenities available to people who may be detained for four days are materially lower than those deemed necessary for people who may be detained for five days".

The committee was not impressed by the Home Office's response to its question as to why this was appropriate. Unlike the Home Office, it does not consider the appropriate comparison to be with the rules applying to non-residential holding rooms. Given that this is a new category of residential holding facility, the committee is surely right to make the comparison with other short-term residential facilities.

*7.30 pm*

While the committee did accept the need for what the Home Office described as

"a balance to be achieved between ensuring"

that Manston

"operates as efficiently as possible whilst addressing immediate healthcare and vulnerability concerns for any individuals",

it points out that the Home Office has not explained why the balance

"should be struck in a way that provides fewer protections for migrants detained for four days compared to those detained for five".

Can the Minister explain now, please?

In its written response to the committee, the Home Office did emphasise that the rules represent

"a minimum standard and we may go above and beyond these in practice".

Given the failure to meet previous minimum standards at Manston, forgive me if I am sceptical. Can the Minister tell us in what circumstances he envisages the minimum standards being exceeded?

Overall, the committee concluded that the

"Home Office has not provided an adequate policy justification for creating the new category",

and observed that:

"The House may wish to press the Minister for a better explanation of how the welfare of these migrants is to be safeguarded",

and

"how Manston will operate in the future".

I hope that the Minister will provide such an explanation in his response, and that he will be able to dispel the committee's

"strong impression that the new category is designed for the operational convenience of the Home Office, rather than for good reasons of public policy".

The committee suspected

"that the main consideration is facilitating the continued operation of Manston even though its conditions have raised public concern",

and it expressed scepticism that the new regime will

"guarantee that the site is always able to operate within the law".

What is the policy justification for creating the new residential category, rather than upgrading Manston to residential STHF standards?

The committee also criticised the Home Office on a couple of process grounds. The first was the lack of either consultation or an equalities statement. It suggested that:

"This may be because the arrangements fall below acceptable standards".

The Minister might like to comment. The absence of any equalities statement is particularly worrying, given that the joint submission warns that the changes are likely to have a particularly negative impact on disabled people, survivors of torture, women and children. Has one now been completed for the new rules?

Secondly, why was

"potentially contentious legislation … brought into effect over a recess"?

Why indeed. Can the Minister explain, please, and can he update us on the timetable for implementation and tell us what steps will be taken to monitor the impact?

In response to the committee's question as to whether it intended to apply the new RHR category to any other sites, the Home Office responded that, while it could do so, it did not have any such plans at that point. That was in January, so may I check whether that is still the case? Also, what criteria would be used to apply RHRs to other sites? Can we have an assurance that Parliament will be informed by way of a Written Statement if it is intended to apply RHRs to other sites in the future?

The joint submission to the committee sums up why these rules are potentially so harmful. It is worth quoting as a reminder of what is at stake in rules that were rushed in without consultation, during a recess:

"Taken in combination, the extension of the maximum period of detention with the modification and disapplication of key Rules, constitute a dangerous withdrawal of the safeguards that apply to detained people, and a deeply concerning downgrading of the conditions in which they are held. The changes risk children and vulnerable adults not being identified in RHRs, being harmed by continued detention and having little access to legal advice in order to understand and challenge their circumstances. This carries the further risk that such people will be routed inappropriately through the system".

These concerns are all the more worrying, given the likely increase in detentions and the removal of existing safeguards relating to children and pregnant women as a result of new legislation before Parliament.

In the light of the predicted damage to highly vulnerable groups, I believe that the Minister should withdraw these rules. At the very least, I hope that he will answer our questions and do so more satisfactorily than the Home Office has done hitherto. I beg to move.

**The Lord Bishop of Leeds:** My Lords, I support the Motion to Regret in the name of the noble Baroness, Lady Lister. The Government were clearly right to openly acknowledge that the Manston short-term holding facility had been operating outside of legal requirements and that action was needed to improve conditions at the site. Therefore, the decision then to use secondary legislation not only to extend the length of detention powers at such facilities but to reduce the required safeguarding standards must be highly regrettable. It cannot be right that, when the immigration estate fails to meet legislation passed by this House, the response is simply to rewrite the rules. I am reading a lot about the Soviet Union at the moment, and there is an echo of that: if the five-year plan was not met, you simply changed reality to meet what you were going to get.

It is important not to forget that short-term holding facilities accommodate families, children, and survivors of torture and trafficking, following people's often traumatic journeys. We should be committed to the highest safeguards when seeking to accommodate individuals in this position, and take the right steps to identify those with protection needs. I therefore ask the Minister why it was deemed necessary to reclassify Manston as a residential holding room, thereby disapplying key safeguarding rules for short-term holding facilities. Why was only one fewer day of permitted detention justification for such a downgrade in safeguarding rules and standards?

I want to be brief, so I will pay attention to just two key issues. First, it is unclear whether the Rule 32 process will fully apply to residential holding rooms. Will detention therefore be reviewed within the mandatory timeframes for those identified as vulnerable through the Rule 32 process? The modification to a review as soon as is practicable, as suggested in the Explanatory Memorandum, is highly concerning, as individuals, including children, may be harmed further by their continued detention.

Secondly, why is there no requirement for minors or families to be in sleeping accommodation in residential holding rooms that is inaccessible to other detained individuals not known to them? Surely this requirement should never be downgraded when it comes to a child, and the risk is even greater with extended detention for up to 96 hours.

Given that the Government are looking to impose a duty on the Secretary of State to detain those in contravention of Immigration Rules for any length of time deemed appropriate through the Illegal Migration Bill, this debate reminds us that detention safeguards and accommodation rules are vital in protecting the most vulnerable people. I therefore ask the Government to ensure full scrutiny of these rules as facilitated through the passage of the Bill, rather than has been the case in this instance thus far.

**Baroness Bennett of Manor Castle (GP):** My Lords, I first thank the noble Baroness, Lady Lister, for tabling this Motion to Regret, and echo her call for these rules to be withdrawn—they are unacceptable.

I think it is useful to put this in the context of Oral Questions earlier. We heard the noble Lord, Lord Ahmad of Wimbledon, speaking for the Government on their plans for the Council of Europe summit in Reykjavik. The noble Lord said that this was

"an important opportunity for member states to renew their commitment to human rights, democracy and the rule of law".

Yet here we are, debating regulations that clearly fail to meet basic standards of human rights. Basic standards are being denied to people in the UK. That is horrifying in its own moral terms but, thinking about the state of

[Baroness Bennett of Manor Castle]
the world and the role the UK Government say they wish to play in it, it is definitely going to damage our status and our ability to have impact in the rest of the world.

It might be said that it is some of the usual suspects in your Lordships' House who are saying these things, but we are reflecting the conclusions of the Secondary Legislation Scrutiny Committee. These regulations remove important safeguards and reduce standards, including for children and vulnerable adults, and the Government have

"not provided an adequate policy justification"

for or consulted on these changes. This was brought in while the House was in recess. There are blows everywhere to democracy, the rule of law and all the things that the Government say they are standing up for.

I want to briefly reflect, drawing on a report by Amelia Gentleman in the *Guardian* last month, on what was happening at Manston and what is apparently being regularised. The journalist quoted a Home Office employee who said that what was happening in Manston

"had got way beyond what was ethical and humane … There were people who'd been sleeping on a mat on the floor of a marquee for 20 days".

Some families had been

"shut inside tents without access to fresh air"

for seven days. This is unacceptable.

One of the other issues was private security contractors. It is a particular concern where we see removal of democratic oversight through outsourcing and privatisation. A company that usually does security for festivals and shopping centres suddenly had staff, clearly not trained for the practices, who had to deal with a very difficult situation.

There is a lot to say, but we have limited time, so I want to focus on a couple of issues. There are much broader issues around immigration detention and the fact that the UK is one of the very few countries in the world that locks up for an indeterminate period—sometimes for years—people who have not even been accused of any crime. I ask the Minister directly, under the RHR regulations we are debating, why is there no maximum legal time limit, as there is to an STHF? Will the Government commit to introducing a time limit?

What kind of system have we now arrived at? Will the Minister confirm that the current changes will see a dramatic change in the amount and form of detention being used in the UK in the coming months and years? Is the Minister concerned about increasing breaches of human rights, in particular the right to be protected from arbitrary detention, torture and inhumane and degrading treatment?

**Baroness Hamwee (LD):** My Lords, if I did not speak to this Motion and support it, I think I would be haunted by the ghost of the late Lord Eric Avebury, for whom improvement of the conditions in which people are held at the border was something of a mission. I appreciate that I am speaking of a Member of this House who died some time ago, but his legacy lives on with some of us.

The noble Baroness, Lady Lister, has been very thorough. I hope that the Minister managed to note all her questions. If I repeat any of them, I apologise to the House; I do not think my editing quite kept up with all she had to say. The noble Baroness said that the House did not need reminding of the concern there has been, and which remains, about conditions at Manston and the number of people held in those conditions. Perhaps we should not be surprised that, instead of changing "facilities"—a term which I find rather inappropriate in this context—to fit the rules, the rules are being changed to fit the facilities.

*7.45 pm*

The Secondary Legislation Scrutiny Committee said that there was

"insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation".

I agree, at one level—the level of the law—but politically, frankly, it is clear enough. As the SLSC spells out, facilities for people

"detained for four days are materially lower than those … for people who may be detained for five days".

It gives some examples that I do not think have been mentioned yet. The ability to meet a legal adviser in confidence is downgraded to only

"if it is practicable to do so",

rather than being unconditional. Of course, there is also the issue of medical screening.

The Home Office is going to have to be very sure that it can process and move on the asylum seekers who find themselves in this situation within four days. I would like to check that the four-day limit is for all holding rooms and that you cannot be moved from Manston to another equivalent facility. I know that only Manston falls into the category now, but I would like to check that you cannot be moved on and find that your four days start again. What if you are sent to a "normal"—as it were—holding facility? Do your four days count towards the five-day limit there? I know that the Government regard Manston as unique, but it is entirely possible that that could change, considering the fast-moving situation over just the last year or so. Why not confine the instrument to Manston? Are there plans, proposals or notions waiting to be worked up for other sites to be designated as residential holding rooms? Can the Minister guarantee that asylum seekers will not be moved from one RHR to another without, for instance, proper access to legal advice or medical or vulnerability screening?

On the argument about, essentially, the balance between efficiency and treating people well, the SLSC politely said:

"We accept the need for … a balance, but the Home Office has not explained why it should be struck in a way that provides fewer protections for migrants detained for four days compared to those detained for five".

I have to say that I find it an unpleasant concept to be seeking to balance those two situations. I appreciate that what noble Lords are saying does not play into the Government's narrative about torture and trafficking.

The noble Baroness, Lady Bennett, reminded me about the issue of security and those who are engaged to act as security operatives—or perhaps agents, I do

not know. Does the Minister know—if not, can he find out—whether people engaged in that work are DBS checked? It is an issue I have raised in connection with hotel accommodation, and I recall the Minister saying that he was quite sure that they would be DBS checked. I am less sure.

Exceptional circumstances, which allow for more than 96 hours, have been mentioned. Can the Minister confirm that these are only external circumstances, not related to an individual—in other words, that if one of the people working in one of the centres gets a bit worried about an individual, they cannot decide there is something exceptional about the individual and exceed the 96 hours? The House's committee reports are always worded very carefully, so it will have known what it was doing when it used the term "disingenuous" about this—and I think it was right to do so.

The right reverend Prelate raised the issue of children and families, but I could not pick up what the provisions about sleeping accommodation would be for families—I accept that I may have missed that. The SLSC commented that it had

"the strong impression that the new category is designed for the operational convenience of the Home Office, rather than for good reasons of public policy"—

the noble Baroness, Lady Lister, quoted this. This was where I started. The SLSC suggests that:

"The House may wish to press the Minister"

on safeguarding, welfare and the future operation, and on

"why potentially contentious legislation was brought into effect over a recess"—

this was mentioned. Adding to that, I ask why we only get to debate it three months later—although, sadly, everything we are talking about remains entirely topical.

Quite rightly, the sector has raised further questions on matters that have occurred since January. We on these Benches very much support—I was going to say "are pleased about", but in the context that is wrong—the Motion.

**Lord Ponsonby of Shulbrede (Lab):** My Lords, I too thank my noble friend for bringing this regret Motion. She set out the reasons for doing so in her characteristically thorough way, and I will try not to repeat her points—but she has been so thorough. Nevertheless, I will set out the case as quickly as I can.

This SI creates a new category of STHF called the "residential holding room". It appears that this has been created specifically for Manston detention centre, for which, as a non-residential STHF, the previous time limit was 24 hours. This SI changes the time limit to 96 hours, or four days. Additionally, the Secretary of State can extend this. Despite this being close to the five-day limit for residential STHFs, there are significant differences in the minimum conditions, which it is worth setting out. There is no requirement to allow migrants to have access to the internet or to send and receive correspondence, and there is no requirement to fund migrants to correspond with legal advisers, the court system or the UN Refugee Council. It is also unclear whether face-to-face visits are provided for, or whether detainees have the right to meet their legal advisers. There is also no requirement to have separate sleeping quarters for men and women—this was mentioned—or for minors to be housed in separate sleeping quarters, away from unrelated detainees. There are also reduced requirements for health-risk reporting by health staff.

The Government have defended the new rules, stating that the new category of STHF is needed because Manston is a "unique" facility that requires "bespoke" time limits and arrangements. Can the Minister confirm that it is indeed unique, in that there are no plans to extend RHRs to other sites in the future? Both my noble friend Lady Lister and the noble Baroness, Lady Hamwee, raised this question, and I look forward to the Minister's confirmation that this will not be extended.

We heard that stays in Manston have been confirmed to be much longer than the 24-hour limit—up to a month, according to the Home Office. I understand that there are exceptional circumstances and that the Government are in a difficult situation in many ways. I have a couple of questions for the Minister. Will some of the detainees at Manston who are being accommodated there for up to a month be entitled to phone calls, internet and gender-separated sleeping quarters, as they are in other facilities in which they are allowed to stay for only five days?

Also, given the reports of dozens of cases of diphtheria in Manston last year, and warnings from health officials that cases were spreading within migrant facilities, do the Government believe that the new requirements for health reporting in Manston will be enough to protect detainees' health? The noble Lord, Lord Roberts, raised this question at Oral Questions today, and clearly there is concern about this matter. I note that the noble Baroness, Lady Bennett, compared the rhetoric of the noble Lord, Lord Ahmad, in another Oral Question today, about the ideals of the Council of Europe and the ECHR—and here we are, talking about the practicalities of dealing with a difficult situation.

The noble Baroness, Lady Hamwee, mentioned Eric, Lord Avebury, whom I am proud to claim as a noble kinsman. I remember many years in this House when he unremittingly raised the concerns of refugees—he may well be looking down on us in this debate now.

The right reverend Prelate the Bishop of Leeds raised an interesting idea, pointing out that quite soon we will deal with the Illegal Migration Bill, which may be an opportunity for this House, or perhaps the opposition parties, to investigate this SI and similar ones and to give them more thorough scrutiny. I was interested in that suggestion, and I will consider whether my party wants to take that further.

The questions have been set out thoroughly by my noble friend and other noble Lords, and I look forward to the Minister's response.

**The Parliamentary Under-Secretary of State, Home Office (Lord Murray of Blidworth) (Con):** I thank all noble Lords for their contributions, and particularly the noble Baroness, Lady Lister, for bringing this debate before the House. Clearly, these are important rules, and it is important that they get an airing and that the views of the Secondary Legislation Scrutiny Committee are considered in this forum. The debate obviously follows concerns about the new rules expressed

[Lord Murray of Blidworth]
in that report by the Secondary Legislation Scrutiny Committee, and I will endeavour to answer them in the course of my speech and to address the questions of the previous contributors.

I will first put these new rules into context. Since 2018 we have, sadly, seen an enormous increase in the numbers of people choosing to put their lives into the hands of people smugglers and enter the UK unlawfully, after crossing the channel in small boats. We will all be aware that last year some 45,755 people crossed the channel, seeking to enter the country illegally. That figure was 60% higher than in 2021. We know that the estimates for this year range between 65,000 and 85,000. We also know that 51% of those 45,755 who arrived last year arrived in August, September and October, with 8,631 in August alone. The Manston facility in Kent was opened specifically to provide secure processing and security checks for those small-boat arrivals.

*8 pm*

To date, Manston has been operating as a holding room under the Short-term Holding Facility Rules 2018, the same rules prescribed in relation to holding rooms at ports and airports, where people are detained on arrival in the UK should that be necessary. This means that detention there has been subject to a 24-hour limit under the Short-term Holding Facility Rules, but that limit was always subject to an extension in exceptional circumstances—that is clear in the rules. The other rule exceptions and modifications to which holding rooms are subject under the 2018 rules also apply to Manston. The Short-term Holding Facility Rules are made under Section 157(3) of the Immigration and Asylum Act 1999, a flagship part of the Administration led by Mr Blair, and those rules were made to deal with an immigration situation very different to that faced in the present climate.

As I am sure noble Lords will appreciate, it is of fundamental importance that the Home Office is able to undertake initial processing of all new arrivals and has sufficient time to do this. Unfortunately, on those occasions when there has been a significant number of arrivals in a very short period, it has proved very challenging to do that within a 24-hour period. I stress that Manston is unique in that it acts as a reception facility for all small boat arrivals, and it is only right that bespoke rules are developed to recognise that unique status. The rules create a new type of short-term holding facility, known as a residential holding room, where individuals may be detained for up to 96 hours. Again, that is extendable in exceptional circumstances, if authorised by the Secretary of State. I am clear that the rules are an appropriate, safe and decent response to the unprecedented pressure on our border caused by the illegal and dangerous journeys across the channel.

Perhaps it would help if I set out again where we are now in relation to short-term holding facilities. In essence, under the original scheme—the 2018 rules—there were two categories: holding rooms and residential short-term holding facilities. As you would expect, the conditions relating to holding rooms were less detailed than those in relation to residential short-term holding facilities. The upper limit for holding rooms in the 2018 rules was, and remains, 24 hours; the residential short-term holding facilities had an upper limit of seven days, as prescribed in the Immigration and Asylum Act 1999 in the definitions sections. Direction from the Secretary of State has been made that the detention should be a period of five days, unless exceptional circumstances are met, as set out in the 2021 direction. The effect of the 2022 rules is to insert in the middle of those two categories a further category of a residential holding room, which, as I have already said, allows for detention of up to a maximum of 96 hours and is extendable in exceptional circumstances. As is appropriate, the conditions for that period of detention are commensurate to the length of the potential detention, so the House will see that there is therefore a scale of short-term holding facilities.

It is right to suggest that to reflect that a residential holding room may be used for a longer period it builds on and provides more extensive facilities to those using them, and which are more extensive than those which have previously been available at Manston. I can reassure the House that an ongoing programme of work is under way at the site to upgrade the existing facilities, which is of course reflected in the legal framework that will apply to it under the 2022 rules. Examples of that refurbishment work include installation of fire doors, replacement of boilers, general building and fabric repairs, lighting and electrical works, and redecoration of all internal rooms and communal areas.

A regime will be operated in the residential holding room to allow free association of residents for the majority of the day. There will be a canteen area for the provision of food and drink. There will be recreational rooms, which will be furnished and equipped for immediate use. There will be access to the open air. A multifaith room will be designated as part of the refurbishment. Legal visits can be conducted on-site, using interview rooms within the asylum screening suites—I hope that reassures the noble Baroness, Lady Lister, in relation to her questions concerning legal visits. Phones will be available, and a secure room can be provided for confidential legal calls.

Rule 48, in relation to visitors, does not apply to residential holding rooms. I entirely accept the point made by the noble Baroness, Lady Hamwee, that there is a difference under Rule 27, in that individuals will be permitted to meet their legal adviser in confidence if it is practicable to do so. But it will clearly weigh heavily on members of the staff if they determine that it is not practicable, and I would expect efforts to be made to ensure that sufficient facilities are available.

It is clear from the report of the Secondary Legislation Scrutiny Committee that noble Lords have interpreted the new rules as seeking to downgrade the facilities and amenities that residential holding rooms are required to provide, when compared to residential short-term holding facilities. Residential short-term holding facilities are also governed by the 2018 rules, which apply to them in full. Although individuals can be detained in residential short-term holding facilities for up to five days, as I have already said, in certain circumstances individuals can, in fact, be detained for a maximum of seven days. It is therefore right that residential short-term holding facilities, where someone may stay for up to one week, should be required to provide more in terms

of facilities and amenities than a residential holding room. I repeat again that Manston is a unique detention facility compared to a residential short-term holding facility or an immigration removal centre, where individuals are detained predominately for removal. In answer to the point raised by the noble Baroness, Lady Hamwee, it is correct that we cannot circumvent the time limits for short-term holding facilities by moving an individual to another site and, in effect, restarting the clock—that will not occur.

Turning to the question of welfare raised by the committee, we will, as ever, strive to prioritise the welfare and processing of vulnerable adults and families from the initial point of their arrival. No unaccompanied children are detained at Manston; they are instead processed at the Kent intake unit. The proposed facility at Manston that will form a residential holding room—which I should add is only a part of the Manston site—will not contain unaccompanied children, because they are processed at the Kent intake unit. Single adult women and single adult men will continue to be held in their own discrete accommodation—I hope that goes some way to reassure the right reverend Prelate on his concerns in this regard. That is of course already the case in residential short-term holding facilities. The only time that residents mix is in family accommodation, which is carefully supervised and relatively lightly occupied. Families should be prioritised for processing; however, where it is necessary to use a residential holding room for families, guidance sets out that they should be provided with sleeping accommodation that must not be accessed by unrelated detained adults, where practicable.

I am conscious that noble Lords are concerned about what is seen as a downgrading of some protections that apply to vulnerable people detained in short-term holding facilities under Rule 32 of the 2018 rules, particularly in respect of those who claim they have been victims of torture. As I outlined earlier, a residential holding room builds on and provides more extensive facilities than what is currently available in a holding room at Manston.

Noble Lords should be aware that rule 32 does not apply at all to those held in holding rooms—the first tier of the three categories. There is a balance to be achieved between ensuring that Manston operates as efficiently as possible while addressing immediate healthcare and vulnerability concerns for any individuals. If immediate risks to the detained person's health are identified, the modified rule 32 for residential holding rooms sets out that the individual's detention must be reviewed as expeditiously as possible. I hope that addresses the question raised by the noble Baroness, Lady Hamwee. It is important to note that, prior to entering a residential holding room, the individual will already have had an initial health screening and access to medical staff if required. The provision of medical screening and reporting immediate medical risks in residential holding rooms will be an additional safeguard.

Processing new arrivals as quickly as possible continues to be our primary objective. The majority of the Manston facility will continue to operate as a holding room, to which the 24-hour time limit will still apply. This new type of short-term holding facility was created to provide additional and essential operational flexibility within our detention estate to undertake processing and security checks and to provide staff with additional time to process people effectively and safely at times of significant pressures.

Turning to the procedural points raised by the committee in its report, it is clear that noble Lords are concerned that there was no external consultation on these rules before they were laid before Parliament and that they entered into force on 5 January before the end of the Christmas Recess. I would like to be clear that there is no statutory requirement to undertake a stakeholder consultation before amending the Short-term Holding Facility Rules 2018. Furthermore, as I have explained, we are seeking to improve the facilities at the Manston site, not downgrade them. It is important that this work is completed as soon as possible, thereby improving the experience of people detained at Manston at the very earliest opportunity. I would hope noble Lords would welcome this. Undertaking what would be a very prolonged consultation on these amendment rules would have been likely to detract from that goal.

The enduring solution to this challenge is to stop the illegal, dangerous and unnecessary small boat crossings that are beginning to overwhelm our asylum infrastructure. That new legislative regime—as the House is well aware—is the Government's ultimate objective. The recently introduced Illegal Migration Bill, which will shortly arrive in your Lordships' House, will change the law so that those arriving in the United Kingdom illegally may be detained and then promptly removed to a safe third country or their home country. In the meantime, the creation of residential holding rooms will give our hard-working Border Force officers the time they need to undertake their vital work and keep our country safe. In light of all that, I ask the noble Baroness to withdraw her Motion.

**Baroness Hamwee (LD):** My Lords, before the noble Baroness responds, I asked a question about DBS checks. I wonder whether the Minister is able to answer it.

**Lord Murray of Blidworth (Con):** Certainly. It remains my understanding that those who have dealings with unaccompanied asylum-seeking children would be the subject of DBS checks. Whether it is the case that all of those working at the Manston site have DBS checks—those working with adults—I cannot answer at this point, but I would anticipate that is the case. I will certainly write to the noble Baroness in respect of that.

**Baroness Hamwee (LD):** I am sure the Minister will understand that vulnerable adults need safeguarding as well—it is much wider that children.

**Lord Murray of Blidworth (Con):** Of course; I entirely accept that.

**Baroness Lister of Burtersett (Lab):** My Lords, I am very grateful to everybody who has spoken, all of whom I think have deepened the arguments and reminded noble Lords what is at stake here. I am grateful to the Minister for spelling out the Government's case. I suspect he did not manage to answer all the questions, so I would be very grateful if he could look through *Hansard* and write to everybody who spoke in answer to those questions.

*8.15 pm*

I am conscious that the Committee wishes to get going. The one thing I want to say is that the Minister says that we should be welcoming this, and that it is somehow an improvement. Yes, of course it is an improvement on the holding rooms, but what he has not answered is the really the kernel of the SLSC's report. Why, in upgrading from a holding room, is it necessary to introduce this intermediate category that, for the difference of one day, removes many of the protection that are there for those held for five days? He has not answered that. That is why there is so much concern among all the organisations that know what is going on at Manston and are really worried about what this will mean. I hope that when he writes he will make clear when this actually starts being operative. He talked about the upgrading of Manston—that is great, he made it sound, if not exactly wonderful, certainly better that perhaps it is at present—but the fact is that this is a downgrading of the treatment of people who are kept for more than 24 hours. That is the point, and that point has not been met. However, I am conscious that the House wishes to proceed and therefore I withdraw my Motion.

*Motion withdrawn.*

## Levelling-up and Regeneration Bill

*Committee (9th Day) (Continued)*

*8.16 pm*

*Amendment 213A*

*Moved by* ***Baroness Hayman of Ullock (Lab)***

**213A:** Schedule 7, page 293, line 35, at end insert—

"(5A) The local plan must include policies designed to meet the health and social care requirements of the local planning authority's area, including the provision of facilities to provide specialist palliative care services.

(5B) For the purposes of subsection (5A), planning authorities must have regard to the requirements set out within section 21 of the Health and Care Act 2022 regarding the commissioning of certain health services."

Member's explanatory statement

This probing amendment would ensure that local planning authorities must consider what facilities are needed to provide the necessary health and social care facilities for their area including those with a terminal illness.

**Baroness Hayman of Ullock (Lab):** My Lords, this group is made up of two of my amendments, Amendments 213A and 312L. The first is a probing amendment, designed to ensure that local planning authorities must consider what facilities are needed to provide the necessary health and social care facilities for their area, including for those with a terminal illness. My second amendment builds on this to ensure that local planning authorities must regularly survey the health and social care requirements for their area when considering any future development requirements.

We know that an ageing population is increasing the demand for specialist health and care services within local communities. We also know that demand for palliative and end-of-life care is rising rapidly as our population ages. In the next 25 years, the number of people aged 85 years and over in the UK will almost double. We heard some figures around the need for housing for the elderly in previous debates, so this issue covers various aspects of how we plan for the future. In areas such as mine, in Cumbria, where we have what is known as a super-ageing population, there are even more stresses on local authorities and services to provide.

Because of this ageing population, by 2045 there will be over 136,000 additional deaths per year in the UK, compared with projections for 2023. So the demand for palliative care and end-of-life services will increase, particularly due to the larger numbers of people living longer with multiple and complex health conditions. It is absolutely critical that every person at the end of their life receives the care and support they need so that they can live the end of their life in dignity.

Marie Curie has provided some very helpful information, and I thank it for its briefing on this matter. It has estimated that, if palliative care capacity does not increase in line with projected increases in mortality, as many as an additional 14,000 people may die each year without palliative care by 2030, and as many as 86,000 additional people may be in the same position by 2040. In contrast, if capacity in the palliative care system grows to reflect this ageing population, as many as 77,000 more people every year could receive the specialist palliative care they need at the end of their lives. It makes a huge difference to how people can get the support and dignity that they need, as well as support for families in that difficult time.

We know that access to medicines out of hours can be complicated and time-consuming. For example, when Marie Curie surveyed areas in its report on better out-of-hours care, it found that only 25% of areas had a pharmacy open throughout the night that was able to dispense palliative medicines, and 68% of areas had only partial availability of healthcare professionals who were able to administer palliative medicines at night. More facilities within local communities could also relive pressure on the acute sector. Reducing unplanned admissions would reduce pressure on NHS hospitals—and we know how incredibly important that is at the moment with the extra pressures that the NHS is feeling. We know that there are around 5.5 million bed days occupied by people in the last year of life, just in England. The total cost of those admissions to the NHS is more than £1.2 billion. There are huge opportunities to improve life for people and end-of-life care, as well as to support our NHS in the work that it does.

To look at the importance of reducing health disparities for end-of-life care, the introduction of the Health and Care Act 2022 created the first ever duty for the NHS to commission palliative care services in every part of England through integrated care boards. That is very welcome—we know how important they are to local communities and families. However, we need to ensure that local planning authorities identify and allocate land and sites to help health commissioners to deliver the joined-up health and care services that we need within local community settings. By 2030, one in five people in the UK will be aged over 65 and the

number of people receiving palliative care services is projected to increase from 47% of all deaths to 66% over the next decade. That is almost a 20% increase.

At the same time, the nature of care need is also changing, with an increasing proportion of people dying at home or in a care home. This will again lead to growing pressure on primary care, social care and the local community. Too many people already miss out on the care and support they need towards the end of their life, particularly those from disadvantaged groups. The most recent estimate suggests that in England, up to 25%—a quarter—of those who need palliative care are not receiving it. Out-of-hours emergency department attendance increases in frequency as death approaches. It is between five and eight times higher in the month before death than at 12 months before death. It is also more common among people living in the most socioeconomically deprived areas.

Marie Curie and others have carried out research that indicates that certain groups face particular barriers in access to palliative care, including people who are living in poverty, living alone or living with dementia, as well as people with learning difficulties, those who are homeless, those who are in prison, those from minoritised ethnic groups and LGBTQ+ people. There is much to do in this area. I know it is quite a specific area to put into the Bill, but I hope that by putting these amendments forward we can have a proper debate on something that is very important to our society. I beg to move.

**Baroness Pinnock (LD):** My Lords, the noble Baroness, Lady Hayman of Ullock, has raised a very important issue about end-of-life care and how the planning system can be encouraged to prepare for the needs that will arise in the not-too-distant future. It is an argument that we on these Benches absolutely support; I will just expand it ever so slightly by saying that whenever there is a big allocation for a housing site, local residents immediately say there will be a huge pressure on primary healthcare—GP services. Although the community infrastructure levy enables planning authorities to try to extract some funding from the levy for improvements to primary healthcare services, it is often not that possible when there are so many other big demands placed on the levy—highways infrastructure, education, outdoor play space and so on.

Often, certainly in my part of the country, where house prices and land values are lower, the levy is therefore also lower and is unable to support the development of essential provision for primary healthcare. It is an area that I guess we may want to explore when we get to discussion about the replacement of the community infrastructure levy. I thought I would raise it now, in this context, because whichever of the Front Bench team is responding may be able to give me an answer. With that, I clearly support the amendments.

**Earl Howe (Con):** My Lords, the two amendments in this group, Amendments 213A and 312I, tabled by the noble Baroness, Lady Hayman of Ullock, look to ensure, as she explained, that local planning authorities should consider the health and social care facilities needed for their area when considering future development. I am sure that we can agree that it is important to ensure that we have the right health and social care facilities in place where they are needed: that is why this is already a consideration as part of planning policy, guidance and legislation.

The National Planning Policy Framework is clear that when setting strategic policies, local planning authorities should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for community facilities, including for health infrastructure. The Government have set out in planning guidance how the need for health facilities, as well as other health and well-being impacts, can be considered as part of the plan-making and decision-making process. Plan-making bodies will need to discuss their emerging strategy for development at an early stage with directors of public health, NHS England, local health and well-being boards, and sustainability and transformation partnerships/integrated care systems, depending on the local context and the implications of development on health and care infrastructure. The National Planning Policy Framework must, as a matter of law, be given regard to in preparing the development plan, and is a material consideration in planning decisions.

We have also set out, in the consultation on reforms to national planning policy, that we are intending to undertake a wider review of the NPPF to support the programme of changes to the planning system, and, as part of this, we will consider updates needed to reflect the importance of better environmental and health outcomes. In addition, as part of the new infrastructure levy system, local authorities will be required to prepare an infrastructure delivery strategy. This will set out the local planning authority's priorities for spending levy proceeds.

Section 204Q(11) requires levy regulations to determine the consultation process and procedures that must be followed when preparing an infrastructure delivery strategy. This can include which bodies must be consulted in order for charging authorities to determine their infrastructure priorities for spending the levy. Such bodies could include integrated care boards to ensure that health infrastructure is considered in the preparation of the infrastructure delivery strategy. We can also make provision that integrated care boards must assist charging authorities with the preparation of an infrastructure delivery strategy. That is Clause 93.

*8.30 pm*

I do recognise fully from my time as a Health Minister the importance of palliative care in the range of NHS services, and the noble Baroness, Lady Hayman, will remember that, as part of the Health and Care Act 2022, we added palliative care services to the list of services that an integrated care board must commission, promoting a more consistent national approach and supporting commissioners in prioritising palliative and end-of-life care. NHS England has made available a number of resources, including statutory guidance and service specifications, to support commissioners in fulfilling this duty. NHS England has also made funding available to establish seven palliative and end-of-life care strategic clinical networks. These networks support commissioners in the delivery of outstanding clinical and personalised care for people in the last

[Earl Howe]
year of life and aim to reduce local variation. NHS England has implemented an accelerated development programme to build a community of practice and develop commissioning mentors, supported by a number of supporting guides and documents, such as the commissioning and investment framework.

I hope what I have been able to say is helpful to the Committee. I do take on board the comments made by the noble Baroness, Lady Pinnock. There is not time to have a full-scale health debate. I have a wealth of information here on what is now going on to ensure that, for example, primary care is beefed up across the country; we have set out plans to recruit 26,000 additional primary care staff, and there are special incentives to attract doctors to underdoctored areas which are already proving to be a success.

In the field of social care we have made available up to £7.5 billion in additional funding over two years, which is a historically enormous increase. On the people front, the noble Baroness may recall that in the *People at the Heart of Care* White Paper, we set out a 10-year vision for adult social care that includes workforce reforms and funding for hundreds of thousands of training places, which of course we all agree we need. So there is a great deal going on, and I think the levers are there at a local level as well as a national level to make sure that we are not legislating for levelling up in a vacuum, as it were, in this field.

I hope I will have persuaded the noble Baroness, Lady Hayman, that her amendment is not necessary, as these important matters are already being considered and addressed through national planning policy, associated planning guidance and indeed legislation.

**Baroness Hayman of Ullock (Lab):** My Lords, I thank the noble Baroness, Lady Pinnock, for supporting my amendments. As the Minister said, she was right to draw attention to the many competing demands on local authorities and others, which can sometimes mean that joined-up health and care services are overlooked or pushed further down the pecking order than they should be. When we reach the groupings on the infrastructure levy, I am sure that we will discuss what we feel that money could or should be spent on and I imagine that these areas will be touched on again.

I thank the Minister for his helpful response. We referred again to the National Planning Policy Framework, which will continue to come up a lot and we will continue to say how great it would be if we could actually see it. It is welcome that the intention is for this overall strategy for communities to include health facilities, but social care and palliative care services are not always adequate in every community. We need to ensure that any future planning decisions, support for local authorities and so on provide the resources required to reflect future pressures that will be put on those services with an ageing population over the next few years.

In rural areas, social care and palliative care delivery are much more complex. They are often more expensive and need extra support and care. It would be good if the Government could take that into account when continuing to design those services, particularly for people in their own homes. It needs to be looked at. Just on that point, I should have declared an interest as vice-chair of Hospice at Home West Cumbria. It plays an extraordinary role in our community and I thank it very much for what it does. I also thank the Minister for his serious, careful response and beg leave to withdraw my amendment.

*Amendment 213A withdrawn.*

*Amendments 214 to 216 not moved.*

*Amendment 216A*

*Moved by* ***Baroness Bloomfield of Hinton Waldrist***

**216A:** Schedule 7, page 294, line 19, at end insert—

"(3A) The Secretary of State may require the local planning authority to—

(a) reimburse the Secretary of State for any expenditure incurred by the Secretary of State in, or in connection with, appointing a person under subsection (3), or

(b) pay any fees and expenses of a person appointed by the Secretary of State under subsection (3)."

Member's explanatory statement

This amendment allows the Secretary of State to require a local planning authority to reimburse the Secretary of State for expenditure incurred in connection with appointing a person to provide observations or advice on a proposed local plan or to pay any fees and expenses of that person.

**Baroness Bloomfield of Hinton Waldrist (Con):** My Lords, this group is intended to make minor, technical and consequential amendments to the reforms in the Bill connected to plan making.

Amendment 216A is a minor and technical amendment to Schedule 7. It clarifies an ambiguity in relation to new Section 15CA, to be inserted into the Planning and Compulsory Purchase Act 2004 by Schedule 7 to the Bill. The amendment, which will insert new subsection (3A) into new Section 15CA, clarifies that local planning authorities may be made liable for the costs associated with observations or advice delivered by a person appointed by the Secretary of State under new Section 15CA(3), which in practice will be in relation to the proposed local gateways.

Noble Lords will note that the intention was always that, in relation to remuneration and allowances payable under new Section 15LE(2)(j) in Schedule 7, it should be possible for local planning authorities to be made liable for these costs. This amendment simply ensures clarity as to where liability for remuneration or allowances under new subsection (2)(j) may fall. The position following this amendment will broadly mirror arrangements for other relevant appointments, for example in relation to independent examination of plans and local plan commissioners appointed by the Secretary of State.

Amendments 242A, 242B, 242C, 242D, 242E, 242F, 242G and 242H set out consequential amendments required to various pieces of legislation in connection with our reforms to plan making. Through the reforms to Part 2 of the Planning and Compulsory Purchase Act 2004, as introduced by Clause 90 and Schedule 7 to the Bill, the concepts of "local development document" and "development plan document" will be replaced by "local plan, minerals and waste plan or supplementary plan".

Various consequential amendments have been tabled to ensure that these changes to terminology are carried across to other legislation.

Schedule 8 already sets out minor and consequential amendments of this kind. These further changes will be inserted into Schedule 8 and amend various pieces of legislation to ensure that other key legislative provisions would continue to have effect in light of our reforms. These include, for instance, the Local Government Act 1972, the Town and Country Planning Act 1990, the Greater London Authority Act 1999, the Commons Act 2006, the Planning and Energy Act 2008 and the Marine and Coastal Access Act 2009. I beg to move.

**Baroness Pinnock (LD):** I have a query, and I congratulate the noble Baroness on so carefully explaining the long list of amendments. On the first amendment, Amendment 216A, is that a new requirement for local planning authorities? If so, then surely it should fall under the new burdens agreement between the Government and local authorities and should therefore be funded by the Government.

**Baroness Bloomfield of Hinton Waldrist (Con):** I am told that if it was a new burden, it would be. We do not know whether it is going to be a new burden, but if it were to be a new burden, it would be.

**Baroness Pinnock (LD):** And if it was not a new burden, it would not be?

**Baroness Bloomfield of Hinton Waldrist (Con):** Exactly.

**Baroness Pinnock (LD):** I would be grateful if the Minister could write and let me know.

**Baroness Bloomfield of Hinton Waldrist (Con):** We will write.

*Amendment 216A agreed.*

*Amendment 217*

*Moved by* ***Lord Holmes of Richmond***

**217:** Schedule 7, page 294, line 22, at end insert—

"(4A) A local plan must conform with the principle of inclusive design, and where a local planning authority receives any observations or advice from a person appointed by the Secretary of State under subsection (3) to the effect that a proposed local plan does not conform with that principle, the local planning authority must modify the plan to ensure conformity in accordance with the observations or advice."

**Lord Holmes of Richmond (Con):** My Lords, it is pleasure to open this group of amendments. I intend to speak to Amendments 217 and 302 in my name, but I also give more than a supportive nod to the double nelson in the name of my noble friend Lord Lansley. My two amendments are pretty similar in terms but address two specific areas. They simply require that, whether we are talking about local plans or planning more broadly, they should be predicated on the principle of "inclusive by design".

Let me share a small example to make this point. A number of years ago, so-called shared space became popular among local authorities. I say "so-called" shared space, because in reality it was nothing of the sort—some might say it was a planning folly. In effect, it was where previously inclusive and accessible public realm was converted into "shared space". Let us take a carriageway, for example. Shared space came in and removed kerbstones, road markings, pavements, crossings and lights, and then pedestrians, tankers, toddlers and buses were all supposed to share that space, with everybody paying more respect to one another. As I say, some may say that it was a planning folly. There are still examples across the country, some not that far from your Lordships' House.

Had we had the principle of "inclusive by design" underpinning public realm, underpinning planning and underpinning—as in this Bill—local plans, we would not have had such designs which exclude so many people from the local community who were previously able to access those areas independently. Had we had "inclusive by design" as a planning principle, with everything predicated on it, we would not have had such "shared spaces" and we would not have inaccessible, non-inclusive areas across our public realms, across our cities and across our communities.

I wrote a report in 2015 on "shared space" and it saw that over two-thirds of people found it difficult if not impossible to navigate. "Inclusive by design" is a key planning principle. It is not just for disabled people or just about access; it is about the very heart, soul and fabric of our local areas—inclusive by design so that they can be accessed, enjoyed and passed through by all members of our community. That is what my Amendments 217 and 302 are all about. I beg to move.

*8.45 pm*

**Lord Lansley (Con):** My Lords, I am very glad to follow my noble friend and to heartily endorse and agree with what he had to say about the importance of inclusiveness and inclusion by design. In this group of amendments, I also endorse firmly the importance of design as an integral part of the planning system. As I understand it, the Government are firmly in that camp. They believe that design can ensure that we create far more fit-for-purpose places in which to live. That is what design is all about: fitness for purpose. The Government also think that they can be beautiful places. I am sure each of us has our own view of what beauty might be in this context, and I do not suspect that we can easily write it into legislation.

What is rather interesting is that we have in Schedule 7 a reference to the fact that local authorities must prepare such a design code. Of course, behind that lies—as ever in debates on this section of the Bill—the National Planning Policy Framework, which has within it the idea of what those design codes must look like. Even behind that, there is the national model design code—fine. But then let us have a look at what is in the relevant chapter of the Government's draft National Planning Policy Framework. Here, I want to go back to the discussion we had earlier. I will not repeat it all, but it was essentially about the centrality of environmental principles, the achievement of our net-zero objectives,

[Lord Lansley]
nature recovery strategies and biodiversity net gain. All those things are terrifically important, so you would imagine, would you not, that because design and place-making have to start from core principles, they would be reflected in the National Planning Policy Framework when it considers what well-designed and beautiful places need to be, but that is not how it works at all.

Before I expand a little more on chapter 12 of the draft National Planning Policy Framework, let me just say that it is not me saying that environmental principles are central to this issue. The Royal Town Planning Institute, together with the Royal Society for the Protection of Birds and friends from LDA Design, whom I know well—I declare an interest; my son-in-law works for them—worked on a document called *Cracking the Code*, which was published a year ago, about the national design code and the question of how that should reflect environmental principles. Let me quote one paragraph from the report:

"Design codes should have a critical role to play in planning for the future of places and ensuring that opportunities to maximise development's contribution to net zero and nature recovery are locked in from the outset, through strong spatial development frameworks and strategic design requirements. Codes can outline ways for developments to combine net zero and nature recovery with place making and encourage unique and innovative approaches to green and blue infrastructure and the role of landscape."

So, they captured the whole centrality of the environmental argument in a paragraph.

The practicalities of this are immediately evident. If you are designing new towns now, which will be built mostly in the 2030s and will be lived in through the 2060s, 2070s and 2080s, you have to think about what a carbon-free public space—and, for that matter, private space—looks like. What does the transport look like? What does the heating look like? How do people live? How do they move around? There is no point designing places that do not take full account of those changes that are in prospect.

You would find all that in the National Planning Policy Framework, would you not? There is brief reference somewhere here to the environment, but not much. What there is, however, is a list of the things that the design codes and design processes should reflect. It includes visually attractive, good architecture; sympathy to local character and history; a sense of place; optimising the potential to sustain development in the future; safe, inclusive, accessible; promoting health and well-being. These are all admirable, and there is then a full paragraph on trees, but I cannot find anywhere else any reference to nature recovery, biodiversity, environmental principles or the processes for how design can contribute, and is central, to the mitigation of and adaptation to climate change.

**Lord Stunell (LD):** I seek to reassure the noble Lord that it will be covered in regulations.

**Lord Lansley (Con):** It might be covered in the national model design code, but I do not think that is how it looks at the moment. The purpose of this document last year was to say, "Put it into the national model design code". Logically, if you are going to do that, you have to at least signal its importance in the National Planning Policy Framework. Otherwise, all your guidance —because, technically, that is what it is—simply does not cohere together. What we have discovered, which is at the heart of many of these arguments, is that in large measure we do not yet know—we are still to debate this—how far what the Government say in the National Planning Policy Framework will be national development management policies and, by extension, cannot be varied from in local plans. So we have this inexorable relationship between things that we do not know and how it is going to turn out in the future.

Amendment 222 is very simply saying, because we do not know and cannot find evidence of the centrality of these environmental principles to the national model design code or the National Planning Policy Framework, let us put them in the Bill. All I am doing in this context is saying that, at this stage, I want to know that they will be central to the design approach—and if they are not, they ought to be. I hope that Ministers will be able to reassure me on that point.

**Baroness Bennett of Manor Castle (GP):** My Lords, I rise to offer Green support for all these amendments. On the amendments in the name of the noble Lord, Lord Holmes, it is worth reflecting that if you design a space, a community or a building that is accessible and welcoming to everybody, that will be a really good building for any person to enjoy. This is the same principle that applies to accessible public transport and many other areas.

I mostly want to speak to Amendment 222 in the name of the noble Lord, Lord Lansley. I commend him both on tabling this amendment and on his excellent introduction to it. He was perhaps reading the mind of the Committee on Climate Change, because he must have tabled this amendment before its report about three weeks ago, which really stressed the nation's utter failure to prepare for the climate reality that is now already locked in—what is now known in shorthand as adaptation. Another Member of your Lordships' House, the noble Baroness, Lady Brown, said:

"This has been a lost decade in preparing for and adapting to the known risks that we face from climate change".

It is very clear that what we should be doing now is making sure that we design, build and deliver buildings, infrastructure and communities that are actually fit for—as the noble Lord said—the next century. To take a practical example of this, the APPG on Wetlands has done a great deal of work and spread the word about how crucial wetlands are. We think about all the issues the Government keep facing all the time on sewage and what is spilling into our rivers and oceans. Sustainable urban drainage systems and just the smallest-scale wetlands—something that I have seen NGOs presenting with—can be a way of enriching biodiversity and addressing the kind of issues that this amendment does. They also create a much more pleasant environment for people and do something to tackle all the issues we have with water distribution in our country.

It is not just the Committee on Climate Change. Yesterday your Lordships' House gave strong support for the amendment to the Energy Bill saying that we absolutely have to deal with retrofitting—with the adaptation that is necessary for existing homes. That very much addresses this amendment as well.

I will offer one constructive suggestion to the noble Lord, Lord Lansley, and something to think about. We have now got to the stage where pretty much everyone, including the Government, is talking about the climate emergency and about biodiversity in nature. These are just two of the very big issues we face in terms of the planetary boundaries. A year or so back, the Stockholm institute concluded that we have exceeded the planetary boundary for novel entities, which is shorthand for pesticides, plastics and pharmaceuticals. I suggest that the next step—which everyone will be talking about in a few years, but we can get ahead of the curve now—is to say that we need design codes that ensure we are living within all the planetary boundaries, which includes things such as geochemical flows and protecting fresh water: a whole range of issues that come under the planetary boundaries model. If we are indeed to be able to survive and thrive on this poor, battered planet, we have to design to live within those planetary boundaries.

**Baroness Pinnock (LD):** My Lords, the noble Lord, Lord Holmes, is quite right to raise the issue of accessible and inclusive design. Everyone benefits where design is accessible and inclusive for everyone, so all planners and all local plan strategies should bear that in mind as a prior consideration. The noble Lord has our complete support.

We must say two things to the Government that the noble Lord, Lord Lansley, has said several times today. We need the content of both the National Planning Policy Framework and the national development management plan before we get to Report, otherwise we will have to include in the Bill content that may later appear in either of those two important plans. We cannot operate in this vacuum of lack of knowledge and information about the content of two absolutely fundamental building blocks of strategic planning. We need to keep raising that—I think it was also raised today by the noble Baroness, Lady Taylor of Stevenage—and I hope the Minister has heard the pleas from across the Committee.

**Baroness Taylor of Stevenage (Lab):** My Lords, I thank the noble Lord, Lord Holmes of Richmond, not just for his amendment but for his continued work to ensure that we keep issues of inclusivity at the forefront when considering all aspects of the Bill, particularly planning. Levelling up must relate not just to tackling inequalities between the regions and places in the UK but to ensuring that no group is excluded from opportunities that are open to the rest of us. That is why the amendments in this group are so important.

We absolutely support the principle behind the noble Lord's Amendment 217 and will definitely support the consideration of observations and advice relating to inclusive design as local authorities go through their plan-making process. But for the sake of practicality, if this amendment is accepted, there may be a need for further guidance about whether local authorities could be exempted on individual developments if they are able to demonstrate adequate reasons for that. I certainly do not suggest that they should be able to do so on many grounds—they would have to be very exceptional circumstances—but if that was not included, there may be examples, such as where heritage assets are involved in the development or something like that, where there would need to be some consideration of other factors. But it is a very good amendment, as is Amendment 302, which is an unequivocal statement, which we absolutely support, to ensure that inclusive design is enshrined in the Bill.

*9 pm*

It was very interesting to hear the noble Lord, Lord Holmes, talk about the absolute nonsense that was shared space. I remember kicking against it when some developments came forward. Clearly, the key to all this is consulting all users, and all likely users, of a space before designs are finalised so that, as you go through the planning process, you take account of everything that needs to be considered. Building that fundamental principle of inclusivity into the planning process from the outset is an incredibly helpful amendment to the Bill.

On Amendment 222, tabled by the noble Lord, Lord Lansley, we have had extensive discussions in previous groups in Committee about the importance of ensuring that, throughout the Bill, adaptation to and mitigation of climate change, net-zero carbon emissions, nature recovery and biodiversity are at the heart of its purpose and intent. Indeed, levelling up cannot be achieved unless that is the case. Therefore, that must also apply to design codes, so we support the amendment.

The noble Lord, Lord Lansley, referred to the importance of design being not just around physical beauty. That made me think of some examples where we have to be careful—we may come on to this in later discussion on the Bill. Beauty being in the eye of the beholder is, I think, the best phrase to cover it. Often, we are not careful enough about attempts to turn areas into things they never can be. I certainly feel that, having grown up in a new town. Attempts to put Victorian-style canopies on a mid-20th-century town centre are, in my mind, just as bad as plonking down glass and concrete structures in a medieval high street. We must be very careful that we do not let architects—I hope there are none in the Chamber today—run away with themselves with these things.

Presumably, you can design beautiful places which have devastating impacts on the environment, exclude users, and work only for humans, and possibly their pets, and do nothing for biodiversity. I could be mischievous and say that we have had too many decades of that already, so it is time we built into both the planning legislation and the design codes the key principles that buildings must be designed to take account of all the issues that the amendment of the noble Lord, Lord Lansley, mentioned and all the principles of inclusivity that the amendment of the noble Lord, Lord Holmes, sets out. I hope that if these amendments are not accepted today, something like them will find their way into the Bill eventually.

**The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con):** My Lords, this group of amendments concerns requirements relating to design,

[Baroness Scott of Bybrook]
as we have heard. Ensuring that the planning system creates more beautiful and sustainable buildings and places is a key objective of this Government. I quite accept that beauty is in the eye of the beholder, but it will be for local people to decide on design, and I think local people know their area better than anybody. This is demonstrated through the measures set out in the Bill for mandatory design codes, as well as those measures undertaken in response to the findings of the Building Better, Building Beautiful Commission, which include updates to the national design policy and new guidance on how to prepare design codes in 2021.

I begin by addressing Amendments 217 and 302, tabled by my noble friend Lord Holmes of Richmond, which focus on the principle of inclusive design. Amendment 217 would introduce a legal requirement for local plans to conform with the principle of inclusive design. It would also require local planning authorities to modify their local plans where they have received relevant observations or advice in relation to this from a person appointed by the Secretary of State. Amendment 302 would introduce a legal requirement for local planning authorities to ensure that planning and development must be predicated on the principle of inclusive design.

The Government agree that ensuring that development is designed to be inclusive for all is essential to meeting the aims for sustainable development. That is why the National Planning Policy Framework already makes clear that local planning policy should ensure that developments create places that are healthy, inclusive and safe. This means local planning policies and decisions that promote social interaction and accessibility, and which enable healthy lifestyles.

This is supported by the *National Design Guide* and the *National Model Design Code*, which illustrate how well-designed, inclusive and healthy places can be achieved in practice. Both documents advise local authorities on how the 10 characteristics of well-designed places can inform their local plans, guidance, design codes and planning decisions to create successful neighbourhoods that contain a rich mix of people, including people with physical disabilities and those with mental health needs. Through local design codes, local authorities should consider a wide variety of housing tenures and types in the design of new developments to meet a range of different needs, such as housing for older people, as we have spoken about at length today, and supported housing to meet the needs of vulnerable people.

Furthermore, the Bill will require all local planning authorities to prepare local design codes at the scale of their authority area, either through their local plan or as a supplementary plan, giving them significant weight in decision-making. The national model design code asks that, in preparing design codes, consideration must be given to how new development can promote inclusive design by creating buildings and spaces that are safe, social and inclusive, with an integrated mix of uses that are acceptable for all.

My noble friend Lord Holmes of Richmond was particularly interested in shared spaces. The national model design code recognises that streets should be designed to be inclusive and should cater for the needs of all road users as far as possible, in particular considering needs relating to disability, age, gender and maternity. However, there is also the *Manual for Streets*, which seeks to ensure that streets are designed to be accessible and inclusive. The DfT is updating this guidance, which will form part of a suite of guidance across DfT and DLUHC to secure better outcomes for communities. I hope that my noble friend Lord Holmes of Richmond will understand that we are clear that this is already being addressed through national planning policy and supporting guidance on design, and that this is not an amendment that we feel is necessary.

Before discussing Amendment 222, tabled by my noble friend Lord Lansley, I want to make it clear that I have heard the concerns of a number of noble Lords, over most of the afternoon, around the publishing of the NPPF. All I can say at this time is that it has been out to consultation, as we all know, with the public and stakeholders, and more details and more announcements will be made in due course. I have heard the views of the Committee and I will take them back and discuss this further with officials.

**Lord Stunell (LD):** I remind the Minister that, on day two, she made similar noises about a draft of the statement of levelling-up missions. She did not make a promise but said that she had heard the call for those too to be in front of noble Lords before Report. I hope she can add that to her shopping list when she talks to officials after today's session.

**Baroness Scott of Bybrook (Con):** I will. I will look back at *Hansard* and ensure that we get exactly what the noble Lord wants. To tell the truth I thought he had already got it, but I believe what he says and will see that he gets it.

The Levelling-up and Regeneration Bill would require all local planning authorities to prepare authority-wide design codes as part of their development plan, either as part of their local plan or as a supplementary plan, as I have said before. The Bill already includes the obligation, found in the new Sections 15C and 15CC of the Planning and Compulsory Purchase Act 2004, as inserted by Schedule 7, that local plans and supplementary plans must be designed to secure that the development and use of land in the authority's areas contributes to the mitigation of, and adaption to, climate change.

In addition, the National Planning Policy Framework sets the policy expectation that plans take a proactive approach to adapting to and mitigating climate change. It makes it clear that local plans and decisions should contribute to and enhance the natural and local environment. The national model design code provides guidance on how local design codes can be prepared to ensure well-designed places which respond to the impacts of climate change, through ensuring that places and buildings are energy efficient, minimise carbon emissions and contribute to the implementing of the Government's biodiversity net gain policy.

I understand and agree with the importance of this subject matter. We are clear, though, for the reasons I have set out, that this is already being addressed

through the Bill, national policy and design guidance. I hope that the noble Lord, Lord Lansley, will understand that this is not an amendment that we feel is necessary.

I hope I have said enough to enable my noble friend Lord Holmes of Richmond to withdraw his Amendment 217, and for other amendments in this group not to be moved when they are reached.

**Lord Holmes of Richmond (Con):** My Lords, I thank all noble Lords who participated in this group of amendments. I particularly thank my noble friend the Minister for her full response. Green spaces, inclusive places: we can achieve this and deliver it through statutory design if we so choose. I think we will certainly return to some of these issues, and more, when we get to Report in the autumn, but for now I beg leave to withdraw the amendment.

*Amendment 217 withdrawn.*

*Amendments 218 to 224 not moved.*

*Amendment 225*

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

**225:** Schedule 7, page 318, line 12, at end insert—

"(1A) A local planning authority must have regard to the content of any relevant neighbourhood priorities statement in the exercise of its planning functions."

Member's explanatory statement

This means local planning authority must have regard to the content of any relevant neighbourhood priorities statement in the exercise of its planning functions.

**Baroness Hayman of Ullock (Lab):** My Lords, we have a number of amendments in this group, and there are a number of issues that I want to visit in this group, so I apologise if this takes a few minutes.

Looking first of all at my Amendment 225 to Schedule 7, this amendment would mean that local planning authorities must have regard to the content of any relevant neighbourhood priorities statement in the exercise of their planning functions. If we turn to the Bill, we see that Section 15K introduces a new neighbourhood planning tool, the neighbourhood priorities statement. According to the Bill's Explanatory Notes, these statements will

"allow communities to identify their key priorities for their local area, including their development preferences",

with the intention of providing

"a simpler and more accessible way"

for communities to participate in neighbourhood planning.

The provision is clearly a response to the fact that the vast majority of the 1,061 neighbourhood plans that have been made to date have emanated from the more affluent parts of the country, where people have the time and the resources to prepare and implement them, rather than from less affluent areas and more complex urban environments. But we welcome the fact that the Government are engaging with what is a real problem.

*9.15 pm*

Although we certainly welcome the intent behind this, providing community groups with the power to make these neighbourhood priorities statements does raise a number of questions. First, how much flexibility will community groups have in formulating these neighbourhood priorities statements, given that proposed new Section 15LE makes a particular statement about this? Subsection (3) states:

"Regulations under subsection (2)(1) may provide for the form or content of a neighbourhood priorities statement to be determined by the Secretary of State".

Are they then a replacement for neighbourhood plans where those are unlikely to be created, or are they a precursor to the development of full neighbourhood plans? Perhaps in different areas, they could be both. It would be good to have some clarification of what is meant by that.

We need to understand the status of the neighbourhood priorities statements in order to understand their purpose and what the Government intend by them. Will they be documents that community groups can put together, but that local planning authorities can ignore entirely if that is what they decide they want to do—or do local planning authorities have to treat them seriously? The policy paper that sits alongside the Bill says that local authorities will be obliged to take them into account when preparing local plans. That sounds great, but, again, can the Minister define what is meant by this, and what exactly the impact is of any neighbourhood priorities statement in an area that already has a local plan?

I turn now to a number of amendments we have tabled to the clauses on neighbourhood plans. Statutory neighbourhood plans became part of the system in 2011, as noble Lords will appreciate, when they were introduced under the Localism Act as a formal part of the development framework. To the extent that they enable communities better to shape development in any given area, we know that neighbourhood planning can increase public engagement, reduce the number of objections to planning applications and boost housing supply over and above local authority targets. Other noble Lords, including the noble Lord, Lord Lansley, have referred to this in previous debates. We welcome neighbourhood plans—it is just a question of how we then move forward with them.

The clauses on neighbourhood planning are pretty straightforward, but we do have a few amendments that we feel could improve them. My Amendment 229 probes whether neighbourhood development plans could include housebuilding targets. We have of course discussed housebuilding targets already today and in previous debates, and we know that the Conservative manifesto pledged to continue to increase the number of homes being built. It referred to the need to

"rebalance the housing market towards more home ownership".

Much of that is included in the missions for this Bill and in the metrics.

The manifesto also said that the progress towards the target of 300,000 homes per year would continue. As noble Lords are aware, concerns about meeting those targets have been raised time and again in this House. The Public Accounts Committee and the then Housing,

[Baroness Hayman of Ullock]

Communities and Local Government Committee also expressed concern and asked for greater clarity on how these targets would be met. Of course, the noble Lord, Lord Young of Cookham, who is not in his place at the moment, has a particular interest in this matter.

Looking at the metrics to the housing mission, we see that this refers to how, in the section:

"Is this mission ambitious, specific and achievable?",

it says that, to achieve the desired outcomes:

"This mission is also underpinned by a commitment … to ramp up housebuilding to address the underlying affordability issues that first-time buyers face".

Yet, as we have heard, the Government have abandoned their national housebuilding targets because certain members of the Conservative Party down the other end did not like them very much.

I have referred to metrics in previous debates: if the metric is dependent on something that has been promised, and that promise is no longer existent, how is that metric then properly relevant to delivering that levelling-up mission? How is abandoning that target going to help deliver the ambition of this mission? Would the Minister therefore agree that my Amendment 229, which would allow neighbourhood development plans to include housebuilding targets, would be a positive way to move things forward in this area?

My Amendment 230 would enable neighbourhood plans to require that development in areas of historical, cultural or environmental sensitivity is in keeping with the surrounding environment. I suggest that this amendment is pretty self-explanatory. We believe it is important that planning and development respects the historical, cultural and environmental sensitivities of an area. I am sure the Minister would agree with that. We are not attempting to stop anything new, vibrant or exciting being developed in a community; it just means that any local sensitivities are properly taken into account when development takes place.

My Amendment 231 is to probe the impact of neighbourhood development plans on national parks and AONBs. Over 320,000 people live in our national parks, and they are also home to 22,500 businesses. We know that many more people live and work in AONBs. A former chair of National Parks England, Carl Lis, warned in an interview in 2020 that

"young people and national parks staff are being forced out of some of the most scenic parts of the country by high prices, driven in part by exclusive holiday homes".

He said that more affordable housing should be built in England's national parks to help communities that have been excluded by spiralling prices, driven mainly by second homes.

He also said that the Government should take action on land banking by developers in protected areas, such as near where I live, the Lake District, and in also places like the South Downs and the Peak District. It is called this because property speculators hoard plots with planning permission for years and years to maximise their profits. I would be very interested to hear the thoughts of the noble Baroness on this, particularly in light of the Secretary of State's recent announcement about Airbnbs and holiday lets.

I have an article here that says:

"Gove confirms measures in levelling up bill to tackle Airbnb conversions".

Clearly, this has a greater impact on our national parks and AONBs and the properties that will be available for local people—particularly affordable properties. Could the Minister provide some information about the promise to the other place that the Secretary of State made? He said that the Government would be

"bringing forward some planning changes to the Levelling-up and Regeneration Bill, which are intended to ensure that we have restrictions on the way in which dwelling homes can be turned into Airbnbs".—[*Official Report*, Commons, 21/3/23; col. 192.]

As we are discussing this now, within the Bill being referred to, we would be very interested to know at what stage those amendments are likely to appear and how that is going to tie in with the fact that it was published as a consultation paper on 13 April. That consultation paper sets out proposals to create a new class of C5 short-term lets. Is this what the amendments will be addressing? It is vital that we understand properly, while we are debating these issues in Committee, what the Secretary of State is actually proposing here.

I will reference an article by Simon Ricketts from Town Legal. He has looked into the details of the consultation, and he draws attention to one of the things in the proposal—I will quote this, because it is important that, if the Secretary of State makes announcements about new amendments while we are in Committee, we look at what was said. The announcement says:

"The government has listened to calls from local people in tourist hotspots that they are priced out of homes to rent or to buy and need housing that is more affordable so they can continue to work and live in the place they call home".

I absolutely agree with that. It continues:

"The proposed planning changes would support sustainable communities, supporting local people and businesses and local services. The proposed planning changes would see a planning use class created for short term lets not used as a sole or main home, alongside new permitted development rights, which will mean planning permission is not needed in areas where local authorities choose not to use these planning controls".

It is really important to be clear about what the Government mean by a "short-term let" within this consultation and any proposed amendments to the Bill.

One thing that the consultation paper says on this is:

"The term 'short term let' can encompass a range of activity associated with a dwelling. Some short term lets may be let out for a limited period while the owners themselves go on holiday. Others may be properties that provide for a series of lets for holidays … or very short term overnight sleeping accommodation including renting an individual bedroom while the owners are in situ".

So this new amendment could cover a situation where a property is let for a limited period when the owner is away, where the owner remains in situ and rents out a bedroom, or where a property provides for a series of lets to holidaymakers. However, the proposed wording for the new short-term let C5 is:

"Use of a dwellinghouse that is not a sole or main residence for temporary sleeping accommodation for the purpose of holiday, leisure, recreation, business or other travel".

I have to say that I find all of this quite confusing, and it is important that we properly understand it, so I will put the Minister on the spot and ask whether she

can help unpick some of this so that we understand exactly what these amendments, which we will presumably see fairly soon, actually aim to achieve and what they will mean. If she does not have the detail in front of her, I would be happy to have not a letter but perhaps a follow-up meeting to discuss this, because we need to understand what the Secretary of State is referring to. I apologise for taking some time on this, but it is important that we understand what is happening here.

The final amendment I will speak to in this group, Amendment 233, would mean:

"The Secretary of State must prepare and publish an annual report on the uptake of neighbourhood development plans".

We have said in previous debates that we have concerns about the uptake of neighbourhood plans. As I mentioned when I introduced my amendment on the new neighbourhood priorities statements, all the evidence suggests that the vast majority of neighbourhood plans made to date have emanated from the most affluent parts of the country, which have the time and the resources for plans to be prepared and implemented.

I understand that the Government accept that this is a problem and that not enough are coming through from the less affluent and more complex urban environments, and I assume that the idea behind the neighbourhood priorities statements is that they are a means of addressing this—we welcome that the Government are looking to do this. But, in our view, those statements cannot be the only means of doing so. We believe that more could and should be done outside the legislative process to expand and support community involvement in planning decisions. One example could be that the Government could perhaps strengthen and expand the neighbourhood planning support programme.

We also believe that the objective of boosting the take-up of neighbourhood plans in deprived and urban areas should be included in the Bill, because it is so important. Amendment 233 would achieve this by inserting into the Bill a requirement that there is an annual report on uptake, and it would include what steps the Government are taking to increase this. I hope the Minister agrees that this amendment is a practical way forward to focus attention on this issue, as well as to provide evidence that can then be used constructively to increase uptake in the areas that most need to benefit from it.

*9.30 pm*

I am aware that there are other amendments in this group. However, as I have been speaking for some time now, instead of commenting on them—which we are broadly supportive of, on the face of them—I will listen with interest to the rest of the debate. I beg to move.

**Lord Stunell (LD):** My Lords, I will speak to the amendments in my name in this group. I start by briefly reminding noble Lords that I am a member of the Marple neighbourhood forum, which is drawing up a neighbourhood plan which we hope will go to a public referendum later this year at some point.

I turn back briefly to the situation in 2010, when, whatever the rulebook said, the statutory planning and development programme across England was reduced, in essence, to a two-stage process, where the developer proposed something and the community opposed something. It was a very polarised process. The neighbourhood plan process was put in place to reverse that, so that it became a situation where the community proposed and the developer developed. It has been a remarkably successful plan over the subsequent 10 years that it has been in place.

At the time, there was huge scepticism about the idea of neighbourhood plans. Officials in the department did not like it; I hope that Ministers do not face that backdrop now. The RTPI did not like it, and developers all thought that it would be the end of the world for them. Some critics thought that it would be a complete dud and a dead letter that no local community group would be prepared to take up to carry out the work, with the threat or risks, if you like, that come from consulting the community and facing a public referendum at the end of it. It is interesting that those critics have melted away because the criticisms have melted away. They have not proved to be a nimby charter; in fact, they have proved the reverse—to be a successful way of promoting additional housing allocations. It has to be said that that was not their primary purpose; the primary purpose was to restore planning to what it should have been in the first place, which is a co-operative way of developing good outcomes for local communities that are forward-looking and forward-facing to meet the needs of the future.

One of the criticisms which perhaps has some truth, but not all that much, is that neighbourhood plans are for rich, posh, rural areas. However, the very first one signed off was actually in London, so it certainly was not rural. In fact, there are 16 neighbourhood plans within Greater London at the moment, and I know that in my own metropolitan borough there are at least three in progress. On the other hand, I note that nearly every town in Wiltshire, plus the city of Salisbury, which is one of the biggest local councils in the country, have neighbourhood plans either done or in process at the moment. So the evidence is that they can flourish very successfully in rural, suburban and urban areas.

Clearly, from the point of view of the debate we are having today, the most significant fact is that, coincidentally and counterintuitively, they also give more homes, which are developed more quickly than through the standard planning process. The developer wins and the local community wins, the local planning authority and councillors avoid all the political distractions of the planning fight, and the Government get more homes that they want. I apologise to noble Lords because I know I can get very defensive about neighbourhood plans when I think people are trying to tread on them or disparage them, so I hope I will be excused for defending them very stoutly.

There should be more neighbourhood plans across the country, and that brings me first to Amendment 235, which I and my noble friend Lady Scott of Needham Market have tabled and which is supported by the National Association of Local Councils—that is parish and town councils around the country. NALC reports that a minority of local planning authorities have in fact been deliberately obstructive of the establishment

[LORD STUNELL]
of neighbourhood plans—maybe that is a mixture of professional pride from planners and the capacity to engage with local communities. For some councillors it represents some kind of notional loss of control or influence if they might be usurped by a local community's neighbourhood plan. In some cases, even if they are not outright hostile, they have very much stood back and watched, hoping that nothing much would happen to upset their overstretched and very stressed planning operation in their rather cosy planning world.

Whatever the Minister may be inclined to say about the amendments in this group, if she were to accept this, and place a duty on local planning authorities to facilitate neighbourhood plans, she would get an immediate boost of neighbourhood plan applications, and therefore an immediate boost to her housing targets. It would also be helpful to hear what other plans the Minister has to facilitate and encourage neighbourhood plans much more widely.

The noble Baroness, Lady Hayman of Ullock, has just outlined and drawn our attention to the streamlined process that appears in the Bill, which certainly we welcome. Maybe the Minister could make it clear how that affects existing neighbourhood plans that have not yet got to the point of referendum, examination or sign-off. Is it the case that, if they are on one track they are stuck with it, even if the other would be quicker or simpler, or is it possible to change? Maybe the new system could be spelled out to us a bit more clearly—what exactly is being saved? As the noble Baroness asked, is this an addition to or a supplement of some of the processes that there are at present? Whichever way round it is, it is essential for the Government to back neighbourhood plans, at least as one of the solutions to the conundrum they face about how to get extra housing.

Amendment 236 is also supported by NALC and signed by my noble friend Lady Scott of Needham Market—who would have been here but for the change of the date of this Committee, which meant unfortunately she is away today. It seeks to protect those neighbourhood plans that are awaiting sign-off during the transition period between the current planning regime, as it is unamended by this Bill, and the new regime that will be introduced, one way or another, when the Bill is introduced. Those plans are in some jeopardy if they are about to go to a referendum, or even to a public examination at the end of the process, and all of a sudden the goalposts are changed and they can no longer be presented without going back through the whole process.

That would be particularly difficult for neighbourhood forums to handle, because they are one-task volunteers, set up and drawn together by the local neighbourhood plan process. It would not be easy for parishes, but at least they have an enduring public existence, which means this is just one aspect of their work. For both of them, a measure of reassurance and certainty is required that their work so far has not been in vain.

We have proposed in Amendment 235 a simple transition amendment. If the Minister feels that it is not the right transition amendment, we would of course be very open to hearing a better version from her—but I hope that she will at least acknowledge that that double jeopardy must be avoided if the integrity of the process is not to be undermined in those areas. I do not know the exact scope of that, but there would probably be about 300 or 400 neighbourhood plans that were at an intermediate stage that would be subject to such disruption.

I move on to two other amendments proposed by me. Amendment 232 is an amendment to Clause 91 to leave out new subsection (2C), which says, among other things:

> "The neighbourhood development plan must not … include anything that is not permitted or required by or under subsections (A1) to (2A)."

I want to examine in a little more detail the words "not permitted or required". Both this amendment and the subsequent one, Amendment 234, are examples where the drafting of the Bill is unfortunate at best and possibly worse, because it seems as though they are efforts to limit and clip the wings of what neighbourhood plans are capable of delivering for their local communities. As I have explained already, that would materially slow down and damage the Government's own wish to reach housing targets.

My question is about what exactly new subsection (2C) on page 98 means. With

> "anything that is not permitted or required",

it seems to me that there is an important element missing from that list. Assuming that it actually means what it says, as the provision seems to have a double negative in it—but let us skip that for the moment—let us suppose that a community develops a proposal that the Secretary of State has not thought of, and let us suppose that it is not on his non-exhaustive list of permitted things. When can innovative and imaginative new approaches fit in, if you have to check first whether it is a required or a permitted function?

What is the process for adjudicating whether a proposal that a neighbourhood forum wishes to make meets this vague and ill-defined limitation? I fear a ministerial reply that says that it will all be covered in regulations. From the point of view of an amateur community-led neighbourhood forum, that translates into more impenetrable red tape, and a general perception that the powers that be—the Ministers and whoever they are in Whitehall—would much rather you never started, because it is so confined and for that matter so foggy that it is just never going to be worth the effort.

A local planning authority has a general power of competence to cover this situation, of course. If it is not required or permitted, and if it is covered by the general powers of competence, they can do it. My question to the Minister, apart from what on earth it means, because the actual wording seems faulty, is what harm this provision seeks to prevent. Is it a purely hypothetical harm which, if I may say so, her officials have dreamed up as being something to bung in, or has the Minister got even one example by way of illustration of where this has gone desperately wrong because the wrong things have been taken into account?

If the Government's support for neighbourhood plans is genuine, are they making them a more daunting prospect for local communities by accident, in which case I suggest this is something they need to consider?

I have already set out my view that there is more to come in the Bill about how neighbourhood plans should be encouraged without having chunks of the Bill that are hostile, at least in outcome if not in intention, to the development of neighbourhood plans.

*9.45 pm*

That brings me to Amendment 234 in my name. This addresses what I have described as the better-than-average paradox of policy-making. The target is always to be better than average. Hospitals: I am sure the noble Lord, Lord Lansley, will be familiar with the fact that they all have to be above average. Schools: they have all got to be above average. Police forces: they have all got to be above average. The turnaround times on ministerial correspondence: they have all got to be better than average. Such policy ambitions are bound to fail; that is dictated by the immutable laws of mathematics and there is no referendum that will ever set us free from that. It is not possible for everybody to be above average. It is not possible for every neighbourhood plan to be above average.

The success that people like me are claiming, and that the department itself is claiming, for neighbourhood plans is that, on average, they allocate more land than their local plans do; it is not that every one of them allocates more than the local plan does. So, Ministers find themselves chasing the same paradox once more: let every neighbourhood plan set out an above-average figure. It appears on page 99, at new paragraph (ea), which essentially says there is no way at all that a neighbourhood plan could ever have a housing target that was less than that in the relevant local plan or, indeed, in the relevant national allocation. Should the proposition of the noble Lord, Lord Lansley, find favour, it would obviously be a Whitehall amount that they would have to accommodate in the neighbourhood plan area.

The interesting thing is that the Bill is inconsistent about that because, turning back to page 98, I objected to new subsection (2C), but new subsection (2B) says that you must take careful account of the contribution "to the mitigation of, and adaption to, climate change". I have not spoken against that; I think it is a very sensible overarching principle for neighbourhood plans to have. So, what happens if a neighbourhood plan is covering an area that, just coincidentally, happens to be wholly on a flood plain? Do they take any notice of (2B) or of (2C)? In other words, what I am saying is that to have an absolute prohibition on a neighbourhood plan dropping below an arbitrary total, which may or may not ultimately have come from someone sitting behind a desk in Whitehall, will sometimes be in conflict with real life and with the real environment where neighbourhood plans are.

That is just a simple example of why trying to do this—micromanaging to produce an above-average outcome for everybody—is going to fail. Neighbourhood plans are, in essence, a voluntary, community enterprise. They have shown themselves to be more adept at finding out what is sustainable in their local community than the local plan makers and the headline target makers in Whitehall. The Government's housing targets have been the beneficiaries of that specialised local knowledge and commitment. That has been achieved without bloodshed or diktat, and it has been the result of thousands of local conversations leading to sensible outcomes.

If Ministers are so impressed with that that they now insist that all those voluntary decisions have to be compulsory, they are putting another inhibition on the required expansion of neighbourhood plans, and they will rapidly push communities back on the defensive. We shall get back to where we were, where the developer proposes and the community opposes, and the whole process will get logjammed again. I believe Ministers should look again at both these provisions, or they may find that the neighbourhood plan goose stops laying the golden eggs of increased housing provision.

**Baroness Pinnock (LD):** My Lords, my noble friend Lord Stunell is the expert on neighbourhood planning, and there is nothing I can add to what he has just expounded. I also agree with what the noble Baroness, Lady Hayman of Ullock, said. In particular, my noble friend raised important questions about the statement by the Secretary of State last week about future planning proposals that will affect this Bill.

Finally, my Amendment 227 is just an extension of Amendment 231 in the name of the noble Baroness, Lady Hayman of Ullock, about development plans within national parks and areas of outstanding natural beauty. The amendment in my name would enable neighbourhood development plans to limit housing development in those vital areas of the country entirely to affordable housing—and affordable housing in perpetuity—so that there is a stream and supply of new housing in those areas that is appropriate, relevant and affordable, if "affordable" is the right definition. In this case, it means affordable for local people who live and work in those areas; evidence of that has already been given by the noble Baroness, Lady Hayman of Ullock.

**Baroness Scott of Bybrook (Con):** My Lords, neighbourhood planning has been a great success story. I went into it with my council, probably at the same time as the noble Lord, Lord Stunell, and it was difficult to begin with, because it was very new and communities did not understand it. What I think is good about neighbourhood planning now is that all that groundwork has been done by many councils across the country, working with many communities. Therefore, for new councils and new communities coming on, I think it is going to be a lot easier as we move forward.

I thank noble Lords, particularly the noble Lord, Lord Stunell, who is obviously a guru on neighbourhood planning, for their support. As I say, I am also fully in favour of it, as can be seen by what has happened in Wiltshire. It has been a great success story; it has given many communities a much greater role in shaping development in their local areas and ensuring they meet their needs.

The Bill retains the existing framework of powers for neighbourhood planning while at the same time providing more clarity on the scope of neighbourhood plans alongside other types of development plan. However, we recognise that the take-up of neighbourhood planning is low in some parts of the country, and we would like

[Baroness Scott of Bybrook]
to see more communities getting involved. This is why the Bill introduces neighbourhood priorities statements. These are a new tool, and they will provide a simpler and more accessible way for communities to participate in neighbourhood planning.

On Amendment 225 in the name of the noble Baroness, Lady Hayman of Ullock, perhaps it would be helpful if I set out some detail about the intended role of neighbourhood priorities statements in the wider system. A neighbourhood priorities statement can be prepared by neighbourhood planning groups and can be used to set out the community's priorities and preferences for its local area. The provisions in the Bill allow communities to cover a range of issues in their statements, including in relation to the use and development of land, housing, the environment, public spaces and local facilities.

Neighbourhood priorities statements will provide a formal input into the local plan. Under new Section 15CA of the Planning and Compulsory Purchase Act 2004, inserted by Schedule 7 to this Bill, local planning authorities will be required to "have regard" to them when they are preparing their local plans. This will be tested at examination. While some communities will use them solely to feed into the local plan process, we also expect that they will operate as a preliminary stage to preparing a full neighbourhood plan or a neighbourhood design code. In these ways, neighbourhood priorities statements will feed into the planning process. Furthermore, they may also act as a springboard for other community initiatives outside the remit of the planning system.

Amendments 227, 229 to 232 and 234 deal in different ways with the scope of neighbourhood plans. On Amendments 227 and 231 in the names of the noble Baronesses, Lady Pinnock and Lady Hayman of Ullock, we acknowledge that delivery of affordable housing within national parks and areas of outstanding natural beauty can be a challenge and that neighbourhood plans can play an important role in supporting provision. However, I do not agree that these amendments are necessary. Clause 91 specifies what matters communities can choose to address within their neighbourhood development plans. It does not prevent communities including policies relating to the provision of affordable housing in the plan area. All policies in neighbourhood plans, however, must meet the statutory tests, known as the basic conditions, before they can be adopted, including that they must have regard to national policy.

I draw the Committee's attention to specific measures we have taken to address this issue. Paragraph 78 of the National Planning Policy Framework sets out a rural exception sites policy. This allows for affordable housing to be delivered on sites that would not otherwise be developed in order to meet specific local need for affordable housing, the majority of which will be required to remain permanently available to those with a local connection. In 2021 the Government published planning practice guidance to further help bring forward more of these sites in future.

Furthermore, I point to our decision to allow local authorities and neighbourhood planning groups in designated rural areas to set and support policies to require affordable housing from a lower development threshold. The threshold can be five units or fewer, compared with the threshold of 10 units in other areas. We will consult on how the small sites threshold should work in rural areas under the infrastructure levy.

I turn to Amendment 229 in the name of the noble Baroness, Lady Hayman of Ullock. Under the reformed planning system, it will continue to be the role of the local planning authority to set a housing requirement number for neighbourhood plan areas as part of its overall development strategy. As under the current system, where neighbourhood planning groups have decided to make provision for housing in their plan, the housing requirement figure and its origin would be expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make. The allocation of housing has not changed; the neighbourhood takes the planning housing requirement from the local plan. As the noble Lord, Lord Stunell, has said, across the country we have seen neighbourhoods adding to that number rather than taking away from it.

**Lord Stunell (LD):** I thank the Minister for responding very positively. I wonder whether the Minister could say, if that is the case, why she feels it is necessary to have such a prohibition on dropping below that threshold when local circumstances might very well dictate that a sensible outcome is to drop that total—not out of nimbyism but because, for instance, you do not want the houses to be underwater?

*10 pm*

**Baroness Scott of Bybrook (Con):** I listened to the noble Lord's example of them being underwater, but my response would be that they would not be in the local plan if it was on a flood plain, and it would not have been allowed through national planning policy either. So, I cannot see that there needs to be a conflict and, as we have mentioned throughout the many hours we have spent discussing this Bill, housing numbers are critical, and I think it is correct, as it is at this time, that neighbourhood plans can add to the number of houses but they do not take away from those numbers.

Moving on to Amendment 230, also in the name of the noble Baroness, I do recognise that many communities want to use their neighbourhood plans to protect their local environment. Existing legislation and the changes within Clause 91 of this Bill already allow neighbourhood planning groups to include policies in their plans to ensure that development in areas of historical, cultural or environmental sensitivity is in keeping with the surrounding environment; therefore, this amendment is not necessary.

Moving on to Amendment 232 in the name of the noble Lord, Lord Stunell, Clause 91 will provide more clarity about what communities can address in their neighbourhood plans. The changes in subsection 3(2C) of Clause 91 specifically will ensure that the requirements that apply to neighbourhood plans are consistent with our approach to local and strategic plans in that they must not repeat or be inconsistent with national development management policies set by the Government—I hope that is clear.

The introduction of national development management policies is designed to help plan makers produce swifter, slimmer plans by removing the need to set out generic policies concerning issues of national importance. National development management policies are likely to cover common issues already dealt with in national planning policy, such as green belt and flood risk management. National development management policies would not impinge on local policies for shaping development, nor direct what land should be allocated for particular use.

Turning to Amendment 234, also in the name of the noble Lord, the purpose of subsection (2) of Clause 92 is to ensure that neighbourhood plans complement and widen the plans framework. In particular, it means that neighbourhood plans cannot include policies that reduce the amount of housing development—as we have said—proposed in the development plan as a whole. For example, a neighbourhood plan could not include a policy that, if followed, would prevent development coming forward on a housing site allocated in a local plan. This is consistent with how the current system operates but makes it more explicit in legislation.

Turning to Amendment 233 in the name of the noble Baroness, Lady Taylor of Stevenage, I fully agree with the noble Baroness that more can be done to increase the uptake of neighbourhood planning, particularly in urban and deprived areas. However, I do not agree that this amendment is necessary to achieve this goal. The Government are already taking action to increase uptake in these areas. As I have previously mentioned, new Section 15K inserted by Schedule 7 to the Bill introduces neighbourhood priorities statements, which will provide communities with a simpler and more accessible way to participate in neighbourhood planning. This new neighbourhood planning tool will be particularly beneficial to communities in urban and more deprived areas, which may not have the capacity to prepare a full neighbourhood plan at that particular time. It may also provide a stepping stone to preparing a new full neighbourhood plan.

Furthermore, noble Lords may be interested to hear that we are currently running a pilot in underrepresented areas, including Birmingham and Chorley, to test whether giving more support to neighbourhood planning groups in the early stages of the process can help to get more neighbourhood plans in place. We are seeing encouraging results from this pilot, and this will inform our thinking on future support for neighbourhood planning.

Turning to Amendment 235 in the name of the noble Lord, Lord Stunell, while I appreciate that he is keen to see local planning authorities play a positive and supportive role in the neighbourhood planning process, existing law and government guidance already set clear requirements and expectations on their role in supporting neighbourhood planning groups and the communities they represent. Paragraph 3 of Schedule 4B to the Town and Country Planning Act 1990, as amended, states that a local planning authority must give such advice or assistance to neighbourhood planning groups. Furthermore, the Government's planning guidance makes it clear that local planning authorities should fulfil their duties and take decisions as soon as possible, within statutory time periods where these apply, and should constructively engage with the community throughout the whole process.

Turning finally to Amendment 236, also in the name of the noble Lord, we agree with the need for transitional arrangements to limit any disruption to communities preparing a neighbourhood plan. As part of the Government's recent consultation on our proposed approach to updating the National Planning Policy Framework, we set out proposed transitional arrangements for introducing changes to neighbourhood plans. We propose that neighbourhood plans submitted for examination after 30 June 2025 will be required to comply with the new legal framework. This will provide communities preparing a plan under the existing framework with a generous amount of time to get their plan in place. "Made" neighbourhood plans prepared under the current system will continue to remain in force under the reformed system until they are replaced.

With those explanations, I ask the noble Baroness, Lady Hayman of Ullock, to withdraw her Amendment 225 and for the other amendments in this group not to be moved when they are reached.

**Baroness Hayman of Ullock (Lab):** Before the noble Baroness sits down, she has not mentioned the lovely Secretary of State.

**Baroness Scott of Bybrook (Con):** No, I have not. I did listen with interest to the noble Baroness, Lady Hayman of Ullock, on the issues of Airbnb and short-term lets. I think that was a little out of scope of this group of amendments. I do not have as much detail as I would like on this because it was in an earlier pack on short-term lets, and actually things have moved forward, so I suggest that I write and we have a meeting, which I will open to any other interested Peers at the time.

**The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab):** Baroness Hayman of Ullock?

**Baroness Hayman of Ullock (Lab):** Sorry, I have been making quite extensive notes on all this. I hope I can read my own writing in a moment.

I thank noble Lords who have taken part in this debate. These issues are critical to how this part of the Bill moves forward. The noble Lord, Lord Stunell, mentioned that neighbourhood plans have been very successful, despite the considerable scepticism at the time that they were launched. We absolutely agree with that, but, again, it is really important that we deliver more homes in these areas. I thought that his point about neighbourhood plans awaiting sign-off, how they would interact with the new proposals and that practical way of moving forward with community groups that have started doing some really good work on this, was very important. His idea about that transition was a point very well made. I know that the Minister has taken all of this on board, and we very much appreciate that.

The noble Baroness, Lady Pinnock, said her amendment was an extension to my Amendment 231 about national parks and AONBs. While I absolutely support her desire to see more affordable housing in those areas, I am not sure that restricting it to just affordable housing is the way forward. You need a mixed tenure to encourage social mobility, to encourage

[Baroness Hayman of Ullock]
families to move in and so forth. However, having affordable housing as a strong priority needs to be looked at.

To come back to the comments that the Minister made, I absolutely agree with her that it has been a success story, and where it has worked well it has worked really well. I was pleased that the Minister acknowledged that take-up has been low in some parts of the country, and it was very interesting to hear about the pilot schemes she talked about, in places such as Birmingham. It will be interesting to look at the outcomes. There are always lots of pilot schemes and then nothing ever happens, but, if they are successful, it would be great to see how the Government will then pick it up and run with it, and roll it out in other parts of the country. From a personal point of view, I am interested to hear more about that as we go forward.

It was good to hear more about the role of the neighbourhood priority statements, and to have it confirmed that there will be formal input into local plans and that they could operate as a preliminary plan, as a step on the way to a full plan. All of that was really good to hear.

One thing I would like to pick up a bit more is the issue of rural exception sites. It seemed that the Minister said that we do not need to have the amendments around national parks and AONBs because we have the rural exception sites, which are small sites that are used for affordable housing. I refer the Minister to concerns from the CPRE that the system is open to abuse. If this is what the Government see as the future of developing affordable housing in areas such as national parks, it is important that the opportunity for abuse is understood and that those loopholes are closed.

If noble Lords bear with me, I will refer to an example that the CPRE has put forward from Mid Sussex District Council. It is looking at a particular developer which has been seeking to persuade Mid Sussex District Council to treat two of their sites as rural exception sites for planning application purposes. In each case, the developer was offering to build at least 85% affordable homes. The problem is that neither site had been identified as appropriate for development. In neither case had this developer identified that its proposals would satisfy a local housing need, and the developer had not consulted with either the council's housing department, the parish council or local residents. The CPRE is saying that the danger of abuse lies in the risk that, once the principle of development in rural locations has been established, a developer can then seek to exploit that fact to obtain permission for a far larger commercial development of market homes there. That is what happened in Lower Horsebridge, which is a village of 60 homes near Hailsham. The developer got permission for 32 affordable homes, and then returned with a revised application for 110 market homes, which was given planning permission.

I do not have any problem with rural exception sites; they do some really good work. However, if this is what the Government are going to rely on for that kind of development, it is really important that we look at how that loophole can be closed, so that developers cannot use them for their own advantage in that way.

Finally, my noble friend Lady Taylor of Stevenage has reminded me that the localism commission, under the chairmanship of the noble Lord, Lord Kerslake, has some really good recommendations about how to build community capacity around local development plans. Perhaps as we go through the Bill it would be worth looking at the work that has been done there. Having said all that, I beg leave to withdraw my amendment.

*10.15 pm*

*Amendment 225 withdrawn.*

*Amendment 226 not moved.*

*Schedule 7, as amended, agreed.*

***Clause 91: Contents of a neighbourhood development plan***

*Amendments 227 to 232 not moved.*

*Clause 91 agreed.*

*Amendment 233 not moved.*

***Clause 92: Neighbourhood development plans and orders: basic conditions***

*Amendment 234 not moved.*

*Clause 92 agreed.*

*Amendments 235 and 236 not moved.*

***Clause 93: Requirement to assist with certain plan making***

*Amendments 237 to 239 not moved.*

*Amendment 239A*

*Moved by* ***Lord Lansley***

**239A:** Clause 93, page 100, line 20, at end insert—

*"39B Infrastructure providers' assistance with plan making*

(1) If an infrastructure provider receives a notification under section 39A(1) which would have an impact on that providers' investment plans that provider must notify its relevant regulatory body.

(2) Regulations made under section 39A(3) may include provision relating to the powers and responsibilities of relevant infrastructure regulatory bodies, to enable them and their regulated providers to meet the reasonable requirements made for infrastructure providers by a plan-making authority.

(3) "Infrastructure provider" includes providers of transport services, water and sewerage providers, flood-prevention and drainage providers, power supply and distribution providers, and telecommunications providers."

Member's explanatory statement

This amendment would require infrastructure providers to notify their regulators about Local Plans affecting their investment intentions and empower the Secretary of State by regulation to enable the regulators to support the required changes to infrastructure investment arising from Local Plans.

**Lord Lansley (Con):** My Lords, at this late hour I shall be brief. The point of this amendment is to raise with my noble friends on the Front Bench an issue which I imagine is one that the Government themselves have been aware of and wondered what precisely they should do about it. I remember a White Paper a few years back that specifically referred to it.

The issue is that, in many cases, the availability of infrastructure investment, particularly by utility companies, can significantly impair the potential for local authorities to proceed with their local plans. I freely confess that I am using Clause 93 and perhaps slightly extending its remit somewhat. This is not simply about plan-making; this is about enabling local authorities in their plan-making process to trigger a possibility for the Government to amend the structure of the regulatory environment for utility companies in order to meet the development planning intentions of their local authorities. That is probably stretching it too far but, if not by this mechanism, I hope Ministers will be able to help us to look at whether we can do this in the Bill.

There is a central issue: you want to have strategic planning—I think we all do; I will not rehearse that argument again—but that absolutely requires investment by utility companies. Many utility companies are in a position where their investment for speculative development—that is, that which has not received planning permission—is outwith their regulated pricing structure. Essentially, if they are going to do it, they will do it with additional debt, and now many of them are taking on a great deal of debt in any case—we saw in the price review that the water companies are expected to absorb a substantial amount of debt. A balance is constantly being struck between the amount which can be added to people's domestic bills and the amount that is required for longer-term future investment.

At the moment, the utility companies are often resisting making such investments in anticipation of development. How do we overcome this? We have a particular case at the moment around Cambridge. The Greater Cambridge local plan is effectively stymied at the moment by the Environment Agency saying that there are not water resources available in our area to support it. There is a plan for a reservoir at Chatteris, but unless and until the investment in transfer networks has also taken place and there is local infrastructure to support the particular development proposals, the plan cannot go ahead.

The purpose of the amendment is, very straightforwardly, to say that, if local authorities can ask bodies of a public nature—and of course, utility companies are bodies with public functions—they should be able at the same time to require those infrastructure providers to notify their regulatory bodies about the requirements to assist with plan making and, if necessary, for the Secretary of State to then to make regulations that can change the nature of the regulator's control of their ability to respond to the requirements of local authorities.

It is a device, I admit, but it is a device to try to tackle what I think is a current and practical problem, and I hope it might commend itself to my noble friend. I beg to move Amendment 239A.

**Baroness Hayman of Ullock (Lab):** I have just a quick question. It is a really interesting amendment, and I was wondering how the noble Lord saw the role of the regulator fitting in to all of this.

**Lord Lansley (Con):** I was hoping that where this occurs, the Secretary of State—not just the Secretary of State for Levelling-Up, of course, but all Secretaries of State—would consult the regulators about whether and how they can accommodate this and, if necessary, use the power here to make regulations that might impact on, for example, water, electricity or transport legislation.

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, I thought it was a very interesting amendment, and it reminded me of when I was a very young councillor, a very long time ago now, on Southwark Council, and we were attempting to finish off the development of Burgess Park. We had all sorts of problems with the statutory undertakers of various facilities in the area in terms of getting them to do their work. I see the point he is making. We had the devil's own job to get the various organisations to co-operate with the council. We needed to improve the park, and we were having all sorts of problems with BT, the water companies and everybody else. We really struggled. Development of the park was held up because we were not getting that co-operation. Comparatively, that is quite small scale, but it is the same sort of thing. We wanted to build a better amenity for the community, but it was held up because of less than helpful work from some of the statutory undertakers in the area.

The amendment has merit, and I hope we will get a reasonable response from the Minister. I was obviously sorry I was not in earlier, because I heard that leasehold came up. I am very disappointed that I did not get in on that. I will not miss my chance on that when it comes up again. The amendment raises an important point. I see lots of development going on in London, and the role of the regulator with the statutory undertakers is important.

**Baroness Hayman of Ullock (Lab):** My Lords, as I just said when I asked for that clarification, this is a really interesting amendment. One reason I am particularly interested in it is that, not only before being elected to the other place was I a local councillor for some time, but my job was working on major infrastructure development—in my case, particularly in the energy and water industries. So I see this from both sides. There are a number of issues around investment intention and delivery, how developers work with local authorities, how they work with the regulator and how, often, it can be not as straightforward as you would expect to deliver a major infrastructure project in industries such as electricity and water, for example.

One of the reasons I asked about the role of the regulator and how that would work is that an issue we found when developing new projects—for the national grid, for example—was that if you are going to spend a lot of money on large investment projects, you need it to be signed off by the regulator, which needs to agree the need case for that particular investment. The problem is that the need case can change. A project that I was working on stopped and started over and over again for about 10 years because the national grid would apply to the regulator, Ofgem, which would say, "Yes, you need X amount of supply, go ahead and build that pipeline, get your substation sorted", and so on. We would do all the community consultation and work with the local authority, then 12 months later the national grid would put its financials and the need

[Baroness Hayman of Ullock]
case to the regulator, which would say, "Well, now this has happened, you don't need it any more", and everything would be put on ice.

One of the issues around planning for major infrastructure is how you stop the huge waste of money with all the stopping and starting of projects. I know that this amendment does not particularly look at that, and I know that we will come to NSIPs later in the discussion, but this amendment gives us an opportunity to start considering how we make the development of infrastructure much more efficient and how we make developers, local authorities and their investment intentions work together in a much more constructive fashion during the planning phase.

I welcome the fact that this amendment has been tabled, because these areas are not discussed enough unless you have been involved in this and seen the tripping points and how money is wasted. We talk a lot about how, if a utility provider has to spend money to do something, the money goes on bills, but if things were dealt with more efficiently in the first place, including by the regulator and in the relationship with local authorities, maybe we would save money instead.

**Baroness Pinnock (LD):** My Lords, this excellent amendment, probing how we link national planning, regional strategic planning and local planning by including planning by private companies whose role is regulated by government, poses a very interesting question. I will give a couple of practical examples.

In my area on the M62 corridor, National Highways —or Highways England, another of the forms it has taken over the years—has a plan to create a link road from the M62 to the M606. To my knowledge, that has been in the local plan for 25 years. It has prevented the development of a brownfield site because of the land that it would take and the consequences that followed from that.

It was in the latest five-year plan from National Highways for its infrastructure, and all of a sudden, having done some costings—I think that was at the heart of it—it suddenly withdrew its intention, within the five-year plan and no further, to create or even begin to plan for that important link road, which, I have to say, has very significant consequences for the whole area. That is because its purpose was to take traffic off what I think is the most congested motorway roundabout in the country, the Chain Bar roundabout at junction 26 of the M62 in West Yorkshire.

*10.30 pm*

The removal of that leads to huge consequences for other developments in the area, including the brownfield site but also other development which would lead to more traffic congestion on the roundabout. When I say congestion, I will just cite what happened—and it happens every week, really—last Wednesday, when it was reported to me that it took an hour and a half to get round the roundabout because it was absolutely gridlocked. So I am talking about serious congestion.

Talking about and creating a plan for utilities prior to development is absolutely important. Looking at it from the other end of the spectrum, I spent 10 years as a non-executive director of Yorkshire Water, so I know a little bit about the planning that water companies undertake. I absolutely hear what the noble Lord, Lord Lansley, said, but he will know, because he mentioned it, about the price review and the five-year plan that has to be submitted to the regulator. There are also the capital allowances that go with it, and the pricing review aligns with the capital plan that water companies do. So we are talking about very long-term planning. I would suggest that you would have to think probably seven years ahead for what would be in the pipeline at the end of it.

A hugely important issue has been raised, because it is not just the area of the Fens that the noble Lord, Lord Lansley, mentioned in terms of water shortage but the south-east and the east of England, where water supply is restricting housing development. He is absolutely right in those terms. All I would say on that score is that the north of England has a good supply of water, and we are willing to sell it, at a cost, to those areas of shortage—actually, that does not work either, because it is very difficult to move water around the country. I will listen carefully to what the Minister has to say—I always do—but this is a fundamental issue about strategic planning on a national scale, so it would be worth hearing what has been said.

**Baroness Taylor of Stevenage (Lab):** I thank noble Lords. It will be just a very brief intervention from me. I am very grateful to the noble Lord, Lord Lansley, for raising what is a very important issue, having been involved with two very long-term major projects in my role as council leader and having seen how difficult it is to tie in the provision of major infrastructure, which is generally done at the national level because that is the way that the operators and the regulators work, with what is going on at the local level.

At the heart of this is the need to create a very smooth path for the provision of infrastructure, so that, when there are interruptions to the process along the way, the system can cope. If we do not do that, we end up with disconnection between the development itself and the provision of infrastructure, with one holding the other up. In our case, in the east of England, as the noble Baroness, Lady Pinnock, said, water is an issue, so we have to think about that. One of our major developments related to a greenfield site that had not been developed—it still has not; we have been working for 27 years on that one. When we started, we would not have thought about solar or wind energy, but now we have to think about those things, so there must be flexibility—and of course we also have new forms of infrastructure coming in, such as broadband.

This is a key amendment that points us towards looking at how we deal with the infrastructure of developments as we go through the planning process, linking the bodies that work at national level, national infrastructure funding and so on with local development. How will that work and fit in with this system? We have talked a lot about how the various bits of the planning system fit together, and a probing amendment on this issue is extremely helpful; I am very grateful to the noble Lord for tabling it. If the Minister does not accept it today, I hope she will give it some thought as we go through the rest of the Bill.

**Lord Kennedy of Southwark (Lab Co-op):** I just want to make one final point—I am going down memory lane now. When I was a very young councillor, one of my first roles was as chair of Southwark Council's highways committee. There were various issues to deal with, such as the work of the statutory undertakers. I found it very frustrating. The council would resurface a road, and along came the water board to dig the whole road up and put the new water infrastructure in. That was a very small thing, but even so, you would spend all this money, and it all went to ruin.

The Horne report, as I think it was called, came out in the 1980s. It tried to deal with this matter, and legislation followed to try to achieve better co-ordination. That was at a very local level, whereas the noble Lord, Lord Lansley, was talking about bigger stuff. But at all levels, different bodies have different responsibilities and should co-ordinate the work they do where they can in order to bring things together.

I look forward to the Minister's response.

**Baroness Scott of Bybrook (Con):** This has been a very interesting debate. I remember when I was a council leader how frustrating it was when utilities dug up my lovely roads the week after and did not tell me they were doing it. However, things have probably changed slightly since we were in those positions.

I thought it might be interesting to reflect on what Clause 93, which is where this comes from, and which introduces a requirement to assist in plan making, actually says. The Explanatory Notes state:

"The clause is intended to support more effective gathering of the information required for authorities producing"

a range of plans, including local plans. It achieves this through placing

"a requirement on specific bodies"

with public functions

"to assist in the plan-making process, if requested by a plan-making authority".

This could consist, for example, of providing information to the relevant authority, or assisting in identifying appropriate locations for infrastructure. That is important, because that is the first push by government to require these companies to work with us.

Amendment 239A addresses legislating for subsequent regulations regarding the link between infrastructure providers who become aware of significant implications for their services as a result of plan-making activities, and a requirement to inform the relevant regulator in order to make provision for any necessary investment. I applaud my noble friend Lord Lansley for raising this issue, as it is an important aspect of joining up the planning system and the provision of suitable infrastructure. However, we believe the amendment is not necessary—wait for it—because the relevant regulations could already consider matters such as notifying regulatory bodies of infrastructure providers. Those regulations will, of course, follow after the passage of the Bill.

Regarding the amendment's provision for meeting the reasonable requirements identified in a plan, we must be careful in drawing up such regulations that provisions do not cut across or duplicate the provisions of the other multiple legal and regulatory frameworks that govern the operation of the kind of infrastructure providers that my noble friend has in mind. Therefore, while I have a good deal of sympathy with the general point raised, the Government cannot accept the proposed amendment, but will want to be mindful of these considerations while drafting any relevant regulations. I hope that, with that explanation, my noble friend will withdraw the amendment.

**Lord Lansley (Con):** I am grateful to my noble friend, because thinking about those regulations is exactly the right thing to do. If my noble friend is correct and the scope of Clause 93 will allow such regulations to extend beyond the infrastructure providers to the relationship between those providers and the regulatory bodies, that would be extremely helpful.

I am grateful to all who took part in the debate. The noble Baroness, Lady Pinnock, illustrated with her reference to PR24, the current water price review just published, that this does not necessarily relate to the structure of local plan-making. Water companies might say, "This is all very well, but we know what our price constraints enable us to fund in the period 2024-25, and the local authority is presently consulting on a local plan process that extends to 2040".

Interestingly, PR24 has a broader structure for the water companies and their investment programmes out to 2050, because of the net-zero implications. I have been reading carefully and rather laboriously through PR24 and all its component parts. What you do not find is an appreciation of what the infrastructure requirements would be linked to, mapping the potential scale and location of development, because generally speaking local authorities have not done that; generally they map their development plans out to 2030 or 2035, and occasionally 2040, but not 2050. I remind the Committee of my role as a chair of the Cambridgeshire Development Forum. We said to all these bodies, "Why don't you now structure your plan up to 2050, because otherwise you are not really thinking about the whole thing?" I can get away with saying that because the noble Baroness, Lady Bennett, is not in her place; she would tell me off for treating 2050 as the target, when it should clearly be 2025.

For the moment, we have the alignment of planning, which is absolutely critical here, but when it comes down to it, very often the local authorities are already in an awkward position. They would like to make specific allocations of potential development sites but they are constrained from doing so because infrastructure providers cannot guarantee that they would be able to meet a requirement in that location and on that timescale. So should they do it or should they not? If my noble friends says that regulations might be able to unlock the potential for that pledge of investment by utility providers, I would be immensely grateful for that. On that basis, I beg leave to withdraw the amendment.

*Amendment 239A withdrawn.*

*Clause 93 agreed.*

*House resumed.*

*House adjourned at 10.44 pm.*

# Grand Committee

*Tuesday 18 April 2023*

*3.45 pm*

**The Deputy Chairman of Committees (Lord Beith) (LD):** My Lords, if there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells are rung and will resume after 10 minutes.

## Economic Crime and Corporate Transparency Bill

*Committee (2nd Day)*

*Relevant document: 27th Report from the Delegated Powers Committee.*

*3.45 pm*

***Clause 54: Filing obligations of micro-entities***

*Amendment 45*

*Moved by* ***Lord Leigh of Hurley***

**45:** Clause 54, page 38, line 40, at end insert—

"(6) Electronic documents delivered to the registrar under this section must comply as to accuracy, completeness and consistency with the registrar's requirements."

Member's explanatory statement

This amendment creates an obligation for documents delivered to satisfy the registrar's requirements as to digital formatting.

**Lord Leigh of Hurley (Con):** My Lords, I confess that these amendments essentially offer me another bite of the cherry because they are almost exactly the same as amendments that appeared last time in respect of non-micro accounts, but for completeness I had to put them in here again to cover micro-companies. That was fortuitous because, given that the Minister so eloquently batted away my amendments last time, this gives me another opportunity to make pretty much the same case.

Completeness is defined in Sections 444 onwards of the Companies Act—for example, the balance sheet that was signed by the directors—but the Act and this Bill say nothing about tagging that information. It says that the registrar can require an electronic format, but the legislation does not really tell us what completeness means; in particular, electronic completeness and the area I highlighted, which is inconsistencies within the accounts. For example, an oligarch is a director of a company and his name quite correctly appears on the accounts, but that name has not been tagged or it has been tagged as something other than the director's name so when one searches for that name, it will not be found; so not tagged means it is not complete or tagged wrongly means that it is not self-consistent. It is no good accountants arguing that the accounts are complete because the director has been named because if the name has not been tagged, it will not be found. I hope that before Report there will be some focus on this issue for micro- and other accounts to ensure that full advantage is taken of electronic filing so that searches can be made easier and the registrar has the responsibility to make sure that the accounts are correct.

I am minded to speak on my noble friend Lord Sarfraz's intention to oppose the Question that Clause 54 stand part, which is in this group. I am aware that he is not in his place, but, first, having thought about this for some time and prepared some notes on it and, secondly, to avoid it becoming an issue down the line, I want to make the point that I do not think micro-companies should be excluded. They were not excluded, I think, until about 2013. Micro-company accounts can cover revenues in millions of pounds. There could be a temptation to form a number of micro-companies which in aggregate are quite substantial, so I urge the Minister to allow Clause 54 to stand part. I beg to move.

**Lord Naseby (Con):** My Lords, I apologise for not taking part at Second Reading due to other parliamentary commitments. I have a couple of small questions, but one of them is quite important.

First, if we are dealing with micro-companies, they are not likely to have substantial staff. There must be some safeguard so that the authorities do not change the requirements for reporting and leave these poor micro-entities with perhaps two or three months to totally amend their software. That has happened in certain other areas, so there must be some requirement that, while it is quite right that the registrar's requests should be met, there must be some safeguards and those having to do the returns must be given adequate time to do them.

Secondly, I have one small point in relation to new Section 443A(2) inserted by Clause 54. At the end, it says, "(and any directors' report"). I assume the directors' report refers to the accounts, but that is not totally clear.

**Lord Vaux of Harrowden (CB):** My Lords, in the light of what we have just heard, I want to touch on the micro-company side of things. Micro-companies may be small but they are not unimportant. They are probably the single biggest sort of company used for VAT fraud, for example. There has been a lot of publicity recently about some poor chap in Cardiff. Several hundred companies were registered at his address, then he started receiving large bills from HMRC. It is precisely this sort of company that is used for that; we should not be too generous to these companies in relation to reporting requirements.

**Lord Browne of Ladyton (Lab):** My Lords, I rise to speak to the amendments in the name of the noble Lord, Lord Leigh of Hurley, together with the notice given by the noble Lord, Lord Sarfraz, that he intends to oppose the Question that Clause 54 stand part of the Bill; I suspect that in his absence this will not be part of the process but I will cover the issues that are raised.

I will confine myself to a few observations. First, no one wishes to stifle micro-enterprises with too onerous a set of reporting duties but, in a Bill that has the word "transparency" in its very name, it is surely important that micro-entities are not exempted from such a reporting duty. That small businesses are not merely the flywheel but the very motor of the UK economy is well known and constantly rehearsed. I have no need

[Lord Browne of Ladyton]
to go through all that but flourishing surely cannot come at the price of opacity when that opacity will be exploited in the way in which the noble Lord, Lord Vaux, suggests it has been in the past and we know is a problem.

The amendments from the noble Lord, Lord Leigh, do not merely serve as a symbolic recognition of this fact but serve a useful practical purpose, which I will turn to. It is the stated aim of the Government for Companies House to be a fully digital organisation by 2025. The amendments under discussion ensure that electronic documents submitted to the registrar not only conform with its standard electronic format but ensure that they meet standards of accuracy, completeness and consistency. Surely, each of these measures is desirable and, taken together, they are more desirable still.

If the Government are not minded to accept the noble Lord's amendments, it would be useful to know which of these requirements they regard as superfluous. It would also be helpful to know how the Government feel that these amendments fail to assist Companies House in meeting its own target of becoming fully digital in the next two years, which seems a very challenging target.

**Lord Agnew of Oulton (Con):** My Lords, I just want to come in on the point made by the noble Lord, Lord Vaux, on micro-accounts. It was actually 11,000 companies that were registered to this poor man's residential address in Wales. It all relates to a new loophole, which has been discovered by foreign traders selling on the internet. Up until Brexit, they were essentially avoiding VAT because there was no real mechanism for HMRC to recover it all around the world but, when we left the European Union, we brought in our own regulations. There is a loophole that if, as in this case, you are a Chinese trader and you register a company in the UK, you do not have to pay VAT through the platform on which you are selling the goods.

HRMC is completely floored by this. In its letter to Meg Hillier, it said simply that it had not recognised any fraud so far. Let us get real. Part of the problem is that it is not getting the data. If it could scrape all the data off those 11,000 company accounts, it would very quickly see the pattern.

**Lord Fox (LD):** There appears to be a chorus of agreement, so I will not add terribly to its length. This is just to thank the noble Lord, Lord Leigh, from whose knowledge of this area we benefit. We should be in a position to listen.

We had a meeting with officials yesterday, and my read-out is that the reason for the government resistance to the previous versions of these amendments referred to by the noble Lord, Lord Leigh, was, in a sense, practical. The accounts are signed off by the board and auditors, and something needs to be done thereafter to tag them. The departmental team seemed worried that something might go wrong in that tagging process, so we should not go down this route.

Having prepared more than 20 company accounts—I concede that they were largely for large businesses—this always happens. The board signs off a set of accounts and then prepares to communicate it in a number of different media. The accounts are put in an annual report, a Stock Exchange announcement system and a website. In each case, there is a process to make sure that the read-across is performed correctly. I suggest that the practical constraint that somebody might do something wrong does not outweigh the benefit of mandating this tagging process across the board.

I agree with the noble Lord, Lord Leigh, and others that micro-companies should still be included in this process.

**Lord Ponsonby of Shulbrede (Lab):** My Lords, I think the consensus continues. I thank the noble Lord, Lord Leigh, for introducing this group. As he said, this set of amendments really repeats those spoken to earlier, but in this case concerns micro-entities. He made the points about either accidentally or deliberately tagging wrongly, and that not seeming a substantial argument against increasing its use. As the noble Lord, Lord Fox, said, companies are well used to producing and presenting accounts in different media and ensuring that they are presented consistently across them. This tool should extend their use.

I also agree with the noble Lord, Lord Leigh, and others that the Clause 54 stand part debate in the name of the noble Lord, Lord Sarfraz, is not appropriate for the Bill. As others have said, micro-companies are not actually that small. Some numbers have been presented, but the figure I have is that 1.3 million micro-entity accounts were filed in 2019-20, the largest proportion of accounts filed with Companies House. The figures I have are of a turnover of less than £632,000 on a balance sheet of £316,000 with 10 or fewer employees. Over the years, I have been involved in a number of businesses of that sort of size, but they can and do sometimes grow into much larger businesses. There needs to be consistent tracking of these companies to see where they have come from and make predictions about where they might go, so I agree with the point on that made by the noble Lord, Lord Leigh.

Other noble Lords agreed with this point, so I hope that the Minister will resist the argument that Clause 54 should not stand part, if the noble Lord, Lord Sarfraz, chooses to speak to it, and is sympathetic to the amendments from the noble Lord, Lord Leigh.

**The Minister of State, Department for Business and Trade (Lord Johnson of Lainston) (Con):** My Lords, I draw attention to my interests as set out in the register of interests, including as a director and person with significant control at AMP Ventures and as a shareholder of several other businesses and companies. I do not believe I have any personal conflicts represented today.

I also thank all Members of the Committee who participated in our useful and instructive discussions over the past month or so. I am sorry that the Easter break we enjoyed sort of broke our continual discussions, but I hope that we will reinstigate them in the near future. I am fully available over the next few days, particularly before the next series of Committee

amendments and over this process, to make sure that the House collaborates together to reform Companies House for the first time in nearly 100 years, and that we bring to bear the crucial reforms that will enable us to have a transparent business environment that allows businesses to flourish and the data that they provide to Companies House to be used more effectively to create greater wealth and private enterprise in this country. I hope that, in my actions, noble Lords see my desire to collaborate very closely with all your Lordships to ensure that we all reach the same end.

*4 pm*

I thank my noble friend Lord Leigh of Hurley, whom I described as a "business guru" at the previous Committee meeting he was gracious enough to attend. I understand that he has put this as his screensaver on his WhatsApp group or whatever and, although I am delighted to have boosted his business confidence, we are not here solely for that. My noble friend's Amendments 45 to 47, which were well supported by the noble Lords, Lord Naseby and Lord Ponsonby, address concerns on the correct formatting of electronic content, which I would like to discuss a little further.

The Government and I agree wholeheartedly with the sentiments behind the amendments, which seek to ensure that the electronic formatting of filings submitted to Companies House is accurate and complete. The amendments are intended to work together to make it a requirement on all companies, irrespective of size, to submit electronic documents consistent with registrar rules. In principle, the philosophy behind that is the whole point of the reforms that we are bringing forward today.

However, the Government—and my team and I—do not feel that these amendments are necessary. Clause 73 amends Section 1068(4) of the Companies Act 2006 so that the registrar can mandate electronic delivery and the electronic format of documents by way of the registrar rules in Section 1117 of that Act. I have the document here and have just confirmed it myself.

Registrar rules already require companies to file digitally and specify the technical requirements to be met in this regard. Companies are obliged to comply with these rules. An additional power in the Bill would duplicate these requirements. As electronic formatting is both a technical and an administrative requirement, it is more appropriately placed in registrar rules than in the legislation. I emphasise the commitment of the Government to ensure that this happens and that there is flexibility in the administration of this process. I ask my noble friend Lord Leigh to withdraw his amendment.

My noble friend Lord Sarfraz opposes Clause 54 standing part of the Bill. I notice that he is not in his place. I am not sure of the etiquette around this but since so many noble Lords have spoken on behalf of a point of view that I share, I think it is worth running through some key points. I thank my noble friend for his clause stand part notice and for the time he has taken to engage with me on this issue. Although I appreciate the points that he has raised about the risks of publishing micro-entity accounts on the register, I am afraid that the Government cannot support this amendment.

The decision to require micro-entity companies to file a profit and loss account was based on extensive consultation with stakeholders. The lack of quality financial information on micro-entity accounts was repeatedly flagged to us as a concern by a range of key stakeholders across law enforcement, business and the accountancy sector. We know that the minimal requirements that currently exist make incorporating as a micro-entity open to abuse by those who wish to present a false picture of a company's financial position. Although the micro-entity company structure has legitimate business benefits, money laundering investigations have revealed that this company structure is also frequently misused.

A pilot comparing accounts filed with Companies House against those filed with HMRC identified almost £15 million of fraud and error relating to incorrect filings and a potential £100 million more that needed further investigation. Thousands of UK micro-entities were also linked to recent international laundromat cases, such as the well-discussed $200 billion moved through Danske Bank by actors within the Russian elite—entities which artificially reported low or no activity to Companies House.

Removing Clause 54 would mean that we would not have access to the fuller financial information that could prevent such cases in the future. It would also mean not being able to improve the financial information available to the customers and creditors who interact with micro-entities, or to the credit agencies which provide ratings on companies.

The Government are clear that collecting and publishing the accounts of micro-entities benefits law enforcement and business, but I acknowledge that there are areas that require further consideration. In particular, the value of publishing the accounts of small and micro-companies must be weighed against potential risks to privacy.

For the Committee's benefit, a company is a micro-entity if it meets any two of the following criteria: a turnover of £632,000 or less; £316,000 or less on its balance sheet; or 10 employees or fewer. I am conscious that most companies are by definition micro-entities at their inception, and the vast majority of UK companies are micro-entities throughout their corporate life. There are risks in full publication of micro-accounts for all —this is a different point from the recording of the information; this is the publishing of micro-accounts—as this could, for example, reveal people's personal income and so put at risk many small entrepreneurs.

Many small businesses are owned by couples or single individuals. It is their life; their entire financial wherewithal is in that unit, in effect, as a result of which we have to be quite thoughtful about how we portray that information. It is absolutely the case that, in many instances, this will give other people a great deal of financial information on individuals which, for many good and sensible reasons, such as privacy and security, it may be desirable that we ensure is protected in some way.

The Government intend to determine via secondary regulations how much of the data collected should be published, and we will settle on a way forward only after comprehensive engagement with business. Companies

[Lord Johnson of Lainston]
House and the Department for Business and Trade will continue to consider and engage stakeholders on these risks as secondary legislation develops. There is a broad existing power in Section 468 of the Act that enables changes to be made to Part 15 of the Act through regulations, subject to the affirmative procedure. I therefore ask my noble friend Lord Sarfraz not to oppose this clause.

**Baroness Bowles of Berkhamsted (LD):** Regarding the position of micro-entities, I spent a great deal of my time as a micro-entity in a partnership. I did not avail myself of limited liability provisions but, when people do avail themselves of the privilege of limited liability, they must recognise that there is an extra public interest requirement upon them because they have been freed from the prospect of personal ruin. Nowadays, we tend to forget about that balance—that bargain—and I just put in a plea that that is not forgotten. There is a bit of a quid pro quo for limited liability when it comes to transparency because you have to protect the public from otherwise unscrupulous people who just willy-nilly go easily bankrupt.

**Lord Johnson of Lainston (Con):** I am grateful to the noble Baroness for her intervention. In discussions about the Bill, that philosophy has been raised. I may have mentioned on our previous day in Committee—I certainly mentioned it in private—that, given the very large number of companies registered in this country, one has to ask whether they are all necessary for the function that they purport to perform. Many individuals may be better off as sole traders or in other forms of partnership that do not need to go through these registration processes.

I am also aware of the privileges that limited liability offers, as a result of which there is a fair exchange in terms of the amount of information to be released. I absolutely agree with these principles that we have discussed. However, in this specific instance, it is absolutely right to have a thorough and deep consultation to make sure that through our actions we are not prohibiting people from running legitimate businesses and at the same time compromising their personal privacy or security. That is a sensible debate to have. The point, which is not necessarily specific to this amendment, is about the information that we collect. The Government are absolutely committed to ensuring that we collect the right amount of information so that we can increase fundamental corporate transparency and reduce abuse of the system.

**Lord Leigh of Hurley (Con):** I thank my noble friend for his reply and repetition of some of the remarks he was kind enough to make at our last meeting. He has prompted me to remind the Committee, for the record, of my commercial interests, as noted on the register, which include directorships and shareholdings of micro-entities. I will read Clause 73 again more carefully, and we might return to this on Report if I am not satisfied with that explanation.

On the micro-entity point, the noble Lord, Lord Ponsonby, is right. Those bands are correct, but it is two out of three: one could have a small balance sheet and a small number of employees but a huge turnover and be under the net. I was going to make the same point as that raised by the noble Baroness, Lady Bowles of Berkhamsted: that is the bargain that a proprietor of a limited company makes with the public. You are protected by limited liability, but there must be disclosure. In fact, as I understand it, the information has to be prepared and disclosed to HMRC in pretty much the same format, so there is no extra burden in submitting it to Companies House. With that, I beg leave to withdraw my amendment.

*Amendment 45 withdrawn.*

*Clause 54 agreed.*

***Clause 55: Filing obligations of small companies other than micro-entities***

*Amendment 46 not moved.*

*Clause 55 agreed.*

*Clause 56 agreed.*

*Amendment 47 not moved.*

*Clauses 57 to 63 agreed.*

***Clause 64: Procedure etc for verifying identity***

*Amendment 48*

*Moved by* ***Lord Vaux of Harrowden***

**48:** Clause 64, page 48, line 8, at end insert "and included in the register, including the name of the authorised corporate service provider who has made the verification statement"

Member's explanatory statement

This amendment is intended to ensure that the identity of the authorised corporate service provider who makes the verification statement is included in the verification statement and on the register.

**Lord Vaux of Harrowden (CB):** My Lords, in moving this amendment I will speak also to my Amendment 54. Given that these amendments relate to authorised corporate service providers, some of which will be regulated by accountancy bodies, I should remind the Committee that I am a non-practising member of the Institute of Chartered Accountants in England and Wales.

I thank the Minister for his opening comments and his generosity in his willingness to meet with us. In particular, I thank him for arranging a meeting yesterday with the officials. I also thank the officials very much for their generosity with their time yesterday, as that meeting rather overran.

This group relates to the role of authorised corporate service providers, or ACSPs. This is an important subject because the Bill, to a very large extent, effectively outsources much of the verification work to these ACSPs. To be authorised to carry out verification, they must be regulated in accordance with the money laundering regulations. At the moment, that is the only qualification required. The Secretary of State

may add other requirements by regulation. I would be grateful if the Minister told us what plans the Government have in that respect.

These ACSPs are the very same people or entities that have been responsible for much of the company creation of the past. I think we can all agree that our system has not exactly been a beacon of transparency or probity. It is not for nothing that London became the preferred location for Russian oligarchs and kleptocrats and became known as the London laundromat or Londonistan—something, frankly, that we should all be ashamed of. That is why we had last year's emergency legislation, the Economic Crime (Transparency and Enforcement) Act, which introduced the overseas entities register, which is why we now have this Bill to try to clean that up.

Many—probably most—of these ACSPs are honest and diligent, but it must be the case that too many have not historically been as honest or diligent as they should or could have been. They have allowed, or dare I say enabled, the creation of the London laundromat. At best, a blind eye has been turned; at worst, there has been a more active enabling of the bad actors. Transparency International's evidence to the Committee on this Bill in the other place stated:

"Investigations by civil society organizations and journalists have demonstrated that time and again UK TCSPs"—

trust and corporate service providers, which will now become these ACSPs—

"have been responsible for building and maintaining secretive networks built from thousands of shell companies, used to launder billions of pounds in illicit funds over the years".

So I and, I believe, many others have many concerns about the level of reliance the Bill has on the ACSPs for the verification of the identity of directors and, in particular, the identity of persons with significant control. As I said, these ACSPs will include the very same people who have historically advised on how best to disguise ownership and control, and who have created the structures to do that.

If we are to rely on these ACSPs, as the Bill intends, we need to ensure that they carry out their roles properly and that they are incentivised to do the right thing, rather than remaining enablers for the kleptocrats, criminals and terrorists the Minister referred to at Second Reading. Just relying on the fact that they are regulated under the money laundering regulations, which is what the Bill currently proposes, is not enough. It has not worked until now and I can see no reason why that will change unless we strengthen the rules. The whole money laundering regime is hugely overdue for reform, which is the subject of Amendment 49 from the noble Lord, Lord Agnew.

The Bill provides for two ways in which the verification of the identity of directors and PSCs can be carried out. Either the identity can be verified by the registrar or a verification statement made by an ACSP can be delivered to the registrar. How that verification is carried out and the records that must be kept in either case will be set out in regulations to be made by the Secretary of State. We do not yet know what those will be. Perhaps the Minister can provide some information as to what he expects those regulations to contain. Amendment 50 in the next group, in the name of the noble Lord, Lord Coaker, makes some useful suggestions in that respect.

*4.15 pm*

I was rather surprised, even shocked, to find in Clause 68 that the verification statements, including the identity of the ACSP which has made that statement, will not be available for public inspection. I can see no reason for hiding such information, so could the Minister please explain the rationale for it being specifically hidden from public view? My Amendments 48 and 54 are designed to address that by making the verification statement and the name of the ACSP available for public inspection. I am a great believer in the sterilising nature of daylight on these sorts of activities. It will concentrate the minds of the ACSPs if they have to make their verification statement in public; in other words, to stand publicly behind what they have stated. It will put their reputation at stake.

The Minister may argue that these statements are being kept hidden to protect personal information, so I want to be clear here. I am not talking about making any private information public, only the verification statement itself and the name of the ACSP making the statement, nothing else. The verification statement is simply a statement by the ACSP that it has verified the identity in accordance with the regulations. It will not include personal information, so that is not a good reason to hide the information. Let us also be clear that this would not add any burden. The ACSP making the statement must carry out its verification work in order to do so, regardless of whether it is made public or kept private. The only difference is making that statement publicly available in the register; there is no additional work required or burden created.

Why does it matter if the verification statements and details of the verifier are public? First, I believe that the fact of making the statement publicly—in effect, putting their reputation on the line—will concentrate the minds of the ACSPs. Remember that they are supposed to be professional, regulated entities. Secondly, making this available to the public allows people, especially analysts and those at organisations such as Transparency International—and the civil society organisations and journalists that it referred to in its evidence, which I mentioned before—to identify the trends. We will be able to see whether there are particular ACSPs or types of ACSPs which deal with companies that appear more dubious. As trends emerge, the use of a particular ACSP or class of ACSP may even raise a red flag—or, perhaps, an orange flag.

As I said previously, some of these ACSPs are the very people who enabled the creation of the London laundromat. Their activities up till now have been behind the scenes; let us make them public. It is not dissimilar to auditors: they have to state publicly that they have carried out their audit and people can see who carried it out. Some names give greater credibility to the company accounts than others. We do not hide audit statements or auditor names, so why would we hide the verification statement or name of the verifier?

I argued for exactly the same thing in debates on the rather rushed first economic crime Bill, saying that we should name publicly the regulated entities which

[Lord Vaux of Harrowden]
verify the information on the overseas entities register. The noble Lord, Lord Faulks, mentioned this on our previous day in Committee and the fact that the Joint Committee on the Draft Registration of Overseas Entities Bill, which he chaired, recommended this as well. So I am delighted that while the Government did not agree during that debate, they appear to have taken another look and concluded that it is appropriate that the verifying entity should have to be made public on the overseas entities register.

The identity of what is referred to as the due diligence agent is made available publicly on the overseas entities register, including the name of the agent and the person with overall responsibility there, the address of the agent and its money laundering number. If it is appropriate for the overseas entities register, why would that not also be the case for our domestic companies? My Amendments 48 and 54 do not go as far as the details that are made publicly available on the overseas entities register. They probably ought to require the same information.

I also put my name to Amendment 50A, in the name of the noble Lord, Lord Cromwell—albeit I was too late for it to appear on the Marshalled List. His idea about publishing SIC codes would be helpful to Companies House in its risk-based assessment of companies, so I urge the Minister to consider it. Again, it adds next to no burden but would improve transparency.

I will not comment on the other amendments in this group, as the authors have not spoken to them, beyond saying that I will support any idea that would strengthen the oversight of and improve the transparency relating to ACSPs, providing that it does not add an unreasonable burden. I hope the Minister will take the same approach.

The role of ACSPs is so central to the success of the Bill that we must do everything reasonable to make sure that they do their job honestly and diligently. At the very least, it makes sense to make sure that their activities are transparent, so that we can see how well they are carrying out their roles. Amendments 48 and 54 would add no additional burden or cost; they simply allow a little daylight to be shone on the activities of ACSPs and would bring the companies register in line with the overseas entities register. I therefore urge the Minister to accept them. I beg to move.

**Lord Ponsonby of Shulbrede (Lab):** My Lords, I will speak to the amendments in this group in my name and those of my noble friends. In opening, I agree with everything that was said by the noble Lord, Lord Vaux. It was a compelling speech and I will listen to the Minister's response to it with great interest. In fact, I will go further: in these amendments are the types of issues that may well be voted on, on Report. Of course, this is not up to me, but I can talk with confidence about my party's point of view.

Amendment 48A in my name would provide an extra layer of protection when it comes to unique IDs. It would ensure that a proposed director would sign a document to state whether or not they had a unique ID, even under a different name. In the event of an individual giving fraudulent details, this provides another piece of evidence so that even if names, details or passports had changed, there would be a way of retrieving the identity of the original person.

Amendment 50B was provided to me by Westminster City Council. It would strengthen the Bill to ensure that third-party agents provide an annual risk assessment and summary of fees charged, which will help the registrar identify questionable practices. The purpose of this is to raise a red flag if fees are either too high or too low. This may help the people who need to pursue enforcement procedures in identifying businesses that are not set up for the purposes they are claiming. That would help enforcement agencies based in local authorities, and others.

Amendment 51A would allow the Secretary of State to create, in essence, a dodgy business list. It requires the identification of a legally liable individual, so that local authorities and HMRC know who to pursue for taxes, business rates, et cetera. Westminster City Council, for example, would like to see included things such as the American candy stores, vape stores, souvenir shops and car washes that are likely to be involved in fraudulent businesses.

Amendment 52 centres on the ability of ACSPs, foreign ACSPs in particular, to undertake identity verification procedures on behalf of the registrar. Using ACSPs will work only if they are effectively regulated and trusted. This amendment would first ask the Secretary of State to list the number of foreign corporate service providers, as the regulations allow for service providers outside the UK to undertake verification checks and to incorporate a company in the UK.

Secondly, Clause 64 creates the ability of the Secretary of State to allow someone to register as a foreign ACSP, even if the person is not a relevant person as defined by Regulation 8(1) of the money laundering regulations. This mechanism is allowed if the Secretary of State believes that the regulatory regime governing the person in their own territory has similar objectives to the regulatory regime under the money laundering regulations.

This amendment would ask the Government to list the number of foreign ACSPs approved through this mechanism and in which countries they are based. It is absolutely right that the Government are specific about which regulatory regimes they believe meet the standard of our own regime. Additionally, we believe that the language is woolly when it says that similar objectives do not take into account the effectiveness of that regulatory regime.

My amendments, together with the others in this group, try to enhance the role of the ACSPs to use this tool to crack down on businesses, both large and small, involved in illegal behaviour—to stop people taking advantage of the opportunities available in our country through Companies House and the facilities available in the City of London. I hope that the Minister will consider these amendments in a positive light and seek to enhance the protections we can get for our businesses, which we have an opportunity to do in this Bill.

**Lord Agnew of Oulton (Con):** My Lords, I support the comments made by the noble Lord, Lord Ponsonby. I will deal with my own suggestions in a bit more detail in a moment but I want to shake the Government out of any sense of complacency in this area. We have a once in a five or 10-year opportunity to sort these problems out easily, as the noble Lord, Lord Vaux, said, without imposing unnecessary costs on organisations. I support the amendment.

**Lord Cromwell (CB):** My Lords, I rise to speak to Amendment 50A in my name, to which the noble Lord, Lord Fox, and the noble Baroness, Lady Bowles, have kindly added their names. I also thank the noble Lord, Lord Vaux, for his supportive comments a few moments ago. Before I turn to my amendment, I should like to add my support, as others have, for the noble Lord's Amendments 48 and 54 in this group.

Like the noble Lord, I do not understand why there is any objection to the name of the firm paid to register a company being included by that firm as part of registration. Any product typically has the manufacturer's name on it; indeed, in some cases, it is a form of advertising. The identification of the firm would enable more efficient contact between the registrar and that firm, and would make visible patterns of registration, which are so important in risk-based analysis of likely fraud and, therefore, the necessary enforcement.

Amendment 50A would mean that any authorised corporate service provider registering companies would be required to make transparent to the registrar their client risk assessment processes; to identify annually in a simple electronic format how many times specific SIC codes have been used and that they are content that these codes are appropriately applied; and to disclose further details of specific company risk assessments to the registrar or other relevant bodies on request. Finally, the registrar would publish annually an aggregated summary of the SIC information.

Before proceeding further, I will say a word about the SIC codes themselves. These codes are in need of an update. I am sure that the registrar is aware of this and will get to it in good time but I am mindful that we cannot remedy everything in one giant leap. The codes are not perfect, but they are the right place to start in categorising companies' activities. We have been urged by the Minister, in his letter to many of us of 12 April, to give practical assistance to the registrar in a way that is most efficient and flexible.

*4.30 pm*

The amendment is efficient because it bakes transparency and accountability into the processes of registering companies for third parties. It places the onus on those who earn fees by registering companies to provide the necessary information in a simple, standardised format. It is not a heavy data-entry burden on either the authorised bodies or the registrar, and the data will efficiently provide clear information of practical use. It enables law enforcement or local authorities to access the information without burdening the registrar. I understand that there is currently a bottleneck causing frustrating delays. As an aside, local authorities are interested in this amendment as a means to target corporate business rates evasion and VAT fraud more effectively.

The amendment is flexible because it will enable the identification of areas of concern, while the registrar retains the discretion to make further inquiries—only if she chooses to do so as part of a targeted, risk-based enforcement, which might be in respect of the types of companies being registered or those registering them.

I underline again that I am very conscious of the need not to drown the registrar in new processes and information. Production of the data required in proposed new subsection (b) in my amendment is neither onerous nor falls on the registrar. As a matter of interest, it took me about 15 minutes to build a little spreadsheet which the SIC codes and frequency of registration could be entered into. The annual summation of the data by the registrar's office is, again, a simple and cost-effective way of reporting back with quantitative information about what is happening with company registrations.

In short, the amendment painlessly and efficiently increases transparency and provides essential, quantitative information vital both to economic growth and to bearing down on opportunities for economic crime, while at the same time taking a realistic approach to the resources of the registrar. I hope that we will have an opportunity before Report to agree an amendment along these lines.

**Lord Garnier (Con):** My Lords, I agree with the arguments presented by the noble Lords, Lord Cromwell and Lord Vaux, in respect of their amendments. I have a great deal of sympathy for the thrust of what they had to say. I hope I have not interrupted my noble friend Lord Agnew, who spoke a moment ago. It may well be that I am getting ahead of him by expressing my support for his Amendment 51.

It seems to me that what we are about today is not placing burdens on business. We are not anti business, we are pro honest business, we are pro clean business, and we are pro having a registrar who has the powers to ensure that what is done within our economy is necessarily cleaner than it might have been in the past.

I see no problem at all in requiring ACSPs to be identified. I see no real burden on businesses in requiring them to comply with the terms of these amendments. We need to grasp this opportunity, as my noble friend Lord Agnew said a moment ago, because these Bills come along very infrequently and these so-called burdens on business are brushed aside as matters which are far too burdensome; whereas, as the noble Lord, Lord Cromwell, pointed out, although I could not possibly do it myself, it took him 15 minutes to design a spreadsheet. If it took the noble Lord 15 minutes, I am sure there are people half our age who could do it in seven and a half minutes. It strikes me that there are people all across the business economy of this country who are just laughing at the sloth of Parliament in dealing with these matters.

My noble friend Lord Faulks and I sat on a committee dealing with the predecessor Bill to this one. We were told that things were going to happen with great speed. It was not until last year that my noble friend's committee was able to see some of the benefits of the work that he did.

Now, we are waiting further and being told by a Conservative Government that we must not overdo the burdens on business. Frankly, business is big enough

[Lord Garnier]
and ugly enough to look after itself. Our job is to make sure that the legislation is apt to do the job that we require of it: ensuring that we have a clean, honest business environment where financial crime is not just inhibited but publicly and expressly disapproved of. Whether we bite on these particular amendments or do it in some other way—I hope that the Government will come up with something that appeals to them between now and Report—I expect us, as one of the leading economies in the world, to be able to construct a system that does not allow bad actors to get away with doing bad things because we do not have the sense of purpose or initiative to deal with them.

**Lord Agnew of Oulton (Con):** My Lords, I apologise; I should have dealt with my amendments when I stood up originally. I will deal with the three that I think are relevant now: Amendments 49, 51 and 63.

I want to stress to noble Lords just how broken the system is at the moment. The ACSPs are not being supervised adequately. A 2021 review found that 81% of professional body supervisors were not supervising their members effectively; just to add to the confusion, there are more than 20 supervising bodies. Half of these supervisors were found not to be ensuring that their members take timely action to improve their money laundering procedures. A third of those procedures still do not have an effective separation between advocacy and regulatory functions.

Let me drop into some details here. Essentially, HMRC marks its own homework on this once a year. In its report last year, it owned up to at least six problems. Regulation 58 of the MLR—the money laundering regulations—requires HMRC to carry out fit and proper testing. This year's assessment revealed HMRC's failure to keep pace with the requirement to register a business within 45 days, with its performance worsening over the year, down from 78% in 2021 to 70% in 2021-22. In practice, this means that more businesses—in fact, nearly a third of them—are operating outside the scope of the supervision for longer than in previous years.

There is an issue with recruitment and staff training; I will quote from its report in a minute. There also continue to be delays in publishing sectoral guidance for businesses under supervision. The volume of face-to-face visits in its investigations has collapsed. Yes, we have had Covid, but we are beyond Covid now. There were 1,265 face-to-face visits in 2018-19 but last year, in 2021-22, that was down to 289. Lastly, HMRC has censuring and injunction powers that it is not using. These things just are not happening.

Just read the report that it has written, which I think is a master of the English language. It states:

"The AMLS team largely has effective managers".

What is that saying? It also states:

"However, it is clear that performance is not consistent across the team, which has made it harder at times to make improvements to supervision".

Those are its own words. It goes on to announce a case study, which happens to be on TCSPs. It had a concentrated week—one week—in which it suddenly found that it could issue 12 warnings and one penalty. Also, 23 compliant businesses were identified as needing regulation and 14 cases were identified as requiring further investigation—and that is in just one week.

Let us look at who is keeping an eye on HMRC: the Treasury. Every year, it produces a supervision report entitled *Anti-money Laundering and Countering the Financing of Terrorism*. In it, the Treasury says that, despite some improvements, improvement is required in several areas. It stated:

"Many PBSs had not implemented a risk-based approach that effectively prioritised their AML supervisory and enforcement work"

and highlighted

"Gaps and inconsistencies in many PBSs' approaches to information sharing"

and

"Gaps in most PBSs' enforcement frameworks".

It continued by saying that

"the prioritisation of supervisory activity in high-risk areas, such as Trust and Company Service Provider … supervision"

is weak, so on and on we go. I know that my noble friend the Minister will pour balm on my words and say that everything will be all right, but this is a once-in-a-decade opportunity to deal with these things.

The noble Lord, Lord Vaux, touched on some of the bad things coming out of this. I will give a couple of examples. In 2020, TCSPs played a crucial role in something called the FinCEN files. There was one example of a single formation agent setting up 385 companies. An analysis of these companies showed that just nine of them were linked to $4 billion-worth of missing income.

We then come to the Pandora papers, which came out only two years ago. Owners of more than 1,500 UK companies were using 716 offshore firms, including individuals accused of corruption. Offshore companies could be traced to a variety of jurisdictions. Most of these—678 of the 716—were registered in the BVI. All these companies were set up by just 14 offshore TCSPs, five of them owned by Russian citizens.

On and on we go, which is why my amendment tries to say, "Stop. Do not let this legislation take effect until we have cleaned up this sector". I would be keen to hear from my noble friend the Minister why the Government are taking such a complacent approach to this. It is really not difficult or expensive. As the noble Lord, Lord Vaux, said, we are a laughing stock around the world, being called Londonistan, Londongrad or whatever else anyone chooses to use. We have this huge conduit of these offshore entities, which are feeding all this stuff in because they all want to use English law. We are a wonderful place for them, but they have to play by the rules as well. It is a whole ecosystem and this Bill is the opportunity to clean it up. I beg to move.

**Baroness Bowles of Berkhamsted (LD):** My Lords, I agree with an awful lot of what the noble Lord, Lord Agnew, said—in fact, with all of it. He laid out in some detail the fact that anyone could be one of these verification agencies, because there are 20 supervisors of all kinds of businesses where there could potentially be money laundering. It might be an accountant, a company formation agent or an estate agent. All kinds of people could become an authorised corporate service provider.

It is then quite important to be able to do the analysis to find out whether some are shadier than others, and whether there is a connection between businesses discovered to be less than spick and span and, perhaps, the precise identity—or maybe just the nature—of the type of verification agent. What on earth is the reason for keeping this secret? Who wants to keep it secret? Maybe it is HMRC, because it does not want us to know how bad it is, following on from the disclosure of the noble Lord, Lord Agnew. That is about the only explanation I can come up with, because it is such a vital piece of information. It makes me suspicious as to why it has to be secret. The other side of that is: who will be privy to the information? Presumably it will be Companies House. Will special checks be going on that it does not want us to know about? It is hard to imagine a reason, so the mood of the Committee on this is quite clear.

Most of the rest follows: I have added my name to some of these amendments but could have added it to them all. I would be curious to know the likelihood of the types of organisations that will be verifying identities getting penalties for when they get it wrong. If landlords get it wrong and rent out to illegal immigrants there are quite severe penalties, so what are the penalties for people who have a quick flick of the passport, think that is okay and register the company? If we do not know who they are, what are the penalties? Do they face penalties similar to those that landlords face, for example, when they have to do checks? It is very important. Most of us have had PEP checks, unfortunately. We have probably been to all kinds of places and had all kinds of documents looked through. I cannot say that it has been really thorough, even within banks. How thorough will this be and what happens when it is got wrong?

*4.45 pm*

**Lord Browne of Ladyton (Lab):** My Lords, I had not intended to speak on this group of amendments, but I rise just to say that I agree with everything that noble Lords have said thus far. My enthusiasm peaked when the noble Lord, Lord Agnew, spoke. What we have done in this debate is create the environment in which we are making these really important changes.

I have just one complicated question, with subcategories, for the Minister. I approach this question on the basis that if an ACSP is unwilling to have its name associated with its professional work and assessment, it seems to me that that should be a disqualification from it being appointed an ACSP. I ask the Minister: were ACSPs consulted at the consultation stage, before this legislation was drafted? Did the ACSP cohort ask for this level of anonymity which the Government are gifting it? I just cannot believe that, if they think they are doing a good job, they will not want their name associated with it—all the more for those abroad. If the City of London, our Companies Act and our registration are to be all the things that the Government wish for, it will be a sterling mark for those abroad that they are able to facilitate access to that environment because they are accredited by the Government of the United Kingdom, and the Secretary of State specifically, to do this work.

Why are we in this situation, where this really important part of the gateway into the system of limited liability is in the hands of individuals and businesses which the Government seem to think want nobody to know they are doing the work? It is incredible. I repeat: if an ACSP or somebody who wishes it, says, "I will do this only if you do not associate my name with the work publicly", you should say to them, "Well, goodbye. You're not doing it at all".

**Lord Faulks (Non-Afl):** The noble Lord has anticipated the point that I wanted to make, but I will make it very briefly. I am puzzled why we are so keen to protect anonymity. What is the respectable argument in favour of anonymity? Can the Minister help us with that? A solicitor, for example, will append their name to a document, identifying litigation or other contexts, and many other professionals have similar obligations. Why are we affording these particular people some special allowance? It simply does not make sense.

As the noble and learned Lord, Lord Garnier, said, for some time, those of us involved in the register of overseas entities were anxious that there should be improved verification. I gather that there has been some movement in that direction. I ask the Minister to consider having regard to the weight of opinion that there should be a similar movement in this area.

**Lord Naseby (Con):** My Lords, I will be very brief. First, having chaired three public companies, I totally agree with my noble friend Lord Agnew's Amendments 49 and 51, with the exception of subsection (1) of the proposed new clause in Amendment 51. I wonder about it being every three years; that basically means once a Parliament, and I wonder whether every two years would be more appropriate.

Secondly, I ask my noble friend: is there a difference between "foreign" and "worldwide"? Are they coterminous, or not? That is important.

Finally, proposed new paragraph (d) in Amendment 50A says that any authorised corporate service provider registering companies must

"disclose promptly on request from the registrar, or other relevant authorities including local authorities".

Anyone who has been in local government or the chair of a major committee would like that to be a little more specific; otherwise, it opens the door to arbitration and legal matters as to whether the person making the representations is "relevant".

**Baroness Bennett of Manor Castle (GP):** My Lords, I have added my name to Amendment 54 and those of the noble Lord, Lord Vaux, and the noble Baroness, Lady Bowles. I will be fairly brief, as this is an extremely unusual situation in that I agree with everything that has been said from all sides of the Committee. I will simply set out a couple of extra points.

I pick up particularly the points from the noble Lord, Lord Vaux, that journalists, campaigners and groups such as Transparency International have frequently and very bravely—at considerable financial and other risk to themselves—helped to uncover the situation that we have with the London laundromat, the centre of global corruption or whatever you call it. Many labels have been applied. These amendments, particularly

[Baroness Bennett of Manor Castle]
Amendment 54, open this up so that people such as those can see and examine what is happening. We can see that the regulators have failed utterly to provide the sorts of checks that they should, and transparency at least enables NGOs, campaigners and others to do what should be the regulators' work for them.

I would like to see Companies House not relying on any independent certification practices but doing its own checks. However, I acknowledge that the practical reality of that would require an enormous institutional set-up. You might ask who would pay for that. I say that, if you are going to benefit from being a limited liability company, the costs should cover it fully—but I can see that that is not going to happen. As it is not, the best possible thing is at least to make sure that these authorised corporate service providers are open to scrutiny from others.

We must not forget that we are asking those that have been the enablers of corruption, fraud and sheer robbery to become the enforcers. That is what we are doing now—asking the poachers to become gamekeepers, in more traditional terms. That carries a high level of risk. Your Lordships' Committee has a huge responsibility to do everything we can to make sure that we have full oversight of that.

I will comment briefly on Amendment 51A in the names of the noble Lord, Lord Coaker, and others. It takes a risk-based approach in looking at the many industries we have that have huge problems. Some are identified here; the situation with car washes is a clear one. A recent study by Nottingham Trent University showed that only 11% of workers in hand car washes were getting payslips, which is the most basic arrangement to enable you to see what is going on. Not even that is happening there.

We have a huge problem in many sectors of our society. Just a couple of weeks ago, *Farmers Weekly* exposed huge levels of fraud and, as a result, significant public health risks in our food sector. We know what has happened in the building sector, where local councils, without the resources, have stepped away as we move to self-certification. We have huge problems with standards in that sector. These problems are there and many of them go back to the financial sector. These amendments are crucial to deal with problems right across our economy.

Finally, it sometimes seems like this is all financial, that it is not really related to people's lives and that it is somehow a victimless crime. The reality is that we are robbing poor people around the world by enabling London to be a centre in which corrupt money is placed. In our own society, we are enabling whole sectors of our economy to be consumed by businesses built on fraud, corruption and the exploitation of workers. I have forgotten which, but a noble Lord opposite said that that makes it difficult or impossible for honest businesspeople to set up, run and thrive.

**Lord Leigh of Hurley (Con):** My Lords, I will not join the complete love-in but I will focus on the amendment tabled by the noble Lord, Lord Cromwell, in particular on his provision that covers the point about SIC codes and the requirement that those are accurate. I will echo and perhaps take further his remarks about the problems that exist with SIC codes.

I appreciate that it would not be in the Minister's remit to answer on this during our debate, but perhaps he might take time to write to us afterwards to comment on SIC codes. As he knows, they came into operation in 1948, when there was a very different business environment. They have been refreshed since then but the last refresh was in 2007 and a huge amount has happened since then. The Ron Kalifa report commented that about 50% of fintech companies do not have an appropriate SIC code. Many companies fall into a number of SIC codes, but a company can choose only four. In fact, out of the 5.3 million companies at Companies House, 3.9 million have chosen only one code, which says to me that they are just not taking it seriously.

Companies are not taking it seriously because they do not see SIC codes as particularly relevant or helpful to them. They often just repeat the previous year's one, or indeed the one of incorporation, which an accountant may have chosen almost at random. As a result, many companies are choosing the SIC codes starting with "Other", such as 82990 for other business services. In some areas, one-third of companies are going just for "Other".

The reason this is important is that a whole lot of government decisions are made on understanding what businesses do and how many are in a particular sector. During Covid, it was apparent from the events industry that large numbers of events companies had not properly registered their business within the SIC codes, so the Government were not able to assess the needs of those companies. Likewise, for searches helping businesses to market to other businesses, unless they know what those other businesses, particularly conglomerates, undertake it is difficult for such businesses to make progress.

Private enterprise has come up with its own version of SIC codes: rating agencies and others, such as The Data City, have created their own codes that they apply to businesses. I very much hope that this might be an area of focus in the near future, so that we can enhance the existing SIC codes and give effect to the amendment tabled the noble Lord, Lord Cromwell. Then we can see what businesses actually do here in the UK.

**Lord Fox (LD):** My Lords, speaking to the Minister before the Committee commenced, I predicted that this group would be crucial, certainly to what we will be discussing in today's set of amendments. Your Lordships have demonstrated that through the detail and the concern expressed on identity verification and more general issues. I am sure the Minister will have picked up that right across the Room, this is not a political issue. It is a practical issue about how this Bill, when it becomes an Act, will work—or, indeed, whether it will.

It is worth emphasising that authorised corporate service providers can and do provide legitimate services for businesses. We know that and that they are important. However, research by very many civil society organisations, not least Transparency International, has shown that in many cases those providers are at the spearhead of the abuse that happens in our society and have been the key enabler of the money laundering that we have

seen across this country. They have built shell organisations of thousands of companies to be able to do that process, which is why, taken separately and together, these amendments all have something which I hope the Minister will be able to take away and discuss with your Lordships, with his colleagues and with the team. We have had some excellent speeches here.

*5 pm*

I remind the Minister that Amendment 48 requires the publication of the identity of the ACSP. The question that many have been asking, in different ways, is: why not? I would like to think that the Minister is actually broadly sympathetic to that position and that perhaps your Lordships have given the Minister some ammunition to go back to colleagues and departments and to come back to us saying that he agrees with us and that identities will be published. It will be interesting to hear whether the opposite is true. I would like to hear what the Minister believes would be the barrier to publishing the identity of the ACSP.

As we have heard from the noble Lord, Lord Agnew, Amendments 49 and 51—and I regret not signing them because I think they are absolutely central to the functioning of this in future—point to the need to establish a credible supervisory framework for ACSPs before we allow such services to be employed. It is clear that we cannot continue to let these services run loose without a credible structure for their supervision. The noble Lord, Lord Agnew, is completely correct there.

Amendment 50A, proposed by the noble Lord, Lord Cromwell, and carrying my name, is absolutely clear, and I was pleased to hear others, not least the noble Lord, Lord Leigh, support the notion that further work is needed around SIC codes.

Amendment 51A, proposed by the noble Lord, Lord Ponsonby, and others, is interesting. The question it asks the Government is: how are they focusing on high-risk sectors? It may be appropriate or otherwise to put something like this in primary legislation but the real question is, given that we know there are high-risk sectors, how are the Government embracing that issue? Those sectors change from time to time; there are different trends. I had not even heard of candy shops five years ago, and now when you walk down Oxford Street you can see them there. There is a reason for that. How do the Government pick up on this? How do the regulators or Companies House pick up on this and what do they do? That is the question that is buried in that amendment, and we would like to hear the answer.

There has been some great debate on this and an awful lot for the Minister to chew on. Whether he is able to answer in detail today or will come back in writing, there is a tremendous amount around this issue that we need to know before we get to Report.

**Lord Johnson of Lainston (Con):** I thank the noble Lord, Lord Vaux of Harrowden, for his Amendments 48 and 54, my noble friend Lord Agnew of Oulton for his Amendments 49 and 51, the noble Lords, Lord Cromwell and Lord Fox, and the noble Baroness, Lady Bowles, for their Amendment 50A, the noble Lords, Lord Coaker and Lord Ponsonby, and the noble Baroness, Lady Blake, for their Amendments 50B and 51A and the noble Lord, Lord Coaker, for his Amendment 52. I hope I have that right. I will try to cover everything in order this time. These amendments all relate to authorised corporate service providers, known as ACSPs. I am grateful for all the contributions to the debate.

I will cover one point made by my noble friend Lord Naseby on the difference between "foreign" and "worldwide". Foreign is if you are headquartered abroad; worldwide is if you operate in a large number of jurisdictions. I hope that clarifies that point.

I will start with Amendment 48. The question asked was why not? Why not publish the name of the authorised corporate service provider against its verification? One noble Lord suggested that it would be good advertising for the authorised corporate service provider to attach itself. I am sure that many of them will be delighted to attach themselves to noble Lords' names when they receive the unique identification number. We have to hope that is the case.

I asked that question myself: why not? Why would it not be sensible to have the name of the verifier next to the entry? I would like to have further discussions with noble Lords about how this can be achieved. The Government do not believe that putting this into primary legislation will be helpful, given the complexities around administering this process.

There are also some specific areas where identities need to be kept discreet so there may be complexities around the process of identifying the ACSP in the sense that there would not be a verified identity to—

**Noble Lords:** Oh!

**Lord Johnson of Lainston (Con):** If noble Lords will allow me to continue with my train of thought before intervening, the difficulty I have is in finding too many justifications as to why it would not be sensible for us to have a full consultation on and review of why we do not want to put the name of an ACSP next to the identity that it has verified.

I welcome the input from the Committee and our discussions on this issue but it is not necessarily as simple as accepting this clear amendment. It is important for the Government to make sure that we have not missed anything but, in principle, having a further discussion around this matter and seeing whether there is a way to ensure that the corporate providers can be clearly identified, with the verification of the individuals in Companies House, seems to be something that we should look at very closely.

I have had private conversations with a number of the speakers in today's Committee proceedings in which I have been clear about what I am trying to achieve, which is exactly this: an increase in transparency; making sure that bad actors are clearly identified; and making sure that patterns of poor behaviour can be measured and assessed effectively. However, I hope that noble Lords will respect my position on the Bill and the amendments that we are discussing, including my reluctance to support this amendment and the other associated amendments in a specific sense. I would want to make sure that we did this right but noble Lords have my commitment to look deeply into the possibility of ensuring that the proposals that have been discussed today are brought to bear in how we manage the verification and listing of ACSPs.

**Lord Vaux of Harrowden (CB):** I am grateful to the Minister for his qualified support. I would be interested to understand why the Government decided to go along with this recommendation for the overseas entities register and are resisting it, at least to some extent, for the domestic Companies House. I am not sure that I understand why the two things should be different at all.

**Lord Johnson of Lainston (Con):** I am always grateful to the noble Lord, Lord Vaux, for his interventions. As I said, we are looking forward to having a full discussion about this issue in our proceedings over the next few weeks. From my personal point of view, it is right that there is a higher degree of transparency and it is absolutely right that we should look closely at trying to ensure that the identity of the verifier is also linked to the verification of the identity.

**Lord Garnier (Con):** I was interested in the intervention from the noble Lord, Lord Vaux. I have been listening carefully to what my noble friend the Minister has been saying. When we have these further discussions, either in Committee or elsewhere, could he kindly come with a few reasons to support the arguments that he is currently putting forward? I do not get the impression that the cogs are quite meeting here. I know that the Minister is under some constraint because this Bill has been pushed here from the other place by the Secretary of State, but I would be interested in getting to grips with the underlying rationality that supports the words that the Minister is uttering. I do not intend to be rude—I hope that I am not coming across as such; it is probably my fault for being obtuse—but I am missing bits that might encourage me to think that we are moving forward.

**Lord Johnson of Lainston (Con):** I thank my noble and learned friend for his intervention, as always. I am sorry if my words have not been clear enough. I hope that, over the next few weeks as the Bill proceeds through the House, we will have conversations that will allow us to come to a sensible conclusion on this issue. In trying to justify why we should not publish the name of an ACSP against the verified identity, we will of course provide reasons. The point is that we should have a sensible, legitimate discussion about this. It is not for me at this Dispatch Box to come up with a variety of reasons or excuses because this is an important point that we want to look into with great seriousness.

**Lord Cromwell (CB):** I can perhaps come partially to the aid of the Minister by pointing out, and I do not want to be partisan, that if for some reason that we are all looking forward to hearing about it is felt that companies which are registering—these ACSPs—are right to be shy about having their name attached, I point out that Amendment 50A requires those companies simply to notify the registrar of how many companies they have registered and the codes that they have used. That will throw up the sorts of patterns that the crime agencies are very interested in. For example, if registering body X has registered 3,000 companies in a year or 300 companies under a particular code which is of interest, that will emerge very quickly from the data, even if it is not necessary for some reason to attach the name of the company to the companies it has registered, which I think, in line with my noble friend Lord Vaux's amendment, it should be, but I appreciate that we are going to discuss that later. I want to draw to the Minister's attention that the statistics that will enable those who are interested to focus on what companies are being registered by whom in what sectors would still emerge without having to attach the name of the registration body to the company.

**Lord Johnson of Lainston (Con):** I thank the noble Lord for his intervention. I would like to clarify my point, which is that this is a very relevant point raised by a number of noble Lords in the Committee. I have been doing a great deal of investigation into this point over the past few weeks and have great sympathy with the sentiments expressed about making sure that the bodies that verify identity can be tracked in some way, in public as much as in private, because I feel that to be very important.

However, there may be technical points that I have overlooked, so I am reluctant to commit today to accepting an amendment, as noble Lords can imagine. It would be inappropriate for me to do so, but I hope noble Lords can hear from my clear words the commitment that we make to see whether the principle around this amendment could be made possible as we look into how the Bill will develop over the forthcoming period, so I greatly thank the noble Lord, Lord Vaux, for his amendment, and I look forward to having discussions over the next few weeks to see how we can find a way to try to implement the philosophy of the principles.

**Lord Browne of Ladyton (Lab):** I rise to press the Minister to answer my question about the consultation and what ACSPs asked for in relation to this. I am confident that the Minister will have that discussion and include everyone in it. It is very clear what his inclination is, but I will add one testing question, which I think is important. If an ACSP wished to have its identity associated with its professional, accurate and helpful work and to have that association with the business that is being registered known publicly, would the Companies Act, as amended, facilitate that? Would it be allowed to do that? Would it be allowed to publicise who it is or are we forcing anonymity on everyone who does this work and not allowing their name to be associated with sterling, world-class work?

**Lord Johnson of Lainston (Con):** I thank the noble Lord for that point. I am intrigued about whether or not that is true. That is why I think it is important that we look into this in detail to ensure that it can be done properly and that we are making legislation that improves accountability and transparency. Without repeating myself, I hope noble Lords feel comfortable that we have made a significant and serious commitment to see what we can do about this point, and I will take a personal interest in this.

I will move on to the point about standard industrial classification, which has just been raised, and Amendment 50A, put forward so well by the noble Lord, Lord Cromwell. I greatly thank him for his amendment and, again, agree with the intention to increase transparency.

*5.15 pm*

Let me just go back one step. It is important that the Committee and the Government are clear that ACSPs are not a criminal fraternity and that not every single ACSP is somehow designed to try to circumvent transparency and the law and is creating a wealth of poorly structured and illegal corporate entities in order to run rings around our legal system. The vast majority of them are well-run, legitimate organisations that we as individuals depend on. If I can declare a conflict, I am grateful for my accountant, who performs an incredibly important function of trust and mutual benefit and on whom I rely. I am sure that noble Lords agree and rely on their professional services providers to enable them to navigate what will become a slightly more complex process in terms of ensuring that we have transparency at Companies House. It is important that we do not get the tone wrong. I want to ensure that the Government's views on this important sector are clearly projected. It is a very important economic sector, employing many thousands of people doing a very important job. We rely on them to do that function and we support them.

To the question from the noble Lord, Lord Browne, on the consultation, we consulted widely with the ACSPs and numerous stakeholders; I think we had more than 1,000 consultation pieces to consider for this Bill. So we have been closely engaged with them and I am contented to go back and continue engaging with them on this single point. I would be delighted to return to the Committee with any specific reasons that are raised so that we can debate them and decide whether they are legitimate. I hope noble Lords hear the principle on which I am committed.

**Baroness Bowles of Berkhamsted (LD):** On that same point, following on from what the Minister said about the vast majority of these organisations being good, trustworthy and so on, is it that the risk of one mistake being associated with them, because their name would be available, means that people would not want to do it? I asked this associated question: what is the consequence or penalty for getting an identification verification wrong? I made the parallel with the rental side of things, where landlords are expected to be able to know whether they are looking at forged documents and that kind of thing. Are we trying to protect the reputations of organisations in case they make the odd mistake but it blows them out of the water? I am still grasping for reasons but I wondered whether that was part of the response. It is the inverse of what the Minister was referencing.

**Lord Johnson of Lainston (Con):** I appreciate the noble Baroness's intervention. I do not have an answer to the question as to whether there was concern over reputational damage but I personally do not see that as a particularly significant reason to withhold one's identity. If you are an auditor of a corporate account, your name is public. As I am sure we have found with some auditors relating to some national political parties, their embarrassment will be palpable but at least it will be public for us all to see.

To answer the noble Baroness's other point on penalties, just so she is aware, it is an offence falsely to confirm the identity of an individual. I am unable to make comparisons with the private landlord sector but it is very clear that falsely identifying an individual would be a serious offence. That is part of the legislation we are providing for.

On Amendment 50A, I consider that the measures included in and added to the Bill provide a significant amount of transparency. I will come on to discuss that in a moment. To look at the process that allows an individual to become an authorised corporate service provider, they have to be supervised under the money laundering regulations. They are already required under those regulations to take appropriate steps to identify and assess the risk that their customers would have on their business. Although I understand the noble Lord's intention, I do not think that this is the right place to consider publishing information about risk assessment processes. In our view, it is beyond the role of the registrar to gather and store this information, or to question it.

The right place to consider the quality of risk assessments is through money laundering supervision. Supervisors are already empowered to compel this information and take enforcement action against firms found to be non-compliant. I have well heard the comments around the money laundering process and whether the supervision regime is adequate. A review is being undertaken at the moment, which is raised in one of the amendments we are about to cover. It makes sense to include discussion of how ACSPs are monitored in that review.

I turn to the suggestions from the noble Lord, Lord Cromwell, around standard industrial classification, or SIC, codes and the publication of this information. SIC codes allow Companies House to track what a business does and are used primarily to indicate emerging trends and the strength of the UK economy. I support the noble Lord's intention to have clear information about the activities that companies are undertaking. Through the Bill, the Government are extending the requirement to provide a SIC code to limited partnerships. As my noble friend Lord Leigh rightly pointed out, such provision is already obligatory for companies. Companies House already runs reports on how SIC codes are being used and will be capable of filtering these to show only the SIC codes of companies that were registered by ACSPs, for example. I therefore consider that requiring ACSPs to provide this information as well would be duplicative.

I also consider it disproportionate to require ACSPs to provide annual reports to the registrar on the SIC codes associated with the companies that they have registered. It is possible that thousands of ACSPs will be registered and it would not be possible for these reports to be regularly monitored. This is a concern in terms of the cost and burden to Companies House.

Furthermore—this is a very relevant point for me that has been made; it does not negate the necessity to assess the process of SICs but it is important in the context of this debate—a company's SIC code can and often does change. There is a great deal of—I do not necessarily know the right word—greyness about how people classify their business activities. In my investment career, I looked at a tank company that was classified as a consumer discretionary and I saw a military

[Lord Johnson of Lainston]
defence business that had a lingerie subsidiary. I am still trying to work out whether that was related to distracting the enemy but the point is that, in many cases, it is very difficult to be absolutely certain about the occupation or classification of a business.

On noble Lords' comments about companies obfuscating their actions, this amendment does not necessarily provide a solution. It is not necessarily the role of ACSPs or Companies House to determine the specific validity of every claim made; that would be extremely difficult, particularly where there are grey areas around activities. That change may or may not be presented by an ACSP; it would be unreasonable to expect an ACSP to be responsible for monitoring this.

I am therefore not clear what benefits this amendment would bring and request that the noble Lord does not press it, but I am happy to have a further discussion about SIC codes if they fall within the Department for Business and Trade, which they probably do. At the same time, I am happy to have further discussions with noble Lords about the review of money laundering processes and the supervision environment.

**Lord Cromwell (CB):** I very much look forward to those discussions and certainly do not want the reporting burden here to be the straw that breaks the camel's back. However, is the Minister saying that, if we have a problem with companies misallocating their codes, it is up to the company or the registration body to determine the code? If the registration body is deliberately miscoding companies, we have a problem. If companies are foolishly misqualifying themselves, we have a different type of problem. Either way, we have a problem, but the Minister seems to be saying that there is no problem in either case. Could he just confirm that situation?

**Lord Johnson of Lainston (Con):** I appreciate the noble Lord's intervention. As far as I am aware—I am comfortable to be corrected, as I am surrounded by so many experts in this area—it is the company that classifies itself, rather than the ACSP. If that is not correct, I will certainly come back to noble Lords. I repeat that we are happy to look at the issue of industry classification, which is very important in understanding the growth of the economy, new industry classifications and how businesses are performing, at the very least—separate from the opportunity it will give Companies House to assess high-risk areas.

I understand Amendment 50B in the name of the noble Lord, Lord Coaker, but I cannot support it. Information on the money laundering and terrorist financing risks associated with the TCSP—trust or company service provider—sector is already published in the national risk assessment of money laundering and terrorist financing. Risk assessment undertaken by firms on their clients can be shared with money laundering supervisors who are responsible for reviewing them as part of their supervision of TCSP policies, controls and procedures.

With respect to the proposal to provide information about the fees that they charge, I remind noble Lords that ACSPs are themselves businesses or consultants which are a part of a market economy. In our view, it would not be reasonable to expect ACSPs to disclose this information. There is nothing in the Bill which would oblige an individual to have their identity verified by an ACSP. Individuals will be at liberty to decide whether to pay any fee that an ACSP decides to charge, or to use the service that will be provided by Companies House. I am confident that, if a prospective customer considers an ACSP's fees too high, we can trust them to vote with their feet.

Amendment 51A, also in the name of the noble Lord, Lord Coaker, is well intentioned. To some extent, we have already covered this, but I will go through these points to make sure that we are complete. I do not agree that the amendment would add value. There are over 600 SIC codes which are used to inform economic trends. Trying to adapt their usage for the purpose of fighting economic crime is unlikely to be successful. I am unclear as to how the Government would determine which SIC codes would be classified as "high risk" or how they could be applied fairly. Perfectly legitimate lower-risk businesses would almost certainly be inappropriately labelled high-risk. I hope that I have covered the other points relating to standard industrial classification codes.

I am grateful to the noble Lord, Lord Vaux, and the noble Baronesses, Lady Bowles and Lady Bennett, for Amendment 54. As I said, I hope that I have covered the points raised in enough detail to satisfy noble Lords present today that there will be a significant amount of work and inquiry in relation to that amendment.

Amendment 49, in the name of the noble Lord, Lord Agnew of Oulton, is about blocking the use of ACSPs until HMT's supervisory reforms have taken place. It would be disproportionate to block all ACSPs from carrying out identity checks while the Treasury works through its reforms to the supervisory regime, which, as I said, I hope will conclude around the summer of this year. It would have a disproportionate effect on the thousands of high street accountants and solicitors, and their business clients, who operate entirely legitimately. I remind the noble Lord that ACSPs will be required to carry out checks to at least the same standard as the registrar and that she will keep an audit trail of their activity and will be able to query any activity that she thinks suspicious. She will be able to share information with the ACSP's supervisor and suspend or deauthorise an ACSP, preventing it from conducting identity verification.

A delay in allowing ACSPs to carry out identity checks could also impact other areas of reform; for example, limited partnerships will be required to make certain filings via an ACSP and may wish to have their identity checks done simultaneously by an ACSP. The Bill already provides in Clause 65for secondary legislation to be made which would allow spot checks to be carried out by the registrar under Section 1098H. I am confident that, if any rogue agents slip through the net, they will soon be spotted by Companies House, which will have the powers to take appropriate action. In all honesty, I see no merit in delaying ACSPs making identity checks and beginning this important process of bringing transparency and clarity to the register at Companies House.

*5.30 pm*

I thank the noble Lord, Lord Coaker, for Amendment 48A. I understand that its purpose is to prevent the possibility of an ACSP being used to verify an identity where one already exists. However, in our view, the amendment is not necessary. An individual should not be able to have more than one verified identity; that would defeat the purpose of identity verification. I make it clear that while individuals might verify their identity directly or using an ACSP, only Companies House will be able to allocate unique identifiers.

We already have a regulation-making power in the Companies Act, which is being expanded by the Bill, and which can achieve what the noble Lord proposes. Under Section 1082 of the Companies Act 2006, the Secretary of State will be able to make regulations which could require that a statement of a person's UID, or lack thereof, is included in any document delivered to the registrar, such as a verification statement delivered by an ACSP. This will help us to double down on the system that Companies House will implement and make it as robust as possible.

Companies House is developing mechanisms to prevent individuals from having more than one unique ID. This is worth emphasising. Additionally, if an ACSP has verified an individual's identity, it will be required to inform Companies House which checks it has undertaken and to store records relating to the checks. These systems should intercept the type of activity about which the noble Lord is concerned, as indeed all of us are.

Perhaps I might turn to Amendment 51. I hope I am in the right order and that we have one more amendment, Amendment 52, that I am hoping to cover in this section. Amendment 51 has also been tabled by my noble friend Lord Agnew and would require Companies House to conduct risk assessments on ACSPs and to request and review documents in relation to the identity checks that an ACSP would undertake. To some extent, I believe I have already covered this in my last few comments.

We think these measures would be duplicative. The entities that would be ACSPs will already be subject to risk assessments by their supervisors. Not only would this therefore be an ineffective use of resource; it would have the effect of turning Companies House into a regulator. By the way, this has come up over the last few weeks in discussion on the Bill. Companies House is a repository for information that we wish to make as accurate, clear and transparent as possible. It is not a regulator of ACSPs. That is not its role and, frankly, we do not intend it to be so, certainly not in this Bill. I am confident that the powers set out in the Bill will give the registrar the powers she needs—

**Lord Wallace of Saltaire (LD):** Does the Minister think that there is a case for there being some form of regulation of ACSPs, or does he think that that is not needed?

**Lord Johnson of Lainston (Con):** I am very grateful for the noble Lord's intervention, as with all interventions today. The ACSPs are already supervised by the money laundering supervisory authority. Should there be a discussion over some type of more effective oversight of ACSPs, in the view of this Committee? We will no doubt discuss that in the future. But as it stands, they are regulated and if any noble Lord is involved with such a business—if they have a financial services business or have been involved in financial services—they will know the strength of the regulator and the fear in which decent, law-abiding firms hold their regulator when it comes to enacting the necessary practices to perform their duties and tasks.

The final amendment that I have in my notes is Amendment 52, tabled by the noble Lords, Lord Coaker and Lord Ponsonby, and the noble Baroness, Lady Blake. It would require a report on foreign ACSPs to be made one year after this Act is passed. I do not consider this amendment to be necessary, the main reason being that colleagues in the other place have already agreed to the addition of Clause 187, requiring the Secretary of State to prepare reports on the implementation and operation of Parts 1 to 3 of the Bill and to lay a copy of them before Parliament within six months of the Act being passed and every 12 months thereafter. Since authorised corporate service providers are provided for in Part 1, they should already be captured.

For the reasons given, therefore, I do not support these amendments. I ask the noble Lord, Lord Vaux, to withdraw Amendment 48.

**Lord Leigh of Hurley (Con):** Captivated as I was by the Minister's mellifluous tones, I am not quite clear if he is saying that he is prepared to write to us about proposals for SIC codes or to meet us or both. I totally accept that it is within the scope of the Bill and certainly within the scope of the purpose of the Bill, but it is an extra exercise, an extra burden. None the less, I wonder whether he feels it is something he could take on.

**Lord Johnson of Lainston (Con):** I am grateful to my noble friend for raising this point, and I hope I have not overpromised. Personally, I am very keen to make sure that every part of the Bill is discussed and I am very happy to ensure that the comments we have raised in this debate today are passed on to the right office, which in this case is the Office for National Statistics, which falls under the Treasury rather than the Department for Business and Trade. I am sure it will welcome involving itself in this discussion.

I would like to make a correction: the consultation on the money laundering oversight regime will begin in the summer, not conclude in the summer. I apologise for that.

**Lord Fox (LD):** I do not want the Minister to leave this process with the concept that we are entirely satisfied with his answer on the regulation of ACSPs because of the multiplicity of those regulators and, frankly, the variability of those regulators, never mind the absence of any structure or template, which the amendment proposed by the noble Lord, Lord Agnew, suggests. I hope the Minister can continue to keep that in his list of things to think about at the end of this session.

**Lord Johnson of Lainston (Con):** I am grateful to the noble Lord for that comment.

**Lord Cromwell (CB):** Will the Minister clarify something? I am sorry that I hesitated, but I am sort of in shock. Has the Minister just told us that he is not going to have consultations with us about so many of these points, but we are going to be talking with the Office for National Statistics about them?

**Lord Johnson of Lainston (Con):** I hope that the noble Lord did not misunderstand my point. I think I referenced the fact that I assumed that SICs would fall under the Department for Business and Trade, but it turns out that that is not the case. I was mistaken in my knowledge of departmental structures and it turns out that they are under the Office for National Statistics, which is under the Treasury, so it would be wrong for me to suggest too much consultation on account of the fact that that is not my department. However, I have committed to making sure that we have further discussions around this. It is clearly very important, and if we are to make the function of SICs work properly, they need to be seen as effective and useful, so I am very comfortable to commit to ensure that a suitable discussion is held around that. I would be delighted to make sure that the relevant officials are brought before noble Lords to have a further discussion around how that can possibly be effected, but clearly I cannot commit another department to a specific activity.

**Lord Cromwell (CB):** Will the Minister be joining those discussions or is he absenting himself from them?

**Lord Johnson of Lainston (Con):** I thank the noble Lord for the point. I very much look forward to those discussions. I would have to be dragged away from such discussions, unless it turns out that it would be inappropriate that I should attend any part of them.

**Lord Cromwell (CB):** I cannot promise to drag the Minister anywhere, but I, too, look forward to those discussions.

**Lord Agnew of Oulton (Con):** The Minister very comprehensively dismissed my amendments, but earlier in the debate he committed to thinking much more carefully about bringing much more transparency to the regime that oversees ACSPs. I just want to make sure that is the case. I also want to offer a couple more anecdotes about why I believe this is so important.

The former chief executive of HMRC Sir Jonathan Thompson questioned the role of HMRC in regulating these people. He did not understand, or was not prepared to accept, that anti-money laundering duties were part of the core activities of HMRC. I gave earlier examples of the failings of oversight by HMRC. The Financial Action Task Force review stated that there were "significant weaknesses" among all supervisors, and specifically recommended that HMRC should consider

"how to ensure appropriate intensity of supervision".

My point is that Companies House is going to be relying on what I believe to be a broken regulator at the moment. I am not suggesting that we create a new regulator, but that is why the risk assessment in Amendment 51 is so important. Who is minding the minders? At the moment, nobody seems to be. It is all moving at a glacially slow pace, and we keep being told that everything is okay, but I do not think that everything is okay. I accept that the protocol is that I do not move my amendment, but I would like a slightly stronger commitment from my noble friend that he really is going to kick the tyres on this and lift a few drain covers, if I can mangle my metaphors.

**Lord Johnson of Lainston (Con):** I appreciate my noble friend's mixed metaphors. I hope I have been clear that the process of making sure that the ACSPs operate in an environment that is trusted and clear is at the root of much of the activity we are discussing today. I will certainly make myself available for further inquiry but, as I hope I have made clear, ACSPs are regulated by the money laundering supervisory authorities and a review of that important process will begin in the summer.

**Lord Vaux of Harrowden (CB):** My Lords, I thank all noble Lords who have spoken in this fairly long debate for their support. Once again, consensus seems to have broken out in the Committee, which must be a good thing.

The noble Lord, Lord Agnew, dramatically set out the scale of this problem. We all stand around it. Like him and the noble Lord, Lord Fox, I must confess that I thought the Minister was rather complacent in his views on the efficacy of the anti-money laundering regulations as they stand. The Treasury review is welcome; it has been hanging around and talked about for quite a long time now. The fact that it is only starting in the summer is somewhat alarming. We need to fix what is a broken system. In talking to the Institute of Chartered Accountants, it surprised me by telling me that the vast majority of accountancy firms are not regulated by it. This is not consistent and really does not work well; it is an area that we have to improve.

At the outset of today's debate, the Minister said that he is open to constructive and practical suggestions for improvement. We are all grateful for that. In this group, we have a number of simple suggestions that would add little or no burden on either the registrar or business and could make a genuine practical difference. The Minister was quite right when he said that the vast majority of ACSPs are diligent and honest, and that it is an important industry. It is worth repeating that. I am sure that that vast majority would like to see the poor minority driven out of the business so that it stops giving it a bad name.

I am disappointed that the Minister cannot accept some or all of these amendments today, I must say, but I am grateful for his confirmation that he will consider them seriously. I look forward to the promised discussions that he has agreed to have. On that basis, for now—although I am absolutely certain that we will come back to this issue on Report—I beg leave to withdraw my amendment.

*Amendment 48 withdrawn.*

*Amendments 48A and 49 not moved.*

*Amendment 50*

*Moved by* ***Lord Ponsonby of Shulbrede***

**50:** Clause 64, page 48, line 13, at end insert—

"(2A) The Secretary of State must by regulations make provision for the evidence required to verify an individual's identity for the purposes of subsection (2)(a) to include—

(a) an identity document with a photograph of the individual's face, and

(b) an identity document issued by a recognised official authority.

(2B) In subsection (2A)(b), "recognised official authority" includes—

(a) a department or agency of UK government;

(b) a department or agency of any of the devolved nations;

(c) a department or agency of the government of another country."

**Lord Ponsonby of Shulbrede (Lab):** My Lords, this will be a much briefer group. The purpose of Amendment 50 is to ensure that

"an identity document with a photograph of the individual's face, and … an identity document issued by a recognised official authority"

form part of the registrar's identity verification procedure. The amendment would specifically allow for two separate documents to be used to identify people rather than just limiting it to, for example, a passport or a driving licence.

An identity verification procedure that involves photographic ID is explicitly committed to on page 43 of the corporate transparency White Paper and reflects international best practice guidelines. What reasoning do the Government have for weakening this aspect of the verification process? They clearly believe that, in the case of voting in local elections, there should be photographic ID. Why not make it explicitly part of the process here? I beg to move.

*5.45 pm*

**Lord Vaux of Harrowden (CB):** In our debate on the previous group, I asked the Minister what regulation the Government were intending on ID verification. The Bill allows the Secretary of State to create regulations on what the ID verification process will be. The Minister did not answer that question then, so this seems like a convenient moment for him to do so.

**Lord Fox (LD):** The noble Lord just said exactly what I was going to say. If it is not this, what is the process to identify people and what documentation is required? It will be interesting to hear the Minister's response to the challenge from the noble Lord, Lord Ponsonby: if it is good enough for voters in local elections, why is it not good enough for multi-million-pound companies?

**Lord Faulks (Non-Afl):** I support this amendment. There is a slight irony because the Labour Party is against the provision on which it relies to support this amendment. That cheap debating point notwithstanding, this amendment seems quite useful and I cannot see an obvious reason why we should not have it.

**Lord Garnier (Con):** To add further irrelevance—no, just irrelevance; I apologise to my noble friend—I am pleased that the noble Lord, Lord Ponsonby, and the Labour Party have moved this amendment. When we debated identity cards in the dim and distant days when Tony Blair was Prime Minister, one of the great things that was stressed by the then Labour Government was that there should be a photograph of the person in question, but they did not say that it should be of the person's face. This enabled cheeky Members of the Opposition to tease—I cannot remember whether the noble Lord, Lord Coaker, was a Home Office Minister at the time—

**Lord Coaker (Lab):** I am not admitting it.

**Lord Garnier (Con):** We had a great deal of fun working out which part of the identified person's anatomy should form the main part of the photograph. I am happy to say that the noble Lord, Lord Ponsonby, has obviously learned from that hideous experience. This seems an altogether better set of proposals.

**Lord Johnson of Lainston (Con):** I thank the noble Lords, Lord Coaker and Lord Ponsonby, and the noble Baroness, Lady Blake, for Amendment 50. As has been discussed, it seeks to require that the new identity verification process includes the use of photographic ID issued by a recognised authority. Although I welcome our shared ambition to ensure that identity verification will be a robust process, I am concerned about noble Lords' proposed approach to limit the acceptable documents in primary legislation. Under Clause 64 of the Bill, the procedure for identity verification, including what evidence will be required, will be set out in secondary legislation.

I apologise, as always, for not answering noble Lords' questions. The noble Lord, Lord Vaux, raised how I dodged his question the first time. I hope I am not dodging it a second time but I would be delighted to write to noble Lords with some further information on the specific detail that is required for identity verification. Let me be very clear: we assume that it will include a photograph. However, I will come on to explain why that may not necessarily be the case in every instance.

Setting this out in secondary legislation will allow for flexibility and ensure that the technical detail of the identity verification process can be adapted to meet evolving industry standards and technological developments. Parliament will have the opportunity to scrutinise these regulations via the affirmative procedure. I assure noble Lords that, for the majority of individuals, photographic ID will be used. The primary identity verification route will be via the so-called "selfie verification" method, which will involve the person providing documents such as a passport or driving licence. The person undergoing identity verification will take a photograph or scan of their face—my noble and learned friend Lord Garnier may be pleased by this specificity—and the identifying document. The two will be compared using likeness-matching technology, and the identity verified.

However, I am concerned that the proposed amendment would exclude individuals who do not have photographic ID. Restricting the acceptable documents

[Lord Johnson of Lainston]
could inadvertently discriminate against a number of people and raises equality concerns. For example, would it be fair for the law to prevent individuals setting up a company simply because they do not have a passport or a driving licence? Should an individual who has owned the freehold of their home for decades via a company now be forced to apply for photographic ID despite there being no other statutory requirement to have one? This is why, for individuals who cannot provide such documentation, there will be alternative options available. I assure the Committee that these will be robust and proportionate.

Most importantly, all providers will conduct checks in line with the cross-government identity proofing framework—the GPG 45—which will be comparable to verification checks conducted elsewhere in government. Under the GPG 45 framework, a combination of non-photographic documents, including government, financial and social history documents, can be accepted to achieve a good-level assurance of identity. ID documentation from an authoritative source such as the financial sector or local authorities is also recognised under the cross-government identity proofing framework and is routinely used to build a picture of identity.

For the reasons I have set out, I hope that noble Lords will understand the philosophy of my approach and agree that requiring in primary legislation that an individual provide official photographic ID to verify their identity would be unnecessarily restrictive and potentially unfair. I am afraid that I must therefore ask the noble Lord to withdraw his amendment.

**Lord Ponsonby of Shulbrede (Lab):** My Lords, I thank the Minister for that serious answer to the amendment that I have just moved. I am also grateful that he has said that the Government's intention is to harmonise the identity-checking methods across a number of different parts of the government process, if I can put it like that. I acknowledge that the technology for identifying individuals is evolving and that photography itself is not the end of the story; that part of the identification process is evolving as well. I will reflect on the Minister's answer to that point. I need to look at other pieces of legislation and see whether the way in which identity is going to be checked is explicitly put on the face of the Bill in other Bills. Nevertheless, as I have said, I thank the Minister for the serious way in which he has answered the points that I have raised. I beg leave to withdraw my amendment.

*Amendment 50 withdrawn.*

*Clause 64 agreed.*

***Clause 65: Authorisation of corporate service providers***

*Amendments 50A to 51A not moved.*

*Clause 65 agreed.*

*Amendment 52 not moved.*

*Clause 66 agreed.*

***Clause 67: Allocation of unique identifiers***

*Amendment 53*

*Moved by* ***Lord Vaux of Harrowden***

**53:** Clause 67, page 56, line 12, leave out subsection (3)

Member's explanatory statement

Clause 67(3) would make any statements of a person's unique identifier (or that they have not been allocated one) unavailable for public inspection. This amendment would reverse that so that the numbers are available for public inspection.

**Lord Vaux of Harrowden (CB):** My Lords, I rise to move Amendment 53; I hope to be fairly brief. It is related, in a way, to Amendment 48A in the name of the noble Lord, Lord Coaker, which we spoke about earlier. In effect, it attacks the issue of unique identifiers from the opposite direction.

Clause 67(3) ensures that the unique identifiers allocated to companies and others, including ACSPs, are not available on the public register. I was rather surprised to find this. My amendment is really a probing amendment to find out the rationale for hiding unique identifiers and discuss whether that is the right thing to do. It seems to me that the unique identifier would be a helpful tool to assist civil society organisations, journalists, analysts and, indeed, AML regulators to discover trends and connections in the information held on companies on the register.

One person can easily have a number of versions of their name—A Jones, Andrew Jones, AJ Jones and so on. It is not necessarily dishonest. I have two names myself: my title and my real name. I hope that that is not dishonest. My amendment would make it much easier to search using the unique identifier and would avoid the problems of potentially having multiple names or versions of names and people being missed off. It would allow an AML regulator quickly to search for all situations where a particular ACSP has acted, or a journalist to identify ACSPs that act regularly for companies in particular industries, and to be sure that they have caught all the instances.

When I met the Minister previously, for which I thank him again, he explained that the unique identifier is used as the login for the relevant entity. If that is the case, I understand why it should not be public, but I strongly question whether that is sensible. Very few organisations would use a number such as a unique identifier for login purposes; it would go against commonly accepted security practices. The Government do not do it in other systems, as far as I am aware. Would it not make more sense for the unique identifier to be public, and therefore useful, to allow the greatest transparency that I have described and to have a more secure method of logging into Companies House accounts? I beg to move.

**Baroness Bowles of Berkhamsted (LD):** I will speak briefly on this amendment because key to it is: what is the purpose of the unique identifier? Perhaps like the noble Lord, Lord Vaux, I thought that it was like the resource identifier that you use for searching. I know that if you search on my name, you do not find all my directorships. I keep amending my name to try to make

sure that they are all the same, but you still cannot find them in Companies House, so I was thinking that it was a better way than names of finding out all the companies that people were involved in, and so on.

I can see that, if it is more of a login approach, that might be different, but that then begs the question: is there not a better way of identifying companies and individuals that works on the searches? If you are searching to see whether somebody is doing something in a different company, or how many directorships they have, simply going by name means that too often there are minor variations, and it will not flag up what you are looking for. Like the noble Lord, Lord Vaux, I am curious about what the purpose of this identifier is, and therefore why it is confidential.

**Lord Johnson of Lainston (Con):** I thank the noble Lord, Lord Vaux, for his Amendment 53. Unique identifiers are unique codes allocated on an individual basis. The Bill will allow unique identifiers to support the effective operation of identity verification, such as allowing Companies House to link an individual's verified identity across multiple roles and companies. I like to look at it as operating as a username. That is important; it is not a public but a private number that the individual will have allocated to them.

I reassure the noble Baroness, Lady Bowles of Berkhamsted, and the noble Lord, Lord Vaux of Harrowden, that this amendment is not necessary to achieve the objectives that they have described—although I am concerned about the noble Baroness's difficulty in tracing herself in the records of Companies House. This will be a good test as to whether the systems work. Companies House will be making changes to how members of the public view the register so that, although the unique identifiers themselves will not be public, it will be possible to see accurately connections between individuals and entities. That is the central point of the reforms being made to Companies House. This includes how many companies for which an individual is a director or person with significant control.

From my own experience of using the Companies House database, I come up under the various different forms of my name: D Johnson, Dominic Johnson, DRA Johnson or whatever it may be. It works in that instance, but it is absolutely right for noble Lords to be concerned about whether the system will work. We have undertaken to make sure that it does. It is the cornerstone of our activities and everything that the Bill points towards.

Regulations made under Section 1082 will govern the use of unique identifiers. We intend to prevent individuals from having more than one unique identifier, as the name denotes, and anyone submitting a statement with an incorrect unique identifier will commit a false filing offence. Furthermore, the primary purpose of a unique identifier is to allow its owner to communicate securely and privately with Companies House; as I said, it should be looked upon as a username. Unique identifiers can be considered personal data so making them public could expose the registrar to data protection breach risks, in the same way that it would be inappropriate to publish individuals' national insurance numbers.

*6 pm*

There is a significant privacy element around this. One is looking at sensitive, complex information. We must make sure that we protect people's security; otherwise, they will be open to similar sorts of fraud to the ones we see them already being exposed to. Making unique identifiers public would compromise their use as they could be appropriated and misused by anyone looking at the register, including potentially to commit identity fraud and other crimes. Although it is well intentioned—I use this term sincerely—we believe that this amendment would weaken, rather than strengthen, the Government's efforts to tackle economic crime.

I hope that this provides reassurance and that the noble Lord, Lord Vaux, will kindly withdraw his amendment.

**Lord Vaux of Harrowden (CB):** I thank the Minister for that helpful answer. I am somewhat reassured; the "behind the scenes" use of the unique identifier to make sure of the connections between different names—and, now, all the names to be displayed if you are searching for one person—will be important. We will see how well it works in practice. From what I understand from what the Minister said, the Secretary of State will have the power to make changes to this by regulation if it does not work properly. On that basis, I beg leave to withdraw my amendment.

*Amendment 53 withdrawn.*

*Clause 67 agreed.*

***Clause 68: Identity verification: material unavailable for public inspection***

*Amendment 54 not moved.*

*Clause 68 agreed.*

*Clauses 69 to 76 agreed.*

***Clause 77: Power to reject documents for inconsistencies***

*Amendment 55 not moved.*

*Clause 77 agreed.*

*Clauses 78 to 80 agreed.*

***Clause 81: Power to require additional information***

*Amendment 56*

*Moved by* ***Lord Johnson of Lainston***

**56:** Clause 81, page 62, line 14, leave out from "any" to end of line 20 and insert "information contained in a document received by the registrar falls within section 1080(1)(a)."

Member's explanatory statement

This amendment enables the registrar to require a person to provide information not only to determine whether the document is properly delivered but more generally to determine whether it is a document that must be registered.

*Amendment 56 agreed.*

*Clause 81, as amended, agreed.*

***Clause 82: Registrar's notice to resolve inconsistencies***

*Amendments 57 and 58 not moved.*

*Clause 82 agreed.*

*Clauses 83 to 88 agreed.*

***Clause 89: Protecting information on the register***

*Amendments 59 to 62*

*Moved by* ***Lord Johnson of Lainston***

**59:** Clause 89, page 68, line 31, at end insert—

"(1A) The Secretary of State may by regulations make provision requiring the registrar—

(a) not to make available for public inspection any information on the register relating to an individual;

(b) to refrain from disclosing information on the register relating to an individual except in specified circumstances."

Member's explanatory statement

This allows the Secretary of State to make regulations requiring the registrar to refrain from using or disclosing information relating to an individual irrespective of whether the individual makes an application.

**60:** Clause 89, page 68, line 32, leave out "The regulations" and insert "Regulations under subsection (1)"

Member's explanatory statement

This is consequential on the amendment to Clause 89, page 68, line 31 that appears in the Minister's name.

**61:** Clause 89, page 69, line 3, at end insert "or (1A)(b)"

Member's explanatory statement

This is consequential on the amendment to Clause 89, page 68, line 31 that appears in the Minister's name.

**62:** Clause 89, page 69, line 7, after "(1)(b)" insert "or (1A)(b)"

Member's explanatory statement

This is consequential on the amendment to Clause 89, page 68, line 31 that appears in the Minister's name.

*Amendments 59 to 62 agreed.*

*Clause 89, as amended, agreed.*

***Clause 90: Analysis of information for the purposes of crime prevention or detection***

*Amendment 63 not moved.*

*Clause 90 agreed.*

*Clause 91 agreed.*

*Amendment 64*

*Moved by* ***Lord Coaker***

**64:** After Clause 91, insert the following new Clause—

"Reporting requirements

(1) The Secretary of State must publish an annual report assessing whether the powers available to the Secretary of State and the registrar are sufficient to enable the registrar to achieve its objectives under section 1081A of the Companies Act 2006 (inserted by section 1 of this Act).

(2) Each report must—

(a) make a recommendation as to whether further legislation should be brought forward in response to the report,

(b) provide a breakdown of the registrar's annual expenditure,

(c) provide a recommendation as to whether charges for fees for the incorporation of a company should be amended,

(d) contain the details of the steps the registrar has taken to promote the registrar's objectives under this Act,

(e) provide annual data on the number of companies that have been struck off by the registrar, the number of companies that have been required to change names by the registrar, the number of fines and the average and total amount of fines the registrar has issued, the number of criminal convictions made, and of cases of suspected unlawful activity identified by the registrar as a result of the registrar's powers as set out in this Act,

(f) provide annual data on the number of cases referred by the registrar to law enforcement bodies and anti-money laundering supervisors,

(g) provide annual data on the total number of company incorporations to the registrar, and the number of company incorporations by authorised corporate service providers to the registrar, and

(h) detail all instances in which exemption powers have been used by the Secretary of State, as introduced by this Act.

(3) The first report must be published within one year of this Act being passed.

(4) A further report must be published at least once a year.

(5) The Secretary of State must lay a copy of each report before each House of Parliament."

**Lord Coaker (Lab):** My Lords, it is a pleasure to address the Committee for the first time this afternoon. The theme of the discussions earlier was transparency. The noble Lord, Lord Vaux, made an outstanding speech about why transparency is important. Other noble Lords talked about this being a once-in-a-lifetime opportunity for this Parliament to progress in a way that perhaps we have been slow to do, which has led to many of the things that the noble Lord, Lord Agnew, pointed out in his remarks about the exploitation of the economic and business laxness in London and beyond that has led to things that all of us deplore. The Bill gives us a real opportunity to tackle that. The Minister's response is crucial for us to determine what we may wish to push the Government on on Report.

We have now moved from transparency to reporting, how the Bill will be implemented and how effective it will be, hence Amendment 64 in my name and those of my noble friends Lord Ponsonby and Lady Blake. I also support Amendment 72 in the names of the noble Lords, Lord Agnew and Lord Cromwell, the noble and learned Lord, Lord Garnier, and the noble Baroness, Lady Bowles, which is virtually the same.

I know that the Minister's notes will tell him that there is no need to worry about this because he can just get up and tell Coaker that it is irrelevant, that there is no need for this because the Government proved that they are a listening Government in the House of Commons and introduced Clause 187, which, as noble Lords will have seen, talks about reports on the implementation of the operation of Parts 1 to 3. Indeed, I had not realised that the noble Lord, Lord Johnson, is as radical as he is, but the clause includes some of the amendments that I and other noble Lords tabled.

I refer to the Minister's radicalness because subsection (3) of the proposed new clause inserted by Amendment 64, states:

"The first report must be published within one year of this Act being passed".

However, if we read what the Minister has put before us, it states

"The first report must be laid within the period of 6 months beginning with the day on which this Act is passed".

It is good to see the Government moving further than they were pushed to do. The Minister no doubt has that in his notes.

However, the serious point is that it is good see Clause 187 in the Bill because it takes on board many of the points raised in the amendments about the effectiveness of the way in which the Bill will operate. The Bill says many things that we all agree with, but the concern is whether it will be enforced and will work in the way that the Government and, indeed, all of us wish it to. Hence Amendment 64 seeks to explore what the Government mean. Clause 187 states:

"The Secretary of State … must prepare reports",

but through my proposed new clause, which would be placed after Clause 91, I am saying to the Government what such a report should include. I do not see why we would not report on the effective implementation of the Bill.

Let us look at why I am saying in Amendment 64, with the requirement to report on the way in which the four objectives laid out in Clause 1 are actually met. We had a debate earlier on in Committee about how effective those objectives are and whether the Bill would meet them. It is particularly important that these objectives are reported on—not just in some general report that the Government lay before us but in a specific report, given the fact that, in Committee, we have debated long and hard about why on earth the registrar of companies would have as an objective "to minimise the risk" rather than prevent it. We also debated why objective 4 says "minimise the extent" rather than "prevent it happening". Given the concerns raised in this Committee about the loose language that the Government have employed in the very first clause of the Bill to determine the objectives of the registrar, it is especially important that we have laid before Parliament a full and frank report on how effective the registrar has been in achieving the four objectives in Clause 1.

Through the reporting requirements in my amendment, I have sought to say that these are the sorts of things that the Government should include. It starts with proposed new subsection (1). It would be interesting to hear what the Government think about it. Is this what is going to be included? That is the question around each of the various points that I have set down. Are they what the Government are going to report on or not? Are they what the Government are going to include in determining the Bill's effectiveness? Is that what the Government are going to do? I would have thought that assessing whether the objectives have been achieved was an absolutely fundamental part of this. Is that what the Government will report on: whether the objectives have been achieved?

Is further legislation needed? All sorts of regulations are included in the Bill but, again in previous debates, noble Lords referred to this Bill as a once-in-a-lifetime opportunity. I think that the noble and learned Lord, Lord Garnier, mentioned that; if it was not him it may have been the noble Lord, Lord Leigh of Hurley, but a noble Lord certainly said it. He is quite right—indeed it is. However, perhaps the Bill will identify gaps that the regulatory powers in this legislation could seek to avoid.

On the breakdown of annual expenditure, we are going to have a discussion when we come on to the next clause and beyond about fees, where they should go and how they should be used. That will give us an opportunity to look at annual expenditure, where the charges for fees should be amended. The Government have a regulation-making power but perhaps the report could give the Government some information about that.

Again, I go back to the steps that the registrar takes to promote the objectives. Proposed new subsection (2)(e), to be inserted by my Amendment 64, refers to

"annual data on the number of companies".

How will we know what is going to happen? We do not want bald statements; we want factual information so that we can base any decisions that we make on evidence.

Proposed new subsection (2)(f) is particularly important. It would require each report to

"provide annual data on the number of cases referred by the registrar to law enforcement bodies and anti-money laundering supervisors".

It is crucial that the Bill has some teeth, is seen to be implemented and is seen to operate in a way that deters those who may wish to operate in a way that undermines the vast majority of good business. Is that the sort of thing that the Government are thinking of?

A whole range of points have been raised there. These are the sorts of things that should be reported on. These are the sorts of things that the Government need to reflect on and allow Parliament to reflect on to see how effective the Bill, when it becomes an Act, is in achieving the things that we all want it to achieve. As I said, in a later clause, the Government say that they will report. This amendment probes what the Government actually mean by that and what they seek to include. It would be helpful to the Committee for us to hear a bit more about what the Government think they are going to use as a way of determining whether the Bill is successful in the way that they want. I beg to move.

**Lord Agnew of Oulton (Con):** My Lords, I do not want to speak for too long because the noble Lord, Lord Coaker, has covered it clearly and our amendments are very similar. Indeed, in a spirit of collaboration, I would be delighted to give ground and for my noble friend to accept amendment moved by the noble Lord, Lord Coaker, rather than my amendment.

There is a serious point to this. My noble friend will know that in business what gets measured gets done. Unless we are specific in the requirements of this annual report to Parliament, it will be fudged if the story is not a good one. Earlier, I read to the Committee some extracts from the internal HMRC report. It absolutely

[Lord Agnew of Oulton]
hates putting bad news out there and will use every bit of the English language to obfuscate as much as possible. Having a simple list of requirements that we expect to hear every year will reduce that—it is really that simple.

*6.15 pm*

I notice in the Government's wording that they want to put a sunset clause on reporting in 2030. I accept the principle of sunset clauses, but this will not cost anything. It is information that organisations must have if they are to function in any way professionally. That is a very flawed idea.

I will not speak for longer than that, but I would like to hear from my noble friend why the Government are so shy about reporting properly on this thing, learning some of the lessons that we have taken so hard over the past 10 years and making a clean slate of it.

**Lord Cromwell (CB):** My Lords, as my name, among others, is attached to Amendment 72, I express my sympathy with it. In the previous day of debate, a great deal was said by the Minister and others about the importance of the guiding objectives to be given to the registrar. I suggest that much of the Bill and, in particular, the majority of the amendments that have been tabled are attempts to give practical effect to those objectives. I am sure the Minister welcomes the engagement of us all in seeking to achieve that, as he said.

I would expect the registrar and the Secretary of State to welcome an annual report reviewing the adequacy of the powers and progress, including, importantly, quantitative measures, as the noble Lord, Lord Agnew, outlined. Such reporting is a crucial part of reporting and being accountable to Parliament. Given that we are looking at a major overhaul of Companies House in the Bill, it is essential that we have proper reporting on progress. There are a number of probing amendments in this vein, including the amendment in the name of the noble Lord, Lord Coaker, and I hope that the Government will take the opportunity to blend them into a practical outcome.

**Lord Garnier (Con):** My Lords, I, too, have put my name to my noble friend's Amendment 72. He is quite right: in business, what gets measured gets done. That is also true of politics: one has only to set down a requirement and have it followed up and measured to see an improvement in the performance of a government department or a public authority such as Companies House. I entirely agree with the thoughts put forward by my noble friend and the noble Lord, Lord Cromwell, in support of this amendment, and by the noble Lord, Lord Coaker, in addressing his amendment.

For my own part, I do not necessarily think that we need to see the terms of these amendments set out in legislation, but we do need a public recognition that the elements that the noble Lord, Lord Coaker, and my noble friend Lord Agnew spoke about are publicly recognised as goals and things that will be measured and reported on annually.

Nowadays, annual reports are made not only by company chairmen. The Lord Chief Justice makes an annual report, as do various other public figures dotted about our constitution, so we should not run shy of requiring that. Indeed, Clause 187 makes clear that the Secretary of State will make a report. The main thing to do is to get the information out there regularly and publicly so that the public know what is being done in their name.

**Baroness Bowles of Berkhamsted (LD):** My Lords, I support what others have said. If we take these amendments as essentially saying that Clause 187 needs to be amplified, I, like the noble Lord, Lord Agnew, do not see the reason for sunsetting in 2030. It is not that far away given that, although this might commence immediately on Royal Assent, there are quite a lot of regulations and other things—and I do not know what the timescale of those will be—before everything is up and running.

As I see it, Clause 187 is about monitoring progress, getting everything up and running and seeing that it is okay, then just saying "that is fine", but I think there is a case for ongoing monitoring to see what is changing and whether there is a need for any further update. The annual report seems to be a vehicle for that and, like others, I say that that is a good reason for it to continue, rather than being sunsetted, and if need be, perhaps to list a few more things that it will cover. Clause 187 could stay silent on that as it is quite broad, talking about

"the implementation and operation of Parts 1 to 3".

If you took away the sunset clause, I could probably be quite satisfied.

**Baroness Altmann (Con):** I briefly thank my noble friend for Clause 187. It is a valid attempt to achieve some of the aims of these amendments, although I wholeheartedly agree that the sunset clause is puzzling. I ask my noble friend to bear in mind that the expertise being offered by this Committee and Amendment 65 in the name of the noble Lord, Lord Coaker, as well as the amendment tabled by my noble friend Lord Agnew, are attempting to assist the Government in achieving the objectives that we all wish to see by injecting the difference between theory and practice. The Government want these measures to succeed. The Committee is trying to suggest that there are, in practice, a number of measures identified in each of these amendments—which, of course, could be combined—to guide those overseeing or producing the reports about what the important elements will be if we want to make this work well.

**Lord Faulks (Non-Afl):** My Lords, in terms of timing, it is important to bear in mind that the genesis of much of this legislation can be found as long ago as 2015. It has taken a long time for anything to happen in response to what was then identified as a major threat—the corruption which has permeated our society. Eventually we got the Criminal Finances Act, then there were many promises of legislation, which did not materialise, then we had the Sanctions and Anti-Money Laundering Act, which dealt with some aspects of this, and then it took the invasion of Ukraine before we had the last piece of legislation. Now, eight years

after the initiative of 2015, we have this legislation, which may or may not be the final chance. So, with respect, keeping the Government up to the mark with an annual report and not having a sunset clause is something we should learn from the very chronology that I have just described.

**Lord Vaux of Harrowden (CB):** My Lords, I intended to sign Amendment 72, but I was beaten in the stampede to support it, which must in itself say something about the quality of the amendment. Amendment 64 in the name of the noble Lord, Lord Coaker, is very similar. Like others, I think that both include important elements and it would be great to try to combine the best of both when we get to Report.

I shall not repeat what has already been said, but it does seem that adding this level of transparency into the system must help in ensuring that we have got this right. During the debates on ECB 1, the previous economic crime Bill, the noble Lord, Lord Callanan said:

"When we introduced the provisions on PSCs—persons with significant control—in relation to UK companies, we had to make some iterative changes to that, as it became evident over time that aspects were not working as effectively as we had hoped".—[*Official Report*, 14/3/22; col. 44.]

The best way to see if things are not working as effectively as we had hoped is transparency and reporting, so I hope the Minister can accept this very simple and sensible amendment to promote that level of transparency.

With permission, I will make one addition to the list of items to report on set out in the amendment. Given the importance of the ACSPs to the process, as we discussed in the previous group, I think it would be useful to include some statistics on the number of ACSPs that have approved, both UK and foreign, who they are regulated by and the number which are suspended. With that addition, I add my support to these amendments.

**Lord Johnson of Lainston (Con):** As always, I offer my thanks to noble Lords for their participation and to the noble Lords, Lord Coaker and Lord Ponsonby, and the noble Baroness, Lady Blake, for their Amendment 64. I also thank my noble friend Lord Agnew, my noble and learned friend Lord Garnier and the noble Lord, Lord Cromwell, as well as the noble Baroness, Lady Bowles, for their Amendment 72—if I have got that correct. These amendments address reporting requirements in similar ways and are very relevant and important.

I agree that it is important that Parliament is informed about the implementation and delivery of these reforms. That is why the other place agreed to add an amendment to this effect on Report, which noble Lords have discussed. Companies House already reports on many of the items set out in these new amendments and, in many cases, actually goes much further, either through its annual report or via quarterly and annual statistical releases. Legislating to duplicate this, given the new reporting duty at Clause 187, seems unnecessary.

It is important that any report is holistic and of use to Parliament and the wider public. It should provide the necessary context to facilitate an informed view of performance, which would be difficult based solely on the raw data that these amendments propose. However, I agree that some of the new items of data identified in these amendments could be of interest. The noble Lord, Lord Vaux, raised some specific points, which I believe are already covered in part in some of the quarterly filings. In any event, if they are not, they are certainly worthy of discussion. I am happy to explore with Companies House officials how they might incorporate these into their reporting without the need for this statutory requirement.

It may be worth returning to some of the comments from the noble Lord, Lord Coaker, to cover some of the key points raised. Under Amendment 72, each report must

"provide annual data on … the number of cases referred by the registrar to law enforcement bodies and anti-money-laundering supervisors".

As I understand it, this is already enabled via the Commons amendment and is expected to be included. Also in Amendment 72, each report must provide annual data on

"the total number of company incorporations to the registrar, and the number of company incorporations by authorised corporate service providers to the registrar".

These incorporations are published quarterly via the statistical release. The amendment says that each report must

"detail all instances in which exemption powers have been used by the Secretary of State"—

which is also covered by the government amendment—and

"confirm that the registrar has sufficient financial resources to meet its objectives".

The registrar's resources will continue to come from fees, which will be set according to how much activity Ministers want to be undertaken. Also, each report must

"provide annual data on … the number of companies that have been struck off by the registrar"

and

"the number and value of fines".

Removals from the register are already reported on quarterly. The number and value of late-filing penalties are published in annual management information tables.

That just gives the Committee reassurance that there is already a great deal of detail published, and we will be looking to publish more. I look forward to a discussion with noble Lords on specific areas that we can cover; I am sure that my officials are looking forward to those discussions. This is all about the sort of data we provide that allows us to run an effective and transparent company system in this country. But I am very reluctant to legislate specifically, according to these amendments, given what I have said and our commitment to making sure that we are publishing useful information.

I will cover the comments from some of your Lordships relating to the supposed sunsetting of requirements to report. As I understand it—I may have misunderstood, but I hope I have not—the purpose of the clauses on six-month and annual reporting relates to the implementation of changes in Companies House that will bring it up to the standards at which we wish to see it operating. At that point, the reports will be included in annual and/or regular reports. It is not that reporting ends, but that it becomes commonplace to

[Lord Johnson of Lainston]
report on the data rather than necessarily on the changes that we are instigating to Companies House. I am happy to clarify that further, if my description was not accurate enough.

**Baroness Bowles of Berkhamsted (LD):** Clause 187 says
"on the implementation and operation".
Therefore, I hoped there would be ongoing commentary and reporting on the operation. I accept that the sunset clause implies that it is about transient stuff, but if the operation—it must be the ongoing operation because it might break down; we do not know—is included in other reports, I would be satisfied. If it is not, I suggest that we need to keep Clause 187 going.

*6.30 pm*

**Lord Johnson of Lainston (Con):** I appreciate the noble Baroness's point. As I said, the sunsetting effectively becomes business as usual, which is provided for to enable Companies House to report according to the criteria that have been established. I am happy to discuss what data it is useful to provide. That is a very important and relevant point. My assumption is that it will evolve over time to some extent, but we can be pretty comfortable that a great deal of information is already provided. It might be useful for us to assess that and then engage in further discussions with officials. We are very open-minded on the data provided. I am reluctant to legislate for this, since we are trying to make data useful rather than simply a legislative process.

**Lord Agnew of Oulton (Con):** Is the Minister suggesting that he will clarify the noble Baroness's point? The wording in Clause 187(1) it quite specific in saying "operation". Is he saying that he wants this to drop away as part of the sunset clause, but that another report will endure and he will discuss it with us to ensure that it is fit for purpose for the longer term?

**Lord Johnson of Lainston (Con):** I believe we will have further discussions on that point, yes.

**Baroness Bowles of Berkhamsted (LD):** When the Minister replied to me he used the word "data" rather than "operation". There is a difference between data and operation. This might not be something that he can instantly resolve, but the ongoing concern is about not just the data but the operation of Companies House. Those are two different things.

**Lord Johnson of Lainston (Con):** I thank the noble Baroness for that point. There are two separate components to that, one of which is the data and/or requirements tabled in these amendments, which are relevant to understanding the activities of Companies House and ensuring that we have a comprehensive assessment of what they are. The second point is that there is the assumption that, over the next six or seven years, Companies House will have reached its operational capability to deliver on providing the relevant data, so we have a good deal of time to assess whether that has been achieved. There is a potential for Companies House to achieve its ambitions before 2030, at which point it would settle into business as usual reporting.

**Lord Coaker (Lab):** My Lords, I thank the Minister for his response, which in some ways was helpful in trying to clarify some of the things the Government would expect to be included in any report. Amendments 64 and 72 are clearly very close; we will need to discuss with others whether we need to push the Government further on Report as to what they mean. There was, if I am honest about it, some ambivalence in the Minister's response to the sunset clause and Clause 187(1)(a). We will have to reflect on that. There will obviously be further discussions with officials about what "and operation" means. We will have to see, on that basis, what we might or might not wish to do on Report.

However, in the interests of time, we have had a reasonable debate on this. Following discussions with others, we will see whether we need to return to it. I take the point that what gets measured gets done. I think that is what we all want to see: an effective Bill that works. We may need to see whether further clarification is needed in the Bill for it to achieve that. With those remarks, I beg leave to withdraw the amendment.

*Amendment 64 withdrawn.*

*Amendment 65*

*Moved by* ***Lord Coaker***

**65:** After Clause 91, insert the following new Clause—
"Fees and penalties
(1) Section 1063 (fees payable to registrar) of the Companies Act 2006 is amended in accordance with subsections (2) to (4).
(2) Before subsection (1) insert—
"(A1) The registrar must charge a fee of at least £100 for the incorporation of a company.
(B1) The Secretary of State must once a year amend the fee in subsection (A1) to reflect inflation."
(3) In subsection (1)—
(a) after "fees" insert "other than the fee in subsection (A1)";
(b) in paragraph (a), after "functions" insert "other than the incorporation of a company".
(4) In subsection (5), in paragraphs (a) and (b) after "regulations" insert "or subsection (A1)".
(5) The Secretary of State must lay before each House of Parliament a report examining the case for fees paid under section 1063 of the Companies Act 2006 being paid into a fund established for the purposes of tackling economic crime.
(6) The report must also examine the case for penalties received by the registrar under section 1132A of that Act (power to make provision for financial penalties) being paid into the same fund.
(7) The report must be laid before each House of Parliament within six months of this Act being passed."

**Lord Coaker (Lab):** My Lords, I will be reasonably brief on Amendment 65, which is tabled in my name and those of my noble friends Lord Ponsonby and Lady Blake. Amendments 69 to 71 have some, if not many, similarities and, like Amendment 106E in the name of the noble Baroness, Lady Altmann, seek to do the same thing. I shall make a few introductory remarks.

I know the Government are resisting putting an amount in the Bill and are saying that they are going to do this by regulation, but I think it is important for Parliament to make a statement about what it thinks is a reasonable fee. As I understand it, the resolution is under the negative procedure. If it is not in the Bill and the Government propose £40 or £50, it may be that we do not think that is enough, but we will not have any way of changing that or dealing with that.

The research that I have had done shows that the current fee is £12, while the eurozone average is €300, and that £12 is the sixth-lowest incorporation fee in the world, so somewhere along the line, we have got this badly wrong. I do not think that £100, as my amendment suggests, is going to deter businesses or could be seen as anti-business. It is a reasonable fee in line with that charged in many other economies in the world. There would also be the opportunity to raise the fee in line with inflation and with various other changes made to the Companies Act.

Alongside this, Amendment 70, tabled by the noble Lord, Lord Agnew, Lord Cromwell and others, is about the establishment of an economic crime fund rather than reporting on the need for one and is something that we will need to reflect on from our position. However, I take the point that if there is a fee as laid out in Bill, it just goes into the Consolidated Fund to disappear without trace, whereas amendments in this group suggest not just reporting on it to see whether it is needed but establishing an economic crime fund which could then be used; in other words, it becomes a hypothecated fee. The Treasury will always say that it hates hypothecated taxes, that they go against the grain and are something that on principle it does not do. However, the Explanatory Memorandum shows examples of where the Treasury has agreed to the hypothecation of tax. A very effective argument is: as the principle of hypothecation has been accepted by the Treasury in the instances laid out in the Explanatory Memorandum, why should it not be accepted here?

I will not repeat all that has been said but the fundamental point is to create a framework within which economic crime can be investigated effectively and the law enforced effectively. That is essentially what this is all about. The Government will agree with that and say that that is their intention. The purpose of my amendment and the other amendments in this group is to give the Government the tools with which that can be achieved and the resources by which that can be done. In later amendments there is real concern about the effectiveness of the various bodies we already have to tackle economic crime; that concern will no doubt come up again on Report. This Bill will quite rightly say that more needs to be done. How is that going to be achieved? The fee suggested in my amendment and the establishment of an economic crime fund as suggested in Amendment 70 can be used to ensure that we have the resources to tackle the level of crime that we know is out there. It is something this Bill needs to address. It is a real priority. I beg to move.

**Lord Agnew of Oulton (Con):** My Lords, to build on the comments made by the noble Lord, Lord Coaker, again, this is a wonderful opportunity to do something that will put our enforcement agencies on to a much sounder footing in future. They are very underresourced. For example, we know that 40% of crime in this country is economic crime yet we deploy only about 1% of our crime-fighting resources to combat it. By ring-fencing this, it gives us a chance to solve that problem.

There is currently a scheme called the asset recovery incentivisation scheme—ARIS—where the money goes to the Treasury and the Treasury hands some of it back. However, the amounts that come back have decreased by 34% in the past five years, at a time when we are seeing escalating volumes of economic crime.

I put in my explanatory statement examples of the hypothecation that the Treasury has agreed over the past few years. As noble Lords can see, there are several of them; some of them are very recent. I want to head off the excuse from the Treasury that "We never do it", because it does do it, and does it regularly. I suggest that this is as good an opportunity as any to do it. I very much hope that my noble friend the Minister will consider this issue carefully over the next few weeks because, if we do not have the resources in our crime-fighting agencies, we will not be able to stamp out a lot of this. Back in 1984, the US introduced a scheme in which all forfeiture proceeds go back into an assets forfeiture fund. I very much hope that we can do something similar.

**Lord Cromwell (CB):** My Lords, I have added my name to Amendments 69 to 71, which the noble Lord, Lord Agnew, has just described so powerfully. Those of us who participated in what we call ECB 1 will remember that there was a great deal of discussion and many points made around the fact that passing legislation is pointless if you do not resource the enforcement bodies that must then carry it out. Reading that debate back, this was covered in detail; I am simply making the point baldly again.

I have three further points to make. The fund would appear to need no new money. It would be funded and administered through the fines and incorporation fees. There may well be pushback on the hypothecation of funds in principle, but, as the noble Lord, Lord Agnew, just highlighted, his explanatory statement illustrates that there are plenty of precedents for such a fund. I would also suggest that, for the crime-fighting agencies—if I can call them that—being able to access this money swiftly and flexibly, rather than having to fight up hill and down dale with the Treasury in trying to extract the money from it, would be a great leap forward. After all, it will be they who will have achieved these funds through successful prosecutions.

Let me add one small but important qualification. We are going to need transparent processes and procedures, including audit, for how these funds are used and by whom. However, with that small and rather pedantic caveat, I lend my support to those three amendments.

**Baroness Altmann (Con):** My Lords, I rise to speak to my Amendment 106E. In a way, it is an attempt to combine and perhaps strengthen the other amendments in this group: those in the names of the noble Lord, Lord Coaker—he explained them excellently—the noble Lord, Lord Ponsonby, and the noble Baroness,

[Baroness Altmann]
Lady Blake; and those in the name of my noble friend Lord Agnew, supported by the noble Lord, Lord Cromwell, the noble and learned Lord, Lord Garnier, and the noble Baroness, Lady Bowles.

I welcome the new duties and powers for Companies House. We all know that, as the Government themselves have recognised, there is a severe and growing threat in the area of economic crime. With the pressure on public funding and the fiscal constraints that we know are being and will continue to be faced, funds have to be found for the transformational changes needed to keep pace with the growing and severe threat.

*6.45 pm*

These amendments aim to raise the funds necessary without going to taxpayers. My Amendment 106E seeks immediately to use the opportunity of the Bill to establish a minimum fee of at least £100. The international comparisons made by the noble Lord, Lord Coaker, showing how low our current £12 figure is, would be resolved. Quite frankly, if somebody cannot afford £100, it is difficult to see why we should approve of them setting up a company in the first place.

The Treasury Select Committee has recommended a fee of £100 and the House of Lords Select Committee on fraud has expressed its concerns about how these new powers will be funded. These amendments attempt to give the Government the funding that will clearly be required, as all noble Lords in the Committee have already said. The money would be ring-fenced for fighting economic crime so that Companies House will—or should—be able to invest in the capacity needed to prevent and combat economic crime. The word "prevent" is really important: moving from the reactive regulatory approach that we so often see to a more proactive one will be really important if we want ever to be ahead of the problems of economic crime.

Companies House must have some resource. I am asking for that to be established now. In Amendment 106E, I am also asking for the economic crime fund to be legislated for now rather than having a report looking into that, as other amendments propose. I want to take this opportunity; it seems so obvious that something of this nature is needed. Companies House will fundamentally change: it will no longer be a register. It must have a proactive role in finding misleading or false information and, I hope, fighting economic crime.

I hope that my noble friend the Minister can look favourably on the merits of using the Bill to do this now. The only small change in the wording of Amendment 106E compared with Amendment 65 is that I am specifying a minimum fee of £100 and asking the Government to consider raising it in line with inflation—not necessarily mandating that that should be done but considering it annually. I am not wedded to any of the wording but I feel that putting this into the Bill now has significant merits. I hope that my noble friend will agree to consider it carefully.

**Lord Browne of Ladyton (Lab):** My Lords, a packet of 20 Lambert & Butler or Marlboro cigarettes costs £12.65. That is how out of proportion the fee for setting up a limited company has become. It may well be that government taxation and inflation have influenced the price of cigarettes and that it does not reflect their real value, but that is the reality of the world that we live in. If you have £13 in your pocket, you can buy a pack of cigarettes or you can float a limited company.

This has got totally out of proportion. Businesses that have this limited liability have become a driver of our economy but a significant proportion of them have become a serious problem for our country. Not only has our international reputation been trashed by the people who abuse this, with us being trusted less as a centre of probity and good practice, but, if we accept the Government's apparently accepted assessment of what this costs us annually, they are taking £350 billion out the economy on a regular basis. They are doing that in a series of economic activities in which they take the money but we count it as GDP. That is utterly ridiculous. Then, after the money goes out of the country—quite often as cryptocurrency—it comes back in and we count it as inward investment. They have distorted the reality of the economy of our country in a significant way and they have stolen significant amounts of money that could have been put to other purposes.

I support these amendments because these two issues need to be addressed. First, the process of setting up a limited company needs to force people to think more about what they are doing. It needs a quality about it and part of that has to be in the fee. The people whom we charge now with not only collecting this data but being the gatekeeper and inhibitor of crime—that is what we are asking Companies House to do—have to be resourced. That resource should come substantially from those people who wish to exercise the privilege of having limited liability in their companies because it is in their interests to have the ability to do that and not be characterised with the rest of these cheats and robbers. The way in which they conduct their business is being protected, and money is not being taken from them by fraud and the other activities that are manifestly going on. It is in their interest for this system to work properly; they should pay the appropriate fee so that that work can be done.

More importantly—this is the real issue that this amendment addresses—the measure of the ambition that we have, that Parliament has and that the Government say they have to interdict all this behaviour has an enormous prize at the end of it: £350 billion. This was described to me as relatively low-hanging fruit in my recent correspondence with one of your Lordships. We know how to interdict this behaviour, keep this money in our country and stop it from being stolen from our common resources in this way.

The measure of the Government's priority for this is that it should have figured in Rishi Sunak's five priorities. This is such an extraordinary series of things to be happening in our community, with such a dreadful effect. Economic crime—fraud is part of it, as 41% of crime against a person in our country now is fraud—is having an effect on almost every family in our country. If we do not know people in our families who have been defrauded, or if we have not been defrauded ourselves, we will live in constant fear of it. Every text

we open or every email we get that we do not recognise immediately causes our heart to beat a bit faster, as it may have infected our electronic communications. We are all affected by this. There is a great delivery to be had for the people of this country, the way in which we trust each other and the way we live, but there is also a lot of money at the end of this.

A significant proportion of the money going out comes from the Government's own coffers and we are not protecting ourselves against its loss. If they have an alternative way to convince us that this can be done differently than is proposed in these amendments, now is the time to tell the House of Lords. Like the House of Commons, the House of Lords is going to coalesce around these sorts of amendments—the difference being that support for them here will mean your Lordships' House winning the day when it comes to counting the votes. We all collectively want the Government to bring these types of amendments and solutions to the House for approval, in their own words.

Can the Minister explain to us how we are going to move out of being a country that basically sells to people, for the price of a pack of cigarettes, this ability to do something that a lot of people are using for crime? Where is the money going to come from to ensure that the work that is needed is done in regulation, enforcement and prosecution but mostly by inhibiting this from happening in the first place? I am much less interested in prosecuting people who have done this than I am in stopping them doing it. We can stop them and give ourselves a resilience but we are going to have to invest a significant amount of money; the Government should see that money as a priority because the prize at the end of it is so significant. If there is no alternative, then this is the best way to do it and I would support and vote for it, but the Government have it in their gift to tell us how they will do it otherwise, if they can convince us that we can trust them to put their money where their mouth is.

**Lord Garnier (Con):** My Lords, I have added my name in support of Amendments 69 to 71. I agree with what my noble friend Lady Altmann said in support of her own amendment and very largely agree with what the noble Lord, Lord Coaker, said from the Opposition Front Bench—supported, it is fair to say, by his noble friend, the noble Lord, Lord Browne.

These amendments are important not for what they say intrinsically but for what they say about us—as a Parliament and as people who make policy then implement it. The cigarette packet analogy is very telling: it is ridiculous that it costs the same to buy a packet of cigarettes as it does to register a company. That clearly has to change and I do not think that the Government believe that £12.50, or whatever the cost is, is the right price to register a company. There may well have to be a sliding scale, reflecting small and larger companies, but suffice to say that the current level of fees is ridiculous and the current level of fines could well be ridiculous.

Having signed these amendments, however, I do not want to be seen as a false friend. I take the point that putting on the face of primary legislation the fee, or the fine, makes lifting it higher annually—or whatever the relevant time is—much more difficult because the primary legislation will have to be amended. You might get a Bill like this—okay, we have had two in a year; we are all smiling but these two years are very unusual—but the next time we get to amend the level of the fine in primary legislation could be a long way off. I suggest that we use these amendments to prompt the Government to set realistic fees and fines, and to place those in a form of legislation that can be amended readily and quickly. That would presumably be under regulations, which is not an unusual state of affairs. The purpose behind these amendments, as I say, is to provoke or promote the Government into thinking about the levels of these fines and fees.

In relation to the question of hypothecation or whether the fines should go into the Consolidated Fund, again, I am going to demonstrate that I am a false friend to some extent because hypothecating fines or fees can sometimes create another form of sclerosis. It also creates an inability to be flexible in how one spends public money.

Our arguments in support of these amendments demonstrate what this Committee thinks—here, I agree with the noble Lord, Lord Browne: if this proposal was put to a vote on Report, it would win. I do not think that the Government need have any false hope about that; I suspect it would win. Of course, it would be overturned back in the other place but we would be saying to the Government, "We want real and meaningful action". This Committee leaves it to the Government to come up with a scheme that avoids having a vote and meets the real nature of the problem that we face.

*7 pm*

My noble friend Lord Agnew spoke about the asset recovery fund. I have experience but also a suspicion—horror is too strong a word—of incentivising public authorities to prosecute people for money. If I prosecute someone and I recover £X million, the police, the CPS and the whatever get a slice. That happens under the asset recovery scheme at the moment.

I have, as a part-time judge, refused applications made by certain police forces to go off to happy places in the Caribbean to recover assets from drug crimes. When you ask how much they are after, they say, "Ooh, lots". You ask what it is going to cost to get them over there and back and stay in this five-star hotel while they collect "lots", and you are told that it will be "not very much". When you work it out a little more deeply, the numbers are reversed: they are after not very much and they will spend a huge amount to go and get it. It is not an effective or efficient system. Do not incentivise the law authorities with money; provide them with the tools to go and get it.

I refer back to the rather feeble story that I told at Second Reading about the state attorney for the southern district of New York and his comments on the funding of the Serious Fraud Office. We have to fund these authorities—be it the Serious Fraud Office, Companies House or other law authorities—to such an extent that they can do the job that we want them to do. If we give them tuppence, they will do nothing and we will complain about them. They need bigger fees and we need to get the fines up to discourage the bad people from doing what they do.

[Lord Garnier]

I think it was the noble Lord, Lord Browne, who mentioned the Prime Minister's five objectives. I am delighted when a Member of the Opposition refers to the Prime Minister in such complimentary terms. There are four objectives in this Bill, in Clause 1. Let us get them right. Let us fund them and ensure that the way in which we create and enact this Bill enables Companies House and our law enforcement authorities to do a real job—and do it properly and quickly.

**Baroness Bowles of Berkhamsted (LD):** My Lords, I signed the amendments in the name of the noble Lord, Lord Agnew. I am generally in favour of what has been said already regarding the need to increase the funding for Companies House. I was a member of the fraud committee. When we were looking at Companies House, we were astonished that we still had this ridiculously small registration fee. We thought that Companies House needed more to upgrade in the way now envisaged in this Bill; we did recommend an increase.

We were also taken to some extent with the notion of hypothecation of funds. One might say that nobody likes that idea because they think that they are getting perverse incentives and things are going wrong from that perspective, as the noble and learned Lord, Lord Garnier, elaborated. However, the fact is that our prosecutors are underresourced. When recommending these hypothecations, some us may feel that it is a last resort. Well, that is what it is; there is no other way to get the sort of money that will allow adequate prosecutions into the system.

From my point of view, it does not matter how you get the money in. We have to accept that we need better-funded regulators and better-funded prosecutors in general. It is no coincidence that, whenever there is any kind of scandal, as happens a lot in financial services—about which I know rather more—it is always in the United States that they manage to prosecute them. That is because they have this hypothecation of fines, they have lots of money and they can pin them down. We cannot do that for all kinds of reasons. We cannot keep on being the poor, weak cousins where you will never be for the high jump, you will never be prosecuted and we are still the financial laundromat.

Hypothecation may not be ideal; the Treasury would lose the money, of course, so it would still come from the public purse. Well, why not put it there adequately from the public purse in the first place? I do not see the raising of Companies House fees to £100 as money for legal enforcement; I see it as raising money so that Companies House can be much better and much more advanced and do all the things it needs to do, perhaps more quickly, because a lot of expenditure will be required on technology. It is ridiculous to have this £10; it could be £100, and we could deal with the issue of getting decent enforcement separately.

**Lord Faulks (Non-Afl):** My Lords, to take up the noble Baroness's final point on technology, in the very helpful session we had yesterday—unfortunately the Minister could not be there—we were provided with some written information about the use of technology that was going to develop. I asked about artificial intelligence. Either in the course of answering these amendments or generally, could the Minister assist us as to how, with this increasing amount of information that Companies House will now have, artificial intelligence will allow it and the prosecuting authorities to have a great deal more information to put two and two together, which will assist with this legislation's overall objectives?

**Lord Vaux of Harrowden (CB):** My Lords, this discussion about how we fight economic crime would be an awful lot easier and better informed if we had seen the Government's national fraud strategy, which I believe was supposed to be with us at the back end of last year. Perhaps the Minister might like to find out when we might finally see it.

**Lord Johnson of Lainston (Con):** My Lords, I thank your Lordships, as always, for this very passionate debate. I am struck, after however many pleasant hours we have been together debating in Committee, by the convinced passion and determination of Peers on all sides. An Economic Crime and Corporate Transparency Bill might be considered a dry, technical matter for specific and weighty thought, but the reality is that this is an emotive subject. It is important for all noble Lords to know the Government's shared passion for stamping out illegal activity and economic crime in this country. From my point of view, it is extremely costly to the economy to enable financial crime to be enacted in the UK. It is not invisible, and every crime has a victim. I hope all noble Lords understand that my personal passion and that of the Government are allied in trying to make a Bill that is practical, will achieve its goals and will allow businesses to flourish.

I would also like to apologise. The noble Lord, Lord Faulks, mentioned the meeting which many officials here attended yesterday. I was unable to attend that meeting, for which I sent my apologies. That was the only morning that I have been away in the past six months. I hope all noble Lords will feel comfortable in contacting me directly to arrange further formal or informal meetings.

I now turn to the amendments. I thank the noble Lords, Lord Coaker and Lord Ponsonby, and the noble Baroness, Lady Blake, for their Amendment 65 on fees and penalties. I also thank my noble friend Lord Agnew, my noble and learned friend Lord Garnier, the noble Lord, Lord Cromwell, and the noble Baroness, Baroness Bowles, for their Amendments 69, 70, 71, which address the economic crime fund and the retention of fees by economic crime enforcement agencies. I also thank my noble friend Lady Altmann for her Amendment 106E on fees and an economic crime fund.

I shall attend initially to the fees and penalties element. The level of Companies House fees has been the subject of much speculation, and I know from our conversations and the amendments in this group that noble Lords have a significant interest in this. At no point do the Government believe, or could anyone in all seriousness believe, that £12 is a reasonable amount for setting up a company. People have suggested that if a commercial organisation cannot afford whatever arbitrary figure one may wish to pick—it could be £50, £100, £150 or £500—for the creation of a limited liability company, it should question whether a limited liability company is the right structure in which to operate.

However, it is very important that fees are set via regulations and that the Government have flexibly over the right level of fee, which has not yet been established. I was grateful to my noble and learned friend Lord Garnier for confirming his view that that is the most appropriate way to set fees. The fee will be determined following an analysis and appraisal of the volume of investigation and enforcement activity to be undertaken, the associated cost base, the timelines for recruitment and systems development and other factors which we have raised in this important debate. We are currently finalising our modelling but are increasingly confident that we can fully fund the reforms, including creating around 400 new roles at Companies House, while keeping fees low. Current estimates from Companies House suggest fees of no more than around £50.

I draw noble Lords' attention to the annual administration fee. There is an establishment fee for setting up a company and then there is an annual fee, which is currently £13—it is more expensive to register your firm annually than it is to set it up in the first place. I am not entirely sure how we reached those figures, but we are not looking to enshrine a minimum level of fee in primary legislation because to do so would severely restrict flexibility which may be required at a future date. Fees will continue to be reviewed on a regular basis to ensure that they are providing the level of funding that Companies House needs. Companies House is able to retain incorporation fee income under current arrangements between it and HM Treasury, with the arrangement reviewed periodically. That is important. The current intention is that the fees will be used to pay for Companies House, so a raised fee is absolutely right. It is estimated to be used for the functioning of Companies House.

**Lord Agnew of Oulton (Con):** Will my noble friend clarify the annual filing fee? He mentioned that the one-off fee will go up to around £50. Can he give us any sense about the second fee? I think it is more important because it is regular income. I think the stock of new companies will drop because of this legislation. It will stop very small actors, as we have discussed—the plumber, the painter or whatever—and bad actors will not come in, so annual new registrations will drop, but that is why the filing fee is very important. Will the Minister give the Committee some indication?

**Lord Johnson of Lainston (Con):** I thank my noble friend. We do not have an estimate for the annual registration fee so I would not like to speculate on it, but clearly it would be raised to a level commensurate with the £50 initial fee. The Government set the fee levels, as is appropriate under legislation, but they will come from the recommendation from Companies House. We will look very closely to ensure that it has enough income to perform the functions that we want it to perform. I do not think it is anything more complicated than that.

I have had many enjoyable debates about what the fee should be. To some extent, we can enjoy those debates but they are slightly speculative. What is important is that the Government have the flexibility to ensure that the right level of fee is charged and to change that if necessary. I do not think that anyone in this Committee would disagree fundamentally with that principle. Setting a minimum fee level does not seem reasonable, given the flexibility that we wish to retain.

*7.15 pm*

**Baroness Altmann (Con):** Can my noble friend explain to the Committee what advantage the Government believe would flow from having low fees for incorporation? There seems to be an idea that we need to raise it to £50 only, as though there is some benefit in having a low fee—I am not sure in what terms, given that the EU average is €300, the US cost is between $570 and $1,400 and the BVI charge £1,000. In the Government's view, why would there be an objection to going with the Treasury Select Committee recommendation, for example, of at least £100? It would not mean that they could not charge more. It seems to be the general view of the Committee that £100 would not be an unreasonable minimum, at least, for this incorporation fee. The annual fee can always be set in a different way.

**Lord Johnson of Lainston (Con):** I appreciate my noble friend's intervention. It is probably a good thing that we will be cheaper than the EU when it comes to registering a company; we could call it a Brexit dividend. Without being facetious, this is about giving the Government flexibility to ensure that they charge the right amount. I have no personal view on whether it should be £75, £100 or £125; we can have this debate all evening, and I have great sympathy with it. The point is that I do not believe that anyone in this Committee is suggesting a significant change in the volume of cost for either establishing a business or registering it, so it is absolutely right that we should consult widely and make sure both that the right amount is charged and that we have the flexibility to change it one way or the other, if appropriate.

**Lord Fox (LD):** This has turned into something of a Dutch auction. We have lost sight of the purpose of this group of amendments, which is to look through the telescope from the other end. This is about enforcement: how much money will be needed by the enforcement authorities to enforce the Act? Does the Minister agree that the current level of enforcement with the current legislation is inadequate? If so, what will change to fund the organisations to create adequate enforcement? If it will not happen through the measures being discussed in this group of amendments, how will it? That point was made by various noble Lords in the Committee. It is the nub of the answer that we are seeking from the Minister.

**Lord Johnson of Lainston (Con):** I am grateful for the noble Lord's intervention. If I may, I will come to my conclusion before answering those important points. The Government need to continue setting fees via regulations. I would personally be very reluctant to try to set any minimum floor. The assumption will be that the right amount of fees will be set and they will be higher than currently charged. Estimates from Companies House suggest around £50. We are happy to have discussions about that as we go forward but I ask the noble Lord to withdraw his amendment.

**Lord Browne of Ladyton (Lab):** Has any thought been given to the possibility—I know that the Government like this sort of structure—of having an independent fee review body that looks at all this and makes recommendations? The Government could still set the fee but there would be an independent group of experts looking at the objectives that we have set ourselves. Is it too late to put some provision like that into this piece of legislation? I know that the Government like reviews.

**Lord Johnson of Lainston (Con):** I am grateful to the noble Lord, Lord Browne, for suggesting the creation of another authority but, in this instance, I would be reluctant to do that. As I said, I have noted his comments very carefully, and I will be happy to have further discussions with noble Lords around this issue. I am sure it will be a matter of debate, but the important point is that I do not believe that we should be setting minimum costs by legislation. It would be completely impractical and would remove the flexibility and purpose.

I now come to the economic crime fund and economic crime enforcement agencies Amendments 69 and 71 tabled by the noble Lord, Lord Agnew, and the economic crime fund Amendment 106E tabled by my noble friend Lady Altmann, which are very relevant. As we have discussed—and I take this view personally—we can have as many rules and regulations as we want, but if they are not enforced properly, they will have no value. That is why when noble Lords come to me with new ideas—there is an ever-bubbling font of new ideas—for new regulations, strictures and penalties that could be imposed upon businesses to reduce economic crime, I sometimes push back. I say that it is not necessarily about introducing new regulations and rules but about making sure we have the resources, focus and capabilities successfully to prosecute existing crimes.

That is at the core of my next comment: the Government are committed to ensuring that law enforcement agencies have the funding they need. The combination of the 2021 spending review settlement and private sector contributions through the new economic crime levy will provide funding of £400 million over the spending review period. The levy applies to the AML-regulated sector and will fund new or uplifted activity to tackle money laundering, starting from 2023-24. I believe that the levy is expected, or targeted, to raise £100 million. I am not sure whether that figure is confirmed; I will come back to noble Lords if it is wildly inaccurate.

In addition to this, a proportion of assets recovered under the Proceeds of Crime Act 2002 are already reinvested in economic crime capability. Under the asset recovery incentivisation scheme mentioned already by the noble and learned Lord, Lord Garnier, and some other noble Lords, receipts that are paid into the Home Office are split 50:50 between central government and operational partners, based on their relative contribution to delivering receipts.

Proceeds from fines issued by Companies House are placed into the Consolidated Fund, which is used for financing the expenditure of government departments on important public services. The proposed amendments would see the incorporation fees, all fees paid under regulations made under Section 1063 of the Companies Act and all penalties paid under regulations made under Section 1132A of that Act being surrendered into an economic crime fund. This would be contrary to the fundamental principle that the fees are paid for the benefit of incorporated status and would fall foul of long-established Treasury rules preventing fees being used to fund activities that may be completely unconnected. I am happy to be corrected, but I do not believe that this is pushing back against the concept of hypothecation. The point is simply that these are fees to be paid for a service, and it would not be appropriate for them to be directed to another function.

This would also encompass almost the entirety of Companies House's income, leaving it with no resources, and it would require funding from elsewhere, primarily from the taxpayer, so going completely against what many noble Lords, this Government and I want, which is to use the fees to pay for the functioning of Companies House. The fees would then go into a fund, so we would have to pay for Companies House on top of that. I am sure that is quite clear. The Government do not believe it is appropriate to place the burden of funding Companies House on the taxpayer, and this would be contrary to the fundamental principle that the fees are paid for the benefit of incorporated status.

I would like to attend now to some comments made by the noble Lord, Lord Browne.

**Lord Wallace of Saltaire (LD):** My Lords, I do not know whether the Minister is familiar with the Home Office practice on this. The Home Office has a very clear practice of full-cost charging for visas for entry to this country. I think it now costs £2,000 to £3,000, for example, for the spouse of a British citizen returning to this country to get settled status in Britain. If some parts of government are now insisting on full recovery of costs, perhaps this is a model that could be applied here as well.

**Lord Johnson of Lainston (Con):** I thank the noble Lord; that is exactly what I am saying. The whole point about the fees is that they are charged in order to pay for Companies House; that is precisely the same principle. Unless I have misunderstood the intervention, this goes directly against the amendment that introduces a fund that has to be paid for by the fees levied on people who are setting up companies or annually registering.

I want to attend to a point made by the noble Lord, Lord Browne. He said—rightly—that the whole point of this legislation is not to profit or make money from it but to stop the bad practice happening in the first place. The fines and penalties to be issued by Companies House are designed to drive a change in behaviour, not be a revenue-raising tool. I was grateful to my noble and learned friend Lord Garnier for raising the point around how these fines could or should be used. It is possible to suggest that the same situation happens with speed cameras. The theory there is that we want to reduce speed on the roads, not raise revenue—at least, that is my personal opinion.

**Noble Lords:** Oh!

**Lord Johnson of Lainston (Con):** I do not have an interest to declare there, I might add. Using fines to fund other activities results in the perverse scenario of that funding being dependent on behaviour that we are actively trying to stop. I strongly believe that, in many ways, the principles we are talking about are negated by a well-intentioned concept: trying to make sure that there is enough money so that our law enforcement agencies are properly funded in order to achieve their ambitions.

Given the limitations that I have set out—this goes to the point about providing a report—I am not convinced that there would be merit in providing a report on the prospect of a fund or, indeed, providing for a fund. I hope that noble Lords understand my conclusion here.

**Lord Agnew of Oulton (Con):** I am sorry to intervene but I just want to say something. The Minister agreed with all of us that the crime-fighting agencies need to be properly funded but he did not explain how that will happen because he does not accept that we should hypothecate. He gave some good examples of other situations where it was about not the hypothecation but the use of revenue for activities that were not part of the original source and funding litigation. In June last year, the Information Commissioner announced a new arrangement with DCMS in which it could keep some of its civil monetary penalties to fund it to take on large technology companies. All I am trying to do is ensure that we will have the resources to take on these bad actors.

The Minister and my noble and learned friend Lord Garnier mentioned ARIS. As I said earlier, the funding has declined by 35% in five years—that is without inflation—yet the problem is getting worse. I do not expect the Minister to come back to us on this tonight but I am looking for some reassurance around how we are going to fund these things properly because we are not doing so at the moment. Everybody seems to be in denial and the Minister has offered me no assurances that we are going to deal with this.

**Lord Johnson of Lainston (Con):** I greatly appreciate my noble friend's intervention. I hope that I have made clear to the Committee the importance that this Government place on fighting economic crime.

If I may—I am not sure of the protocol—I wish to question my noble friend's intervention. He said that the asset recovery incentivisation scheme has seen a considerable drop in the monies deployed to law enforcement over the recent period. However, I have a figure here: since 2006-07, just under £1.3 billion—that is based on nominal values and not adjusted for inflation—has been returned to Proceeds of Crime Act agencies to fund further asset recovery capability and work that protects the public from harm. In 2021-22, £354 million was recovered under the Proceeds of Crime Act, of which £298 million was paid into the ARIS pot. So I certainly will research the figures given to me by my noble friend.

The point is that we are looking to provide funding of £400 million over the spending review in order to focus on fighting economic crime. I am happy to have further debates around this issue but I hope that I have made my point in relation to these amendments, minimum fee levels and creating a fund out of the fees, which would be completely contrary to the ambitions that we have set in our legislation around Companies House.

**Lord Coaker (Lab):** My Lords, I have to say that there is a bit of work to be done on this group of amendments before Report. The Minister certainly failed to convince me and I am sure he failed to convince many, if not everyone, on the Committee. There is a real problem here. There is a problem with raising the fee and what it should be. The Government say that it is a matter for us and then came up with the figure of £50, which I think is inadequate. There we go; there clearly needs to be discussion about that on Report. I take the point that a number of noble Lords have made that the fee is not just to fight economic crime but for the additional responsibilities that Companies House will have. That is very clear.

*7.30 pm*

At the heart of this group of amendments, as was said by the noble Lord, Lord Fox, is how we are going to resource the measures in the Bill. To be frank, answer from the Government there was none. There will have to be considerable discussion among us, between now and Report, to see whether there is any ground for compromise and to come together here. Of course we will do that. It is my intention to work with others in the Committee on an amendment, if the Government cannot reassure us that they will bring one forward.

This group of amendments is so important. All the way through, the Minister has said, in good faith, that we need to discuss, negotiate and think about how to deal with the issues that have been raised. The issue raised in this group of amendments is as important as those in any other groups, because it asks how we will ensure that the objectives laid out in Clause 1 will be realised and enforced. At the moment, the answer from the Government is to do it on a wing and a prayer, with the resources that we have and an inadequate understanding of all the various bodies that come into it. Quite rightly, we are putting additional responsibilities on them, which we all support. We all support the Government's aim, but they are just saying that this can be delivered; they have then come up with the figure of £50 and said that it is not necessary to put anything in the Bill and not to worry, because it can be changed by regulation.

We all know that changing things by regulation, in essence, means that the Government get their own way. As everyone knows, people will vote it through in the Commons and then, when it comes here, there will be a regret Motion if people do not like it, but in essence it will not be blocked. It is no wonder that people think this is needed in the Bill because, if it is not, the Government will get what they want; they will decide.

The Government's answer of £50 really says to the Committee that they are fixed on £50, but we do not think that is adequate. Unless we get some movement on this, we will have to come back to this on Report to ensure not only that the new Companies House is

[Lord Coaker]
properly funded but that we get the law enforcement that we need to ensure that these measures are enforced so that we do not have another toothless tiger on our hands.

**Lord Agnew of Oulton (Con):** I will just wrap up my amendments. I am afraid that I agree with both the noble Lords, Lord Coaker and Lord Fox, that there does not seem to be a strategy for fighting economic crime. I ask the Minister to think about this and come back to us. It could be something as simple as increasing the filing fee beyond whatever we think is the right figure by another £10. At 2 million filing fees a year, we would then have the start of a fund to fight economic crime. It could be something as simple as that, but I urge the Minister to give us something to get our teeth into. On that basis, I will not move my amendment.

**Lord Coaker (Lab):** I beg leave to withdraw my amendment.

*Amendment 65 withdrawn.*

*Clause 92 agreed.*

*Schedule 3 agreed.*

*Clause 93 agreed.*

***Clause 94: Use or disclosure of PSC information by companies***

*Amendments 66 and 67*

*Moved by* ***Lord Johnson of Lainston***

**66:** Clause 94, page 72, line 40, leave out from beginning to end of line 10 on page 73 and insert—

"(1) The Secretary of State may by regulations—

(a) require a company to refrain from using, or refrain from disclosing, relevant PSC particulars except in circumstances specified in the regulations;

(b) confer power on the registrar, on application, to make an order requiring a company to refrain from using, or refrain from disclosing, relevant PSC particulars except in circumstances specified in the regulations."

Member's explanatory statement

This brings the drafting of the amendments made by Clause 89 into line with the drafting of the amendment to Clause 49, page 33, line 19 that appears in the Minister's name.

**67:** Clause 94, page 73, line 19, leave out "this section" and insert "subsection (1)(b)"

Member's explanatory statement

This is consequential on the amendment to Clause 94, page 72, line 40 that appears in the Minister's name.

*Amendments 66 and 67 agreed.*

*Clause 94, as amended, agreed.*

*Clauses 95 to 99 agreed.*

*Committee adjourned at 7.35 pm.*