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PARLIAMENTARY DEBATES

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HOUSE OF LORDS

OFFICIAL REPORT

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

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

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House of Lords

Monday 23 October 2023

2.30 pm

Prayers—read by the Lord Bishop of Leeds.

Retirement of a Member: Lord Ribeiro

Announcement

2.37 pm

The Lord Speaker (Lord McFall of Alcluith): My Lords, I should like to notify the House of the retirement, with effect from today, of the noble Lord, Lord Ribeiro, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I thank him for his much-valued service to the House.

Schools: Catering Facilities and RAAC

Question

2.37 pm

Asked by ***Baroness Blower***

To ask His Majesty's Government what financial support they are providing to schools whose catering facilities have been affected by reinforced autoclaved aerated concrete.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, every school or college with confirmed RAAC will be assigned dedicated support from a caseworker, who will work with them to assess what support is needed and implement mitigation plans that are bespoke for their circumstances. The Government are funding emergency mitigations and reasonable revenue costs for these settings. This could include establishing a temporary kitchen, help to access catering facilities on another site or supporting deliveries of food prepared elsewhere.

Baroness Blower (Lab): My Lords, the Minister for Schools in another place reiterated that the Government's commitment is absolute to tackling health inequalities in education settings, including reference to free school meals. Does the Minister agree that, as providing free school meals is vital to many families and a decent meal at lunchtime is necessary for all, extra funds need to be found to restore catering facilities where they have been lost to RAAC? I declare an interest because my granddaughter, while still enjoying face-to-face education, is in a school that has lost its kitchen, dining hall, gym, science labs and assembly hall thanks to the scrapping of Building Schools for the Future.

Baroness Barran (Con): I am sorry that the noble Baroness's granddaughter is having that disruption to her education. I would, however, stress that a number of schools with RAAC were part of Building Schools for the Future, so I do not think that that is necessarily the main or only reason for what is happening. To be absolutely clear, we are supporting schools in revenue terms if they need to bring in extra staff. For example, some schools have had to bring in extra catering staff and we are funding that. We are of course making sure that they can access all the facilities, including kitchens, which the noble Baroness referred to.

Earl Russell (LD): My Lords, while I welcome the commitment to free school meals made by the DfE in its guidance, I note that 214 schools are now known to be impacted by RAAC. How many of these 214 schools are now unable to provide catering facilities, and what action is being taken to ensure their continued provision of hot food?

Baroness Barran (Con): Of the 214 schools the noble Earl referred to, 202 are providing full-time face-to-face education and 12 are in hybrid arrangements. In all cases, we work with the school to make sure it can offer pupils, particularly those eligible for free school meals, a meal. Not all of them will be having a hot meal—in some cases, they are having packed lunches as a temporary measure—but the critical thing is that children are back in face-to-face education.

Lord Lexden (Con): My noble friend referred to the additional funding the Government were providing. Could she give the House an indication of the extent of that and whether further increases are contemplated?

Baroness Barran (Con): I cannot give the House an exact figure today because we are working through every school's exact needs with them, but I would obviously be delighted to report back to the House when we have greater clarity on that. All I can say is that, whether it is revenue funding—which might be for staff, IT equipment or renting local facilities—or capital funding, the Government will pay for it.

Lord Woodley (Lab): My Lords, can the Minister kindly give us an idea of the timing for all facilities to be clear of RAAC? I am particularly thinking of catering, bearing in mind the Minister's comments about making sure that staff and students remain safe from such problems.

Baroness Barran (Con): I cannot give the noble Lord an exact timeline because, as the House will have seen from the data we published on 19 October, we are identifying a number of additional schools with RAAC. Obviously, the clock starts for each one to address all its problems. But despite the increase in the number of schools identified as having RAAC, we have gone from about 14% of children receiving hybrid education—and a further 16% having to learn remotely or experiencing a delay to the start of term—to now only 6%. It is not a question of "only" for those children—for them, it is a huge deal—but no children are in remote education at the moment.

Lord Addington (LD): My Lords, things such as good catering and sports facilities are reckoned to help academic attainment, so will the fact that those facilities in these schools have been badly damaged be reflected in their status in league tables, for example?

Baroness Barran (Con): Schools face different challenges every year, and I am not aware that there are plans to recalibrate the league tables as a result of this—I would be very surprised if that happened. But I reassure the noble Lord that, all around the country, not only the schools themselves but their neighbouring schools are doing everything to offer to share their facilities, and we are enormously grateful for that.

Baroness Wilcox of Newport (Lab): I appreciate that the Minister may need to give a written response to this, but how many children are currently being schooled online in temporary or non-classroom settings because of RAAC? Notwithstanding the Minister's earlier response, how long do the Government estimate it will take to completely investigate all schools?

Baroness Barran (Con): It is not so much that I cannot give an answer now or in writing, but rather that the arrangements schools have put in place change frequently, as the noble Baroness will recognise. For example, a school might be delivering classes in a leisure centre this week but will be back in its buildings next week. Our overarching efforts are to get children back to normal education as quickly as possible.

Lord Hunt of Kings Heath (Lab): On league tables, will the department at least conduct some research on the impact of this issue on the children and their long-term future? Just as we have seen the devastating impact on children of Covid and being shut out of schools, surely it would be worth the Minister's department focusing on and tracking through the young people affected.

Baroness Barran (Con): We have data that tracks young people, through the LEO survey, and I can check whether we can do that for schools. While this is not in the spirit of the noble Lord's question, which I completely recognise and agree with—that we want to make sure that these children are given every support to succeed—what I would say is that genuinely, every single case is different. There will be one school that can use two out of their five science labs and another that cannot use any of them, while a third has a neighbour that lends them all theirs, so each one will be different.

Lord Stirrup (CB): My Lords, one does not have to go very far in this city to see extensive public infrastructure works which, while no doubt useful, scarcely seem to be essential. What analysis is being made of infrastructure investment at national and local levels to ensure that funding is addressed in areas that are most in need, rather than those that are most useful?

Baroness Barran (Con): Obviously, each department will look at the priorities for its own policy areas, and in my department's case a big priority relates to replacing RAAC in schools that include it and making sure that our overall school infrastructure is resilient and safe for children. Clearly, the Treasury, among others, has a critical role in comparing proposals from different departments and making those long-term strategic plans.

Lord Kamall (Con): My Lords, at times like this it is obviously natural for many people to look to government for a solution, but I wonder what conversations my noble friend's department has had with private companies, local charities and civil society organisations, as well as, dare I say it, faith groups, which may be able to help at times like this.

Baroness Barran (Con): I am aware that in individual areas, a lot of those conversations have been going on. We have certainly received a lot of correspondence in the department with offers of help, but I can think of both faith and non-faith trusts that have been using facilities offered by local community organisations.

Domestic Violence and Brain Injury

Question

2.47 pm

Asked by ***Lord Hunt of Kings Heath***

To ask His Majesty's Government what analysis they have undertaken into the links between domestic violence and brain injury.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): In June this year, the Government, through the Medical Research Council, announced the £9.5 million traumatic brain injury platform, which will facilitate research and analysis of victims of brain injury following domestic violence. The platform is being led by the University of Cambridge, with the aim of revolutionising data collection and curation for TBI research. This will include data linkages between the underlying causes of head trauma, such as domestic violence, and health outcomes.

Lord Hunt of Kings Heath (Lab): My Lords, I am very grateful to the Minister for his Answer. The death of Sir Bobby Charlton, that great footballer, has brought attention to the impact on sportspeople of head impacts in relation to an increased incidence of dementia. Professor William Stewart from Glasgow University, who has undertaken much of the work in the sports arena, is doing parallel work in relation to domestic violence. The scale of intimate partner violence, with between 20% to 30% of women affected, is huge, and 90% of those women may suffer brain injury impact. In addition to the welcome news about research, could I ask that the Minister's department looks very closely at stepping up the research but also at increasing knowledge and awareness throughout the health system, in terms of prevention and treatment as well as research?

Lord Markham (Con): I add my condolences following the passing of Sir Bobby Charlton—a true great. I thank the noble Lord, Lord Hunt, for the work he has done in this space; it is another example of where being asked a Question forces us to look at the situation. The noble Lord made the point very well. Sport is in the news, and we have all seen the head injury assessment protocols, especially in rugby, but you are 11 times more likely to suffer a traumatic brain injury from domestic violence than you are from sport. When we get the findings from the research, early in the new year, I invite the noble Lord, Lord Hunt, to join me in ensuring that we have an action-oriented approach to make sure that the awareness and research supports a good action plan.

Baroness Verma (Con): My Lords, can my noble friend assure me and the House that, when he is collecting data, he will also be looking at people from minority communities, particularly those who cannot report domestic violence issues for language reasons?

Would my noble friend also talk to his colleagues in education, to ensure that everyone living in this country has access to learning English?

Lord Markham (Con): Yes, on both counts. Unfortunately, domestic violence is something that affects all sorts of people from all sorts of backgrounds and minorities. About 5.7% of women and 3% of men, and a lot of children, are thought to suffer domestic violence. I am absolutely happy to give that undertaking.

Baroness Walmsley (LD): My Lords, the Minister has clearly noticed the care taken by both players and officials during the Rugby World Cup to avoid head injury. However, there is no referee on behalf of women suffering brain injury during domestic violence. Will the Government support training programmes, such as those run by Headway, for professionals dealing with survivors and victims, and ensure that that training is extended to the police? Will they ensure that, at the end of those programmes, the trainees have resources to which to signpost victims?

Lord Markham (Con): The noble Baroness is correct. We need to make sure that all our front-line services are trained to identify potential brain injuries—that is A&E, GP surgeries, the police and schools. There is already a programme in schools for children affected by domestic violence. We have also made sure that every ICB has to appoint a domestic violence and sexual abuse lead, so that they can identify these sorts of issues.

Lord Patel (CB): My Lords, data collection and research is very good news. However, under normal circumstances, any person who suffers a head injury, for whatever reason, would be subjected to immediate testing for a brain injury. Why would that not be the case for someone who suffers a head injury from domestic violence?

Lord Markham (Con): It is a very good point. As all noble Lords are aware, often the challenge is getting people to come forward when they have suffered domestic violence. Some of this research shows that there are tools, such as a spit test, to understand whether someone has suffered from a traumatic brain injury. Bringing some of those things into play, so that people are identified and encouraged to come forward, is vital.

Lord Winston (Lab): My Lords, the Minister is to be congratulated on his call for more research. Would he care to comment on the use of organoids—clumps of generative stem cells—which act as an artificial brain in culture and show clear evidence of certain injuries, such as whether the brain may be easily propagated? That kind of research is important but is often condemned in the press. Can the Minister make sure that the Government will allow that kind of research to continue? It is completely harmless ethically.

Lord Markham (Con): Yes. The main thing is that £9.5 million is being invested into research on traumatic brain injury, but this is a platform to allow spin-off research from there. When speaking to people on this, I am clear that this is not a cap: if we get good research proposals put forward in areas such as the one the noble Lord mentioned, the money is there to pursue that.

Baroness Manzoor (Con): My Lords, it is good news that research is going to happen in this area. We all know that women suffer through domestic violence much more greatly. However, there is also research that shows that young girls in sports suffer more from concussion. Can we look at the preventative elements to ensure that girls are safe in sport, and by working closely with DCMS?

Lord Markham (Con): The hope from this research is understanding all the different causes and some of the protocols. I know it is controversial sometimes, because, speaking as a centre half myself, heading the ball is a key part of the game. However, making sure that children under a certain age are not heading the ball a lot is one of the things that we should be looking at as prevention.

Baroness Merron (Lab): My Lords, as not all brain injury from domestic violence is immediately apparent, will the Minister raise with his colleagues in the relevant departments the consideration of a reappraisal in policing and the criminal justice system? Will the Government also work with those supporting victims of intimate partner violence to actually give a name to the brain trauma that victims may be suffering? If victims know that traumatic brain injury is part of their trauma, it can give a source of strength and guidance to those who are suffering, enabling them to seek the right medical support.

Lord Markham (Con): The noble Baroness makes a very good point; it is often the hidden side of domestic violence. The problem is that there is not much information on this, but a US study shows that as many as between 30% and 74% of women who suffered domestic violence had suffered from traumatic brain injury. It is about making people aware that this is not an edge case; this is something that unfortunately is all too familiar. As the noble Baroness mentions, every strand of society needs to be aware of this and to act on it.

Baroness Bennett of Manor Castle (GP): My Lords, the Minister reflected that many victims of intimate partner abuse sometimes do not report until weeks, months or years later. Will the Minister ensure that there are services available that recognise this medical issue when they may not present primarily as a medical case, making sure that all the support that is available to victims of domestic violence is aware of this issue? In responding to the noble Lord, Lord Hunt, the Minister said that we will wait for the research. I think there is already clearly enough evidence in what we have heard today, and the fact that 3% of dementia in the community is attributed to traumatic brain injury. We need to act now, not wait for research.

Lord Markham (Con): It is a good point, and there are already some very good examples, such as in Cambridge, where the ICB has a single front door to make sure that all facilities, whether it is neurologists, psychologists, physios or speech therapists, are there

[Lord Markham]
and available. The noble Baroness is correct: there are lessons we can learn and roll out straight away, and we are looking to do that.

Baroness Bull (CB): My Lords, research projects in Glasgow and at Drake Hall prison in Staffordshire have shown a very high percentage of female prisoners to have traumatic brain injuries that have been sustained as a result of domestic violence. Is it now routine to screen female prisoners for brain injuries as they enter the Prison Service?

Lord Markham (Con): My understanding is that it is not routine at the moment. I know there is some conflicting research as to how much screening should be used as a regular tool. I must admit that I do not fully understand the reasons behind some of that, so I was not quite persuaded as to why that was. It is something on which I want to do more research to understand. I will happily write to the noble Baroness to give her more information.

Residential Accommodation: Empty Homes

Question

2.58 pm

Asked by ***Baroness Bakewell***

To ask His Majesty's Government what plans they have to convert empty homes into residential accommodation

Baroness Swinburne (Con): The Government are continuing to take action to bring empty homes back into use and empower local leaders to address the impacts of empty homes. We are halving the time from two years to one year before councils can apply 100% council tax premium on empty homes. We also intend to reform empty dwellings maintenance management orders, cutting the minimum period for action from two years to six months for empty homes that attract anti-social behaviour.

Baroness Bakewell (Lab): I thank the Minister for that, and I recognise and appreciate the changes being made by the Government. However, there is more to be done. The number of long-term empty properties in England has increased by 24% since 2016, and in 2022 it reached a quarter of a million such houses. Scotland and Wales have a national empty homes strategy. Can the Government launch an England strategy similar to that, possibly in the Autumn Statement?

Baroness Swinburne (Con): I wholeheartedly agree with the noble Baroness that we need to drive down the number of empty homes across every part of the country, and as a former councillor, I am all too familiar with the issues of getting those properties back on the market. The Government have put in place incentives for local authorities to act. As I just mentioned, they will be able to double their council tax on those homes after one year rather than two years to fund local services, and, through the new homes bonus, local authorities also receive the same funding reward for bringing empty homes back into use. Of course, we will continue to engage with local authorities to drive down numbers. Some statistics on the devolved nations may be of interest to the noble Baroness: 1% of properties in England are currently classified as long-term empty, whereas in Wales the figure is 1.7% and in Scotland 1.6%. Therefore, all nations in the devolved system are trying to get these numbers down.

Lord Naseby (Con): Would an easier opportunity not be to look at all the empty shops in every town and city in the United Kingdom? Those shops will not come back into use because of the increase in direct-sale opportunities. Will my noble friend therefore take a close look at finding an incentive for local authorities to convert those properties into flats, particularly for our younger people?

Baroness Swinburne (Con): I thank my noble friend for that question. The reality is that the Government have taken many steps with regard to permitted development rights to try to get some of those non-residential properties into residential use. I am sure that my noble friend is aware of some of them, but I would be delighted to give him some statistics from the department in writing.

Baroness Thornhill (LD): My Lords, there is ample evidence that the threshold for a council to prove that a home is empty is too high, either for compulsory purchase or, as the noble Baroness mentioned, to use empty dwelling management orders. Will the Government seriously consider removing the need to prove that there has been either vandalism, anti-social behaviour or dangerous dereliction before a council can even begin to take action? Often, once the action has started it can take years to complete. That is a significant barrier to councils taking important action.

Baroness Swinburne (Con): I thank the noble Baroness for her question; I am sure she is aware that the LGA published a report in September which clarifies and helps focus on the practical tools that councils can use to bring empty properties back into use. However, not only the measures I just referred to are available to local authorities; they can of course use money from the £11.5 billion affordable homes programme to bring empty properties back into use. They can benefit from the new homes bonus, incentivising them to find ways to reduce the number of empty homes and to make sure that they remove as many barriers as possible. Local authorities can also use compulsory purchase orders to acquire empty properties where there is a compelling case in the public interest. Lots of tools are available to councils, and we are trying to make it easier by working with them to identify what those barriers are and how we might eliminate them.

Baroness Watkins of Tavistock (CB): My Lords, the recent Crisis report indicates that if we had a national empty homes initiative, at least 40,000 genuinely affordable homes could be brought back into service by 2028, enabling families to move from bed and breakfasts, and indeed some homeless people to find single accommodation. How will the Government ensure that this happens?

Baroness Swinburne (Con): As well as all the measures I referred to, joined-up thinking is going on with regard to those homeless initiatives and policies. The support is there for councils to make sure that they have all the tools they require to bring as many of those policies together and free up as much of that accommodation as possible, so that we can make sure people are not homeless or sleeping on our streets.

Baroness Hayman of Ullock (Lab): My Lords, my noble friend Lady Bakewell mentioned that the number of empty homes is increasing. The Minister mentioned a number of measures that the Government are bringing in or that are available to local authorities. Our concern is that, on paper, local authorities have a range of powers and incentives to resolve this, but it does not seem to make any difference. Can the Minister explain why that is the case and why the new measures they are bringing in will work any more effectively?

Baroness Swinburne (Con): I agree with the noble Baroness that things are not moving as quickly as we would like. However, the statistics I have here are that since 2010 the number of long-term empty homes is down by more than 50,000. It is still much too high at 248,000 but is following a trend downwards, given all the measures being taken. As well as the measures I have outlined with regard to secondary council tax and EDMO action that is going on, we estimate that the changes we are making in the Levelling-up and Regeneration Bill could bring a further 71,000 to 85,000 properties into scope of the premium and potentially raise up to £120 million for local authorities. We hope that all these initiatives together, along with the work that the Local Government Association is doing, will empower councils to do what they need to do to get as many homes as possible back in use.

Lord Greenhalgh (Con): Before we get to an understanding of what the best solution is to the number of empty homes we have, can my noble friend the Minister explain why we see such stark regional variations? A lot is made of the number of empty homes in London, but the proportion of dwelling stock that lies empty is greatest in the north-east. What is driving this increase in parts of the country?

Baroness Swinburne (Con): I thank my noble friend for the question—some noble Lords will be aware I inherited this file this morning from my noble friend Lord Evans, who is stuck on a train from Manchester. In terms of long-term empty homes—that is, those which have been empty for six months or more—as well as looking at the statistics I have given for England, it is interesting to look at the differences. Empty homes are found in both deprived and affluent areas. As a proportion of housing stock, for example, Middlesbrough has 1.9% and Kensington and Chelsea has 1.7%, so it does not seem to follow that there is an overall trend in terms of long-term empty properties. As I stated, the national average is 1% in England, 1.7% in Wales and 1.6% in Scotland. There are differences, but everyone has the same problem. They all need to find ways of empowering local authorities and giving them the tools to get those properties back in use.

Lord Grocott (Lab): My Lords, we have heard various statistics from different questioners. I would like to know what the Government's figure is, not for percentages but for the absolute number of empty houses in England. The Select Committee on the Built Environment gave an estimate of nearly half a million in its report a couple of years ago. Surely there should be a tremendous incentive on the Government, with their 300,000 target, for making more homes available to speed up this process massively, bearing in mind that it is not just that empty houses are a gross waste of resources when there are huge numbers on the waiting list but that empty houses do not just frequently blight near neighbours but can sometimes blight a whole neighbourhood. It really is time that the Government—in their own interests, I suggest—got on with this.

Baroness Swinburne (Con): I thank the noble Lord for his comments and question. The number I have here in the file for England is 248,633 empty homes by the definition of six months empty.

Intelligence and Security Committee of Parliament: China Report

Question

3.08 pm

Asked by ***Lord West of Spithead***

To ask His Majesty's Government what assessment they have made of the report by the Intelligence and Security Committee of Parliament *China*, published on 13 July; and what steps they took to ensure that their response is consistent with their plan to tilt some UK military capability to the Indo-Pacific region, as set out in the Integrated Review and the Integrated Review Refresh 2023.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, His Majesty's Government have taken a proactive approach in assessing the risks identified in the ISC report and are already addressing a number of the issues raised. Our commitment to the Indo-Pacific region was reaffirmed in the integrated review refresh with continued deployment of HMS "Spey" and HMS "Tamar", and our maritime presence is set to be bolstered with the deployment of a littoral response group and a carrier strike group in 2025.

Lord West of Spithead (Lab): I thank the Minister for her Answer and congratulate the Government on sticking to their guns on this tilt to the Indo-Pac region. Geopolitically, it makes absolute sense for security—both globally and for the wealth of our nation. However, the most important geostrategic base in the Indian Ocean for the Americans and for us is Diego Garcia. With all the threats to our geostrategic position in that region, why are we now conducting negotiations with Mauritius, which has an ill-defined basis for saying that the island belongs to it and has 43 agreements with the Chinese perhaps to give Diego Garcia back to it? Mauritius never owned it.

Baroness Goldie (Con): As the noble Lord will be aware, our relationships with key partners provide us with platforms across a number of areas in the Indo-Pacific. We have a permanent presence in Brunei, and the British Defence Singapore Support Unit. He is correct that the United Kingdom and the United States share a defence facility in the British Indian Ocean Territory. That plays a vital role in our efforts to keep the region secure. We are very clear about its strategic significance and continue to have due regard to the significance of that location.

Lord Howell of Guildford (Con): My Lords, the Question mentions the two integrated reviews. The first, in 2021, was a very good and helpful document but unfortunately came out before the Russian assault on Ukraine. The second, refreshing the first, was also excellent but unfortunately came out before the present Israel-Hamas horror and the complete change to the map of the Middle East. Can the Minister encourage the Cabinet Office not to be deterred from having a go at a third one, maybe in the early spring of next year, because these documents are genuinely valuable in showing our purpose and direction in a very fast-changing world?

Baroness Goldie (Con): I thank my noble friend for his recognition of the strategic significance of these documents and the enduring messages which both contain and which continue to suggest a pungent relevance to events in the world today. The issues to which he refers are deeply troubling and complex. As to whether the Government would contemplate a further integrated review, I cannot say, but I acknowledge his concern at the extent of global tumult that we are witnessing today.

Baroness Whitaker (Lab): My Lords, the Government of Mauritius have gone on record as saying that they will not interfere with the American use of the Diego Garcia base and that they have no intention to alter its status. I ought to declare an interest as a vice-chair of the all-party group on the Chagos Islands.

Baroness Goldie (Con): My Lords, the noble Baroness is very much better informed than I am but as I indicated to the noble Lord, Lord West, that location is of strategic significance to both the United Kingdom and the United States and we continue to do whatever we can to preserve that strategic presence.

Lord Hannay of Chiswick (CB): My Lords, can the Minister say whether, in relation to the Chagos Islands, the Government are giving any consideration to a solution which would involve Diego Garcia becoming a sovereign base area of the United Kingdom while the rest of the Chagos Islands is returned to Mauritius?

Baroness Goldie (Con): These details are somewhat beyond my field of knowledge. This principally rests with the Foreign, Commonwealth and Development Office but I shall certainly make inquiries. If I elicit any information I shall write to the noble Lord.

Lord Alderdice (LD): My Lords, I declare my interest as director of the Changing Character of War Centre at Oxford University. This substantial report rightly focuses on defending our country and our people from the political, economic and military threats in our relationship with China. However, there is an impression of an almost ineluctable trajectory towards war on the model of the so-called Thucydides trap. What are His Majesty's Government doing to ensure that competition, rivalry and challenge, which are all entirely reasonable, do not slide into war with China? Is there an equivalent Indo-Pacific tilt in diplomatic resources and in our thinking about how we share the world with China?

Baroness Goldie (Con): In relation to China, the integrated review and the integrated review refresh represented a comprehensive approach across three interrelated pillars—protect, align and engage. The noble Lord will be aware that under these pillars there is significant, tangible evidence of how they are being implemented. To reassure him, I say that I have just returned from the Philippines and the Republic of Korea, where I was attending, among other things, the Seoul Defense Dialogue, one of the most significant defence fora in the region. There is an absolutely united desire that those who believe in the same values stand up together and learn more about each other. The warmth of reception that I received indicated that the United Kingdom is a very welcome presence in that region, as we endeavour to play our part in standing up for these values with friends and partners.

Baroness Anderson of Stoke-on-Trent (Lab): I put on record our thanks to my noble friend Lord West for his work on this comprehensive and crucial report. The Government's response outlined additional funding for capabilities that respond to the systemic challenges posed by China. Given the concerns highlighted in the ISC report about the lack of integration of Defence Intelligence into the wider intelligence framework, can the Minister confirm that DI will receive the additional resource pledged?

Baroness Goldie (Con): For understandable reasons, in the MoD we regard Defence Intelligence as a pivotal part of our operation and defence capability. Quite rightly, it is highly regarded within the UK and globally. It is important that we share these facilities and what we can do with that capability with friends and allies, which we do. Particularly on the noble Baroness's question, I say that the report indicated a need for us to have regard to what we are doing in this country to augment the infrastructure for engaging with China. She is aware that there has been increased funding, government wide, for a China capabilities programme that embraces Mandarin language training and in-depth diplomatic expertise. A lot of concerted work has been done across the piece.

Lord Stirrup (CB): My Lords, I was very surprised that the noble Lord, Lord Howell of Guildford, passed up the opportunity to mention the Commonwealth, so I will jump in in his stead. The Commonwealth is strongly represented in many nations, islands and

territories throughout the Indo-Pacific region. What strategy do the Government have to strengthen, reinforce and foster this network, and to counter China's rather obvious attempts to undermine it?

Baroness Goldie (Con): It is important that we have a coherent approach to the Indo-Pacific, and I strongly suggest that this is exactly what we have. We work bilaterally, minilaterally and multilaterally across a range of fora, with a range of countries in the region, some of which are Commonwealth countries and others which are not. The important thing is that we have a strategic united vision, which was demonstrated when I was at this defence dialogue in Seoul. It was uplifting and encouraging to see a unity of purpose, for everyone to stand together and, by doing that, to recognise the strength that this unanimity represents.

Baroness Lister of Burtersett (Lab): My Lords, going back to the question of the Chagos Islands, what steps are being taken to ensure that the views of the Chagossians, who were thrown off those islands, are being taken into account in negotiations about the future of the islands?

Baroness Goldie (Con): I do not have any specific knowledge about that. It is very much a matter for the FCDO but I will make inquiries, as I said to the noble Lord, Lord Hannay, and respond to the noble Baroness.

Lord Foulkes of Cumnock (Lab Co-op): We heard from the noble Baroness, Lady Swinburne, that the noble Lord, Lord Evans of Rainow, is stuck on a train from Manchester. Unlike him. I have made it here on the train in time for Questions. That is very unusual and exceptional for a Monday, but being here has been instructive. From the complacent and lackadaisical replies we have had on education, the health service and housing—the noble Baroness, Lady Goldie, is the exception, as she actually gave us a decent reply—it is clear that the Government have run out of steam. That is why 75% of the British public want an election now. Will she show the courage that I know she has and say that she agrees with them?

Baroness Goldie (Con): My Lords, when I receive praise emanating from the noble Lord, I think of Greeks bearing gifts. I have not been present to hear the responses to all the Questions, but my impression is that I am blessed with some exceedingly talented colleagues, who discharge themselves with remarkable aplomb and skill. Lest he gets too excited, I should say that the Government are pursuing an exciting and visionary programme. In preparation for my Question, I was looking at the absolute raft of legislation that has been passed to address the very legitimate concerns of the Intelligence and Security Committee. Directly relevant to those concerns were the National Security Act, a national investment Act, a telecommunications Act and a higher education Act, all about protecting our indigenous UK infrastructure—whether that is essential critical national infrastructure, how our academic communities operate, or how we support the endeavours of the Government with the FCDO and the MoD. Far from running out of steam, this train is rattling along the track in great style.

Royal Albert Hall Bill [HL]

Motion to Resolve

3.21 pm

Moved by ***The Senior Deputy Speaker***

That this House resolves that the promoters of the Royal Albert Hall Bill [HL] which was originally introduced in this House in this session on 23 January 2023 should have leave to suspend any further proceedings on the bill in order to proceed with it, if they think fit, in the next session of Parliament according to the provisions of Private Business Standing Order 150A *(Suspension of bills)*.

Lord Grocott (Lab): My Lords, I wish to raise an issue, which may be more appropriate for the Leader of the House, but it is on this particular issue of a carry-over Bill. This is a private Bill being carried over, and I think on the Order Paper today there is a proposal that a Public Bill, introduced by the Government, should be carried over. The only type of Bill that cannot be carried over is a Private Member's Bill. I think it is three Private Members' Bills introduced in the Lords that have actually made it on to the statute book in the last six years—a pretty poor rate of return. So I would like the Senior Deputy Speaker, even if he does not know the answer, to explain why it is that all other Bills can be carried over, given a Motion in the House, but Private Members' Bills cannot? There is one in particular that I commend to him, which is the House of Lords (Hereditary Peers) (Abolition of By-Elections) Bill.

The Senior Deputy Speaker (Lord Gardiner of Kimble): My Lords, I wondered whether something along these lines might emerge. Perhaps I should say that, as far as my Motion is concerned, this is standard practice at the end of a Session for private Bills and is set out in Standing Order 150A on private business. Obviously, going back through the mists of time, this is how the House has decided which legislation should be carried over. The House has given the noble Lord's Bill plenty of airing, in a number of Sessions, and discussions have continued. But I beg to move my Motion, because I think it is one of merit.

Motion agreed.

Holocaust Memorial Bill

Motion to Agree

3.23 pm

Moved by ***The Lord Privy Seal***

1. That if a Holocaust Memorial Bill is first brought to this House from the House of Commons in Session 2023-24 the Standing Orders of the House applicable to the bill, so far as complied with or dispensed with in the current session, shall be deemed to have been complied with or (as the case may be) dispensed with in Session 2023-24.

2. That if—

(a) a Holocaust Memorial Bill is first brought to this House from the House of Commons in Session 2023-24, and

(b) the proceedings on the Bill in this House are not completed in Session 2023-24, further proceedings on the Bill shall be suspended from the day on which Session 2023-24 ends until Session 2024-25.

3. That if, where paragraph 2 applies, a bill in the same terms as those in which the Holocaust Memorial Bill stood when it was brought to this House in Session 2023-24 is brought from the House of Commons in Session 2024-25—

(a) the proceedings on the bill in Session 2024-25 shall be pro forma in regard to every stage through which the bill has passed in Session 2023-24;

(b) the Standing Orders of the House applicable to the bill, so far as complied with or dispensed with in Session 2023-24 or in the current session, shall be deemed to have been complied with or (as the case may be) dispensed with in Session 2024-25; and

(c) if there is outstanding any petition deposited against the bill in accordance with an order of the House—

(i) any such petition shall be taken to be deposited against the bill in Session 2024-25 and shall stand referred to any select committee on the bill in that Session; and

(ii) any minutes of evidence taken before a select committee on the bill in Session 2023-24 shall stand referred to any select committee on the bill in Session 2024-25.

Motion agreed.

Levelling-up and Regeneration Bill

Commons Amendments and Reasons

Welsh Legislative Consent granted, Scottish and Northern Ireland Legislative Consent sought.

3.24 pm

Motion A

Moved by ***Earl Howe***

That this House do not insist on its Amendment 1, to which the Commons have disagreed for their Reason 1A.

1A: Because the first statement of levelling-up missions should not be required to be laid before Parliament by the time provided for by the Lords Amendment.

Earl Howe (Con): My Lords, the Levelling up and Regeneration Bill establishes the foundations to address entrenched geographic disparities across the UK. Throughout the Bill's passage we have listened carefully to the views of parliamentarians and stakeholders and introduced amendments in the other place across a range of issues to strengthen the Bill's provisions further and address concerns that we have heard in both Houses. In this first group, I beg to move Motion A and will speak also to Motions B, B1, C, D, E, E1 and W.

Let me start with Motion A, which relates to levelling up and, first, the issue around the publication of the statement of levelling-up missions. We have committed within the Bill to publish the statement within one month of Part 1 of the Act coming into force, which will be two months after Royal Assent. We believe that this is an appropriate and prompt timescale—it gives sufficient time to collate materials and data across government departments and to ensure that the data is complete and comprehensive before the report is published and laid. The proposed timetable has been endorsed by the other place. We do not think that it makes sense to accelerate the process, as Amendment 1 would seek to do.

On Report, the House agreed to amendments that sought to introduce requirements for government to set levelling-up missions on child poverty and health disparities. In the Commons consideration we have removed those amendments because, important as those issues are, we do not want the Bill to be too rigid or prescriptive. Missions may need to evolve over time and, if the detail of missions appears in the legislation, the process to adjust them in future becomes unhelpfully complex and time-consuming.

However, we recognise that socioeconomic goals are an important part of missions. We have therefore tabled an amendment in lieu that requires the Government to consider both economic and social outcomes in deciding their levelling-up missions. This means that we retain that vital flexibility for future Governments to set missions according to the most important pressing issues of their day, while recognising that social outcomes such as child poverty and health inequalities are essential factors when deciding missions.

I note Motion B1 in the name of the noble Baroness, Lady Lister, which I am sure she will wish to speak to. The amendments in Motion B1 seek to ensure that the Government have regard to child poverty and health disparity when deciding their levelling-up missions. I hope that on reflection the noble Baroness will feel that the amendments are unnecessary in the light of the Government's amendment in lieu. The Government will already undertake these considerations when they consider economic and social outcomes, as required by that amendment—I underline that because I can undertake to the noble Baroness today that the first statement of levelling-up missions will contain the missions from the levelling-up White Paper, including the mission to narrow the gap in healthy life expectancy by 2030 and increase healthy life expectancy by five years by 2035.

On Report, your Lordships also approved an amendment that introduced a requirement for government to include an assessment of geographical disparities as part of the statement of levelling-up missions, and defined metrics that this assessment must consider—Amendment 3 now replicates that proposal. The Government cannot support this amendment because the criteria for assessing geographical disparities will inevitably change as the data evolves. However, we have heard the strength of feeling in this House and, as Ministers set out in the other place, we have committed to publish an analysis of geographical disparities alongside the first statement of missions.

Amendment 6 again replicates a change to the Bill previously made in this House, introducing a requirement for the Government to publish a rural-proofing report concerning levelling-up missions. The Government agree that levelling up must work for all types of communities, including rural communities. To avoid anything which would duplicate the existing annual rural-proofing report, which reflects the Government's consideration of rural challenges across policy-making, including levelling up, we have tabled amendments in lieu which will require the Government to have regard to the needs of rural communities in preparing the statement of levelling-up missions. This approach is consistent with the approach we have taken in other areas, including with respect to the devolved authorities.

3.30 pm

I further reassure the noble Lord, Lord Foster of Bath, that the Government already have extensive rural-proofing mechanisms which ensure that the unique challenges of rural communities are considered in all our policy-making. The Government undertake robust impact assessment processes when introducing any new policy. The Bill has been assessed accordingly to ensure that all communities, including rural ones, are sufficiently considered. I hope those remarks are helpful to the noble Lord.

Your Lordships also passed an amendment seeking greater clarity on the third round of the levelling-up fund. Amendment 10 returns us to that issue. We have heard the strength of feeling from around the House and have tabled an amendment that adds a duty to lay a Statement before each House of Parliament within three months of Royal Assent about the allocation of the third round of the levelling-up fund.

Finally, I turn to Motion W, on access to banking facilities for communities. We are very clear that closures of bank branches are commercial decisions for banks, and we do not believe that a blanket requirement on the Secretary of State to engage with local authorities to produce strategies to inhibit this would be effective or proportionate. Instead, His Majesty's Treasury will continue to support the rollout of alternative services, such as banking hubs, which will ensure that communities across the country have access to the facilities they need. On this basis, I hope your Lordships will agree that Amendment 199 in the name of the noble Baroness, Lady Hayman of Ullock, is not needed. I beg to move.

Baroness Lister of Burtersett (Lab): My Lords, I will speak to my Motion B1, under which Amendments 4C and 4D would amend government amendments 4A and 4B in lieu. I am grateful to the Government for going part of the way in meeting the concerns raised in the original amendments, which were supported by your Lordships' House. The purpose of those amendments was to introduce levelling-up missions to address child poverty and health disparities throughout the life course. The latter was moved by the noble Baroness, Lady Finlay, who is unable to be here today, but we have agreed the amendments that I am proposing. Both amendments received strong support on Report, including from the right reverend Prelate the Bishop of Durham, who regrets that he cannot be in his place today.

I am grateful, too, to the noble Earl the Minister for the helpful meeting we had last week. I am only sorry that the noble Lady Baroness, Lady Scott, is still unable to be with us, and I send her my best wishes. I am, though, disappointed that the Government did not accept the compromise that we proposed—I emphasise that it was a compromise. This compromise no longer pushes for specific missions and it accepts the government amendments in lieu, but would add to them the words

"including child poverty, and health disparities throughout the life course".

I think they are still necessary—indeed, essential.

In the Commons and today, Ministers have acknowledged that child poverty and health disparities are

"essential factors when deciding missions".—[*Official Report*, Commons, 17/10/23; col. 182.]

The Government's argument against our original amendments is that missions may need to evolve over time, so their details should not appear explicitly in the Bill. But does anyone in government really believe that child poverty and health inequalities will not continue to be essential factors in any levelling-up strategies for the foreseeable future?

Just this weekend, the president of the Royal College of Paediatrics and Child Health emphasised the importance of long-term action on child poverty and health inequalities in the context of the climate emergency. Earlier, the early years healthy development review and the Marmot review into health equity underlined the need for a long-term focus with regard to these issues. This amendment would help ensure such a focus, without introducing the kind of inflexibility that the Government are so frightened of.

Given the time constraints, I will not repeat the arguments we made on Report. Child poverty and health disparities are a terrible blot on our society. Child poverty damages childhood itself and children's life chances. Health disparities diminish life chances and physical and mental well-being at every point of our lives from before the cradle to the grave. The reference to life expectancy is only one element of health disparities; it is not the whole story by any means. Action on both fronts should be seen as an economic and social investment in the future of our society and as key to any levelling-up missions.

Acceptance of our amendment by the Government would constitute recognition of the importance of child poverty and health disparities throughout the life course and help ensure that, whatever the future levelling-up missions, they take account of these essential factors in levelling up our country and improving the life chances of all its members. Unless the Government are willing, even at the last minute to accept this compromise—and I hope I can persuade the Minister to accept it—I give notice that I wish to test the opinion of the House at the appropriate time.

Baroness D'Souza (CB): My Lords, I too speak to Amendments 4C and 4D in the name of the noble Baroness, Lady Lister. We are essentially discussing

[BARONESS D'SOUZA]
four non-contentious words: "throughout the life course". The Government have gone out of their way to address most of the concerns expressed about the welfare of children, for which everyone is extremely grateful. However, it is puzzling why these four words continue to be resisted. We know that health disparities begin in pregnancy, even before birth, as the noble Baroness said, and continue until advanced old age. Surely any levelling-up Bill has to acknowledge that continuous investment at every stage will result in a healthier and more productive society. The Government argue that this is implicit in the Bill, but why not make it explicit in the Bill? I honestly fail to understand this reluctance on the part of the Government and, should the noble Baroness, Lady Lister, decide to press her Motion to a vote, I will follow her into the Lobby.

Lord Foster of Bath (LD): My Lords, I shall speak briefly to Motion D, which relates to rural issues, and my concern about the absence of rural issues in the Bill. Indeed, at Second Reading I made reference to this issue and pointed out the enormous disparities between urban and rural communities. I gave a range of examples from the way in which, for instance, housing costs are higher and yet wages are lower, to that the cost of delivering services such as education, health and policing is higher, yet government funding is lower. There were many other examples. These disparities have been referred to in your Lordships' House and the other place on many occasions over very many years. Indeed, proposals were made several years ago by the noble Lord, Lord Cameron of Dillington, and were responded to by the then Secretary of State, Liz Truss, who said:

"This Government … is committed … to ensuring the interests of rural communities and businesses are accounted for within our policies and programmes".

More recently, I had the opportunity to chair your Lordships' special Select Committee on the Rural Economy. Again, we made a number of proposals, in response to which the Government said:

"Without doubt, these distinct characteristics"

of rural areas

"must be recognised in policy making and the government believes that rural proofing is the best"

way of doing it.

The most recent handbook on how to carry out rural-proofing—the Government's *Rural Proofing: Practical Guidance to Consider the Outcomes of Policies in Rural Areas*—makes it abundantly clear that the rural-proofing process must take place before the presentation of legislation for consideration in your Lordships' House and the other place. Yet, looking through the Bill as it was presented to us, I saw an absence of any reference to the distinctive nature of rural communities and the differences between them and urban communities. I also saw no evidence that a rural-proofing process had been done in advance of the Bill being presented to us. So, with the support of the noble Lord, Lord Carrington, I proposed a couple of amendments.

The first said that, in developing the mission statements, the Government must have regard to the specific needs of rural communities. That has been rejected time after time at various stages in the passage of the Bill. However, as we have just heard from the Minister—I am enormously grateful to him for the meeting that we had to discuss this issue—the Government have now conceded that amendment. It is now to be included within the Motion brought forward by the Minister. Again, I am enormously grateful to him.

My second amendment proposed that evidence of rural-proofing should be presented to your Lordships' House before the Bill is able to be enacted. That has been rejected and, as we have just heard from the Minister, it is to be rejected again. In his opening remarks, the Minister said that I need not be concerned because there is clear evidence that the Government have gone through a rural-proofing process in relation to all government legislation. I will not argue with the Minister, but I gently say to him that, when independent experts have looked at this matter—for instance, the Rural Services Network looked at the most recent government report on rural-proofing—they have made it absolutely clear that, in their view, there is no evidence of rural-proofing processes having been carried out. There are a lot of mentions of some good things that the Government are doing to support rural communities but not of a specific process having been carried out. The precise conclusion of the Rural Services Network was:

"Nowhere … is anything evidenced anywhere to show if these processes were followed".

I will take the Minister's word for it that he has been given total assurance that this procedure was adopted for the passage of the Bill. For that reason, I will not press and have not put down an amendment to repeat what my earlier amendment said. But it would be enormously helpful if, for the sake of those of us who are still somewhat sceptical, he could provide written evidence of the procedure having been carried out.

As I have said, I am enormously grateful that—through the amendment he has brought, repeating the one I originally proposed—we now have reference in the Bill that the specific needs of rural communities will be taken into account in drawing up the mission statements. I am enormously grateful for the work he did to ensure that this happened, so I end by once again expressing my thanks to the Minister.

Lord Shipley (LD): My Lords, I will make a brief comment in response to the Minister's Motion C in relation to Amendment 3, which I moved on Report. I want to put on the record that I understand the line that the Government have taken. It is difficult to make statutory geographical disparities. What matters is the assurance that the Minister has given on that issue. It will really matter, in respect of policy formulation to address geographical disparities, for the evidence to be constantly collected to identify what those disparities are. I accept the assurances that the Minister has given and I have no intention of pursuing the matter further. I am grateful to the Minister.

Baroness Pinnock (LD): My Lords, I remind the House that I have relevant interests as a vice-president of the Local Government Association and as a councillor in West Yorkshire.

I will speak specifically to Motion B1 in the name of the noble Baroness, Lady Lister of Burtersett. The finest achievement of the levelling-up Bill could be putting the reduction of child poverty and health inequalities at its heart. After all, it is levelling up that we have been talking about during the many hours that we have debated the Bill. Unfortunately, the government amendment fails to make it absolutely specific that that is what the Bill is going to try to achieve.

3.45 pm

As the noble Baroness, Lady Lister, has explained, the situation is stark. For example, in the most deprived communities of my local authority in West Yorkshire, life expectancy is nine years lower for men and seven years lower for women than in the least deprived communities in the same area, so within 20 or 30 miles across my council area, some people die nine years earlier on average. That cannot be right. In the same council area, one in five children is living in poverty. How can we as a country accept that that is okay?

Why not put these issues at the very heart of what we are trying to do? We on these Benches strongly support the Motion in the name of the noble Baroness. I hope she calls a vote, because we will strongly support her.

Baroness Hayman of Ullock (Lab): My Lords, I have some amendments in this group. Amendment 1 concerns the timetable for when the levelling-up Statement should be published. I put on record that we are very happy with the noble Earl's response and accept the Government's arguments about that.

I also have the amendment on levelling-up funding. We are pleased that the Government have said they will take a new approach to the third round of the levelling-up fund, and that they have listened to the arguments in this House in Committee and on Report. We welcome the fact that the amendment in lieu has been tabled by the Government so that the Minister has a duty to lay before each House the Statement about the third round of the levelling-up fund within three months of Royal Assent.

I also have Amendment 199 on high-street funding, banks and post offices. We will just have to agree to disagree on this matter; I do not intend to press it any further.

I was pleased to hear the response to the noble Lord, Lord Foster, on rural-proofing and that the Government have tabled the amendment on having regard to the needs of rural communities. Rural communities often feel left out and forgotten, and more needs to be done to take account of that during any levelling-up and regeneration process. It is important that geographical disparities are taken account of.

I will not say much about my noble friend Lady Lister's amendment on child poverty and health inequalities because she has laid it out very clearly, as have other noble Lords who have spoken. As others have said, if you are genuinely going to sort out disparities and level up, you really have to take into account health inequalities—they are the basis of so much—and child poverty is impacted by that as well. So it is disappointing that the Government have not gone further on this and recognised the difference that they could make. If my noble friend wishes to divide the House, she will have our strong support.

Earl Howe (Con): My Lords, I am grateful to noble Lords for their comments on the government Motions in this group and on the amendments that have been tabled. As regards Motion E1 in the name of the noble Baroness, Lady Hayman, about which she has just spoken, and which concerns round 3 of the levelling-up fund, there is little more that I can add to my earlier remarks. She may like to know, however, that policy development relating to round 3 remains ongoing and, for that reason, the Government cannot comment on the specifics of the statement at this time. Nevertheless, I assure the noble Baroness that we have published information on the GOV.UK website regarding allocations in round 1 and round 2 of the fund, and we would expect to do so again in this third round.

Turning to the issues raised by the noble Baroness, Lady Lister, and spoken to by other noble Lords, while I have spoken about our reasons for not accepting her amendment, I would not want the Government's policy in both these important areas to go by default. I simply say to the noble Baroness that it is important to look not only at what the missions might be able to do—I have already described what our approach will be in that context—but, equally, at what the Government are doing on the ground.

It remains our firm belief that the best way to help families with children to improve their financial circumstances is through work. As I am sure she knows, because she is an expert in these areas and probably has the statistics in her head, we are supporting working people with the largest ever cash increase to the national living wage. We will spend around £276 billion through the welfare system in Great Britain in 2023-24, including £124 billion on people of working age with children. To help parents on universal credit who are moving into work or increasing their hours, the Government will provide additional support with upfront childcare costs. We will also increase universal credit maximum childcare costs. These issues are not ones the Government regard as trivial—quite the opposite; they are centre stage in the work the DWP and others are doing.

I repeat the undertaking I gave earlier to the noble Baroness. The first statement of levelling-up missions will contain the missions mentioned in the levelling up White Paper, including the mission to narrow the gap in healthy life expectancy and increase healthy life expectancy by five years. I hope she will regard that as evidence of the Government's intent, even if we have to beg to differ on what ought to go on the face of the Bill.

Lord Butler of Brockwell (CB): My Lords, before the noble Baroness, Lady Lister, comments, having heard the arguments I would just like to say that I am sympathetic to the Government not wanting to add these words. Nobody would deny for a moment that child poverty and health equality are important matters in levelling up. But if one puts particular words in the Bill, one implies that other things are less important.

[LORD BUTLER OF BROCKWELL]
For that reason, it seems unhelpful, and one ought to take into account the full measure of inequality and not just pick out two particular factors.

Motion A agreed.

Motion B

Moved by **Earl Howe**

That this House do not insist on its Amendments 2 and 4 and do agree with the Commons in their Amendments 4A and 4B in lieu.

4A: Clause 1, page 1, line 14, at end insert—

"(2A) In the course of preparing a statement of levelling-up missions, the Minister of the Crown must have regard to the importance of the levelling-up missions in the statement (taken as a whole) addressing both economic and social disparities in opportunities or outcomes."

4B: Clause 5, page 6, line 7, at end insert—

"(12) In carrying out functions under this section, a Minister of the Crown must have regard to the importance of the levelling-up missions in the statement of levelling-up missions (taken as a whole) addressing both economic and social disparities in opportunities or outcomes."

Motion B1 (as an amendment to Motion B)

Moved by **Baroness Lister of Burtersett**

At end insert ", and do propose Amendment 4C as an amendment to Commons Amendment 4A, and Amendment 4D as an amendment to Commons Amendment 4B—

4C: At end insert ", including child poverty, and health disparities throughout the life course."

4D: At end insert ", including child poverty, and health disparities throughout the life course.""

Baroness Lister of Burtersett (Lab): I beg to move Motion B1 because I am afraid that I am not satisfied by the Minister's response. What policy? There is no child poverty policy. The health inequalities White Paper was abandoned. We need to focus on these issues. The Government have said that these are essential elements of levelling up, so I wish to test the opinion of the House.

3.55 pm

Division on Motion B1

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Motion B1 disagreed.

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4.06 pm

Motion B agreed.

Motion C

Moved by ***Earl Howe***

That this House do not insist on its Amendment 3, to which the Commons have disagreed for their Reason 3A.

3A: Because it is unnecessary and inappropriate for a statement of levelling-up missions to include such an assessment of geographical disparities in the United Kingdom.

Earl Howe (Con): My Lords, I have already spoke to Motions C and D. With the leave of the House, I beg to move them en bloc.

Motion D

Moved by ***Earl Howe***

That this House do not insist on its Amendment 6 and do agree with the Commons in their Amendments 6A, 6B, 6C and 6D in lieu.

6A: Clause 1, page 1, line 14, at end insert—

"(2B) In the course of preparing a statement of levelling-up missions, the Minister of the Crown must have regard to the needs of rural areas."

6B: Clause 2, page 2, line 32, at end insert—

"(1A) In the course of preparing each report, the Minister of the Crown must have regard to the needs of rural areas."

6C: Clause 4, page 4, line 16, at end insert—

"(2A) In discharging functions under this section, a Minister of the Crown must have regard to the needs of rural areas."

6D: Clause 5, page 6, line 7, at end insert—

"(13) In carrying out functions under this section, a Minister of the Crown must have regard to the needs of rural areas."

Motions C and D agreed.

Motion E

Moved by ***Earl Howe***

That this House do not insist on its Amendment 10 and do agree with the Commons in their Amendments 10A and 10B in lieu.

10A: Page 6, line 7, at end insert the following new Clause—

"Levelling-up Fund Round 3

(1) Before the end of the period of three months beginning with the day on which this Act is passed, a Minister of the Crown must lay before each House of Parliament a statement on Levelling-up Fund Round 3.

(2) A "statement on Levelling-up Fund Round 3" is a statement about the allocation of a third round of funding from the Levelling-up Fund.

(3) The "Levelling-up Fund" is the programme run by His Majesty's Government which is known as the Levelling-up Fund and was announced on 25 November 2020."

10B: Clause 222, page 251, line 3, leave out "Part 1 comes" and insert "In Part 1—

(a) section (Levelling-Up Fund Round 3) comes into force on the day on which this Act is passed, and

(b) the remaining provisions come"

Earl Howe (Con): My Lords, I have already spoke to Motion E, and I beg to move.

Motion E1 (as an amendment to Motion E) not moved.

Motion E agreed.

Motion F

Moved by ***Earl Howe***

That this House do not insist on its Amendment 13, to which the Commons have disagreed for their Reason 13A.

13A: Because it would undermine the key feature of a combined county authority, that only upper-tier local authorities can be constituent members.

Earl Howe (Con): My Lords, we come now to a group on English devolution and local government. In moving Motion F, I shall speak also to Motions G, H, J, J1, ZE and ZE1. There are three Motions against the government Motions, which I shall address in detail, if necessary, in my closing remarks.

The first topic is combined county authorities, a new institutional model introduced by this Bill. Their core feature is that only upper-tier local authorities can be constituent members, which is crucial to ensuring that devolution and its benefits can be expanded to two-tier areas. At Report, your Lordships approved Amendment 13, which would allow non-constituent members of a combined county authority to become full members. The effect of that amendment would be to undermine this principle and reduce the effectiveness of devolution in those areas.

Amendment 13B, tabled by the noble Baroness, Lady Taylor of Stevenage, would have the same effect as Amendment 13 but would allow only non-constituent members that are local authorities to become full members. As with Amendment 13, this would undermine the principle of CCAs, that only upper-tier authorities can become full members, and the Government are therefore unable to support Motion F1.

Motions G and H address other concerns of the House about CCAs. The Government have heard the strength of feeling in both Houses about associate member voting rights and combined authority boundary changes, and we are content to accept these. Accordingly, the Government have tabled amendments in lieu—Amendments 14A to 14R and Amendments 18A and 18B, which we hope the House will support.

Motion J addresses the issue of virtual or hybrid meetings by local authorities. I must tell my noble friend Lady McIntosh of Pickering that the Government stand by their original opposition to this amendment. We have consistently expressed the view that councillors should be physically present to cast their votes and interact in person with citizens. It is important that they are present, active participants in local democracy. Our position on this matter has not changed. The other place rejected Amendment 22 for that reason, and I am afraid we cannot accept Amendment 22B, which my noble friend has tabled in lieu, for the same reason. On an associated issue, as my noble friend knows, there are no limits placed on authorities broadcasting their meetings online, and I would encourage them to do so to reach as wide an audience as possible.

Amendment 273 reflects a proposal put forward by the noble Lord, Lord Bach, at Report which would see Clause 62 commence nine months after Royal Assent, preventing the transfer of PCC functions to combined authority mayors at the May 2024 elections using this clause. The arguments advanced by the noble Lord in favour of this proposal rested on an important misunderstanding about the legislative effect of Clause 62.

First, I would like to reassure the House that PCC functions may transfer to a mayor only at the point of a mayoral election, maintaining the democratic accountability established by the PCC model. Secondly, on the issue of consent, which I know the noble Lord, Lord Bach, is concerned about, Clause 62 amends the statutory consent requirements for a mayor to request a transfer of PCC functions. It does not, however, lessen the importance of engagement between a mayor and local partners, including local authorities and the PCC, to inform a mayor's decision whether to request a transfer of these functions. Where mayors request the transfer of PCC functions, government will make clear to those mayors the importance of that engagement with their partners. I hope that is useful clarification for the noble Lord. I beg to move.

Motion F1 (as an amendment to Motion F)

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

At end insert ", and do propose Amendment 13B in lieu—

13B: Clause 9, page 9, line 30, at end insert—

"(7) A Minister of the Crown may by regulations establish a process for non-constituent members who are local authorities to become full members.""

Baroness Taylor of Stevenage (Lab): My Lords, I remind the House of my interests as listed in the register as a vice-president of the Local Government Association and of the District Councils' Network. Before I speak briefly to the amendments in this group, I thank the noble Earl, Lord Howe, for all his time and careful consideration of the outstanding issues we feel remain in this Bill following its consideration in the other place. We also add our best wishes to the noble Baroness, Lady Scott of Bybrook, for a speedy recovery.

Amendment 13B relates to the ability of combined county authorities to agree, as a part of their devolution deal and, if they wish, by local consensus, that district council members be full voting members of the CCA. We have discussed this at length both in Committee and on Report, but there has been no movement on the Government's part. In a debate in the other place, many Members spoke of the important role districts play in exercising their powers relating to planning, housing and economic development to further the economic growth of their areas. To take these key decision-makers out of the frame would be tantamount to shooting devolution in the foot before it has even got off the ground, not least because in unitary areas where councils have all the powers that districts have and the powers of county councils, they are represented on CCAs.

In the debate in the other place, MP after MP from two-tier areas spoke of the value they place on the work done in relation to development by their district councils. Sir Julian Lewis quoted the Conservative chairman of Conservative New Forest District Council, who supported our original amendment:

> "District Councils hold levers which are indispensable in creating jobs, improving economic opportunity, addressing skills shortages, tackling inequalities and reviving local pride—precisely the outcomes at the heart of the levelling up … Bill … It simply makes no sense that districts should be excluded from these new devolution deals".

Sir Julian appealed directly to the Minister, saying that his local district council will not be

> "sidelined or excluded by the Government's refusal to accept Lords amendment 13".—[*Official Report*, Commons, 17/10/23; col. 228.]

Yet the vote went through to disagree with the Lords amendment.

4.15 pm

If the Bill progresses as it currently stands, the elected leaders who currently have the very levers of economic growth, planning, housing and economic development will be shut out of the room where the future of their areas is being decided. This is good for neither democracy nor devolution. It should be for those areas to decide who takes part in the decision-making. That is all we are asking: for a degree of autonomy for areas to include, or exclude if they wish, the local authorities in their area to take their full part in shaping its future. We have submitted Amendment 13B to indicate the strength of feeling on this issue, and it is our intention to test the opinion of the House if the Government continue to reject our amendment.

We are grateful for the Government's amendments to Clause 10 which mean that we will not be in the position where associate members of CCAs have voting rights which elected members of local councils do not. We very much appreciate that our arguments in Committee and on Report were accepted in that respect. We also appreciate government Amendment 18A in lieu, which introduces requirements for consultation which must be satisfied before local government areas are added to an existing CCA.

We are concerned that by rejecting Amendment 22, relating to the ability of local authorities to determine circumstances under which virtual meetings can be held, different standards for local authorities are being set from those which operate here in the House of Lords and those which operate in Wales. The noble Baroness, Lady McIntosh, is moving a further amendment on this which will enable local authorities, under circumstances determined by regulation, to not be limited only to those who are present in the same place. For all the reasons set out in detail in Committee and on Report, we still believe the Government should allow this provision. It would enable, for example, those prevented by reasons of health—as indeed we do in your Lordships' House—or, to cite a current circumstance, flooding, from attending a meeting to still fulfil their democratic role.

The amendment of the noble Baroness, Lady McIntosh, would allow the Government to draw those exceptions as tightly as they wish, but we agree that, as a minimum, they should be permissive to the extent that participation in this House is allowed to take place virtually. Therefore, if the noble Baroness, Lady McIntosh, chooses to test the opinion of the House, she will have our support.

Lastly, I refer to Amendment ZE1 from my noble friend Lord Bach. We note what the Government would deem as a concession on this issue, in that the change to incorporate the role of the PCC into the mayoral role in the West Midlands will be carried out as part of the electoral process in May 2024. However, we would ask whether this is really a concession at all, as it is a thinly veiled attempt by the West Midlands mayor to abolish the powers of the independently elected PCC, in order that he can take on the job himself. There has been no consultation or formal consent to this, even from the mayor himself.

The devolution deal in the West Midlands differs from those in Greater Manchester and West Yorkshire, in that they were agreed after consultation and with consent. Making such a constitutional change for a local area without consultation or the consent of local people is just not the way we do things in this country and is fundamentally against any principle of devolution. Therefore, if my noble friend Lord Bach chooses to test the opinion of the House, he will have our support. I beg to move.

Baroness McIntosh of Pickering (Con): My Lords, within this group is Amendment J1 in my name; I wish to speak very briefly to this revised amendment in lieu. First, I send my good wishes to my noble friend Lady Scott of Bybrook and wish her a speedy recovery. She has been indefatigable in her presence otherwise on this Bill, so we wish her the very best for a speedy recovery.

I am extremely grateful to my noble friend Lord Howe and others for attending the very useful meeting we had last week, as a result of which I have tabled

[Baroness McIntosh of Pickering]
revised Amendment 22B in lieu. As my noble friend pointed out, both during the meeting and in his response to the revised amendment in his opening remarks, it has been brought forward in recognition of the fact that the Government wish primarily that council meetings be physical. However, the purpose of this amendment is to recognise the position that pertains in the House of Lords, certainly as regards the position of hybrid meetings and some Members being able to attend virtually under certain conditions. It is incumbent on us to extend the same criteria to those who meet in local authorities.

I am grateful for the support I received from both the Local Government Association and the National Association of Local Councils. We debated this in Committee and on Report, and it is fair to briefly sum up that this amendment reflects the challenges of those living in rural areas in particular but also other areas. As we have seen in the flood and storm conditions over recent days, the distances that councillors in rural areas have to travel are much greater than for those in urban areas, and in many cases there is no adequate public transport. In addition, as I mentioned, due to the weather we have seen in parts of the country over recent days, such as in Scotland, North Yorkshire, Lincolnshire and Derbyshire, councillors have been prevented from attending physically.

I understand from the National Association of Local Councils survey that one in five councillors cited childcare commitments as one of the top four reasons for wanting to attend meetings virtually. There will be other reasons, such as temporary or permanent illness and disability, that, under the criteria that I have set out in Amendment 22B, will permit councillors to attend virtually as opposed to physically.

I accept that a large part of the meetings of local councils will continue to be physical. The terms of Amendment 22B reflect that, but would permit the Government to bring forward, by regulation, conditions which, while mostly reflecting councils meeting physically, would allow councillors to join virtually or remotely in certain circumstances according to the criteria to be set by the Government. One would hope that, in setting the regulations, the Government would consult with councillors and the organisations that represent them to set the criteria.

Amendment 22B recognises the fact that I got the balance wrong in the earlier amendment, with councillors meeting only virtually. I accept that we wish councillors to meet physically, but certain set criteria to be determined by the Government, I hope in consultation with those concerned, would allow councillors to represent their wards and attend remotely. It would equalise the situation between, for example, House of Lords committees and others which can meet virtually, physically or in hybrid form. It seems extraordinary that, despite the fact that this worked so well during the Covid pandemic, when all meetings of councils were virtual, councils have now been excluded from having any form of virtual representation whatever.

With these few remarks, I hope my noble friend will accept that this would work extremely well for councillors. It is not fair that they should be excluded from attending a meeting because they cannot get there physically either because of weather—floods and storms, or snow in the winter—or due to some disability or illness or childcare commitments. I hope my noble friend will look favourably on this amendment, and I intend to test the opinion of the House.

Lord Bach (Lab): My Lords, I will speak to Motion ZE1 as an amendment to government Motion ZE. My Motion is on the same terms as my amendment on Report which the House was good enough to vote in favour of.

The Mayor of the West Midlands wants to be the police and crime commissioner as well; he is from one political party, the elected police and crime commissioner from another. The mayor wants to ensure there is no election for the post of an independent police and crime commissioner in the West Midlands in May next year. The way he will do that is that he and the Government will abolish the independent role of police and crime commissioner in the second-largest metropolitan area in England by the stroke of a pen. To achieve this extremely undemocratic power grab, the Government's Motion means that Clause 59 of the Bill will come into effect on the very day the Act is passed, in marked contrast to similar reforms which allow for a longer period.

I am, of course, grateful to both Ministers who have spoken and written to me on this matter, aided by their very able officials; however, disappointingly, no real concession has been offered. This remains an attempt to provide for an elected representative from one party—by a stroke of the pen, as I say—to abolish an elected representative from another party, not while that other one is serving but post election without any real consultation. The Government are not prepared—according to the letter I received from the noble Lord—even to suggest guidance in the statutory instrument that would have to follow this process; they are merely going to advise a mayor that he should do some consulting.

In his letter to me, the noble Lord, Lord Sharpe, cites Greater Manchester and West Yorkshire as examples of what the Government want to do here, but I am afraid that is incorrect. I have spoken to the chiefs of staff of the mayors of Greater Manchester and West Yorkshire, and it is clearly not what happened. In both those cases, the transfer of the police and crime commissioner's powers to the mayor was an essential part—as my noble friend said a few minutes ago—of the devolution deal, agreed and signed by all parties, from Ministers to local authorities to others, after, inevitably, considerable consultation and, very significantly, general consent. All this happened before the respective mayoralties in Greater Manchester or West Yorkshire began.

Without that consultation and consent, it just would not have happened. Here, no consultation or consent is required: the mayor will ask the Government to abolish the independent PCC role and then there will be no election for a PCC on 2 May next year, even though the devolution deal signed in the West Midlands after consultation and with consent maintained the two roles, both to be elected every four years. The Government will agree with the mayor's request—I am

sure the House is not so naive as to believe this has not been sorted out already—and the abolition will take place, I repeat, without any consultation or consent.

This is close to an abuse of power. It goes against this country's constitutional traditions and relies, absurdly and ridiculously, on the Government's insistence that the local consent, which they agree is necessary, is given by the mayor himself. However, the mayor is the guy who wants the job—talk about being judge in your own case. I am of course not referring to the case in question, but it is the sort of device that some tinpot dictator might use to increase his power. You can imagine the conversation, what he tells himself: "I want more power and I therefore give consent for it. That will do nicely". It is Newspeak at its best and Parliament should not permit it. This unseemly and undemocratic rush to abolish the independent post of police and crime commissioner in the West Midlands is quite unacceptable. If passed, my amendment would attempt to stop it happening.

4.30 pm

Lord Shipley (LD): My Lords, I agree entirely with the noble Lord, Lord Bach, and if he decides to press this matter to a vote, he will have the support of these Benches.

I remind the House that I am a vice-president of the Local Government Association. I want to comment on Motion G, which related to Lords Amendment 14 on Report. On the issue of associate members who are co-opted to a CCA and could have been given the right to a vote by the existing members of the CCA, I am very glad that the Minister has made it clear that the Government have had a change of heart on that matter. I record formally that I am content with Amendments 14A to 14R which the Government are now moving at this stage.

I want to ask for reassurance from the Minister on non-constituent members. Some clarity is needed on the role of district councils. In a letter to the leader of South Cambridgeshire District Council dated 17 October, the Levelling Up Minister said

"we remain of the strong view that combined county authorities must engage all relevant stakeholders and we would wish for district councils to have voting rights on issues pertaining to them".

The letter goes on to say that

"we expect devolution deal documents to set out the involvement of district councils"

but that these matters

"must be established at a local level".

I understand the argument that the Minister is making, but it would be very helpful if he could confirm at the Dispatch Box that that letter is absolutely accurate and that, given the Government's refusal to accept Amendment 13B in Motion F1, it is a firm statement of the Government's intention.

Lord Lexden (Con): My Lords, I have one comment in relation to the amendment tabled by the noble Lord, Lord Bach. He has made a very powerful case for believing that, in this instance, proper democratic standards are not being upheld. The House should take note of that.

Baroness Bennett of Manor Castle (GP): My Lords, I rise briefly to offer the strongest possible Green support for Motion J1 tabled by the noble Baroness, Lady McIntosh of Pickering. I have stepped out of an important Peers for the Planet ecocide meeting to do this because at the Green Party conference and in consultation with the National Association of Local Councils and the Local Government Association—I declare my position as a vice-president of both—I was lobbied again and again. It was the biggest topic that came up. People are very concerned about how many people are being excluded from being local councillors by the Government's failure to adopt a simple, common-sense measure.

In surveys by the LGA and the NALC, over 90% of councils at all levels supported this—and here we are talking about parish and town councils as well as higher-level councils. In the NALC survey, a third of respondents knew of councillors who had stood down since May 2021 due to the return to person-only meetings. Of those, one in five cited childcare commitments as one of their top four reasons for wanting to attend meetings virtually. So this is very much a gender issue. We have a huge problem with the underrepresentation of women in councils. Allowing this simple measure would be a big step forward. Reflecting that, Mumsnet is calling for the return of virtual meetings through its Keep Council Meetings Accessible campaign and a change.org petition has more than 11,000 signatures.

I have one final thought. The Government often like to say, "We want to learn from business and do things the way business does". Over the past few years, business air travel has dropped by over 50% and there has also been a huge drop in business rail travel. People in business are operating remotely. It is a huge democratic block to not allow these meetings under tight rules. As the noble Baroness, Lady McIntosh of Pickering, said, the Government can put all kinds of tight rules on this. It is a very modest measure and a step for practicality and democracy. As is reflected by the two sides that have spoken on this, this is not a party-political point; it is point of practicality.

Lord Lansley (Con): My Lords, I briefly intervene on this group to make two points, one on Motion F1 and one on Motion J1. I am prompted on Motion F1 by what the noble Lord, Lord Shipley, was asking about South Cambridgeshire. I declare an interest as I am chair of the Cambridgeshire Development Forum and used to be the Member of Parliament for South Cambridgeshire.

To set this in context, the Cambridgeshire and Peterborough combined authority is a mayoral combined authority and is not intending to be a county combined authority, but this does prompt a question. One of the essential problems with a mayoral combined authority is the difficulty of there being both a combined and a county authority infrastructure. For many people in Cambridgeshire and Peterborough, this is too confused and duplicatory a structure.

For the sake of argument—this is not one that has been advanced in Cambridgeshire, but it might be—let us say that it moves from a mayoral to a county combined authority. As the legislation is presently constructed, one could clearly not do that as it would,

[Lord Lansley]

in effect, disempower district councils in the process. So if my noble friend Lord Howe is saying that the nature of a county combined authority requires that it is for upper-tier authorities only—in this context, the county and Peterborough, and not the district councils—and if the local devolution settlement were found to be unsatisfactory and a change were desired locally, why are there no legislative provisions to allow that to happen? That is the question I put to my noble friend.

Secondly, I support my noble friend Lady McIntosh. Her Amendment 22B very reasonably says that the Government may make regulations relating to remote participation in local government meetings. That creates an opportunity for Ministers to think about this and, if necessary, move slowly. It is clearly not their wish to move rapidly but, without dwelling on the detail, there are physical, demographic and personal circumstances that mean that members may wish or need to participate in meetings remotely. Frankly, there might also be meetings where there is a relatively modest need for everybody to come together. As we know, there can sometimes be large numbers of meetings in local government that are not places where large numbers of votes happen and it would be perfectly reasonable for Ministers to enable such meetings to take place remotely. Given the permissive nature of Amendment 22B, which my noble friend has put forward, it is rather surprising that she was not able to find a compromise.

Baroness Pinnock (LD): My Lords, I will speak to Motion J1 and then Motion ZE1. I support the amendment from the noble Baroness, Lady McIntosh of Pickering. There is one element that has not yet been discussed, which is that this House allows for hybrid meetings of its committees. Now, you have to say to yourself, if it is right and proper for this House to enable Members to take part virtually in its committees, why is it not possible for local democracy to have the same rights? The arguments have been made for inclusivity—or, as it will be, exclusivity if the Government unfortunately fail to hear the arguments that have been made.

I will point to one example, which I think shows the strength of the argument of the noble Baroness, Lady McIntosh. The Government have, in their wisdom, created new unitary authorities, one of which is North Yorkshire. Now, North Yorkshire is a very large area to be in one unitary authority. It also does not have the best of weather in the winter. So, if you live towards the south or even the east of the area, because the county council headquarters is more or less in the middle—so it is useful in that sense—you will have a round trip of over 100 miles to go to a council meeting. If, as often is the case, you have to go across the Yorkshire Dales or the North York moors, where roads are impassable, you will be excluded from the meetings—not because you want to be excluded but because the weather is excluding you. And, if you are not able to drive, I can tell you now that you would simply not be able to get to a meeting in Northallerton in the heart of North Yorkshire.

For those reasons alone, it seems to me practical that the Government should allow for flexibility for local government to make those sorts of decisions, to enhance local democracy and be more inclusive. So we support the noble Baroness, Lady McIntosh in her quest to enable hybrid meetings to take place.

I turn to Motion ZE1. It is a travesty of local democracy if a fundamental change to the constitution of a combined authority—which is what we are considering in the instance of the West Midlands combined authority—can be made without a full consultation and involvement of all those who wish to have their voices heard. I live in West Yorkshire, so I can absolutely confirm what the noble Lord, Lord Bach, said: that at the heart of the discussions was the combination of the two roles of mayor and PCC. Not all of us agreed, but the outcome was as it was. The consequence of combining those two roles in West Yorkshire and in the Manchester combined authority is that we elect a mayor and then the mayor appoints one of their colleagues to be police and crime commissioner.

4.45 pm

So we lose direct accountability for one of the key public services in our area. There is no direct accountability of the PCC in West Yorkshire and, I guess, also in Manchester, because they are appointed and paid from the public purse but not directly accountable to the electorate—on policing, of all things. I urge the Government to listen to the arguments that have been made, because the last thing that electors and residents want, even if they are not interested in voting, is that the appointed head for police and crime in their area is not directly accountable to them for the decisions that are made.

Finally, on Motion F1 about the involvement of representatives of district councils on county combined authorities, I cannot believe that it is not going to happen. Combined county authorities will be discussing planning. Where does planning currently lie? With the district councils. The combined county authorities will inevitably be discussing housing. Where does the responsibility and duty for housing lie? With the district councils. It is not compatible to exclude district council representation on combined county authorities, because those are the two big issues that will be the responsibility of the combined county authority. If we want wide and open and transparent discussion on such key issues for people who live in those areas, then their elected representatives at the district level—where the responsibility for implementation will lie—must be part of the combined county authority. We will be supporting the noble Baroness if she wishes to call a vote on it.

Lord Kerr of Kinlochard (CB): I offer a very brief word in support of what the noble Baroness has just said on Motion ZE1. I know very little about the politics and governance practices of the West Midlands, but when I lived in America I was privileged to watch at close hand the governance practices of the Deep South and of Mayor Willie Brown's San Francisco and Mayor Daley's Chicago. As I listened in both the previous debate and this afternoon to the noble Lord, Lord Bach, explaining what looks to me like a rather unusual practice developing in the West Midlands, I was strongly reminded of the practices of state governments in the Deep South of the United States.

I do not think that is a road we should go down, and I very much hope the House will once again support the noble Lord, Lord Bach.

Earl Howe (Con): My Lords, I am once again grateful to noble Lords for their contributions to the debate on this group of Motions and amendments. As I indicated at the outset, the Government cannot support the three amendments to the government Motions in this group.

Motion F1, tabled by the noble Baroness, Lady Taylor of Stevenage, would have the same effect as the original amendment but apply only to local authorities. I urge the House not to go down this road. The basis of the CCA model is that only upper-tier and unitary authorities can be members, not least because they are the bodies in whom financial responsibility will be vested and who will contribute financially to the running of the CCA.

However, as I am sure the noble Baroness accepts, because we debated this at length at earlier stages of the Bill, we recognise the vital role that district councils play. In response to the noble Lord, Lord Shipley, and my noble friend Lord Lansley, and as Ministers said in the other place, we are sympathetic to the idea that district councils should have voting rights pertaining to them as non-constituent members. We have deliberately left scope for this to happen. However, we are clear that that should be a matter to be determined at the local level. District councils need not be shut out of the room, as the noble Baroness, Lady Taylor, suggested, nor do I expect them to be so. We expect the upper-tier local authorities that we agree devolution deals with to work with district councils to deliver the powers most effectively being provided. In discussions thus far, we are encouraging potential deal areas to consider how best to involve district councils, in recognition of the role they can play. My ministerial colleagues have been engaging personally with district councils and the District Councils' Network on this issue.

My noble friend Lady McIntosh of Pickering has returned to the charge on virtual or hybrid meetings with her Motion J1. As I stated in my opening remarks, at the heart of the issue is the strength of the scrutiny exercised by local authorities and the importance of maintaining the integrity of local democratic principles. I need not remind the House that virtual and hybrid proceedings have significant limitations for scrutiny and interaction of members of any legislature. As such, we do not agree that councillors should be able to attend these meetings and cast their votes remotely. The Government are therefore unable to support the amendment in lieu. I respond to the noble Baroness, Lady Pinnock, who drew the comparison with committees of this House, by saying that the functions, roles and powers of committees of this House are wholly different from the functions, roles and powers of committees of local authorities.

Baroness Pinnock (LD): I am sorry to interrupt the noble Earl, but I remind him that councils have scrutiny committees, which frequently do not vote, so there are similarities between the committees of this House and, for example, scrutiny committees of local authorities.

Earl Howe (Con): The House will have heard the noble Baroness's comments, but I draw the distinction between the roles of the two kinds of committee.

Incidentally, the amendment would open up the possibility of councils moving to an entirely remote model of council meetings—something that noble Lords perhaps should ask themselves whether they would favour. My noble friend will doubtless have noted that the Government's majority in the other place when the amendment was put to the vote was very substantial.

Lord Hunt of Kings Heath (Lab): My Lords, how far would the noble Earl take this principle in relation to public bodies? I am a member of the GMC. We meet half in person and half remotely. Many other national bodies, some in receipt of government funding and others independent like the GMC, operate in the same way. Would his department say that the principle he is enunciating should be extended throughout the public sector? If not, why not? I do not understand the logic of the Government's position.

Earl Howe (Con): My Lords, we have been over this issue almost ad infinitum in Committee. We are not in Committee anymore; we are at Lords consideration of Commons amendments. I hope the noble Lord would agree that we are past the stage of arguing the niceties in the way he invites me to do.

Finally, in his Motion ZE1, the noble Lord, Lord Bach, seeks to insist on his original amendment. I can only reiterate the points in my opening that PCC powers would transfer to an elected mayor only after that individual has become democratically accountable at a local level. The example he sought to cite as a fait accompli is nothing of the kind, for the simple reason that there needs to be an election before the Mayor of the West Midlands could hope to become a PCC. If the transfer is to happen in the West Midlands, the mayor could exercise the PCC functions only if elected to do so at the next election, so there is no compromise of the democratic mandate of the elected mayor to exercise the functions. The choice of who would exercise the PCC functions in the West Midlands would remain in the hands of the people of the West Midlands if the transfer were to happen.

Commencement at Royal Assent enables the Government to adhere as closely as they can to the Gould principle of electoral management, whereby any changes to elections should aim to be made with at least six months' notice. As the noble Lord knows, the Government wish these provisions to have legal effect in time for the local elections in May next year. His amendment would frustrate that policy intention. I hope he will forgive my pointing it out, but doubtless he will have noticed that the Government's majority on this issue in the other place was very substantial: 153. I hope that on reflection he will be content to accept the assurances I have given and will not move his amendment in lieu.

Baroness Taylor of Stevenage (Lab): My Lords, the noble Lords, Lord Shipley and Lord Lansley, highlighted the confusion at the heart of the Government's position relating to district councils on combined county

[BARONESS TAYLOR OF STEVENAGE]
authorities. The Minister's contention is that there is local discretion to give districts a vote, while his statement was that only upper-tier authorities should be full members. I am not satisfied that the Government continuing to repeat this assertion that CCAs should be made up of upper-tier authorities only when their core business is not housing, planning or economic development but social care, children's services and highways makes it right or advisable, and neither does it meet the key principles of democracy or devolution. Therefore, I wish to test the opinion of the House.

4.57 pm

Division on Motion F1

Contents 185; Not-Contents 218.

Motion F1 disagreed.

Division No. 2

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5.11 pm

Motion F agreed.

Motion G

Moved by ***Earl Howe***

That this House do not insist on its Amendment 14 and do agree with the Commons in their Amendments 14A, 14B, 14C, 14D, 14E, 14F, 14G, 14H, 14J, 14K, 14L, 14M, 14N, 14P, 14Q and 14R in lieu.

14A: Clause 9, page 9, line 26, leave out subsection (5)

14B: Clause 10, page 9, line 35, leave out "unless the voting members resolve otherwise"

14C: Clause 10, page 9, line 36, leave out subsection (3)

14D: Clause 10, page 10, line 1, leave out subsection (4)

14E: Clause 12, page 11, line 24, leave out "or associate"

14F: Clause 23, page 20, line 21, leave out "or associate"

14G: Clause 40, page 36, line 19, leave out "or an associate member"

14H: Clause 41, page 38, line 15, leave out "or an associate member"

14J: Clause 56, page 48, line 11, leave out "or associate"

14K: Clause 57, page 50, line 13, leave out "or associate"

14L: Clause 61, page 54, leave out lines 19 and 20

14M: Clause 61, page 54, line 35, leave out "unless the voting members resolve otherwise"

14N: Clause 61, page 54, line 36 leave out from beginning to end of line 3 on page 55

14P: Clause 72, page 72, line 2, leave out "or an associate member"

14Q: Clause 72, page 73, line 16, leave out "or an associate member"

14R: Clause 72, page 75, line 24, leave out "or an associate member"

Motion H

Moved by ***Earl Howe***

That this House do not insist on its Amendment 18 and do agree with the Commons in their Amendments 18A and 18B in lieu.

18A: Page 50, line 13, at end insert the following new Clause—

"Changes to mayoral combined authority's area: additional requirements

(1) An order under section 106 of the Local Democracy, Economic Development and Construction Act 2009 which adds a local government area to an existing area of a mayoral combined authority may only be made during the relevant period if the consultation requirements in subsection (2) are met.

(2) The consultation requirements are as follows—

(a) the Secretary of State has consulted the Local Government Boundary Commission for England,

(b) the mayor for the area of the combined authority has consulted the residents of the local government area which is to be added to that area, and

(c) the mayor has given the Secretary of State a report providing information about the consultation carried out under paragraph (b), and the Secretary of State has laid the report before Parliament.

(3) In this section, "the relevant period" means the period of 9 months beginning with the day on which this Act is passed."

18B: Clause 222, page 251, line 12, leave out "section 57 comes" and insert "sections 57 and *(Changes to mayoral combined authority's area: additional requirements) come*"

Motions G and H agreed.

Motion J

Moved by ***Earl Howe***

That this House do not insist on its Amendment 22, to which the Commons have disagreed for their Reason 22A.

22A: Because local authorities should continue to meet in person to ensure good governance.

Earl Howe (Con): My Lords, I have already spoken to Motion J. I beg to move.

Motion J1 (as an amendment to Motion J)

Moved by ***Baroness McIntosh of Pickering***

At end insert ", and do propose Amendment 22B in lieu—

22B: After Clause 70, insert the following new Clause—

"Local authorities: hybrid meetings

(1) A Minister of the Crown may by regulations establish arrangements whereby, in circumstances specified in those regulations, a meeting of a local authority is not limited to a meeting of persons all of whom are present in the same place.

(2) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.""

Baroness McIntosh of Pickering (Con): I beg to move Motion J1.

5.12 pm

Division on Motion J1

Contents 208; Not-Contents 199.

Motion J1 agreed.

Division No. 3

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5.23 pm

Motion K

Moved by ***Baroness Swinburne***

That this House do not insist on its Amendments 30 and 31 and do agree with the Commons in their Amendments 31A, 31B, 31C and 31D in lieu.

31A: Clause 83, page 90, line 28, leave out from "provision" to end of line 29 and insert "—

(a) within Scottish devolved legislative competence, or

(b) which could be made by the Scottish Ministers, with the consent of the Scottish Ministers, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence."

31B: Clause 83, page 90, line 29, at end insert—

"(1A) The Secretary of State may only make planning data regulations which contain provision that confers a function on, or modifies or removes a function of, the Scottish Ministers after consulting the Scottish Ministers, unless—

(a) that provision is contained in regulations which require the consent of the Scottish Ministers by virtue of subsection (1), or

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

31C: Clause 83, page 90, line 30, after "devolved" insert "legislative"

31D: Clause 83, page 90, line 33, leave out paragraphs (b) and (c)

Baroness Swinburne (Con): My Lords, I will speak to Motions K, S, T, U, Y, ZG and ZJ. In light of the growing need for collaboration across the United Kingdom on pressing matters such as climate change and energy security, and to ensure that the UK remains an attractive place to invest and deliver major infrastructure projects, there are substantial benefits to maintaining an effective framework of powers across the UK.

I am pleased to inform the House that, following positive discussions with the Scottish Government, the Government tabled amendments on 28 September to Part 6 of the Bill and related provisions in Part 3. Subsequently, the Scottish Government recommended that the Scottish Parliament provides legislative consent for Part 6 on 11 October. This is a significant milestone on the road to a new, more effective framework for environmental assessment, and it is testament to the strength of the partnership between the UK and Scottish Governments.

In respect of Part 6 and related provisions in Part 3, the Government tabled Motion T to disagree with Lords government Amendments 102 and 103—made on Report in the Lords prior to the agreement having been reached with the Scottish Government—and proposed amendments in lieu, in the House of Commons. Via Motions K and T, these amendments give effect to the position that has been agreed with the Scottish Government and give Scottish Ministers concurrent powers to make environmental outcome reports regulations and associated guidance where they have competence to do so. These amendments also provide assurance that the consent of Scottish Minsters would be required for environmental outcome reports regulations that fall within the legislative competence of the Scottish Parliament or fall within the regulation-making powers of the Scottish Government.

The Welsh Government had already indicated their support, and the Senedd subsequently passed a legislative consent Motion on 17 October. Through Motions S and ZG, the Commons disagreed with Lords Amendments 90 and 285, putting forward Amendments 90A and 285A in lieu, to support the position with the Welsh Government.

These amendments include a change requested by the Welsh Government, which will bring Clause 222, which makes exceptions for environmental outcome reports provisions to general restrictions on the legislative competence of Senedd Cymru contained in the Government of Wales Act 2006, into force two months after Royal Assent and inclusion of reference to the Environment (Wales) Act 2016.

There are also a small number of technical amendments, bringing various parts of legislation into the scope of the Bill, which are necessary to maximise interoperability across the devolved Governments. These are reflected in government Motions U, Y and ZJ.

I hope that noble Lords will agree with the positive positions that our amendments, and those made to strengthen amendments proposed by the Lords, allow the Government to take, reflecting on the constructive intergovernmental work that has taken place to agree them. I beg to move.

Baroness Taylor of Stevenage (Lab): My Lords, these are technical amendments to align Scotland, Wales and England, so we have nothing further to add.

Motion K agreed.

Motion L

Moved by ***Earl Howe***

That this House do not insist on its Amendment 44 and do agree with the Commons in their Amendments 44A and 44B in lieu.

44A: Clause 87, page 95, line 15, leave out "(if any)"

44B: Clause 87, page 95, line 16, at end insert—

"(4) The only cases in which no consultation or participation need take place under subsection (3) are those where the Secretary of State thinks that none is appropriate because—

(a) a proposed modification of a national development management policy does not materially affect the policy or only corrects an obvious error or omission, or

(b) it is necessary, or expedient, for the Secretary of State to act urgently."

Earl Howe (Con): My Lords, in moving Motion L, with the leave of the House I will also speak to Motions M, M1, N, N1, P, P1, Q, R, R1, V, ZD, ZD1, ZF and ZH. It may be helpful to the House if I draw attention to the advice from the House of Commons authorities, which is that Motions N1 and R1 in this group would attract financial privilege.

I start with Amendment 44, which the Government invite the House to reject in our Motion L. The powers in the Bill relating to planning and the environment have, quite rightly, been of great interest to this House, and I am grateful for the productive discussions that have taken place inside and outside this Chamber. National development management policies are a key part of these reforms, and the amendment that we have brought forward makes clear our intention to consult other than in exceptional circumstances or where changes would have no material effect. That will give everyone, including parliamentarians, the opportunity to scrutinise the policies before they come into effect. I am very aware that consultation was an important issue for noble Lords at earlier stages of the Bill.

5.30 pm

At present, Parliament has no formal role in considering the National Planning Policy Framework, which, alongside locally produced plans, guides decisions on development proposals. I must be clear that our proposals do not remove any powers which Parliament currently has, but they do provide a clear legal commitment that these policies will be open to scrutiny by everyone with an interest in the future.

I note that the noble Baroness, Lady Thornhill, has tabled a further amendment in lieu which I will turn to in my closing remarks.

On Motion M, we have heard the strength of feeling across both Houses that there needs to be genuine coherence between the planning system and our country's climate commitments. We wholeheartedly agree that there must be coherence, and the Bill already includes provisions that require plans to be designed to secure that the use and development of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. Furthermore, we have committed to updating the National Planning Policy Framework to make sure that it contributes to climate change mitigation and adaptation as fully as possible. This will include considering how national development management policies most effectively contribute to this.

What is crucial, however, is that we address climate change in a way that is effective without being unnecessarily disruptive or giving rise to excess litigation for those seeking to apply the policies once made. Beyond this, the Environment Act and Climate Change Act already oblige the Government to take a broad range of action in this area, including commitments to achievement of ambitious targets.

The noble Lord, Lord Ravensdale, seeks to insist on his original amendment. A legal obligation to give "special regard" to climate change across the different aspects of the planning system opens a vast array of decisions to potential challenge, especially as climate change itself is a very broad concept. There is a very real risk that this amendment, while well-intentioned, gets in the way of producing the policies and making the decisions we need to tackle this vital issue. The approach I have set out above is the more appropriate route to ensuring this happens. I hope, on reflection, the noble Lord will not press his amendment to a Division a second time—especially as I am sure he has noted the substantial government majority when the issue was put to a vote last week in the other place.

On Motion N, the noble Lord, Lord Crisp, tabled an amendment on healthy homes at Report. I recognise and respect the long-standing work the noble Lord has put into this area. The Government agree that the quality of our homes is very important, but we do not agree that further legislation is needed to achieve this.

The healthy homes principles contained in Amendments 46, 327 and 249 cut across pre-existing building safety standards, building standards, building regulations, planning policy and design. For that reason, the Government do not agree that an additional regulatory framework to promote healthy homes, including a schedule setting out the principles and process for providing a statement, is necessary. Therefore, the Government are not able to support the amendment that the noble Lord is seeking to bring back.

I note that the noble Lord has tabled a further amendment in lieu which I will turn to in my closing remarks once he has had the opportunity to explain it. The advice from the House of Commons authorities is, as I mentioned earlier, that Motions N1 and R1 would attract financial privilege. The enforcement of that privilege is, of course, a matter for the Commons.

On Motion P, the weekend's events in Scotland are a stark reminder of the serious consequences of flooding. It is right that we seek to minimise risks to people and property, but we must do so in a way that reflects the reality of different places. A complete ban on residential development in flood zone 3, as this amendment would impose, means banning building in many parts of Westminster and other cities.

The issue here is the importance of assessing risk in the round. Account needs to be taken of what areas are defended, and where we can be sure that development will be safe for its occupants, as well as not increasing risks elsewhere. We have a strong policy framework which does just that, and which can reflect the circumstances that may need to be assessed on a case-by-case basis in a way that a legislative approach simply cannot do.

Flood zones do not account for the presence of flood defences. It is right that defences do offer protection, and this can be considered within the assessment for proposed development, but there is still the potential risk of failure or overtopping. This is why planning policy takes a precautionary approach to ensure development is safe for its lifetime.

Residential development in flood zone 3a is appropriate only where there are no other sites of lower risk, and where it can be demonstrated the development can be made safe for its lifetime without increasing risk elsewhere. Planning policy is already clear that residential development in a functional flood plain—that is flood zone 3b—should not be approved. It is important that noble Lords understand that distinction when looking at my noble friend's amendment.

When we come to producing national development management policies, we will want to assess how we can express this strong policy framework as clearly as possible, while taking account of the range of climate scenarios and risks and ensuring that it is being implemented effectively. This is a more appropriate way forward than Amendment 80, on which my noble friend Lady McIntosh of Pickering seeks to insist.

On Motion Q and Amendments 81A, 81B and 81C, following constructive discussions on protecting our ancient woodland we have accepted the principle of the amendment made at Report by the noble Baroness, Lady Young of Old Scone.

Amendment 81A ensures that, within three months of Royal Assent of the Bill, we will amend the Town and Country Planning (Consultation) (England) Direction 2021 such that local planning authorities must consult the Secretary of State if they want to grant planning permission for developments affecting ancient woodland. This ensures a previous government

[Earl Howe]
commitment from October 2021—made during the passage of the Environment Act—is enacted to a specified timeframe.

The amendment additionally makes clear that it does not affect the Secretary of State's power to further amend or withdraw the consultation direction after this commitment has been fulfilled. I am happy to confirm that this relates to a wider strategic review of the direction planned for the future, and not to this specific commitment.

Amendments 81B and 81C set out the territorial extent of Amendment 81A and provide for its commencement. The amendment is clear it applies only to the Town and Country Planning (Consultation) (England) Direction 2021.

I come now to Motion R. The Government agree that it is important for local planning authorities to have the resources they need to deliver an effective planning service. On 20 July, we laid draft affirmative regulations to increase planning fees by 35% for major applications and 25% for all other applications, and to introduce inflation-related annual fee increases from 1 April 2025.

This is a national fee increase that will benefit all local planning authorities in England, year on year. These regulations were approved by this House after debate on 17 October and, if approved in the other House after its debate on 25 October, they will come into effect later this year. In another boost to resources, we are also undertaking a programme, with funding, to build capacity and capability in local planning authorities. We have debated that point at earlier stages.

The Government do not believe that enabling local planning authorities to vary fees and charges is the way to answer resourcing issues. As I argued on Report, it will lead to inconsistency of fees between local planning authorities and does not provide any incentive for individual authorities to tackle inefficiencies. Local planning authorities are able to set their own fees for additional planning services, such as for pre-application advice and planning performance agreements for major developments. These are bespoke, optional services and it makes sense that the local planning authority can tailor the fee accordingly. Therefore, I am afraid the Government are not able to support Lords Amendment 82 and note that the other place rejected the amendment on grounds of financial privilege. The noble Baroness has sought to table a revised amendment, which I will address once she has spoken to it.

On Report in the Lords, the Government tabled amendments to reform existing provisions in relation to nutrient neutrality, but those were not accepted. As a result, amendments which were consequential on the reforms, including the designation provisions, no longer serve their intended purpose and should be removed. The Bill retains provisions allowing the Secretary of State to designate nitrogen and phosphorus-sensitive catchment areas. In areas designated as nitrogen and/or phosphorus sensitive, sewerage undertakers will be required to upgrade wastewater treatment works for nutrient removal, unless exempt.

I turn now to Motion ZD. The noble Baroness, Lady Hayman, seeks to insist on her original amendment, which the Government cannot support. In response to the concerns of Members of both Houses, in September the Government made changes to national planning policy in relation to onshore wind. These changes are designed to make it easier and quicker for local planning authorities to consider and, where appropriate, approve onshore wind projects where there is local support. We need to allow time for these changes to take effect. As the noble Baroness, Lady Hayman, asked for in her letter of 14 September, the Government are committed to keeping the policy under review and will report in due course—I will elaborate on that in a second—on the progress of the number of new onshore wind projects coming forward from planning applications through to consent. I can reassure her today that we will keep this rollout under close scrutiny. Data will be collected through the existing renewable energy planning database, and we will use this information to inform any potential further amends that may be required to boost deployment.

I can tell the noble Baroness that the aim is for the Government to report on this matter within 18 months following Royal Assent—that being six months from the end of the 12-month reporting period, starting with Royal Assent of the Bill. I can also tell the noble Baroness that the Department for Energy Security and Net Zero will respond shortly to the consultation on local partnerships for onshore wind, including improvements to the system of community benefits. I hope that, in the light of those assurances, the noble Baroness, Lady Hayman, will not press her original amendment to a Division.

On Motion ZF and Amendment 280, the Government believe it is now better for the commencement of Lords Amendment 79, about biodiversity net gain, to be on an appointed day rather than two months after Royal Assent. This is to enable the co-ordination of the commencement of this provision with the wider commencement of the biodiversity net gain provisions in the Environment Act 2021, which are on a basis of an appointed day. The Government intend to start commencing these provisions for biodiversity net gain shortly.

5.45 pm

I turn now to government Motion ZH. I again thank the noble Lord, Lord Best, for his amendment on Report, which focused our attention on homelessness and the provision of affordable housing. In lieu of that amendment, the Government have brought forward Amendments 329A and 329B that enshrine in law the requirement for authorities, when preparing local plans, to take into account an assessment of housing need, including the need for affordable homes. The Government are committed to delivering more homes for social rent—a large number of the new homes from our £11.5 billion affordable homes programme will be for social rent. We also recently consulted on how councils should give greater importance to planning for social rent homes. Tackling homelessness and rough sleeping remains a key priority for this Government. This is why we will be spending more than £2 billion on homelessness and rough sleeping over three years.

I hope the House will feel able to accept the government Motions in this group. I beg to move.

Motion L1 (as an amendment to Motion L)

Moved by ***Baroness Thornhill***

At end insert "and do propose Amendments 44C, 44D and 44E as amendments to Amendment 44B—

44C: In subsection (4)(a), leave out "does not materially affect the policy or"

44D: In subsection (4)(b), at end insert "in the interests of public safety or national security"

44E: At end insert—

"(5) Except in the case where no consultation or participation has taken place or is to take place in accordance with subsection (4), the Secretary of State may not make or revoke a direction under subsection (1), or modify a national development management policy, unless the Secretary of State has laid the proposal before Parliament, and either—

(a) the consideration period has expired without—

(i) a Committee of either House of Parliament making a recommendation relating to the proposal during that period, or

(ii) either House of Parliament making a resolution that the proposal should be modified or that the making or revoking of the direction should not be proceeded with, or

(b) the making or revoking of the direction or the modification of the development management policy has been approved by resolution of each Houses of Parliament before the end of the consideration period.

(6) Before making or revoking a direction under subsection (1), or modifying a national development management policy, the Secretary of State must carry out an appraisal of the sustainability of the policy set out in the proposal.

(7) In subsection (5)—

"the consideration period", in relation to a policy, means the period of 21 sitting days beginning with the first sitting day after the day on which the statement is laid before Parliament, and "sitting day" means a day on which the House of Commons sits;

"the proposal" means (as the case may be)—

(a) the policy that the Secretary of State proposes to designate as a national development management policy under subsection (1),

(b) the proposal to revoke a direction under subsection (1), or

(c) the proposed modification to the national development management policy.

38ZB Review of national development management policies

(1) The Secretary of State must review a national development management policy whenever the Secretary of State thinks it appropriate to do so.

(2) A review may relate to all or part of a national development management policy.

(3) In deciding when to review a national development management policy the Secretary of State must consider whether—

(a) since the time when the policy was first published or (if later) last reviewed, there has been a significant change in any circumstances on the basis of which any of the policy was decided,

(b) the change was not anticipated at that time, and

(c) if the change had been anticipated at that time, any of the policy set out would have been materially different.

(4) In deciding when to review part of a national development management policy ("the relevant part") the Secretary of State must consider whether—

(a) since the time when the relevant part was first published or (if later) last reviewed, there has been a significant change in any circumstances on the basis of which any of the policy set out in the relevant part was decided,

(b) the change was not anticipated at that time, and

(c) if the change had been anticipated at that time, any of the policy set out in the relevant part would have been materially different.

(5) After completing a review of all or part of a national development management policy the Secretary of State must do one of the following—

(a) amend the policy;

(b) withdraw the policy's designation as a national development management policy;

(c) leave the policy as it is.

(6) The Secretary of State may amend a national development management policy only if the consultation and publicity requirements and the parliamentary requirements set out in subsections (3) and (5) of section 38ZA have been complied with in relation to the proposed amendment, and—

(a) the consideration period for the amendment has expired without the House of Commons resolving during that period that the amendment should be modified or should not be proceeded with, or

(b) the amendment has been approved by resolution of the House of Commons—

(i) after being laid before Parliament under section 38ZA(5), and

(ii) before the end of the consideration period.

(7) In subsection (6), "the consideration period" means the period mentioned in section 38ZA(7).

(8) If the Secretary of State amends a national development management policy, the Secretary of State must—

(a) arrange for the amendment, or the policy as amended, to be published, and

(b) lay the amendment, or the policy as amended, before Parliament.""

Baroness Thornhill (LD): My Lords, I have listened to what the noble Earl has said today and what he put in his recent letter to us, and also to what was said by the Minister in the other place last week. The Minister will forgive me if I am not placated by the meagre shift from no consultation at all if we can get away with it to Motion L, which is as little consultation as possible so that we can say we have listened. That is what it feels like, sadly. It is hugely disappointing to see that, while the Government's amendment in lieu does indeed put public consultation for new NDMPs on a legal footing that cannot be negotiated away, there is still no agreed consultation and scrutiny process enshrined in the legislation. For us, that is the key point.

The scope, level and duration of the consultation that this and successive Governments can use is not defined in the Bill, nor in the accompanying regulation. Most importantly, the Government's amendment in lieu makes no specific mention of parliamentary scrutiny, which both Houses and the relevant Select Committee had called for. As the noble Earl has said, we understand that individual parliamentarians or committees can indeed participate in consultations, like any other citizen. However, without specific provision, the Bill does not require any parliamentary oversight of approval before NDMPs can come into force.

It is worth reminding ourselves that NDMPs are a new and very radical departure from the current system. I am surprised because, if NDMPs are going to do the heavy lifting in order to streamline and simplify the system, as is often quoted and claimed by Ministers, surely they need to be heavily scrutinised and tested. If they are going to do the job that the Government want

[BARONESS THORNHILL]
them to do and work effectively, I cannot understand why the Government would risk them going forward into law without being test-driven properly through Parliament.

We have all seen the impact of what has been happening recently, with ministerial announcements on the hoof and the very recent arrival of the "refreshed"—I believe that is the word—NPPF. It has thrown the planning system into chaos, with plans withdrawn or paused, and planners not knowing what to do or what to take account of. Similar things will happen again if we do not know what these NDMPs contain. They are currently a blank piece of paper.

In response, my modest amendment is necessary to ensure that the national planning policies for residential and other kinds of development—because, after all, they will take precedence over local policies and will be applied directly by the Secretary of State on called-in applications—are given a similar level of parliamentary attention as infrastructure policies, as surely they should be. My question to the Minister is: why not?

The reality of this offered consultation is undefined in the Bill and is not provided for by the regulations. It is completely at the Secretary of State's discretion. We on these Benches, the RTPI, the CPRE, and some of the more than 30 professional bodies and groups that form the Better Planning Coalition believe that, given the new and radical nature of NDMPs, that is both unwise and unacceptable. I beg to move.

Lord Ravensdale (CB): My Lords, I declare my interests as a director of Peers for the Planet and as a project director working for Atkins. I will speak to Motion M1. I thank the Minister for the time he set aside to explain the government position on this and attempt to reach a resolution.

Planning has dominated much of the national conversation in recent months. We heard in all three party conferences about the need for planning reform and for clarity and consistency in the planning system to help unblock critical infrastructure and homes, and to empower local authorities to play their part in the net-zero transition. Planning is absolutely central as an enabler to net zero, as was set out eloquently by many noble Lords on Report—so I will not repeat those arguments. I know that the Government get this; they are relying in the Bill on a plan-led system and on incorporation of climate considerations in local plans, and, perhaps in the future, on national development management policies.

There are three issues to highlight with this plan-led approach. First, the Committee on Climate Change has found that:

> "Most local plans do not acknowledge … the challenge of delivering Net Zero and need significant revision".

Most local plans are long out of date—some were made in the last millennium—and only around 40% have been adopted in the last decade. We know all about current pressures on local authorities and their ability to devote and manage resources in these areas. Secondly, we are yet to see the national development management policies and any climate provisions they may contain; they are still a blank sheet, as the noble Baroness, Lady Thornhill, set out. Thirdly, even if all local authorities had a robust local plan, backed up by NDMPs, there will still be an absence of a statutory duty for decision-makers. No matter how robust a local plan informed by national policy may be, it will still be for the individual decision-maker to weigh up all material considerations, with no duty to attribute any planning weight to climate change in the decision-making process. Therefore, rather than a golden thread running through the planning system, we have a somewhat worn and frayed thread that is severed as soon as we get to the decision-making process.

The way to address this and to achieve the ends the Government want is to introduce a new duty that raises the importance of climate change in the hierarchy of considerations but which would still retain flexibility for decision-makers. My amendment would not duplicate existing policy and statutory requirements but rather expand the existing climate duty, which has existed in relation to planning since 2008 and which has been rolled forward in this Bill to decision-making. The amendment would not remove local discretion, as the Government fear, but rather retain the ability of planning authorities to tailor planning decisions to individual circumstances. It would retain the flexibility of planning balance and judgment, which is now well established, and not mean that other planning matters could not be taken into account.

Rather than causing issues of litigation, as the Minister said, the amendment would provide clarity and set a clear direction of travel for planners and developers, leading to greater progress for new developments towards our climate goals. It is derisked by being based on an established duty, the meaning of which has been tried and tested in the courts. It does not raise any novel legal issues, because the principle of special regard is well understood in planning. Therefore, it really should be uncontroversial. It has broad, publicly stated backing across built environment businesses, local government, built environment professionals, including 22 past presidents of the Royal Town Planning Institute, and environmental NGOs.

To finish, I have a number of questions for the Minister. First, can he clarify and expand on what he said earlier about whether the draft NDMPs will include provisions setting out the way in which they will ensure that plan-making and planning decisions consider and contribute to climate change and environment targets? Secondly, can he provide assurances that changes will be proposed to the NPPF to make it clear that planning decisions should take into account the climate impacts of development proposals? The current NPPF does not include that level of clarity. I give notice that I may test the opinion of the House depending on the responses from the Minister.

Lord Crisp (CB): My Lords, I will speak to Motion N1 in my name. In doing so, I express my gratitude to the noble Lords, Lord Young of Cookham, Lord Blunkett and Lord Stunell, who put their names to a similar amendment on Report. I also express my gratitude to the noble Earl, Lord Howe, and the noble Baroness, Lady Scott of Bybrook, with whom I think I have had three meetings over the last few months to discuss all this. They were extremely courteous but, in the end, we did not manage to reach any agreement.

The original amendment that noble Lords supported on Report was that there would be a duty on the Secretary of State—to put it in shorthand—to ensure that all new homes and neighbourhoods promoted health, safety and well-being, and set out some principles about what this meant. In response to what the House of Commons voted on and the advice I had from the noble Earl, Lord Howe, I have taken out the principles in putting this forward and left instead the duty on the Secretary of State to ensure that the planning and regulation of the built environment should promote health and well-being. It is a very simple, straightforward point in its way, and it leaves the Secretary of State complete discretion as to when they bring this into effect and as to precisely what principles they work for in doing that. However, my point is simply that this is nowhere in planning, and the idea that the built environment should not in some way promote health, safety and well-being seems extraordinary. It is equally extraordinary that in this entire levelling-up Bill there is no reference to the climate crisis, as we have just heard, or indeed to the public health crisis, which I think we are all familiar with. This is an attempt to put health and well-being at the centre of planning.

In response to that, the Government have said three things. First, in the formal minute, they said that this breached the financial privilege of the Commons. That is entirely up to the Commons to decide. I subsequently reduced and removed the principles that I saw as perhaps the area the Commons thought breached that privilege. I understand from the noble Earl that the clerks still consider that it breaches privilege, but that is for the Commons to decide; they can still debate it and, if they choose, put it to one side and record the fact in something called "the journal", in taking it forward. However, as I will say in a moment, building poor housing is a false economy.

The second point the Minister made was that much of what was in the original amendments was covered by other policy. That is entirely true, and I entirely respect the fact that the noble Earl and the Government want to improve the quality of homes and housing. However, it is important that we have some legislation around that and not just policy; nor does that put health and well-being at the heart of the policy. Most of it is not mandatory, and none ensures that health and well-being are fundamental to creating healthy homes and neighbourhoods.

6 pm

Finally, the noble Earl, Lord Howe, also just said that this cuts across the whole system of planning; that is very much the point. I have to say that I am rather confused that if these things are already covered in policy this proposal would then cut across the system. However, I have taken the key message that the Government do not want to require the Secretary of State to ensure that new homes and neighbourhoods promote health, safety and well-being. I think this is extraordinary. I am not going to repeat the sort of statements that I and other noble Lords made in earlier debates about the intimate links between poor housing and poor health and good housing and a good foundation for life. I will just note that there are real costs of poor-quality housing. There are costs to the NHS of about £1.4 billion a year, costs to tenants and costs to landlords. There are costs to the whole system and that is why a number of developers, housebuilders and insurers have supported the Town and Country Planning Association's Healthy Homes campaign on which this amendment is based. Subject to what the noble Earl, Lord Howe, may have to say later, I am very inclined to ask the House to divide and express its opinion on this point.

Baroness McIntosh of Pickering (Con): My Lords, I have Motion P1 in this group. I express my gratitude to my noble friend Lord Howe and others who attended the meeting last week, which was extremely helpful. I refer to my interests on the register and, in particular, that I co-chair the All-Party Parliamentary Group on Water. As my noble friend referred to in his opening remarks, we are in the midst of yet another storm and widespread flooding, not just in Scotland but parts of Yorkshire, Derbyshire, Lincolnshire and other parts of the country as well. My heart goes out to those families experiencing flooding at this time.

My noble friend mentioned that I may be minded to insist, and I hope that we may achieve a closer meeting of minds on this occasion than on the last occasion when we discussed this. In current planning policy, it depends entirely on local authorities, as I understand it, mapping the divisions between zones 3a and 3b, to which my noble friend referred. As I understand it, this currently is not being done as widely as one would hope. If the mapping is not being done, my first question to my noble friend is: how do we know which properties lie in zone 3b and which in zone 3a? Secondly, the information I have received is that Environment Agency advice, to which my noble friend referred, is currently not always being followed. I commend the fact that the Government of the day called on the Environment Agency to be statutory consultees in planning procedures and what a ground-breaking decision that was at the time. But, sadly, between 2016 and 2021, 2,000 homes were given planning permission against Environment Agency advice. If its advice is not being followed, what is the come back for purchasers who live in those houses where the advice has not been followed?

Post Flood Re—which was a very welcome development—houses built on a flood plain after 2009 are not covered by insurance. In those circumstances, it may be that someone purchases a house in good faith, perhaps without a mortgage, and may not realise that they are not eligible for insurance. As a Flood Re official expressed it, it would be better that houses were simply not built on functioning flood plains. I am afraid the question of whether houses built after 2009 are covered by insurance, or at the very least offered affordable insurance where the excess is not prohibitive, is still one of the outstanding issues that lie behind Amendment 80.

However, I am heartened by my noble friend saying that national development planning policies should express how best to achieve the lifetime protection that the Government are so committed to and which I support. This evening, can my noble friend put more flesh on the bones and particularly specify how he and the Government expect to achieve this? I am not

[BARONESS MCINTOSH OF PICKERING]

entirely convinced that what my noble friend seeks to achieve is set out in the latest iteration of the National Planning Policy Framework, published as recently as September this year.

The reason why this is so important is set out very eloquently by the National Infrastructure Commission in its quinquennial assessment published on 18 October, in which it recommends requiring

"planning authorities to ensure that from 2026 all new development is resilient to flooding from rivers with an annual likelihood of 0.5 per cent for its lifetime and does not increase risk elsewhere".

That aspiration could be achieved by regulation or, as my noble friend set out earlier this evening, in the National Planning Policy Framework. I urge my noble friend before we leave this Motion entirely to confirm this and give a little more detail as to how we expect this will be achieved through the National Planning Policy Framework.

Baroness Young of Old Scone (Lab): My Lords, I will talk to Motion Q, which deals with developments that affect ancient woodland, and I declare an interest as chair of the Woodland Trust. I thank the noble Baroness, Lady Willis, and the noble Lord, Lord Randall, who supported this amendment at earlier stages of the Bill. Huge thanks go to the noble Earl, Lord Howe, who has persuaded whoever needed persuading to take the body of my amendment into a government amendment. Although my amendment has not gone ahead, to a large extent it will bring into the consultation direction the ability for the Secretary of State to call in and direct local authorities against developments that will impact on ancient woodlands by destroying them or by influencing them from adjacent developments. That is terrific, and I really thank the noble Earl for his support and help in this.

Of course—conservationists and environmentalists always have a "but" after everything they say—this is very good, but the Government have introduced a couple of additions to the amendment we proposed. One is good: clarification of the definition of ancient woodland; the other is not so good, as it says basically that when we come to review and withdraw or amend the 2021 consultation direction, we could sweep the legs out from under this one, which would be rather short-lived since a review of the 2021 direction is under way at the moment. I hope that justice will prevail and that anyone reviewing the direction will be of the same mind as the noble Earl, Lord Howe, and will support the ancient woodland provisions because there is currently no protection for ancient woodland whatever.

I should say that my two co-sponsors and I and many others will be watching the department's intent intently, both in the review of the direction and, more importantly, in the implementation of the provision. It will be in operation by the end of this year and the way in which the Secretary of State and the Department for Levelling Up, Housing and Communities deal with it will be a real test of whether they recognise the importance of what is currently being put into statute. That is going to be the proof of the pudding. If we do not see any real efforts by the department to hold local authorities and developers to account against this provision and stop some of the frequent damage to ancient woodland caused by development, we will not have achieved much.

At that point, I must stop descending into churlishness and once again I say a big thank you to the noble Earl, Lord Howe, for putting forward the alternative government amendment. But we are watching.

Baroness Hayman (CB): My Lords, I will speak to my Amendment ZD1 and declare my interest as chair of Peers for the Planet.

I retabled my amendment on onshore wind to give the Government the opportunity to provide, as the noble Lord, Lord Ravensdale, said, clarity and consistency in the planning system in relation to onshore wind; to stop having to eat away at the disastrous effective moratorium on onshore wind by a series of measures and to have one clean, clear way of reverting to the planning system and not putting onshore wind on a special basis—not with any extra consideration—but not putting it out of the normal considerations in relation to planning law that any other infrastructure development would have.

I started fighting the moratorium three years ago in a Private Member's Bill. As the noble Baroness has just said, it would be churlish not to say that we have made progress from that point. We have seen contracts for difference being made open to onshore wind, then repowering and life extension for existing onshore wind developments, and the recent NPPF changes to which the Minister has referred have been welcome. However, all these have been baby steps. They have not solved the problem. More importantly, the industry as a whole is not convinced that there will be enough to give the onshore wind industry the reinvigoration or the planning framework within which to make the contribution that it needs to make to our renewable energy and net-zero targets—and also to cutting bills to boost energy security. With the costs of developing onshore wind high, the uncertainty that remains in the planning system could curtail investment and lead to supply chain issues and, ultimately, to development going elsewhere.

However, I have to say that the Minister has, as ever, tried to help and has helped. We do have more baby steps and I very much welcome his commitment to monitoring the effects of the changes that have been made—because there is a disagreement as to whether they will be effective and whether they will lead to more onshore wind developments. If we can see the data and if the Government are upfront and transparent about the effects, we can then see whether they are right or whether the fears that some of us have are justified.

So I do welcome that and that the Minister has given us a timeframe this evening for that reporting to come back. He mentioned that the consultation on changes to the NPPF and the implementation of consultation with local communities is soon to be made public. I hope that when the results of that consultation come out, the Government will look very carefully at whether they can offer some guidance to local authorities, because some of the terms about how you assess local support and what is adequate are

very difficult on a case-by-case basis. It would be extremely helpful if the Government could look at giving local authorities some guidance in these areas.

So I am trying to strike a balance between saying "Not enough" and "Thank you for what there is" and I will not be pressing this to a Division later.

6.15 pm

Baroness Bennett of Manor Castle (GP): My Lords, I rise very briefly, aware of the hour, to offer the Green group's support for all the alternative amendments in this group and to reflect on how your Lordships' House is still trying to fix some utterly extraordinary holes in this Bill. If you think of what the holes are that we are filling, they are related to climate but also to public health and the cost of living crisis—the issues that are of great concern to people all round this country, but particularly those in the areas that the levelling-up Bill is most supposed to be addressing.

I must note that at about the same time that we are speaking, in the other place there is a Statement on the impacts of Storm Babet. The noble Baroness, Lady McIntosh, referred to this. We have had tragic deaths. Huge numbers of people have seen their lives torn apart by flooding. There are now 1.9 million people living in homes at significant risk of flooding. That figure will double by 2050. We have a huge problem with public health. We often hear in your Lordships' House the concern about getting ill people back to work. We must get productivity up. These are issues that the Government are talking about all the time and issues that these amendments are trying to address.

So, once again, we are trying to help and we can only hope that the Government will listen.

Lord Best (CB): My Lords, I rise to speak to Motion ZH, the government amendment in lieu of Lords Amendment 329. The intention of the earlier Lords amendment was to make local plans more specific in spelling out the housing needs of each locality and the ways in which those needs are to be met. This would identify how homelessness and temporary accommodation can be eliminated over a reasonable timescale. The amendment, devised by Shelter, detailed what the local plan should cover, including the needs of all those registered on the local housing authority's allocation scheme. This would mean all local plans highlighting the need for, and the steps to provide, the homes sought by those now in increasing difficulty as opportunities to buy or to rent have become alarmingly scarce.

The government amendment seeks to take this on board in a somewhat condensed version. It requires the local plan to

"take account of an assessment of the amount, and type, of housing that is needed in the local planning authority's area, including the amount of affordable housing that is needed".

This takes us into the same territory as my amendment and would sharpen up local plans to provide more precision in identifying and addressing the need for housing for those who are homeless or in temporary accommodation or on the never-ending waiting list for a home that they can afford. What is on the face of the Bill will now need to be buttressed by guidance for local planning authorities, to put a bit more flesh on the bones of this legislative measure. It would be good if the Minister could provide an assurance that this ingredient will be incorporated in forthcoming planning guidance.

The government amendment in lieu also raises the thorny question of defining "affordable housing", which has been debated in this House on numerous occasions and not resolved. The government amendment adds that "affordable housing" means social housing as it has been defined—very broadly and often misleadingly—since 2008. However, the amendment adds some new, encouraging words that "affordable housing" could mean housing of

"any other description of housing that may be prescribed".

This is helpful. It opens the door for a new definition of affordable housing which, in the future, this or another Secretary of State may prescribe. It would be good to see whether agreement can be reached in the months ahead on a more satisfactory definition, to update the old one from 2008 in readiness for the first opportunity to substitute a better version.

With these comments, I say that I feel that the Government have made a serious effort to take on board the need to sharpen up the local plan in respect of meeting housing need. I am grateful to the Government, and to the Minister in particular, for this change that they are willing to make to the Bill.

Lord Cromwell (CB): My Lords, I have one remark to make in support of Motion M1, put forward by the noble Lord, Lord Ravensdale. The noble Earl, with whom it is always so difficult to disagree, stated that the reason the Government are unhappy with the idea of climate change becoming more central is that it opens up a wide range of challenge. But climate change is going to be the central, existential issue of planning beyond our lifetimes. It is not an add-on; it is not planting a few trees in order to get planning permission. It is absolutely core, and dealing with that will make life very difficult for planning applications. I support this amendment so that climate change becomes central to the decision-making process, not an adjunct.

Lord Young of Cookham (Con): My Lords, I will intervene briefly to speak to three Motions in this group—first, Motion ZH, to which the noble Lord, Lord Best, has just spoken. It is the substitute for an amendment on housing need that he promoted on Report. There is a crucial difference between the original amendment, which required local authorities not just to assess need but to make provision for it. The Government's amendment deletes that last half—making provision for need. None the less, we have heard some encouraging words about social rent. It is a brave man who seeks to outbid the noble Lord, Lord Best, when it comes to speaking or voting on amendments on housing, so I am happy to follow his lead and not press that. I pay tribute to the work that he has been doing on this.

Secondly, it was disappointing to hear my noble friend Lord Howe say that Motion N1 on healthy homes, from the noble Lord, Lord Crisp, still had to be resisted. Ever since the Private Member's Bill was introduced, we have had numerous debates in Committee

[LORD YOUNG OF COOKHAM]
and on Report, and each time, in response, the noble Lord has moved further and further towards the Government. There never was a wide disagreement, because the Government always said that they agreed with the thrust of what he was trying to do.

It is worth reading out what may be the only sentence of the original amendment that remains:

"The Secretary of State must promote a comprehensive regulatory framework for planning and the built environment designed to secure the physical, mental and social health and well-being of the people of England by ensuring the creation of healthy homes and neighbourhoods".

That is apparently too much. It continues:

"The Secretary of State may by regulations make provision for a system of standards".

In other words, how that objective is reached is left entirely to the Secretary of State. Far from cutting across, as my noble friend Lord Howe said, the amendment seeks to bring it all together under a comprehensive framework to promote healthy homes.

The last point I want to make is on Motion R1 of the noble Baroness, Lady Pinnock. It repeats an amendment that I originally proposed in Committee that gives local authorities powers to fix their own planning fees. In the other place, the amendment was resisted on these grounds:

"It will lead to inconsistency of fees between local planning authorities and does not provide any incentive to tackle inefficiencies".—[*Official Report*, Commons, 17/10/23; col 186.]

Central government should be quite careful before it preaches to local government about inefficiencies. This is the month in which we abandoned most of HS2. Pick up any NAO report and you will find criticism of the MoD on procurement. There has been criticism of the new hospitals programme and of HMRC in its response to taxpayer inquiries. If I were running a planning department in a local authority, I would be slightly miffed if I were told that, if I had the resources I needed, it might lead to inefficiencies.

There are problems in planning departments, but they are because a quarter of planners left the public sector between 2013 and 2020, so of course they cannot turn around planning applications as speedily as they might. The argument about promoting inefficiency does not really hold water. If one were to take that argument, why stop at planning fees? What about taking books out of a public library, swimming or parking? Are these not areas where local authorities might conceivably be inefficient?

Almost the first sentence of the White Paper introducing the Bill said that it would promote a "revolution in local democracy", but allowing planning departments to set fees, so that they can recoup the costs of planning, is apparently a step too far. Yes, you will have inconsistency of fees, but that will happen if you have local democracy. We already have inconsistency of fees in every other charge a local authority makes, including building control fees. The argument that it will somehow confuse individuals or developers does not hold water. How many individuals make planning applications to a range of different local authorities and then express surprise that the fees are different? Yes, developers will be confronted with different fees, but they want an efficient planning department that processes their applications quickly.

I cannot understand why the Government are digging in their heels on this amendment, which empowers local government and gives them resources. It does not get resources at the moment because, in a unitary authority, the planning department, which does not get enough money from planning fees, has to bid for resources from the council tax in competition against adult social care and other services. It is no wonder that it misses out. At this very late stage on the Bill, I ask my noble friend whether the Government could show a little ankle on this, move a little towards empowering local government and trust it to get this right.

Lord Lansley (Con): My Lords, I apologise for intervening before the noble Baroness, Lady Pinnock, has a chance to speak to Motion R1, but I have to disagree with my noble friend on this occasion. Last week, we had a debate on planning fees, in which I participated. The risk in what the noble Baroness proposes is that it would lead to local authorities significantly increasing the fees that would be charged for householder applications.

I remind the House that I chair the Cambridgeshire development forum. As far as larger developers are concerned, the point I made last week is that we should promote planning performance agreements to enable local authorities and developers to come to proper agreements, with potential sanctions and performance obligations on the part of the local planning authority. They would give them access to greater resources in dealing with major developments. I fear that what the Liberal Democrat Front Bench proposes would just lead to increases in fees for householder applications.

I also want to say a word about Motion M1 on climate change. The noble Lord, Lord Ravensdale, knows that I thoroughly agree with what he proposes but, at this stage, sending back the same amendments is inherently undesirable if it can be avoided. I hope that my noble friend on the Front Bench will tell us more about how the Government will use the new national development management policies, which will have statutory backing. If the Government set down NDMPs in terms that are clear about the importance of decisions that take account of mitigation of and adaptation to climate change, they will have the effect that my noble friend and other Members of the House look for from this Motion.

The distinctive point of the original Amendment 45 was that it would extend specific consideration of mitigation of and adaptation to climate change to individual planning decisions—there is plenty in the statute about the application of this to plan-making—so that is where the gap lies. That gap can be filled if national development management policies are absolutely clear about how decisions are to be made on the impact of climate change. I hope that my noble friend says something that allows me to feel that we do not need to send the same Amendment 45 back to the other place.

Baroness Pinnock (LD): My Lords, first, I thank the noble Earl most sincerely for the time he has spent with me and my colleagues in discussions about these

issues. They were, of course, of great interest to the noble Baroness, Lady Scott of Bybrook, and I repeat my good wishes to her for a speedy recovery.

It is not often that you get a Motion both agreed and disagreed with before it is proposed, but here we go. I will speak to Motion R1, about planning fees, which is in my name. I thank the noble Lord, Lord Young of Cookham, for his support. He has made the powerful case in favour of enabling local authorities to determine their planning fees to cover costs: no more, no less.

6.30 pm

The reason provided by the noble Earl for turning down the original amendment was financial privilege. The substitute amendment that I have made has gone, I think, all the way to satisfying that criticism. It seeks that, where the Secretary of State is satisfied that the income from planning fees, which are set by national regulations, does not meet the cost of planning service,

"a local planning authority may make provision as to how a fee or charge … is to be calculated".

It is saying that where a local planning authority is not able to cover its costs, the Secretary of State can intervene to enable it to do so. That puts the onus back on the Secretary of State to fulfil an obligation and a responsibility that planning fees should cover the costs.

At the moment, as we discovered in the debate that we had on the statutory instrument to increase planning fees to which the noble Lord, Lord Lansley, referred, council tax payers are subsidising planning fees to a considerable extent—more than £250 million of council tax payers' money. Even after the increases that the Government have introduced, which I am pleased about, of 35% for major applications and 25% for minor applications—the increase is on the 2018 set of figures—local council tax payers will still be subsidising planning applications to the tune of more than £125 million a year.

That principle is wrong. Why should council tax payers help to subsidise applications from, for instance, major housebuilders? Why should they—

Lord Lansley (Con): I apologise for interrupting the noble Baroness, but surely we discovered from the documentation that came with the statutory instrument last week that after the increase in fees, the great majority of that subsidy would be to householder applications? What the noble Baroness is looking for is for householder application fees in effect to be doubled.

Baroness Pinnock (LD): I thank the noble Lord, Lord Lansley, for his comment. What we did discover, and I have the papers with me, was that there would still be a subsidy for major applications—that was in the papers—and that there would be a subsidy for householder applications. But the case I make is this: if householders wish to add an extension to their house or improve it in some other way, then there is a cost to that, of which the planning application fee is a minor part. Why should their next-door neighbour subsidise it? I do not think it is a just or fair way of spending taxpayers' money. If we told them that this was happening, I think they would be as cross as I am.

We need to recover costs because the principle that I have just outlined, but also because without local planning authorities being fully resourced, they will not turn around the situation that is well recorded by professional bodies, by the Local Government Association and by the Government in the papers that we had for the statutory instrument last week—that there is a significant shortfall in planning officers in local government because of the lack of resources. If we are going to reverse that, local planning authorities need to be properly resourced, so that in a plan-led system we have experienced and well-qualified planners who have the responsibility of ensuring that local and national plans are respected.

The only other point I want to make on this issue is this: many councils across the country are under severe financial pressure—let us put it like that. Some, as we heard from Birmingham, which was the latest council, are on the brink of having insufficient resources to fulfil their statutory obligations. Particularly in those circumstances, it seems quite wrong to expect councils to use council tax payer funding to subsidise planning applications, hence my continuing pursuit of a fair and just planning application fee process.

I suppose my final point on this is to totally agree with the noble Lord, Lord Young of Cookham, when he asks why on earth in a local democracy cannot local government have the right, responsibility and duty to set its own fees? It does on everything else, so why not on that? I will push this to a vote if the noble Earl fails to agree with me and others' powerful speeches on this.

On the other amendments, I endorse the "healthy homes" Motion that the noble Lord, Lord Crisp, has pushed again today. He is absolutely right: why do we continue building places that produce problems, when we could solve it from the outset? If the noble Lord wishes to press his Motion, he will get our full support, as will the noble Lord, Lord Ravensdale, for his Motion on climate change. He is absolutely right; it is an existential threat to our country. We must take it seriously, and here is one area of policy where we can be seen to be doing that.

Baroness Hayman of Ullock (Lab): My Lords, I shall be very brief. This has been quite a long debate, and we have a number of votes at the end of it.

First, on the amendment from the noble Baroness, Lady Thornhill, regarding NDMPs, we agree with her that the Government's amendment is not sufficient to answer the concerns that were raised in Committee and on Report. If the noble Baroness wishes to divide the House, she will have our full support.

Secondly, on the amendment from the noble Lord, Lord Ravensdale, on planning and climate change, we consider this an extremely important issue, as other noble Lords have mentioned. If he wishes to divide the House, he will have our full support.

On the amendment from the noble Lord, Lord Crisp, on healthy homes, which he spoke to so eloquently—as did the noble Lord, Lord Young—we also believe that health needs to be at the centre of planning when making decisions about housing. If the noble Lord wishes to press this to a vote, he will have our full support.

[Baroness Hayman of Ullock]

We welcome the fact that there have been concessions on ancient woodland and offshore wind, and some concession for the noble Lord, Lord Best, on his amendment. We would have preferred to see mention of social housing, as well as affordable housing, in the Government's Amendment 329A.

On the amendment from the noble Baroness, Lady McIntosh, on floods, it is very important and the Government need to get a grip on whether people can get insurance—ideally through Flood Re—because we cannot have insurance with excess that is so huge that it makes the insurance pointless. We have a debate tomorrow on Storm Babet; I am sure these issues will be raised again then.

Finally, on the amendment from the noble Baroness, Lady Pinnock, on planning fees, we believe that this is an important point that we need to continue to discuss. Therefore, if the noble Baroness wishes to test the opinion of the House, she will have our strong support.

Earl Howe (Con): My Lords, once again I am grateful to noble Lords for their comments and questions.

Motion L1, in the name of the noble Baroness, Lady Thornhill, relates to national development management policies and the process by which they are made. We do not agree with the principle that the process for making national development management policies should be based on that for national policy statements. National development management policies will serve a broader purpose than national policy statements, which are used by Ministers to make planning decisions for major infrastructure projects, so it is right that their requirements should be suited to their purpose, not based on the provisions of a different regime.

That said, I cannot agree with the noble Baroness's characterisation of Motion L. The parliamentary scrutiny proposals in Motion L go even further than the provisions for national policy statements. The NPS provisions refer to the House of Commons where these proposals refer to both Houses. The NPS provisions require the Secretary of State to respond to recommendations of a committee of either House before they can be made, while this Motion would require a vote in favour of the proposals if a committee of either House made recommendations about a draft policy. This Motion would limit the circumstances in which no consultation is necessary to those in the interests of public safety or national security. That would be too narrow for the exceptional circumstances in which we expect this provision to be used. Examples we have given—such as our changes during the pandemic offering protection to theatres that were temporarily vacant—would not have been able to be made with such a narrowly drafted provision. This is because, although the policy change was in response to the pandemic, it was not in the interests of public safety or national security itself. We do not think this part of the amendment is necessary, as NDMPs will be a programme of policies that we anticipate will be captured by the requirement to undertake statutory environmental assessment.

Motion N1 from the noble Lord, Lord Crisp, requires the Secretary of State to

"promote a comprehensive regulatory framework for planning and the built environment designed to secure the physical, mental and social health and well-being of the people of England by ensuring the creation of healthy homes and neighbourhoods".

While the Government, as I have said on many occasions, support the principle raised by the noble Lord, I say again that these matters are already taken into consideration and addressed through existing systems and regimes. That includes through building safety, building regulations, the National Planning Policy Framework, the national design code and the national model design code. The creation of an additional regulatory framework would cut across these regimes. I know he said that was the whole point, but I contend that those regimes are already comprehensive, and the Government therefore cannot support his Motion.

6.45 pm

Motion R1 from the noble Baroness, Lady Pinnock, relates to planning fees. The amendment inserts a new clause that delegates to a local planning authority the calculation of fees and charges payable under regulations under that section, including who is to make the calculation in circumstances where the Secretary of State is satisfied that the income from the fees set by regulations does not meet the cost of performing that function. On the noble Baroness's substantive proposal, I will not repeat in any detail the arguments I put forward earlier. We do not think that enabling local planning authorities to vary fees and charges is the way to answer resourcing issues. She asked, though, why we should not increase fees to cover the full cost of processing the planning application, and my noble friend Lord Lansley sounded a wise warning on that point. As I said at an earlier stage of the Bill, we want to proceed in a measured way that provides additional resourcing for local authorities without disproportionately impacting on businesses and householders, and without deterring potential development. We intend to undertake a wider review of the actual cost of processing different types of applications—as the proposed planning reforms are implemented and the savings from digitalisation are realised, which is an important ingredient in the mix—so that fees relate more directly to the cost of the service.

I turn to my noble friend Lady McIntosh's concerns on flood risk; she asked for more detail on the way the NPPF will contribute to better and more precise decision-making. The Bill proposes changes to the decision-making test so that, in future, decisions on planning applications must be decided in accordance with the development plan and national development management policies, unless material considerations strongly indicate otherwise. This will give greater weight to those locally produced plans and important national policy protections made as NDMPs.

We should remember that the NPPF is fundamental to delivering the homes that we need in places where people want to live. It sets out a comprehensive approach to ensuring that we get the right homes of the right quality built in the right places. At the same time, it includes policies for leaving our environment in a better condition than when we inherited it, speeding up buildout, and it provides local areas with more flexibility to make effective use of land. The NPPF

ensures that all sources of flood risk need to be considered, including areas at risk of surface water flooding due to drainage problems, taking into account future flood risk to ensure that any new development is safe for its lifetime without increasing the risk of flooding elsewhere. The framework is clear that areas at little to no risk of flooding from any source should always be developed in preference to areas at a higher risk of flooding.

Finally, I turn to the amendment from the noble Lord, Lord Ravensdale. He appeared to suggest that, without his amendment, decision-makers will have no requirement to attribute planning weight to climate change. It is important to emphasise that that is not the case. The existing NPPF clearly sets out that the Government expect the planning system to help mitigate and adapt to climate change. The framework is also clear that:

"The planning system should support the transition to a low carbon future in a changing climate … shape places in ways that contribute to radical reductions in greenhouse gas emissions",

and take

"full account of flood risk and coastal change".

Decisions are, as a matter of existing law, required to be made in accordance with local plans. The NPPF makes it clear that plans

"should take a proactive approach to mitigating and adapting to climate change",

considering the

"long-term implications for flood risk"—

not just the short term—

"coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures",

explicitly in line with the objectives and provisions of the Climate Change Act 2008. I hope that background will assist the noble Lord in deciding what he wishes to do with his amendment.

Baroness Thornhill (LD): I thank the Minister for his response to Motion L1, and particularly for reinforcing the weight and importance of NDMPs, so much so that he said that he felt they needed their own specific processes, not to be misunderstood with national planning statements and infrastructure policy. But at the heart of this problem is the unknown nature of the NDMPs and a very firm belief from these Benches and the Labour Benches, for which I thank them, that these very weighty and important NDMPs are important enough to warrant upfront formal parliamentary oversight. Therefore, I wish to ask your Lordships whether they agree.

6.52 pm

Division on Motion L1

Contents 179; Not-Contents 196.

Motion L1 disagreed.

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7.02 pm

Motion L agreed.

Motion M

Moved by ***Earl Howe***

That this House do not insist on its Amendment 45, to which the Commons have disagreed for their Reason 45A.

45A: Because it is not appropriate to place a duty on the Secretary of State to have special regard to the mitigation of, and adaptation to, climate change, in preparing the policies or advice concerned.

Earl Howe (Con): My Lords, I have already spoken to Motion M. I beg to move.

Motion M1 (as an amendment to Motion M)

Moved by ***Lord Ravensdale***

Leave out from "House" to end and insert "do insist on its Amendment 45."

Lord Ravensdale (CB): My Lords, I hoped for some further movement from the Government on this vital issue. I wish to test the opinion of the House.

7.03 pm

Division on Motion M1

Contents 189; Not-Contents 186.

Motion M1 agreed.

Division No. 5

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Porter of Spalding, L.
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Willetts, L.
Williams of Trafford, B. [Teller]
Wolfson of Tredegar, L.
Wyld, B.
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7.14 pm

Motion N

Moved by ***Earl Howe***

That this House do not insist on its Amendments 46, 249 and 327, to which the Commons have disagreed for their Reason 327A.

327A: Because they would involve a charge on public funds, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.

Earl Howe (Con): My Lords, I have already spoken to Motion N. I beg to move.

Motion N1 (as an amendment to Motion N)

Moved by ***Lord Crisp***

At end insert ", and do propose Amendments 327B and 327C in lieu—

327B: After Clause 87, insert the following new Clause—

"Secretary of State's duty to promote healthy homes and neighbourhoods

(1) The Secretary of State must promote a comprehensive regulatory framework for planning and the built environment designed to secure the physical, mental and social health and well-being of the people of England by ensuring the creation of healthy homes and neighbourhoods.

(2) The Secretary of State may by regulations make provision for a system of standards that promotes and secures healthy homes and neighbourhoods on condition that certain requirements prescribed in the regulations are met."

327C: Clause 219, page 249, line 3, at end insert—

"(ba) under section (Secretary of State's duty to promote healthy homes and neighbourhoods);""

Lord Crisp (CB): My Lords, I wish to test the opinion of the House.

7.14 pm

Division on Motion N1

Contents 185; Not-Contents 186.

Motion N1 disagreed.

Division No. 6

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Barker, B.
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Benjamin, B.
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Berkeley, L.
Best, L.
Blackstone, B.
Blake of Leeds, B.
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Bonham-Carter of Yarnbury, B.
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Foster of Oxton, B.
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Godson, L.
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Soames of Fletching, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
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Sugg, B.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trenchard, V.
True, L.
Udny-Lister, L.
Vere of Norbiton, B.
Verma, B.
Warsi, B.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wolfson of Tredegar, L.
Wyld, B.
Younger of Leckie, V.

7.26 pm

Motion N agreed.

Motion P

Moved by ***Earl Howe***

That this House do not insist on its Amendment 80, to which the Commons have disagreed for their Reason 80A.

80A: Because requiring local planning authorities to refuse planning permission for residential property on Zone 3a or 3b flood zones would inappropriately and excessively limit the places where residential property could be built.

Earl Howe (Con): My Lords, I have already spoken to Motion P. I beg to move.

Motion P1 (as an amendment to Motion P)

Tabled by ***Baroness McIntosh of Pickering***

Leave out from "House" to end and insert "do insist on its Amendment 80."

Baroness McIntosh of Pickering (Con): I thank those who supported the original amendment at earlier stages. I thank the Minister for the certain assurances that he has made this evening, on which I will press him further, but I will not move the amendment.

The Deputy Speaker (Baroness Pitkeathley) (Lab): Motion P1 has been moved as an amendment to Motion P.

Noble Lords: Not moved!

The Deputy Speaker (Baroness Pitkeathley) (Lab): I am so sorry; I did not hear the noble Baroness.

Motion P agreed.

Motion Q

Moved by ***Earl Howe***

That this House do not insist on its Amendment 81 and do agree with the Commons in their Amendments 81A, 81B and 81C in lieu.

81A: Page 157, line 17, at end insert the following new Clause

"Development affecting ancient woodland

(1) Before the end of the period of three months beginning with the day on which this Act is passed, the Secretary of State must vary the Town and Country Planning (Consultation) (England) Direction 2021 ("the 2021 Direction") so that it applies in relation to applications for planning permission for development affecting ancient woodland.

(2) In subsection (1) "ancient woodland" means an area in England which has been continuously wooded since at least the end of the year 1600 A.D.

(3) This section does not affect whether or how the Secretary of State may withdraw or vary the 2021 Direction after it has been varied as mentioned in subsection (1)."

81B: Clause 221, page 250, line 26, at end insert—

"(e) section (Development affecting ancient woodland) extends to England and Wales."

81C: Clause 222, page 251, line 33, after "123" insert "and (Development affecting ancient woodland)"

Motion Q agreed.

Motion R

Moved by ***Earl Howe***

That this House do not insist on its Amendment 82, to which the Commons have disagreed for their Reason 82A.

82A: Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.

Earl Howe (Con): My Lords, I have already spoken to Motion R. I beg to move.

Motion R1 (as an amendment to Motion R)

Moved by ***Baroness Pinnock***

At end insert ", and do propose Amendment 82B in lieu—

82B: After Clause 123, insert the following new Clause—

"Planning application fees

(1) Section 303 of the Town and Country Planning Act 1990 (fees for planning applications etc.) is amended as follows.

(2) After subsection (4) insert—

"(4A) If the Secretary of State is satisfied that the income from the fees set by regulations does not meet the cost of performing the function, a local planning authority may make provision as to how a fee or charge under this section is to be calculated (including who is to make the calculation).""""

Baroness Pinnock (LD): I beg to move.

The Deputy Speaker (Baroness Pitkeathley) (Lab): I want to be sure that I have heard it right. Is the noble Baroness moving this one?

Baroness Pinnock (LD): Yes, I wish to test the opinion of the House.

7.28 pm

Division on Motion R1

Contents 176; Not-Contents 191.

Motion R1 disagreed.

Division No. 7

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Kerr of Kinlochard, L.
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Kramer, B.
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Remnant, L.
Risby, L.
Robathan, L.
Roborough, L.
Rock, B.
Sanderson of Welton, B.
Sandhurst, L.
Sater, B.
Seccombe, B.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.
Soames of Fletching, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Strathclyde, L.
Sugg, B.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trenchard, V.
True, L.
Udny-Lister, L.
Vere of Norbiton, B.
Verma, B.

Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wolfson of Tredegar, L.
Wyld, B.
Younger of Leckie, V.

7.39 pm

Motion R agreed.

Motion S

Moved by ***Earl Howe***

That this House do not insist on its Amendment 90 and do agree with the Commons in their Amendment 90A lieu.

90A: Clause 138, page 170, line 9, leave out from "to" to end of line 10 and insert "—

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

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

(c) in the case of regulations made by the Welsh Ministers acting alone, the current national natural resources policy (within the meaning of section 9 of the Environment (Wales) Act 2016), or

(d) in the case of regulations made by a Northern Ireland department acting alone, the current environmental improvement plan (within the meaning of Schedule 2 to the Environment Act 2021)."

Motion T

Moved by ***Earl Howe***

That this House do not insist on its Amendments 102 and 103 and do agree with the Commons in their Amendments 103A, 103B, 103C and 103D in lieu.

103A: Clause 143, page 174, leave out line 13 and insert "—

(a) within Scottish devolved legislative competence, or

(b) which could be made by the Scottish Ministers, with the consent of the Scottish Ministers, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence."

103B: Clause 143, page 174, line 13, at end insert—

"(1A) The Secretary of State may only make EOR regulations which contain provision that confers a function on, or modifies or removes a function of, the Scottish Ministers after consulting the Scottish Ministers, unless—

(a) that provision is contained in regulations which require the consent of the Scottish Ministers by virtue of subsection (1), or

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

103C: Clause 143, page 174, line 14, after "devolved" insert "legislative"

103D: Clause 143, page 174, line 17, leave out paragraphs (b) and (c)

Motion U

Moved by ***Earl Howe***

That this House do agree with the Commons in their Amendments 117A, 117B, 117C and 117D.

117A: As an amendment to Amendment 117, line 9, leave out "consult" and insert "obtain the consent of"

117B: As an amendment to Amendment 117, line 10, leave out "competence by virtue of section 143(2)(a)" and insert "legislative competence by virtue of section 143(2) or which could be made by the Scottish Ministers"

117C: As an amendment to Amendment 117, line 20, leave out "competence by virtue of section 143(2)(a)" and insert "legislative competence by virtue of section 143(2) or which could not be made by the Scottish Ministers"

117D: As an amendment to Amendment 117, line 35, after "Part 1 of Schedule (Existing environmental assessment legislation)" insert "(other than a function under Schedule 3 to the Harbours Act 1964 so far as relating to environmental impact assessments in Scotland)"

Motion V

Moved by ***Earl Howe***

That this House do not insist on its Amendments 133, 134, 137, 139, 142, 156, 157, 172 and 180, to which the Commons have disagreed for their Reason 180A.

180A: Because the amendments were introduced at Lords Report stage in connection with other amendments that were not agreed to.

Motion W

Moved by ***Earl Howe***

That this House do not insist on its Amendment 199, to which the Commons have disagreed for their Reason 199A.

199A: Because it is not appropriate for the Government, and local authorities, to intervene in high street financial services.

Motions S to W agreed.

Motion X

Moved by ***Earl Howe***

That this House do agree with the Commons in their Amendment 231A.

231A: As an amendment to Amendment 231, line 24, leave out "(subject to subsection (5)).

(5) Regulations under this section may not amend or repeal—

(a) sections 9, 10 and 11,

(b) section 12(2), or

(c) section 21, of the Building Safety Act 2022." LORDS AMENDMENT 237

Earl Howe (Con): My Lords, with the leave of the House, in moving this Motion I will also speak to Motions ZC and ZC1. Together, these Motions address two matters relating to the building safety regime that we have established through the Building Safety Act 2022. I turn first to the power the Government have taken to transfer the building safety regulator out of the Health and Safety Executive in the future.

I recognise the concerns that many noble Lords expressed when they amended these proposals to add formal protections for the important statutory committees established through Sections 9 to 11 of the Building Safety Act. I must particularly thank the noble Lord, Lord Stunell, for his continued interest and constructive engagement with me and my officials. However, we have further considered his amendment and, unfortunately,

our conclusion is that it would force us to lose these important committees should the building safety regulator be moved out of the Health and Safety Executive, by preventing the Government amending these sections to change the key references to the Health and Safety at Work etc. Act under which they have been established. We are therefore unable to accept the proposal and have made Amendment 231A, removing the relevant section from Amendment 231.

However, let me repeat the strong commitment that I gave on Report in this House: the Government have no intention to amend the make-up or role of these committees, and fully intend that they should be retained and their important work protected. On this basis, I hope that your Lordships will agree to Amendment 231A. I will respond to Motion X1, in the name of the noble Lord, Lord Stunell, in my closing speech.

Amendment 242, originally put forward by my noble friend Lord Young of Cookham, seeks to secure parity between qualifying and non-qualifying leaseholders under the Building Safety Act 2022, extending the protection to three properties for all types of leaseholder. It would also amend the Building Safety Act to exclude shares in a property of 50% or less from being counted as wholly owned.

The Government cannot accept Amendment 242, for a number of reasons. First, we do not believe that it would have the intended effect. It may in fact undermine the protections currently in place. The noble Earl, Lord Lytton, raised concerns with it on Report because of this. He pointed out that, under my noble friend's amendment,

"post-remediation qualified status would disappear. If some further defect is found at a later date, the building owner would then impose the cost of sorting it out on all the leaseholders".—[*Official Report*, 18/9/23; col. 1239.]

That is not, I am sure, what my noble friend intends. The noble Earl, Lord Lytton, also observed that the amendment does not deal with minority shared ownerships.

Secondly, I can only repeat what I said to my noble friend on Report. The range of issues the amendment attempts to deal with is so extraordinarily complex that it requires rather more time for our lawyers—and. Indeed, lawyers externally—to address fully. As will be clear from our Amendments 288A to 288D in lieu of Amendment 243, this is a complex area of law and, with the greatest respect to your Lordships, Amendment 242 does not deal comprehensively with the difficult and overlapping pieces of legislation in this space. As my noble friend Lady Scott and I have made clear in this House, the Government are looking at these issues carefully, but they are not straightforward and the potential for rushed change to have unintended consequences is high. I therefore ask your Lordships not to insist on Amendment 242.

As my honourable friend the Housing Minister explained in the other place last week, the Government accept the principle of Amendment 243, originally put forward by my noble friend Lord Young of Cookham. We have therefore proposed Amendments 288A to 288D in lieu of Amendments 243 and 288. This will ensure that the statutory protections for leaseholders continue where qualifying leases are extended, varied or replaced by an entirely new lease. This amendment will be retrospective, so it will apply to qualifying leases extended, varied or replaced since 14 February 2022. This means that those qualifying leaseholders who have, for example, extended their leases, or are in the middle of the process, will be covered by the protections. I hope that noble Lords will therefore not insist on Amendments 243 and 288 and instead accept Amendments 288A to 288D. I do of course note my noble friend Lord Young's Motion ZC1, which I will respond to in my closing speech once he has spoken to it. I beg to move.

7.45 pm

Motion X1 (as an amendment to Motion X)

Moved by ***Lord Stunell***

Leave out from "House" to end and insert "do disagree with the Commons in their Amendment 231A and do propose Amendment 231B to Lords Amendment 231—

231B: In subsection (5)(a), at end insert "except as necessary to permit their transfer and incorporation into any body established under subsection (2)(a) or (2)(b) of this section""

Lord Stunell (LD): My Lords, I thank the noble Earl, Lord Howe, for his kind words and for the time that he devoted to this particular aspect of a very long and complex Bill. Nevertheless, it is regrettable that he has not yet seen his way to accept the sensible and reasonable amendment that noble Lords sent back to the Commons on Report. Its purpose was to safeguard the rigorous safeguards built into the Building Safety Act 2022, which this House was united in supporting and which was designed to establish a robust regulatory regime that would ensure there was never another Grenfell Tower disaster. Less than 12 months later, and before the new regulatory regime even comes fully into force, the Government are giving themselves and their successors sweeping powers to rip it up—save only for a very flimsy affirmative Motion on a statutory instrument as a defence.

The modest amendment your Lordships sent to the Commons simply required the Government to accept that, if they wanted to change the fundamental structure and mechanics of delivery of the building safety regime, that must be justified to and approved by Parliament. The Government's response, which the noble Earl has just repeated, is that they do not want to change the fundamental structure and delivery of the building safety regime. All they want to do is take it away from the Health and Safety Executive, lock, stock and barrel, with no changes at all, except in the nameplate and the branding. If that is true, the amendment before your Lordships today is exactly in line with their intentions.

Motion X1 picks up the point the noble Earl made about the original amendment to the Commons—that it was flawed because the wording would obstruct the transfer of the statutory committees from the HSE to the new, completely unspecified and unknown safety regulator. The revised wording in Motion X1 therefore makes it clear on the face of the Bill that it will be lawful to make that transfer. This amendment is designed simply to avoid changes in how the new regulator is

[LORD STUNELL]
structured and organised and to prevent changes to the tasks that are entrusted to it and the statutory committees that underpin its work. The amendment, if agreed, would ensure that the Government's replacement regulator retains those duties and timescales: for instance, to review the regulations relating to electrical fire safety, the safety of staircases and ramps, safe escape routes for people with mobility issues and fire suppression systems such as sprinklers.

There is other detail, but in the interests of time I will simply say that the original arrangement in the Building Safety Act was that those committees and tasks could be changed only by the Secretary of State if he or she received a proposal from the regulator to put into place. That was because it was seen as very important that the regulatory regime should never again be captured, as it had been in the past, by departments and Ministers taking short-term political decisions, and that the regulator would always be able to independently assess needs to improve safety and then make recommendations in public to Ministers for them to decide on action.

The noble Earl has offered us a sincere undertaking that, at least for the time being, nothing will change; that Ministers will not be tempted to steer away from making essential safety improvements that they deem politically difficult or a bit too costly; and that they will faithfully press ahead without delay when those fire safety reports come in, however revealing and unwelcome they prove to be. Of course the noble Earl is absolutely sincere, but I say to him that Ministers and Secretaries of State come and go, and the sincerest of undertakings can be withdrawn when the facts are said to have changed. The accountability given by an affirmative resolution is tenuous.

I urge the Minister to retain the progress made during the enactment of the Building Safety Act by safeguarding those statutory committees, reinforcing the obligation for those long-awaited safety studies and making sure that the three-year timescale is retained. The way to do that is for him to say that, on mature consideration, he will accept Motion X1. I beg to move.

Lord Young of Cookham (Con): My Lords, I will speak to Motion ZC1 in my name. I pay a heartfelt tribute to my noble friend for the real progress that has been made since we last discussed this matter in helping qualifying leaseholders who extended their lease after the Building Safety Act came into effect. In a nutshell, the Act extended protection to qualifying leaseholders against the costs of remediation. However, inadvertently, it said that, if you renewed your lease after it came into effect, you lost that protection.

The Government recognised that there had indeed been a mistake and, on Report, I moved what is now Amendment 243, which would retrospectively have put the leaseholders who extended their lease back within the protection of the BSA. At the time, before the Bill went back to the other place, my noble friend resisted my amendments and said that the issues require

"very careful legal dissection and working through, and that is what we are doing".

When I summed up, I said:

"In a nutshell, the Government made a mistake when they drafted the Building Safety Act. Unwittingly, they have removed the protection that some leaseholders were entitled to. They have known for months that there has been this defect, and I do not accept that the defect is so complex that it cannot now be put right. That is what my amendment does. I seek leave to test the opinion of the House".—[*Official Report*, 18/9/23; cols. 1248-95.]

I do not know what my noble friend said to the department when he got back, but what had previously been impossible to do within the context of the Bill suddenly became possible. I am grateful to my noble friend for tabling Amendments 288A, 288B, 288C and 288D, which, in effect, do what I asked the Government to do last time. As I said, I am grateful to my noble friend for the pressure that he put on the parliamentary draftsmen to correct an injustice that had unwittingly been perpetrated.

Against that background, it might seem churlish of me to have tabled Motion ZC1, but there remains a problem: leaseholders who extended their leases, and therefore lost the protection of the BSA, will have received invoices and bills for payment, and some may have made payments. As drafted, the government amendments do not entitle those qualifying leaseholders to a refund. I am grateful for the Public Bill Office's help in drafting my Motion ZC1—I hope that will inject a note of caution into any remarks that the amendments are imperfectly drafted. The Motion seeks to say that, in those circumstances where a qualifying leaseholder has already paid the remediation costs, but need not have, they are entitled to a refund.

Under the Government's amendment, there is a provision whereby the Government have powers, under regulations, to make certain provisions. I want my noble friend to answer a question that was put twice in the other place. The Opposition spokesman on housing, Mr Pennycook, said:

"we welcome the concession that has been made, albeit with one proviso: Ministers must take steps to ensure that leaseholders who paid service charges over the past 15 months in the belief that they were not eligible for the leaseholder protections under the Act, because of the Government's mistake, are reimbursed. Those individuals should not suffer financially as a result of a drafting error that should not have been allowed to occur in the first place. If the Minister—I hope she is listening to this point—can provide us with some reassurance on that point, we will happily accept the Government's amendment in lieu".—[*Official Report*, Commons, 17/10/23; col. 199.]

My honourable friend the Father of the House, Sir Peter Bottomley, made the same point.

In winding up, Rachel Maclean was under tremendous time pressure because of the timetable Motion in the other place, and she was not able to answer either of those two questions. So if my noble friend is unable to accept my amendment, as he implied, I ask him for an assurance on the provisions of his amendment, which enable certain regulations to be made in proposed new subsection (11):

"The provision that may be made in regulations under this section includes … provision which amends this section; … provision which has retrospective effect".

Can he assure me that, if a leaseholder has paid a bill and need not have, my noble friend will use the powers under his own amendment retrospectively to entitle that leaseholder to a refund? That is the import of my

amendment, which I do not wish to press to a Division—but I hope that, in return, my noble friend will be able to give me that reassurance.

My noble friend's Motion ZC knocks out a whole range of amendments that were passed without a Division in this House and that extended protection to non-qualifying leaseholders. These are basically leaseholders living in buildings under 11 metres; enfranchised leaseholders, who are counted as freeholders for the Act; and those who own more than three properties in buy-to-let investments. There are real problems: people in buildings under 11 metres get no protection at all, cannot get a mortgage and cannot sell. They have to pay the cost of remediation, because that is the only way that the building can get insured. They face exactly the same problems as people in buildings over 11 metres, but they get no protection at all. There are also leaseholders who, following government advice, enfranchised and became freeholders. Despite assurances I was given by the then Minister that they would be treated as leaseholders, the Bill treats them as freeholders and denies them the protection extended to leaseholders.

There is also the problem of those who have buy-to-let properties. A person who owns a £1 million property and other properties overseas is protected, but someone who owns three properties worth £100,000 each gets no protection at all. People who jointly own a property with their husband are counted as wholly owning. There is a whole range of outstanding issues from the Building Safety Act that I understand cannot be addressed in the Bill, but, again, I hope that my noble friend is able to say that, in the proposed leasehold reform Act, it will be open to the Government to reopen these unresolved problems in the BSA and that legislation will be proposed to address at least some of the issues arising from the BSA that I have outlined and that I believe remain unsolved.

In conclusion, I thank my noble friend again for his efforts in response to my original Amendment 243, but I hope he can give me the assurances I seek for leaseholders who have paid bills that they need not have.

8 pm

The Earl of Lytton (CB): My Lords, I have an interest in both the items that we are considering in this group. For the avoidance of doubt, I declare my involvement as a practising but nearly completely retired chartered surveyor with a knowledge of the leasehold and construction sectors.

The noble Lord, Lord Stunell, deserves the full appreciation of the House for what I can only describe as a progressive defenestration of the fuzzy edges that have surrounded the question of the building safety regulator. He has whittled it down to the last elements, as to whether this is a proposal for a like-for-like transfer from one jurisdiction, if I can term departments in that sense, to another—or whether, as he had previously identified, some other morphing process was going on behind the scenes. I supported him previously in this, and I support him again in his endeavours here. This really boils down to the last element, as to whether there is a change.

One could be forgiven for suspending a certain amount of belief here. If there is going to be the process of transferring a body from the Health and Safety Executive to some other framework, known or unknown, why would one run the risk of the delays, disruption and everything else that would be involved with that if it were not for the fact that some other factor was involved? Motion X1 as proposed by the noble Lord, Lord Stunell, is a significant litmus test of what is involved. I encourage the Minister to consider very carefully whether the Government mean what they say in saying that it is a like-for-like transfer from one authority to another, or whether in reality it conceals some other paradigm shift. That is very important.

I turn to the amendment proposed by the noble Lord, Lord Young of Cookham. I apologise for the fact that his colleague has had to use my comments from a previous stage in this debate to tell him that his approach is no good. Of course, my comments were made in the context of saying that it has a technical deficiency. I was not in any way intending to suggest that the direction of travel in which he was engaged was faulty or in any other way imbued with anything other than the highest principles. He and I share a great deal of what has happened here.

Again, the noble Lord is absolutely right in proposing Motion ZC1—and I was pleased that he referred, obiter as it were, to the problem with the exceptions. What has happened here is a sort of drawbridge approach to the liability and scope of the Building Safety Act, and it is that which creates these cliff-edge approaches to who is qualified, whether their funding qualifies or excludes them, and so on and so forth. That is what has been dogging everybody all the way along the line. In reality, that delineation of the protections under the Building Safety Act is pernicious, because they are protections that any Government should apply in response to a serious and systemic failure in the home building industry to deliver adequate quality in building safety terms—and, may I say, presided over by nearly 40 years of ineffective regulatory control of building standards.

To expand a little, the Government's resistance to anything beyond the straitjacket of parameters relating to the scope of leasehold protections seems to be governed by an entirely arbitrary approach and unwillingness even to collect data, understand implications or assess risk—I refer specially to those non-qualified leaseholders to which the noble Lord referred. My aim in all this has been to approach the matter on a much broader spectrum. The noble Lord and I shared an amendment to the Building Safety Act 18 months ago, and I think he has felt obliged to whittle it down evermore to try to get to something that he can achieve here. I absolutely applaud his persistence—but I am forced to suggest that, in the absence of any risk assessment, any government response to what may come down the road will be blindsided and ineffective. Hearing or speaking no evil does not prevent evils occurring—in this case, to hundreds of thousands of innocent lease payers, to market sectors, to valuation, to lending, to regeneration of urban areas and to new homes targets generally. I have said all this before, and I apologise for repeating it.

[The Earl of Lytton]

The noble Lord has been assiduous in his campaigning. With regard to Motion ZC1, I do not know how many leaseholders might be affected by this, but I suspect that it is actually quite a small cohort, and the Government should accept it and not allow this exclusion process or drawbridge approach to cut them off. Of course, I tried to address the whole thing on a much wider scope, but to no avail, which is why, when my words are used as a reason for denying the noble Lord the fruits of his endeavours, I have to bear in mind that I seem to have been assiduously ignored throughout this, up until today, when my words are used by the Minister against his own Back-Bencher. There is something faintly quizzical about that whole arrangement.

I hope that the Minister will at least indicate that the Government are cognisant of the serious, ongoing and growing problems arising here—to finance, to a whole sector, to hundreds of thousands, a very large number, of excluded leaseholders, and much more besides. If the Government do not recognise that, we are in for very serious problems indeed.

Baroness Pinnock (LD): My Lords, the very fact that these two issues remain for this Bill demonstrates that the Building Safety Act is, sadly, unfinished business. Although the matters will not be concluded today, I can be sure that they will be raised in future legislation in this House, because they need to be resolved. Having said that, I support what the noble Lord, Lord Young of Cookham, said about non-qualifying leaseholders. It is a large group which deserves not to be neglected, and I support my noble friend's valiant efforts in getting the regulation appropriate to the need.

Baroness Taylor of Stevenage (Lab): My Lords, first, I thank all noble Lords who have contributed to the building safety parts of this Bill, which have been complex, but it was all done in the interests of the leaseholders who are at the end of this process. The noble Lords, Lord Stunell and Lord Young, have outlined the reasons for their amendments. I hope that the Minister will carefully consider these outstanding matters. We are all mindful in your Lordships' House that behind all the technicalities and complexities of the Building Safety Act and attempts to right its deficiencies in this Bill is a group of leaseholders, many of whom were or are first-time buyers, who have had the start of their home-owning journey blighted by the worry and concern of remediation and uncertainty over service charges. They have been let down by errors in the original Bill, which meant that the status of their leasehold determined what charges they would have to pay.

The Minister reassures us that further review of these matters will be undertaken. I hope that will be the case, and that further thought will be given by the Government, if there is to be no compensation to those who have already had significant costs, to how that might be dealt with in future.

Earl Howe (Con): I am grateful to noble Lords for their comments on this group. I thank my noble friend Lord Young for his kind words on government Amendments 288A, 288B, 288C and 288D. He asked about his Motion in relation to leaseholders who have paid remediation costs since losing the protections. Like my noble friend, the Government are concerned about leaseholders who have paid a significant service charge where they have lost the protections upon extending their leases. Those who have paid out remediation costs while outside the protections may be able to bring a claim for unjust enrichment.

I should point out to your Lordships that we are not aware of this issue being raised with us by any affected leaseholders, so it may well be theoretical in nature—my noble friend may contradict me on that. That said, if we do come across any cases where remediation charges have been paid and are not returned, the Building Safety Act contains a power to make secondary legislation that we believe enables us to provide a bespoke remedy to this issue. If cases do come to light, we will consider carefully whether that is the right thing to do.

Lord Young of Cookham (Con): I am very grateful for what my noble friend has just said. However, will leaseholders first have to go through the process of claiming unlawful enrichment before the Government introduce the provisions he has outlined—which I welcome—or will the Government use the provisions under subsection (11) of new Section 119A to give them the protection without first obliging them to go through a complex process of claiming unlawful enrichment?

Earl Howe (Con): As I said, we will carefully consider what is the right thing to do. I have no briefing on whether it will be necessary for leaseholders to make a claim either directly or through the courts. We will make a decision as to what is right in all the prevailing circumstances. I am afraid I cannot go further than that.

I can assure my noble friend that we completely appreciate the point that he has raised, and the Government are looking into what we can do for leaseholders who have had to pay excessive service charges where they have lost the protections. For the reasons I have set out, including the potential for unintended consequences which I described in relation to Amendment 242, I ask my noble friend not to press his Motion on Amendment 288E.

On the other issues he raised, I cannot, as my noble friend will understand, pre-empt the forthcoming gracious Speech or what may be contained in it; it would be quite improper for me to do so. However, I can tell him that the issues he has drawn our attention to will be carefully considered in the department I am representing.

On Motion X1, in the name of the noble Lord, Lord Stunell, I recognise his continued concern and repeat my earlier assurances that the Government do not intend to interfere with these important committees. Section 12 of the Building Safety Act contains appropriate provision to change the statutory committees of the building safety regulator as needed in the future. This gives the Government and regulator the flexibility needed to adapt the role of the regulator and its statutory committees.

We do not agree that it is appropriate or necessary to impose restrictions on the use of that section. We are concerned that, as drafted, this restriction would cause confusion while potentially preventing the use of the powers in Section 12 of the Building Safety Act to make changes to the statutory committees of the regulator in the future.

The Government do not intend to use the power in any way imminently. We consider it necessary to create the ability to move the building safety regulator to an existing or a new body in the future, but we would look at any options very carefully and consider the recommendations from the Grenfell Tower inquiry before confirming the best way forward.

This does not affect the timeline for the building safety regulator's important work. We expect the regime to be fully operational by April 2024, and we are determined to support delivery of the programme to that timetable. The changes will make sure that we are ready and have the flexibility in place to respond quickly to the Grenfell Tower inquiry report when it is published and that we can be radical and long-term in our thinking.

8.15 pm

However, as the noble Lord will know, the evidence heard through the Grenfell Tower inquiry has made it clear that government must develop an effective role as system steward for the built environment, and we have committed to doing so. Our approach to regulatory institutions is central to this. It may require longer-term reform, which could include consideration of building-related regulatory functions, or the simple relocation of the existing building safety regulator functions as created by the Building Safety Act to another existing or stand-alone body. I therefore ask the noble Lord not to press his Motion X1.

Lord Stunell (LD): My Lords, I thank the Minister for his response. I heard his reassurances and I understand his good intentions. I believe that this is a fundamental mistake, but I understand that it is necessary to make progress this evening. I hope that we will not live to regret this. I have to say that there will be some bad actors in the construction industry who will be only too grateful for the moves that the Government are making. I hope that the Government and the regulator will stay alert to the activities of such bad actors and ensure they do not exploit the gaps which are now opening up. With that said, I beg leave to withdraw my Motion.

Motion X1 withdrawn.

Motion X agreed.

Motion Y

Moved by ***Earl Howe***

That this House do agree with the Commons in their Amendments 237A and 237B.

237A: As an amendment to Amendment 237, line 4, leave out "as follows" and insert "in accordance with subsections (2) and (3)"

237B: As an amendment to Amendment 237, line 17, at end insert—

"(4) In the Procurement Act 2023—

(a) in section 118 (concurrent powers and the Government of Wales Act 2006), for paragraphs (c) and (d) substitute—

"(c) at the end of paragraph 11(6)(b)(x), omit "or", and

(d) in paragraph 11(6)(b)(xi), at the end insert ", or

(xii) the Procurement Act 2023."";

(b) in Schedule 11 (repeals and revocations), for paragraph 1 substitute—

"1 In Schedule 7B to the Government of Wales Act 2006 (general restrictions on devolved competence)—

(a) paragraph 9(9)(d) (as inserted by the Trade (Australia and New Zealand) Act 2023), and

(b) paragraph 11(6)(b)(x) (as inserted by the Levelling-up and Regeneration Act 2023).""

Motion Y agreed.

Motion Z

Moved by ***Earl Howe***

That this House do not insist on its Amendment 239 and do agree with the Commons in their Amendments 239A, 239B and 239C in lieu.

239A: Page 247, line 15, at end insert the following new Clause—

"Powers of local authority in relation to the provision of childcare

In section 8 of the Childcare Act 2006 (powers of local authority in relation to the provision of childcare)—

(a) in subsection (1)(c) omit "subject to subsection (3),";

(b) omit subsections (3) to (5)."

239B: Clause 221, page 250, line 34, after "212" insert "and (Powers of local authority in relation to the provision of childcare)"

239C: Clause 222, page 252, line 9, after "213" insert "and (Powers of local authority in relation to the provision of childcare)"

Earl Howe (Con): My Lords, with the leave of the House, in moving Motion Z I will also speak to Motions ZA, ZB and ZB1. As in the earlier group, I draw the attention of the House to the advice from the House of Commons authorities that Motion ZB1 is financially privileged.

The Government listened to the arguments made about local authorities opening their own childcare provision, as reflected in Amendment 239, which was carried on Report. While we did not feel that there was a legislative gap, we have proposed Amendments 239A to 239C in lieu. Amendment 239A removes restrictions on the powers of local authorities to provide their own childcare, as intended by Amendment 239, but does so in a way that is legally sound. Amendments 239B and 239C relate to the extent and commencement of Amendment 239A. On this basis, I hope that your Lordships will agree to these amendments in lieu.

On Report your Lordships also approved Amendment 240, which would require that a Minister publish an assessment of the impact of the enforcement sections of the Vagrancy Act 1824 on levelling up and regeneration. Once again, we have listened to noble Lords' desire to see something tangible about the Vagrancy Act in the Bill. Given our commitment to the repeal and replacement of this Act, and because identifying, gathering and analysing the information will take significant time, we have agreed to publishing a report but propose that a year should be provided

[EARL HOWE]
for this, instead of 90 days. To that end, we have tabled Amendments 240A to 240C in lieu, which commit the Government to providing the report within a year. I hope, therefore, that your Lordships will be able to support these amendments.

I turn now to the final issue in this group, as reflected in Amendment 241, which was also carried on Report. This amendment would require the Government to maintain a register of school and hospital buildings in serious disrepair, and to update the register every three months. The safety of our school and hospital buildings is of paramount importance. That is why we invest significant capital funding into improving the estates each year and provide targeted support on issues such as RAAC. We regularly and routinely collect and make available extensive data on the condition of schools and hospitals.

The proposed amendment would drive a number of unintended—and I would say unwanted—consequences. Most concerning is the burden it would place on the school and hospital estates sector and departments, given the volume of relatively minor issues that would require reporting, analysing and following up in order to maintain such a register, ultimately drawing focus away from the most serious issues that require additional support to keep our schools and hospitals safe. The amendment would also carry inevitable financial implications for both the NHS and school systems to collect and maintain such a register, at a time when we all recognise the importance of maximising the front-line impact of resources going into public services.

The House will therefore wish to note that the reason given by the other place for rejecting Amendment 241 is because of the costs that it would impose on public funds through new data collection requirements. In the light of the Commons reason, I trust and hope that the noble Baroness, Lady Pinnock, will not wish to take the issue further and will instead be content to accept Amendment 241A. The noble Baroness, Lady Pinnock, has tabled an amendment in lieu that would require the Secretary of State to lay before Parliament a report on schools and hospitals in serious disrepair within 12 months, and every year thereafter. The Government already publish a wide range of information on the school and hospital estates as a matter of course. For example, on health, the annual Estates Returns Information Collection report contains detailed data on individual hospital condition and safety.

For schools, the department has already run two major condition data collections in recent years, made individual reports available to the sector, and published a summary of findings in 2021. In July, detailed data on all 22,000 schools within scope of the condition survey was deposited in the House Libraries and made available on the Parliament website. A third data collection is under way, covering all 22,000 schools and colleges in England. The Government have also published information about schools and hospitals with buildings confirmed as containing RAAC. The education department does not own or manage the estate, as I am sure she knows, so collecting and reporting additional information would have resource implications for both the department and the bodies responsible for school buildings, and take focus away from supporting schools with the most serious issues. Parliament is routinely updated on these issues already, and they are subject to frequent scrutiny and debate among colleagues. That will clearly continue to be the case, and the Government's view is that the amendment is not required. I beg to move.

Baroness Hayman of Ullock (Lab): My Lords, I will speak briefly to thank the Minister for his introduction regarding the two amendments that were moved by the Front Bench here. The first was in my name, relating to childcare. We thank him for listening to and recognising our concerns, and thank the Government for tabling an amendment that does exactly what we asked for; we very much appreciate that. My noble friend Lady Taylor of Stevenage had an amendment down on vagrancy, and again, we are very pleased that the Government have tabled an amendment in lieu on the Vagrancy Act. I will say only that this was promised two years ago, so in our opinion the sooner that action is taken on this, the better.

The noble Baroness, Lady Pinnock, has an amendment in lieu on RAAC. The Minister is aware, as are other noble Lords, of increasing concerns about the number of schools, hospitals and in fact other buildings that have been affected by this. It is important that there is proper information regarding the extent of the problem, and that schools and hospitals, and other organisations which have buildings that are affected have the support that they need, because this is extremely concerning.

Baroness Pinnock (LD): My Lords, I thank the Minister for the detailed arguments he has put towards Motion ZB1 in my name, which I recognise have substance. However, the levelling-up Bill, which includes missions relating to education and health, means that we need to think about the quality of the public buildings provided, because they have a substantial impact on the quality of the services that are then received by those in both schools and hospitals. To have higher-quality buildings inevitably leads to better outcomes for patients, students and children.

Given that, there are two issues. One is that these are public buildings that are publicly funded, and there ought to be greater transparency for users and employees in those buildings of the state that they are in. The Minister has carefully explained the vast data collection that goes on regarding the buildings, both in the school and NHS estates. He is right—there is a vast collection of data. However, there is not transparent, easily accessible data for people who use those buildings and work in them. If, as he said, safety is paramount—I totally agree—the public need to see that there is transparency around the data on the state of those buildings.

I am asking the Minister and the Government to accede to easily accessible data concerning these public buildings because of safety concerns. That has been highlighted by the recent RAAC issue, and more and more buildings have been discovered with RAAC as a safety issue. I do not intend to press the amendment to a vote today, but I hope that the Government will consider greater publicity and accessibility of the data that they collect already so that people can see what state their buildings are in.

Earl Howe (Con): My Lords, it may be helpful to the noble Baroness to say that I agree with much of what she has just said. We need to think all the time about the quality of our school, college and hospital buildings. As the House will know, her amendment sprang from a concern about RAAC in particular. I know she understands how seriously we are taking that, and we have been engaging with the sector since 2018. Since last year we have taken a more direct approach with responsible bodies to identify and manage RAAC in the estate, and that exposes these issues to greater scrutiny. Every school and college affected is receiving support from the department. That causes some disruption but we are working with schools and responsible bodies to minimise that. I will take away the points she has rightly made about this issue which, I am sure she will know, is not going to go away in a hurry.

Motion Z agreed.

Motion ZA

Moved by ***Earl Howe***

That this House do not insist on its Amendment 240 and do agree with the Commons in their Amendments 240A, 240B and 240C in lieu.

240A: Page 247, line 15, at end insert the following new Clause—

"Report on enforcement of the Vagrancy Act 1824

(1) The Secretary of State must prepare and publish a report on the impact of the enforcement of sections 3 and 4 of the Vagrancy Act 1824 on the levelling-up missions (within the meaning given by section 1(2)(a)).

(2) The report must be published within the period of 12 months beginning with the day on which this section comes into force.

(3) This section ceases to have effect on the day on which section 81 of the Police, Crime, Sentencing and Courts Act 2022 (repeal of the Vagrancy Act 1824 etc) comes into force."

240B: Clause 221, page 250, line 36, after "214" insert "and (Report on enforcement of the Vagrancy Act 1824)"

240C: Clause 222, page 252, line 9, after "213" insert "and (Report on enforcement of the Vagrancy Act 1824)"

Motion ZA agreed.

Motion ZB

Moved by ***Earl Howe***

That this House do not insist on its Amendment 241, to which the Commons have disagreed for their Reason 241A.

241A: Because it would involve a charge on public funds, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.

Motion ZB1 (as an amendment to Motion ZB) not moved.

Motion ZB agreed.

Motion ZC

Moved by ***Earl Howe***

That this House do not insist on its Amendments 242, 243 and 288 and do agree with the Commons in their Amendments 288A, 288B, 288C and 288D in lieu.

288A: Page 247, line 15, at end insert the following new Clause—

"Qualifying leases under the Building Safety Act 2022

(1) The Building Safety Act 2022 is amended in accordance with subsections (2) to (4).

(2) In section 119 (meaning of "qualifying lease") after subsection (3) insert— "(3A) A connected replacement lease (see section 119A) is also a "qualifying lease"."

(3) After section 119 insert—

"119A Meaning of "connected replacement lease"

(1) For the purposes of section 119 (and this section) a lease (the "new lease") is a "connected replacement lease" if—

(a) the new lease is a lease of a single dwelling in a relevant building,

(b) the tenant under the new lease is liable to pay a service charge,

(c) the new lease was granted on or after 14 February 2022,

(d) the new lease replaces—

(i) one other lease, which is a qualifying lease (whether under section 119(2) or (3A)), or

(ii) two or more other leases, at least one of which is a qualifying lease (whether under section 119(2) or (3A)), and

(e) there is continuity in the property let.

(2) For the purposes of subsection (1)(d), the new lease replaces another lease if—

(a) the term of the new lease begins during the term of the other lease, and the new lease is granted in substitution of the other lease, or

(b) the term of the new lease begins at the end of the term of the other lease (regardless of when the lease is granted).

(3) For the purposes of subsection (2)(a), the circumstances in which the new lease is granted in substitution of another lease include circumstances where—

(a) the new lease is granted by way of a surrender and regrant of the other lease (including a deemed surrender and regrant, whether deemed under an enactment or otherwise);

(b) the new lease is granted under—

(i) section 24 of the Landlord and Tenant Act 1954 (renewed business leases),

(ii) section 14 of, or Schedule 1 to, the Leasehold Reform Act 1967 (extension of leases of houses), or

(iii) section 56 of the Leasehold Reform, Housing and Urban Development Act 1993 (extension of leases of flats), in a case where that provision of that Act applies by virtue of the other lease.

(4) For the purposes of subsection (1)(e) there is continuity in the property let if—

(a) the newly let property is exactly the same as the already let property,

(b) the newly let property consists of some or all of the already let property, together with other property (whether or not that other property was previously let) (a "property combination"), or

(c) the newly let property consists of some, but not all, of the already let property (but no other property) (a "property reduction").

(5) But there is no continuity in the property let by virtue of a property reduction if, as respects any lease in the relevant chain of qualifying leases, there was continuity in the property let by virtue of a property combination.

(6) For that purpose, the "relevant" chain of qualifying leases is the chain of qualifying leases of which the new lease would be part were it a connected replacement lease.

(7) For the purposes of subsection (1)(e) there is also continuity in the property let if the new lease is granted to rectify any error in the lease, or any lease, which the new lease replaces.

(8) Where a dwelling is at any time on or after 14 February 2022 let under two or more leases to which subsection (1)(a) and (b) apply, any of the leases which is superior to any of the other leases is not a connected replacement lease.

(9) For the purposes of sections 122 to 125 and Schedule 8, all of the leases in a chain of qualifying leases are to be treated as a single qualifying lease which has a term that—

(a) began when the term of the initial qualifying lease in that chain began, and

(b) ends when the term of the current connected replacement lease in that chain ends.

(10) The Secretary of State may by regulations make provision about the meaning of "connected replacement lease" (including provision changing the meaning).

(11) The provision that may be made in regulations under this section includes—

(a) provision which amends this section;

(b) provision which has retrospective effect.

(12) Provision in regulations under this section made by virtue of section 168(2)(a) (consequential provision etc) may (in particular) amend this Act.

(13) In this section—

"already let property", in relation to a new lease, means the property let by the lease or leases which the new lease replaces;

"chain of qualifying leases" means—

(a) an initial qualifying lease which is the preceding qualifying lease in relation to a connected replacement lease (the "first replacement lease"),

(b) the first replacement lease, and

(c) any other connected replacement lease if the preceding qualifying lease in relation to it is— (i) the first replacement lease, or

(ii) any other connected replacement lease which is in the chain of qualifying leases;

and a chain of qualifying leases may accordingly consist of different leases at different times (if further connected replacement leases are granted);

"current connected replacement lease", in relation to a particular time, means a connected replacement lease during the term of which that time falls;

"initial qualifying lease" means a lease which is a qualifying lease under section 119(2);

"new lease" has the meaning given in subsection (1);

"newly let property" means the property let by the new lease;

"preceding qualifying lease", in relation to the new lease, means—

(a) in a case within subsection (1)(d)(i), the lease which the new lease replaces;

(b) in a case within subsection (1)(d)(ii), a lease which—

(i) the new lease replaces, and

(ii) is a qualifying lease.

(14) The definitions in section 119(4) also apply for the purposes of this section."

(4) In section 168(6)(a) (affirmative procedure for regulations), after "74," insert "119A,".

(5) The amendments made by this section are to be treated as having come into force on 28 June 2022."

288B: Clause 221, page 250, line 34, after "212" insert "and section (*Qualifying leases under the Building Safety Act 2022)*"

288C: Clause 222, page 252, line 9, after "213" insert "and section *(Qualifying leases under the Building Safety Act 2022)*"

288D: In the Title, line 10, after "licences;" insert "about qualifying leases under the Building Safety Act 2022;"

Motion ZC1 (as an amendment to Motion ZC) not moved.

Motion ZC agreed.

Motion ZD

Moved by ***Earl Howe***

That this House do not insist on its Amendment 244, to which the Commons have disagreed for their Reason 244A.

244A: Because the National Planning Policy Framework has recently been altered in relation to onshore wind electricity generation and it is not currently appropriate to make further changes to the planning treatment of such electricity generation.

Motion ZD1 (as an amendment to Motion ZD) not moved.

Motion ZD agreed.

Motion ZE

Moved by ***Earl Howe***

That this House do not insist on its Amendment 273 and do agree with the Commons in their Amendment 273A in lieu.

273A: Clause 222, page 251, line 13, leave out paragraph (e) and insert—

"(e) section 58 comes into force at the end of the period of two months beginning with the day on which this Act is passed;

(ea) section 59 comes into force on the day on which this Act is passed;

(eb) sections 60 to 62 come into force at the end of the period of two months beginning with the day on which this Act is passed;"

Motion ZE1 (as an amendment to Motion ZE)

Moved by ***Lord Bach***

Leave out from "House" to end and insert "do insist on its Amendment 273 and do disagree with the Commons in their Amendment 273A."

Lord Bach (Lab): My Lords, a few hours have passed since this matter was debated. My Motion argues that it is fundamentally and constitutionally wrong to allow the mayor in the West Midlands without any consent—except of course his own and that of the Government—and without any real consultation, certainly no statutory consultation, to abolish out of existence a separately elected, independent police and crime commissioner in the West Midlands so that that there can be no PCC election next year. This is all in the second largest metropolitan area in our country.

I thank noble Lords who have supported me—the Liberal Democrats, the noble Lord, Lord Kerr, from the Cross Benches, and the noble Lord, Lord Lexden, from the Conservative Benches. I beg to move.

8.34 pm

Division on Motion ZE1

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Motion ZE1 disagreed.

Division No. 8

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8.44 pm

Motion ZE agreed.

Motion ZF

Moved by ***Earl Howe***

That this House do not insist on its Amendment 280, to which the Commons have disagreed for their Reason 280A.

280A: Because the new Clause inserted by Lords Amendment 79 (Biodiversity net gain: pre-development biodiversity value and habitat enhancement) should come into force on such day as the Secretary of State may by regulations appoint rather than two months after Royal Assent.

Motion ZG

Moved by ***Earl Howe***

That this House do not insist on its Amendment 285 and do agree with the Commons in their Amendments 285A in lieu.

285A: Clause 222, page 252, line 9, after “213” insert *“and (Amendments of Schedule 7B to the Government of Wales Act 2006)”*

Motion ZH

Moved by ***Earl Howe***

That this House do not insist on its Amendment 329 and do agree with the Commons in their Amendments 329A and 329B in lieu.

329A: Schedule 7, page 293, line 38, at end insert—

“(6B) The local plan must take account of an assessment of the amount, and type, of housing that is needed in the local planning authority’s area, including the amount of affordable housing that is needed.”

329B: Schedule 7, page 326, line 2, at end insert—

““affordable housing” means—

(a) social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, and

(b) any other description of housing that may be prescribed;”

Motion ZJ

Moved by ***Earl Howe***

That this House do agree with the Commons in their Amendments 369A, 369B, 369C and 369D.

369A: In Amendment 369, line 44, leave out “20A to 22B” and insert “20A to 20G, 22A, 22B”

369B: In Amendment 369, line 44, at end insert—

“• Schedule 3 to the Harbours Act 1964 so far as relating to environmental impact assessments in Scotland;”

369C: In Amendment 369, line 46, leave out “The Public Gas Transporter Pipeline Works (Environmental Impact Assessment) (Scotland) Regulations 1999 (S.S.I. 1999/1672);”

369D: In Amendment 369, line 48, at end insert—

“• The Environmental Assessment (Scotland) Act 2005;”

Motions ZF to ZJ agreed.

Israel and Gaza

Statement

8.45 pm

The Lord Privy Seal (Lord True) (Con): My Lords, I shall now repeat a Statement made in another place. The Statement is as follows:

“Mr Speaker, last week I visited the Middle East, bringing a message of solidarity with the region against terror and against the further spread of conflict. I met with the leaders of Israel, Saudi Arabia, Qatar, Egypt and the Palestinian Authority to co-ordinate our response to the crisis before us, but also to renew the better vision of the future that Hamas is trying to destroy.

I travelled first to Israel. It is a nation in mourning, but it is also a nation under attack. The violence against Israel did not end on 7 October. Hundreds of rockets are launched at its towns and cities every day, and Hamas still hold around 200 hostages, including British citizens. In Jerusalem, I met some of the relatives, who are suffering unbearable torment. Their pain will stay with me for the rest of my days. I am doing everything in my power, and working with all our partners, to get their loved ones home. In my meetings with Prime Minister Netanyahu and President Herzog, I told them once again that we stand resolutely with Israel in defending itself against terror, and I stressed again the need to act in line with international humanitarian law and take every possible step to avoid harming civilians. It was a message delivered by a close friend and ally. I say it again: we stand with Israel.

I recognise that the Palestinian people are suffering terribly. Over 4,000 Palestinians have been killed in this conflict. They are also the victims of Hamas, who embed themselves in the civilian population. Too many lives have already been lost, and the humanitarian crisis is growing. I went to the region to address these issues directly. In Riyadh, and then Cairo, I met individually with Crown Prince Mohammad bin Salman from Saudi Arabia; the Emir of Qatar, Sheikh Tamim bin Hamad al-Thani; President Sisi in Egypt; and President Abbas of the Palestinian Authority. These were further to my meetings with the King of Jordan last week and calls with other leaders, and my right honourable friend the Foreign Secretary’s extensive travel in the region.

There are three abiding messages from all these conversations. The first is that we must continue working together to get more humanitarian support into Gaza. The whole House will welcome the limited opening of the Rafah crossing. It is important progress and testament to the power of diplomacy, but it is not enough. We need a constant stream of aid pouring in, bringing the water, food, medicine and fuel that are so desperately needed, so we will keep up the diplomatic pressure. We have already committed £10 million of extra support to help civilians in Gaza, and I can announce today that we are going further. We are providing an additional £20 million of humanitarian aid to civilians in Gaza, more than doubling our previous support to the Palestinian people. There are major logistical and political challenges to delivering this aid, which I discussed with President Sisi. My right honourable friend the Development Minister is leading an effort to ensure the maximum amount of aid is pre-positioned, with UK support ready to deliver. We are also working intensively to ensure that British nationals trapped in Gaza are able to leave through the Rafah crossing when it properly reopens.

The second message is that this is not a time for hyperbole and simplistic solutions. It is a time for quiet and dogged diplomacy that recognises the hard realities on the ground and delivers help now, and we have an important role to play. In all my meetings, people were clear that they value Britain's engagement. The UK's voice matters. We have deep ties across the region—ties of defence, trade and investment, but also of history. President Abbas pointed to that history—not the British mandate in Palestine or the Balfour Declaration, but the UK's efforts over decades to support the two-state solution.

That brings me to my third point. Growing attacks by Hezbollah on Israel's northern border, rising tensions on the West Bank and missiles and drones launched from Yemen show that some are seeking escalation, so we need to invest more deeply in regional stability and in the two-state solution. Last night, I spoke to the leaders of the United States, Germany, France, Italy and Canada. We are all determined to prevent escalation. That is why I am deploying RAF and Royal Navy assets, monitoring threats to regional security and supporting humanitarian efforts. Our support for a two-state solution is highly valued across the region, but it cannot just be a clichéd talking point to roll out at times like this. The truth is that, in recent years, energy has moved into other avenues such as the Abraham accords and normalisation talks with Saudi Arabia. We support those steps absolutely and believe that they can bolster wider efforts, but we must never lose sight of how essential the two-state solution is. We will work with our international partners to bring renewed energy and creativity to this effort. It will rely on establishing more effective governance for Palestinian territories in Gaza and the West Bank. It will also mean challenging actions that undercut legitimate aspirations for Palestinian statehood.

Hamas care more about their paymasters in Iran than the children they hide behind. Let me be clear: there is no scenario where Hamas can be allowed to control Gaza or any part of the Palestinian territories. Hamas is a threat not only to Israel, but to many others across the region. All the leaders I met agree that this is a watershed moment. It is time to set the region on a better path.

I also want to say a word about the tone of the debate. When things are so delicate, we all have a responsibility to take additional care in the language we use, and to operate on the basis of facts alone. The reaction to the horrific explosion at the Al-Ahli Arab Hospital was a case in point. As I indicated last week, we have taken care to look at all the evidence currently available, and I can now share our assessment with the House. On the basis of the deep knowledge and analysis of our intelligence and weapons experts, the British Government judge that the explosion was likely caused by a missile, or part of one, that was launched from within Gaza towards Israel. The misreporting of this incident had a negative effect in the region, including on a vital US diplomatic effort, and on tensions here at home. We need to learn the lessons and ensure that in the future there is no rush to judgment.

We have seen hate on our streets again this weekend. We all stand in solidarity with the Palestinian people—that is the message I brought to President Abbas—but we will never tolerate anti-Semitism in our country. Calls for jihad on our streets are a threat not only to the Jewish community but to our democratic values, and we expect the police to take all necessary action to tackle extremism head on.

This is a moment for great care and caution, but also for moral clarity. Hope and humanity must win out against the scourge of terrorism and aggression. The 7 October attack was driven by hatred, but it was also driven by Hamas's fear that a new equilibrium might be emerging in the Middle East—one that would leave old divisions behind and offer hope of a better, more secure, more prosperous way forward. It is the same motivation that drives Putin's war in Ukraine—the fear of Ukraine's emergence as a modern, thriving democracy, and the desire to pull it back into some imperialist fantasy of the past. Putin will fail, and so will Hamas. We must keep alive that vision of a better future, against those who seek to destroy it. Together with our partners, that is what we will do, and I commend this Statement to the House".

8.55 pm

Baroness Smith of Basildon (Lab): My Lords, I thank the Lord Privy Seal for repeating today's Statement. He will have recognised that it was welcomed across the whole House.

Last week, following the previous Statement, I met Noam and Sharone, both of whom have parents who have been taken as hostages. It is impossible to imagine how any of us would react in such circumstances, but they both bore their fear and pain with a dignity that served only to emphasise the depth of their emotions. As they still pray for their release, they also pray for peace.

The horror and the suffering of the brutal attack on 7 October are seared into memories, with images of the dead and dying that can never be unseen, and Israel remains under attack, with rockets still being launched against it. That suffering is compounded by the continuing plight of over 200 hostages, with so

[Baroness Smith of Basildon]
many families not knowing whether loved ones or friends are alive. The glimmer of hope of the release of the two American hostages was a relief beyond words for their families, and noble Lords may have heard the news in the last hour that two older women have been released by Hamas. It just shows that Hamas can and must go further. These are innocent people—men and women, young and old, some ill and infirm. We stand united with all of those who have called for their immediate release.

As I have said, we understand the individual pain of those who wait, but there is also collective pain across Israel and the Jewish community worldwide. On Friday evening in Tel Aviv, the families of the hostages came together for the traditional Friday night Shabbat dinner, with 200 empty place settings marking each and every one of those taken. It was a sombre and almost unbearable scene.

Israel has the right—indeed, the duty—to bring home all hostages being held by Hamas and to weaken the capabilities which made Black Saturday possible. A military response from Israel is justified in these circumstances, and it must be within those sacred parameters of international law and the protection of human life. It is, after all, these values, and the upholding of international norms, which separate lawful states from terrorists.

The purpose of military actions will be to deliver peaceful security. Israel's objectives—to bring home the hostages and to protect itself by defeating Hamas—are to ensure that no one should endure such suffering again. During this period of conflict it is imperative that humanitarian aid reaches those in need and that corridors are established to allow civilians to escape violence. Where Palestinians are forced to flee, they must not be permanently displaced. Hamas may not care for the safety and security of the Palestinian people, but we should make it clear that we do. We cannot and will not ignore their suffering. Life is precious and fragile, and we must play our part.

Gaza is now a humanitarian emergency. Life was a struggle before, and now hospitals are trying to provide care without the medicines they need, and with food, water and electricity running out. It is desperate and people are suffering. Gaza needs aid and it needs it now. The "logistical and political challenges" that the Prime Minister referred to will have to be addressed urgently, because without immediate aid more will die.

The Lord Privy Seal will know that the EU has promised to treble humanitarian aid and that the US has appointed a special co-ordinator. The opening of the Rafah crossing is welcome progress, but more is needed. We welcome that the Prime Minister has announced an additional £20 million today. Is the Lord Privy Seal able to say anything more about the ongoing urgent support to get aid to where it is needed, but also to help British citizens leave? Our international standing—our ranks of humanitarian experts and our role in UN agencies—means that Britain has influence. We must use it. Alongside our international partners, we need to ensure that the UN agencies have the resources and the expertise they need, and that this is not just for the short term.

As I said last week, we all know of Jewish and Muslim leaders and those active in their communities who seek to bring people together in support of mutual understanding, acceptance and the celebration of shared and diverse religious views and cultures. Yet when someone is afraid to leave their home for fear of attack or abuse, we must stand side by side with them. When someone is attacked, not for what they have said or done but for the very essence of their being, we stand with them. Anti-Semitism and Islamophobia have no place in the UK. All of us must unite in condemnation of those who seek to exploit the pain of the other community.

When we debated the Statement last week, we were rightly totally united in our support for Israel to protect itself against Hamas. We unite for a future where Israel can live free from the fear of terror and where the children of Palestine can enjoy the freedoms and opportunities that we take for granted. The Lord Privy Seal is right to place so much emphasis on the two-state solution, but it can be a reality only when Israel and Palestine have confidence in a peaceful future—a future based on a two-state solution of a safe and secure Israel alongside the dignity of a Palestinian state, a future where peace can be a reality, and a future which together we have to work to deliver.

Lord Newby (LD): My Lords, I thank the noble Lord for repeating the Statement. I commend the Prime Minister not only for visiting Israel but for undertaking a series of meetings in Egypt. At the beginning of the Statement, the Prime Minister set out the twin tracks of our immediate response to the crisis, both of which we support—namely, supporting Israel's right to defend itself against terrorist attacks and the need to do so in line with international humanitarian law, taking every possible step to avoid harming civilians.

The Prime Minister takes three principal messages from his meetings in the region. The first is the need to work together to get more international aid into Gaza. We agree, but are baffled and frustrated as to why this is not yet happening at scale. The Secretary-General of the United Nations and the Archbishop of Canterbury have called for a temporary humanitarian ceasefire to allow essential supplies to reach Gaza and to provide time for the negotiation of the release of hostages by Hamas. We agree with this call. Do the Government also agree that such an initiative is now needed and, if not, why not? One of the problems around the supply of aid appears to be the constraints at the Rafah crossing. Given that Gaza has a long coastline and that the UK, the US and other allies have warships in the area, is there any reason why humanitarian supplies cannot be landed by sea? Again, a humanitarian ceasefire could surely facilitate such a move.

The second message the Prime Minister received was that this is not a time for hyperbole and simplistic solutions but for quiet, dogged diplomacy, and that the UK is in a strong position to play a full part in this because of its deep ties across the region. This is surely true and should be the basis of the UK's response, not just by the Prime Minister and other Ministers but by our diplomats across the region. Is the Minister satisfied that our diplomatic representation is adequate for this

task? Have the Government any plans to beef up the number of diplomatic staff who could be engaged in this work?

The third message was to invest more deeply in regional stability and the two-state solution. This again is welcome. Did the Prime Minister discuss with Prime Minister Netanyahu the need to commit to the two-state solution and, if so, what was his response? As the Prime Minister points out, if the two-state solution is to be achieved, this will require more effective governance of the Palestinian territories and a situation where Hamas does not control any of them. Sadly, we are very far away from that today. Worse than that, there are very few practical steps which can be envisaged, in the short term at least, that are likely to bring this more closely to fruition.

The immediate prospects are truly exceptionally bleak. Intensified Israeli military action looks unavoidable. This will cause many civilian casualties in Gaza and probably many casualties among Israeli forces. In the north of Israel, intensified Hezbollah attacks look highly likely.

In planning its next steps, Israel must—at the same time—seek to hit Hamas hard, do so while minimising civilian deaths, and try to avoid igniting a greater conflagration. Getting this right will be exceptionally difficult. I suspect that none of us in your Lordships' House would like to be a senior military or political decision-maker in Israel today, trying to make those really difficult judgments and strike that almost impossible balance.

Finally, we stand with the Prime Minister in supporting the Jewish community in the UK. We can understand why events in recent days have roused passions on both sides; but now is also a time for tolerance and for determination to seek a way forward that will make a repetition of the events of the past fortnight simply unimaginable.

Lord True (Con): My Lords, I thank the noble Baroness and the noble Lord for their constructive and thoughtful responses in this difficult situation. I of course begin by echoing, as the Prime Minister did in his Statement, the profound feelings of concern and solidarity, and the prayers to those in all nations who are caught up in having family members who are hostages or who have lost members of their families.

The position remains that Israel suffered an appalling terrorist attack. We support Israel's right to defend itself, to go after Hamas and free hostages, to deter further incursions and to strengthen its security for the long term, because the only basis of a long-term solution is for Israel's security to be accepted and recognised.

Humanitarian aid, about which both the noble Baroness and the noble Lord spoke, is of course profoundly important. I am grateful for the recognition in the House of the Prime Minister's concern and the practical actions that he has taken in this respect, both in seeking to promote humanitarian aid and, indeed, in his efforts to try to prevent escalation of the conflict.

As the noble Baroness said, we support Israel's right to defence but, equally, we have to keep humanitarian support going. We must support the Palestinian people, who are victims of Hamas too. As I said in in the Statement, both the Prime Minister and the Foreign Secretary have held calls. The Prime Minister has also seen the President of the state of Palestine to express condolences and discuss practical ways forward.

The noble Lord spoke of possible ways forward. I think that he and the whole House will recognise the extreme delicacy of the situation, given the activities and the presence of Hamas. I have to say to him that I think it is difficult for Israel to ask for a ceasefire when its citizens have been slaughtered and others are being held hostage by a terrorist organisation. I repeat that we support Israel's right to defend itself and take action against these terrorists. As I said in the Statement last week, the Israeli President has made clear that Israel's armed forces will operate in accordance with international humanitarian law.

Getting aid in is going to be a difficult task but we welcome the progress that has been made already. The opening of the Rafah crossing into Gaza is highly welcome. It is a testament to the power of diplomacy, with the US, Israel and Egypt brokering an agreement to ensure that vital aid reaches the Palestinian people. I will give credit to the Prime Minister for his personal engagement in that activity. I am struck by the open door that was shown to him by leaders across the Middle East on both sides; that is of great importance to our country and to the region.

I agree that we need to see a stream of trucks rolling in through that crossing to bring aid to the civilian population. We also need to see all water supplies to Gaza restored where physically possible, and all sides should commit to the sanctity of UN installations, hospitals and shelters. Some of the money that the Prime Minister has already announced is being made available for the positioning of humanitarian supplies in the region to ensure that they can be distributed as quickly and effectively as possible, and the FCDO is working with aid agencies to ensure that those supplies can be distributed.

The noble Lord asked whether we had the diplomatic capacity to achieve what we seek to. The endeavours that we have seen in the last few days underscore how fortunate we are to have a Diplomatic Service and a national effort working hard on the three strands that the Prime Minister set out. We are confident that we have that capacity, and that has been led politically from the top.

I strongly agree, as I tried to emphasise the last time we discussed this issue, that there is no place for extremism—for violence of tongue or of action that spreads fear to members of any community in our country. This is the United Kingdom of Great Britain and Northern Ireland. No one should live in fear, as I said last week, for who they are or where they come from. As the Prime Minister said, the Government will look extremely carefully at the activities of those who do not accept that basic, civilised tenet of coexistence in a society where disagreement is valuable but violent disagreement, terror and fear have no place.

I was asked about the Prime Minister's meeting with Prime Minister Netanyahu. The Prime Minister underscored the UK's firm belief in Israel's right to self-defence but also the need to act in accordance

[Lord True]
with international humanitarian law. Both leaders underscored, once this crisis is surmounted, the need to prevent any regional escalation in the conflict and the importance of restoring long-term peace and stability to the region. Any sensible, civilised person must believe that there is something better than the prospectus offered by Hamas.

9.13 pm

Lord Pannick (CB): My Lords, the Statement and the comments of the noble Baroness, Lady Smith, rightly emphasise the plight of the hostages, more than 200 of them, including children, the disabled and the elderly, the taking of whom is a despicable crime. The International Committee of the Red Cross has said that it is in

"sustained, daily contact with Hamas".

Will the Government urge the Red Cross to demand access to the hostages and to do everything it can to ensure their welfare, pending what we hope will be their return home?

Lord True (Con): My Lords, we are making every diplomatic effort to secure that. Obviously, one is constrained by the environment in which everybody is operating and the people who have authority in that area. The United Kingdom Government certainly wish to see all hostages returned, and they should be returned forthwith. We hear that four have been released and that is very welcome, but these are human beings, not bargaining chips to be played with by terrorists to command media attention.

I focus on British nationals: we have to remember that not only were 10 British nationals, tragically, killed in the Hamas attacks but a further six British nationals are missing, some of whom are feared to be among the dead or kidnapped. Unfortunately, the reality of this situation is that the details of the effects of that monstrous attack are still only becoming clear, but we are working with Israel to establish the facts. We are keeping in close contact with other nations—and agencies, to respond to the noble Lord—to try to find a route to get the hostages released. The reality is that if Hamas had a single ounce of humanity, it would release all the hostages immediately but, sadly, they have already shown the type of people who they are.

Lord Polak (Con): My Lords, I agree with the Lord Privy Seal, and I thank the Prime Minister and congratulate him on his courage and moral clarity. In the Statement, he talked about the incident at the hospital and said:

"The misreporting of that incident had a negative effect in the region".

It was far worse than a negative effect in the region. The Prime Minister went on to say:

"We need to learn the lessons and ensure that in future there is no rush to judgment".

What conversations have the Government had, especially with broadcasters—the BBC, specifically, and Sky—and, if I may say so, some parliamentarians who were a little too trigger happy with their phones and made statements which ended up not being true? Perhaps I can point to one tiny shred of light. I listened to the noble Baroness, Lady Smith, when she talked about the people she met. There is one tiny bit of good news: that Sharone's mother has been released this evening and is in the hands of the Red Cross. Let us hope she is just one of the 200 or whatever to come out, yet the game is being played by Hamas because of Noam's mother there is no news. Those are the games being played, so I repeat my thanks to the Prime Minister for his leadership.

Lord True (Con): I thank my noble friend for his comments about my right honourable friend and for his general comments. He picked up what the Prime Minister said in the Statement: that we must not rush to judgment before we have all the facts. I think my noble friend implied that it was something of an understatement by the Prime Minister on the effects of the misreporting. It is important that the Prime Minister is seeking to use measured language, but there is no doubt that widespread unrest followed the reporting around that hospital blast. As my noble friend said, misinformation also spread across social media from various sources.

The Culture Secretary has spoken to Tim Davie on several occasions. The BBC and other broadcasters recognise that they have a duty to provide accurate and impartial news and information, particularly when it comes to coverage of highly sensitive events. The BBC has admitted that mistakes were made. It should reflect on its coverage and learn lessons for the future, but it is an important part of our free society—I underline this—to recognise that the BBC is independent of government. Editorial decisions are rightly not something that the Government interfere with or should interfere with. However, we would expect all media outlets to report on this inflammatory situation responsibly and accurately.

Lord Hannay of Chiswick (CB): My Lords, would the Leader of the House say a few words of gratitude and admiration, which I hope would be in the name of the whole House, for the work of the United Nations Relief and Works Agency? It is reported that some 17 from that agency have lost their lives in Gaza. They are working day and night, in Gaza and of course in the West Bank, and it would be good if we could send them a message of support. The £20 million announced today is of course enormously welcome, but is that the final word or will a revisiting of that be possible if this crisis, alas, continues?

Lord True (Con): My Lords, on the second part I am not able to comment. I am grateful for the welcome that has been given to the degree of support the Prime Minister and Government have already announced.

The noble Lord is quite right about the important role of the UN agencies; they are, in effect, the conduit for aid going into Gaza. UNRWA has a unique mandate from the UN General Assembly, as the noble Lord knows, to protect and provide protection and core services to Palestinian refugees across the Middle East. It is a vital humanitarian and stabilising force in the region.

The Government are clear that the final status of Palestinian refugees must be agreed as part of eventual peace negotiations. Until then, the UN remains firmly committed to supporting UNRWA and those who work with it. It is worth recalling that it provides basic education to more than 500,000 children per year, half of whom are girls, access to health services for 3.5 million Palestinian refugees and social safety net assistance for around 390,000 of the most vulnerable across the region. So, yes, I can give the noble Lord the assurance he asked for.

Baroness Deech (CB): My Lords, I also welcome the kind and supportive Statement we have just heard. It comes as a ray of light in the farrago of disinformation that we are getting. I have three points to raise.

First, on the question of aid, over the last decades billions of dollars have been channelled into the Palestinian territories, largely through UNRWA. Where has it all gone? The concrete that was supposed to build houses has apparently been used for nefarious purposes and for hiding. What has happened to all that money from all over the world, which appears to have been used by Hamas to get rockets and to make trouble, rather than supporting their people?

Secondly, the two-state solution is all very well. However, as long as the call goes out "From the river to the sea, Palestine will be free", we know that "From the river to the sea" means the total annihilation of Israel and its replacement with one state. A state has been offered on four occasions to the Palestinians and rejected.

Thirdly, I hope the Government will have a mind to the trouble going on in our universities. Just today I heard from someone connected with Warwick University that two Jewish students there who refused to join a pro-Palestine march have been ostracised and made to feel extremely unwelcome, and that the Jewish society app has been hacked with all sorts of nasty messages. This is simply an example of the sort of thing going on in our universities. Vice-chancellors need to be told to take care of all their students, bearing in mind, of course, freedom of speech, but also bearing in mind the International Holocaust Remembrance Alliance definition of anti-Semitism. Our young people are on the front line and they are suffering.

Lord True (Con): My Lords, the noble Baroness makes three challenging contributions. It is not the case that every part of aid offered and sent is used for the purposes it ought to be. That cannot be the case, sadly, in what is effectively a terrorist-controlled entity. What we can do, working with the agencies and the UN, using them as conduits, is to ensure that as much as possible goes to the support of the people. I gave some figures in response to the noble Lord, Lord Hannay. The fact that some aid has in the past been stolen and misapplied, and may be in the future, surely does not absolve us of the moral duty to seek to assist those in danger and those who are in need.

On the noble Baroness's second point on the security of Israel, it is obvious that there can be no diplomatic two-state solution while Israel feels that it does not have the basic security of the right to survive that any people and nation have.

Thirdly, having not strayed into trying to direct broadcasters, I will not try to direct universities. However, all in authority need to have a care that their campuses are not misused or penetrated by malign organisations. Every student, in that glorious nobility of youth, should realise that treating others with respect is one of the most wonderful aspects of the human condition. If the story that the noble Baroness told is true, it is appalling and I hope that it is not replicated elsewhere.

Lord Leigh of Hurley (Con): My Lords, I assure my noble friend of how much the Jewish community appreciates the words of the Prime Minister, the leader of the Opposition and other Members of Parliament today. We have appreciated the messages of support we have received from not just non-Jewish but Muslim members of the public, and not just non-Jewish but Muslim Members of this House, who reached out to us. In this country, dialogue exists between moderate Jewish and Muslim people, and that is to be encouraged and welcomed.

The Prime Minister specifically said:

"let me be clear: there is no scenario where Hamas can be allowed to control Gaza or any part of the Palestinian territories".

As the noble Lord, Lord Newby, predicted—correctly, I am sure—there will almost certainly be a ground invasion of Gaza. Innocent lives will almost certainly be lost, and conscript soldiers will be injured and killed. Does my noble friend agree that it is now up to all of us to prepare the ground for what is ahead? We have to explain why electricity and, in particular, fuel are being withheld, and why every inch of aid, while it must be supplied, has to be examined when it goes through the crossing to ensure that what is in those lorries is not capable of being misused. We have to explain why a ceasefire is not possible at this time. An enormous task is ahead of us, and it is all very well to say these fine words now, but we will repeat them time and again over the next few weeks.

Lord True (Con): I agree with a great deal that my noble friend said, and I echo his words about the support that has come from all communities and across parties. There will be difficult and sad times, and Israel has the right to defend itself. We need to cherish not only the Jewish community but the Muslim community, because I believe that so many Muslims—my daughter-in-law is one—will recoil with horror and outrage at the thought of people crying "God is great" while they are butchering babies.

Lord Campbell of Pittenweem (LD): My Lords, in response to a question, the Minister referred to UNRWA, but is he aware of Medical Aid for Palestinians, a charity operating in the region? Have the Government made any contact with it in order to enlist, as part of the government position, its assistance as well?

Lord True (Con): My Lords, I do not have an answer to that specific question. A voice in my ear says that we are talking to all NGOs, but I will confirm the situation in that respect and must write to the noble Lord.

Baroness Bennett of Manor Castle (GP): My Lords, I join many other speakers this evening in welcoming the release of two hostages tonight, and in wishing that the other hostages are able to reunite with their families and communities as soon as possible.

In the other place, my honourable friend Caroline Lucas asked whether withholding fuel from Gaza is in line with the Government of Israel's responsibilities under international law. The Prime Minister's response was that they will "manage their behaviour" in line with international law, but surely the UK Government can and should make their own judgment about what is happening, in terms of international law.

The Leader of the House tonight said that water supplies need to be restored to Gaza. The *Financial Times* yesterday reported that Gaza is "consumed" by the "hunt for water", and that UN agencies are warning that many are being forced to drink dirty water and are becoming ill as a result. The temperature in Gaza yesterday was 31 degrees Celsius. Much of the supply comes from Israel through a pipe currently opened for only three hours a day. Does he agree that these are issues on which the UK has to make its own judgment?

Lord True (Con): My Lords, the position that the Prime Minister expressed was that the United Kingdom would of course wish to see humanitarian aid flowing. I think the phrase that the Prime Minister used was "a stream of trucks". But I repeat that the difficult and delicate situation arises from the activities of the people who have power in Gaza, who started this terrible war. The United Kingdom will support every effort to get supplies of humanitarian aid flowing for the people who are suffering—not from Israel but, ultimately, from Hamas.

Lord Wolfson of Tredegar (Con): My Lords, we have heard a lot about moral clarity and we have also heard some references to the United Nations. I suggest that the United Nations finds a little moral clarity. On the Monday afternoon—and I mean the Monday afternoon after the massacre, so 48 hours later, while the bodies were still warm—the United Nations Human Rights Council observed a minute's silence. It observed that minute's silence, to quote the council itself, for the

"loss of innocent lives in the occupied Palestinian territory and elsewhere".

For 2,000 years, the Jewish people had nowhere. Now it would appear, according to the United Nations Human Rights Council, that they have an "elsewhere". Does my noble friend the Leader of the House think that some moral clarity is also needed on the part of the United Nations?

Lord True (Con): My Lords, I had not seen those particular remarks. To say that they were disappointing would be a bit of an understatement. However, I repeat that there are many working with United Nations aid agencies who are doing outstanding and brave work for people in all parts of this crisis.

Baroness Foster of Oxton (Con): My Lords, throughout my political life I have always supported the right to peaceful protest, but the marches that have taken place in London, particularly during the past two Saturdays, supporting the Palestinian cause, have clearly been hijacked by hostile groups, chanting dreadful things, as the noble Baroness noted, along with calls for jihad. It was obvious to anyone that this would happen. Could my noble friend the Leader please find out who signed off on these marches and whether there will be another one this coming Saturday?

Lord True (Con): My Lords, marching is part of a free society, as is protest. I venture to say that my first move out into the streets was marching against the provision of arms to apartheid South Africa. That is a long time ago.

I understand what my noble friend is saying, and certain things that have happened will need very close examination. The Home Secretary spoke with the Metropolitan Police Commissioner today, as part of an extraordinary meeting of the Jewish Community Police, Crime and Security Taskforce, to discuss some of these matters. The Government recognise the complexities of the law in policing aspects of protest and prosecutor decisions. We will support the police as they continue to enforce the law against anyone suspected of committing an offence, and we will back them in that. There are currently more than 200 live police investigations over suspected offences, as a result of protests and online incidents linked to the Israel/Hamas conflict, but the House would not expect me to go into details of ongoing investigations.

City of London (Markets) Bill

Message from the Commons

A message was brought from the Commons that they have made the following order to which they desire the agreement of this House:

That the promoters of the City of London (Markets) Bill, which was originally introduced in this House in the current session on 23 January 2023, should have leave to suspend any further proceedings on the bill in order to proceed with it, if they think fit, in the next session of Parliament, according to the provisions of Private Business Standing Order 188A (Suspension of bills).

Bishop's Stortford Cemetery Bill [HL]

Message from the Commons

A message was brought from the Commons that they have made the following order to which they desire the agreement of this House:

That the promoters of Bishop's Stortford Cemetery Bill [Lords], which was originally introduced in the House of Lords in this session on 23 January 2023, should have leave to suspend any further proceedings on the Bill from the day on which the current session ends in order to proceed with it, if they think fit, in the next session of Parliament according to the provisions of Private Business Standing Order 188A (Suspension of bills).

House adjourned at 9.34 pm.