



**BRIEFING PAPER**

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# Kew Gardens (Leases) (No. 3) Bill [HL] 2017-19

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## Summary

The Royal Botanic Gardens, Kew (RBG Kew) is located in southwest London and is a UNESCO World Heritage Site.

In 1840 responsibility for the gardens was transferred from the Crown to the Government, and they were opened to the public. The Board of Trustees of RBG Kew is now an executive non-departmental public body sponsored by the Department for Environment, Food and Rural Affairs (Defra). It is funded through a combination of grant-in-aid from Defra, self-generated income and charitable donations. Total income for 2017/18 was £111.7 million of which £40.8 million was grant-in-aid from Defra.

The Kew Gardens (Leases) (No. 3) Bill is a short, two clause Bill, that intends to give the Secretary of State the power to grant a lease over land at Kew for a term of up to 150 years and removes an existing restriction under the *Crown Lands Act 1702* which limits such leases to 31 years. The intention of the change is to enable Kew to increase its self-generated income. Income would be generated by granting leases of up to 150 years for the use of parts of the Kew Gardens estate for residential or commercial use. By granting leases of up to 150 years, Kew would transfer the liability and cost of maintaining these non-core assets to the leaseholder.

The Bill extends to England and Wales but applies to England only. There are no minor or consequential effects outside England and a legislative consent motion is not required.

The Bill was first introduced to the House of Lords and completed these stages on 11 June 2019. The Bill was introduced to the House of Commons on 11 June 2019 and Second Reading was held on 24 June 2019. Remaining Commons stages are to be held on 24 July 2019.

The Bill (as originally introduced in the Lords) is almost identical to two Private Member's Bills currently before Parliament. The first was introduced in the House of Lords by Lord True (Conservative) in July 2017, with the second being introduced in the House of Commons by Zac Goldsmith (Conservative MP for Richmond Park) in January 2018. Neither bill has yet received a Second Reading.

A similar [Private Members Bill was introduced in the Commons](#) in the 2016-17 session by Ian Liddell-Grainger MP. It was supported by the Government, but did not progress past Report Stage in the Commons.

Information on the Bill is also given in the [House of Lords Library briefing](#).

# 1. Kew Gardens

## 1.1 Overview

Kew Gardens is a botanic garden in southwest London. The current gardens include not just the land and buildings at Kew but further holdings at a secondary site at Wakehurst Place, West Sussex.<sup>1</sup>

In addition to the gardens themselves, Kew Science is “a global resource for plant and fungal knowledge” guided by the [Science Strategy 2015-20](#).<sup>2</sup>

## 1.2 History

Princess Augusta, widow of Frederick, Prince of Wales, established a botanic garden at Kew in 1759. This was later combined with King George II’s adjacent estate, and during the latter part of the eighteenth century the combined gardens grew under royal patronage to hold some of Europe’s most significant botanical collections.<sup>3</sup> During the eighteenth and nineteenth centuries, buildings were commissioned to meet a number of functions, not all of them related to botanical pursuits.

In 1840 responsibility for the gardens was transferred from the Crown to the Government, and they were opened to the public. Charges at Kew were introduced as a means of raising money during the First World War.<sup>4</sup>

## 1.3 Significance

The Royal Botanic Gardens, Kew (RBG Kew) achieved UNESCO World Heritage Site status in 2003. The description on the [UNESCO World Heritage Convention website](#) states:

This historic landscape garden features elements that illustrate significant periods of the art of gardens from the 18th to the 20th centuries. The gardens house botanic collections (conserved plants, living plants and documents) that have been considerably enriched through the centuries. Since their creation in 1759, the gardens have made a significant and uninterrupted contribution to the study of plant diversity and economic botany.<sup>5</sup>

The qualifying criteria listed by UNESCO summarise the scientific and architecture significance of RBG Kew are:

**Criterion (ii):** Since the 18th century, the Botanic Gardens of Kew have been closely associated with scientific and economic exchanges established throughout the world in the field of botany, and this is reflected in the richness of its collections. The

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<sup>1</sup> Science and Technology Committee, [Royal Botanic Gardens, Kew](#), 4 March 2015, HC866 2014-15, para 1

<sup>2</sup> Royal Botanic Gardens Kew, [A Global Resource for Plant and Fungal Knowledge: Science Strategy 2015-2020](#) [accessed 19 June 2019]

<sup>3</sup> Royal Botanic Gardens, Kew and Historic Royal Palaces, [Royal Botanic Gardens, Kew: World Heritage Site Nomination Document](#), section 2, page 2

<sup>4</sup> Royal Botanic Gardens Kew, [History of Kew](#) [accessed 19 June 2019]

<sup>5</sup> UNESCO, [Royal Botanic Gardens, Kew](#) [accessed 19 June 2019]

landscape and architectural features of the Gardens reflect considerable artistic influences both with regard to the European continent and to more distant regions;

**Criterion (iii):** Kew Gardens have largely contributed to advances in many scientific disciplines, particularly botany and ecology;

**Criterion (iv):** The landscape gardens and the edifices created by celebrated artists such as Charles Bridgeman, William Kent, Lancelot 'Capability' Brown and William Chambers reflect the beginning of movements which were to have international influence[.]<sup>6</sup>

## 1.4 Administration

The Board of Trustees of RBG Kew was established as an executive non-departmental public body with exempt charitable status by the [National Heritage Act 1983](#). It is sponsored by the Department for Environment, Food and Rural Affairs (Defra).<sup>7</sup> RBG Kew is funded through a combination of grant-in-aid from Defra, self-generated income and charitable donations. Total income for 2017/18 was £111.7 million of which £40.8 million was grant-in-aid from Defra.<sup>8</sup>

The Board of Trustees of RBG Kew comprises a chair and 11 members. Ten members and the Chair are appointed by the Secretary of State. The Queen appoints a trustee on the recommendation of the Secretary of State. The current Chair is Marcus Agius.<sup>9</sup> RBG Kew is run by an Executive Board, and the current Director is Richard Deverell.<sup>10</sup>

The Science and Technology Committee [reported on Kew](#) in 2015 after it was reported that “because of a funding shortfall, scientists would have to be made redundant to balance the books”. The Committee was “impressed by the current management at Kew” but stated that “we consider the current financial arrangements for funding to be a recipe for failure”. The Committee recommended that future funding of Kew should have “a far greater proportion that is unrestricted,” and that the Government should “consider whether Kew’s funding should be more consistent with that of the Natural History Museum” (the funding of which is 96% unrestricted).<sup>11</sup>

The [Government response](#) to this report stated that “we recognise the difficult financial position that Kew has been in and we have responded to help ease this”, including by “providing enhanced flexibility in the way Kew manages its Government funding” and “enabling greater opportunity for commercial activity”.<sup>12</sup>

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<sup>6</sup> Ibid.

<sup>7</sup> Royal Botanic Gardens Kew, [Board of Trustees](#) [accessed 19 June 2019]

<sup>8</sup> House of Lords Library Briefing, [Kew Gardens \(Leases\) \(No. 3\) Bill \[HL\]](#), LLN-2019-0052, p. 3

<sup>9</sup> Royal Botanic Gardens Kew, [Board of Trustees](#) [accessed 19 June 2019]

<sup>10</sup> Royal Botanic Gardens Kew, [Executive Board](#) [accessed 19 June 2019]

<sup>11</sup> Science and Technology Committee, [Royal Botanic Gardens, Kew](#), 4 March 2015, HC866 2014-15, summary; *ibid.*, paras 26, 28-31

<sup>12</sup> Science and Technology Committee, [Royal Botanic Gardens, Kew: Government Response to the Committee's Seventh Report of Session 2014-15](#), 14 September 2015, HC454 2015-16, appendix, pp 2-3



## 1.5 Ownership

The ownership of the land and buildings within RBG Kew is as follows:

- **The Crown** owns the land and buildings at the Kew Garden site, while RBG Kew manages this under direction from the Secretary of State.<sup>13</sup>
- **The Board of Trustees** holds title to the Wellcome Trust Millennium Building and adjacent land at Wakehurst Place.
- **The National Trust** owns the freehold of the remaining land at Wakehurst Place.<sup>14</sup>

Further information on Kew Gardens is also given in the [House of Lords Library briefing on the Bill](#).

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<sup>13</sup> Science and Technology Committee, [Written submission of evidence from Royal Botanic Gardens, Kew \(KEW0026\)](#), 3 December 2014, p. 2

<sup>14</sup> Science and Technology Committee, [Royal Botanic Gardens, Kew](#), 4 March 2015, HC866 2014-15, para 2

## 2. The Bill

This is a short, two clause Bill, that intends to give the Secretary of State the power to grant a lease over land at Kew for a term of up to 150 years and removes the existing restriction under the *Crown Lands Act 1702* which limits such leases to 31 years. The intention of the change is to enable Kew to increase its self-generated income. Income would be generated by granting leases of up to 150 years for the use of parts of the Kew Gardens estate for residential or commercial use. By granting leases of up to 150 years, Kew would transfer the liability and cost of maintaining these non-core assets to the leaseholder.<sup>15</sup>

The Bill was introduced to the House of Lords and completed these stages on 11 June 2019. The Bill was introduced to the House of Commons on 11 June 2019 and Second Reading is scheduled for 24 June 2019.

A press release by the Department for the Environment, Food and Rural Affairs after publication of the Bill on 25 April set out the views of the Government and Kew Gardens on the Bill:

Lord Gardiner, Minister for Kew Gardens, said:

“Kew Gardens is one of the world’s most iconic botanical gardens, home to beautiful grounds, historical buildings, extraordinary collection of flora and a scientific institution of global renown.

I am pleased to introduce this Bill to the House, which will help Kew in boosting revenue and, thereby providing a further lasting legacy for this UNESCO World Heritage Site and ensuring generations of visitors can experience this exceptional British landmark for years to come.”

Richard Deverell, Director Royal Botanic Gardens, Kew said:

“The passing of this new Bill offers Kew an excellent opportunity to attract private investment that will help ensure that we have an estate that supports the needs of the botanic gardens, the scientific team and our visitors for many years to come.”

The Bill extends to England and Wales but applies to England only. There are no minor or consequential effects outside England and a legislative consent motion is not required.

The Bill (as originally introduced in the Lords) is almost identical to two Private Member’s Bills currently before Parliament. The first was introduced in the House of Lords by Lord True (Conservative) in July 2017,<sup>16</sup> with the second being introduced in the House of Commons by Zac Goldsmith (Conservative MP for Richmond Park) in January 2018.<sup>17</sup> Neither Bill has yet received a Second Reading.

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<sup>15</sup> [Explanatory Notes, para 5](#)

<sup>16</sup> [Kew Gardens \(Leases\) Bill \[HL\] 2017-19](#)

<sup>17</sup> [Kew Gardens \(Leases\) \(No. 2\) Bill 2017-19](#)

A similar [Private Members Bill was introduced in the Commons](#) in the 2016-17 session by Ian Liddell-Grainger MP. It was supported by the Government, but did not progress past report stage in the Commons.<sup>18</sup>

On 16 December 2014 there was a [Westminster Hall debate on Kew Gardens](#) led by Zac Goldsmith MP.<sup>19</sup>

## 2.1 Clause 1

The explanatory notes to the Bill set out that [Section 5 of the Crown Lands Act 1702](#) prevents the sale of Crown land and limits leases to 31 years.

Clause 1 of the Bill provides the Secretary of State with the power to grant a lease for land for the Royal Botanic Gardens, Kew, for a period of up to 150 years, and that the restriction in the 1702 Act does not apply for a lease for Kew. Subsections 3 and 4 were added to the Bill during the Lords stages, and require the Secretary of State to consider and be satisfied that the terms of the lease would not have any adverse impact upon the UNESCO World Heritage Status of Kew or the ability of the Board of Trustees to carry out their functions under Section 24 of the *National Heritage Act 1983*.<sup>20</sup>

## 2.2 Clause 2

Clause 2 sets out the territorial extent (England and Wales) and that the Bill will come into force two months after it is passed.

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<sup>18</sup> [Kew Gardens \(Leases\) Bill 2016-17](#) also see [Commons Library analysis: Kew Gardens \(Leases\) Bill \[Bill 22\]](#)

<sup>19</sup> [HC Deb 16 December 2014 c463WH](#)

<sup>20</sup> [Explanatory Notes, para 12-13](#)



## 3. Lords Stages

### 3.1 Second Reading

During the Bill's [Second Reading](#) in the Lords on 7 May 2019<sup>21</sup>, the Parliamentary Under-Secretary of State at the Department for Environment, Food and Rural Affairs, Lord Gardiner of Kimble, set out the reason for the Bill and the aims. These included the generation of additional income through properties that are part of Kew:

[...]

I turn to this two-clause Bill. Not only is Kew an extraordinary scientific institution but its estate includes many special buildings and structures, more than 40 of them listed. It is a considerable challenge to ensure the maintenance of both core and non-core structures, which, due to their historic nature, is undertaken at considerable expense. For instance, the restoration over six years and reopening last year of the Temperate House is a tremendous achievement of Kew's mixed funding approach. I thoroughly recommend to any of your Lordships who have not been to see it a visit to that extraordinary work.

Non-core parts of the Kew estate include some listed residential buildings near Kew Green, which badly need investment to maintain and enhance their condition and enable Kew to realise additional income. Attracting capital investment to refurbish buildings within the boundaries of Kew is one of the great opportunities available, but the current 31-year limit on leases has made that difficult to realise.

The Bill will allow leases to be granted on land at Kew for a term of up to 150 years. Currently, the Crown Lands Act 1702 limits leases at Kew Gardens to a term of 31 years. Longer leases will enable Kew to realise additional income from land and property and will reduce maintenance liabilities and running costs. The additional income generated will help Kew to achieve its core objectives, maintain its status as a UNESCO world heritage site, and prioritise maintenance and development of its collections, as well as improving the quality of its estate. The Bill has the full support of the Kew board and residents in the Kew area, in particular through the Kew Society.

He went on to highlight the safeguards for any lease granted under the Bill:

I have reflected on what may be the challenges to the Bill. The various safeguards that apply now would still apply to any lease granted under the Bill. Kew's activities are overseen by Kew's board and by the Secretary of State for the Environment, Food and Rural Affairs. The Royal Botanic Gardens, Kew, is an executive non-departmental public body and an exempt charity. It is governed by a board of trustees established under the National Heritage Act 1983. As an exempt charity, although the Charity Commission does not regulate it, it must abide by charity law, with the Secretary of State as Kew's regulator for charity purposes. This regulation is co-ordinated between the Charity Commission and the Secretary of State.

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<sup>21</sup> Kew Gardens (Leases) (No. 3) Bill [HL], Lords Second Reading, [HL Deb 7 May 2019 | Vol 797 c1146-](#)

To ensure that Kew's operational arrangements comply with the National Heritage Act, public and charity law, a framework document exists between Kew and Defra dealing with business planning, resource allocation, appointment of board members and, pertinently, the disposition of land. Thus, at all times in the governance process, the board of Kew, the Secretary of State and Defra play a key role in determining the operational management, and would continue to do so in the grant of any lease under the Bill.

Secondly, Kew's UNESCO world heritage site status and other designations offer protection under the planning system which would apply to any lease granted under the Bill. Kew was inscribed as a UNESCO world heritage site in 2003 due to its outstanding universal value as a historic landscaped garden and world-renowned scientific institution. As a result, the UK Government, through the Kew board and the Secretary of State, have the ultimate responsibility for ensuring the protection, management, authenticity and integrity of the property.

As part of UNESCO world heritage site status, Kew has a management plan to show how its outstanding universal value as a property can be preserved. This includes protections and mechanisms in the planning system, including conservation areas in the London boroughs of Richmond and Hounslow, offering protection to the Kew site itself and a wider "buffer zone" that protects the historic landscape character of Kew. The Kew Gardens site is grade 1 on the Historic England register of historic parks and gardens of special historic interest in England. Much of its site is designated metropolitan open land, applying similar protection to that offered to green-belt land. Forty-four of the buildings and structures in the site are listed; indeed, Kew is part of an archaeological priority area. These protections mean that any lease would require local planning permission and compliance with the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the National Planning Policy Framework and the Government's policy for the historic environment.

Thirdly, conditions would apply to the lease itself. In accordance with the duties that both the Kew board and the Secretary of State must carry out, the lease, while seeking to be commercial, will be capable of applying the necessary restrictions that will protect Kew. The Bill disapplies the restriction in Section 5 of the Crown Lands Act 1702 relating to leases of land at Kew: it will remove the limit of 31 years and apply a maximum of 150 years. This will bring Kew in line with the provisions made for the Crown Estate by the Crown Estate Act 1961. The changes provide the ability to grant longer leases on the land. The Bill would not alter the many protections in place for Kew and its status as a world heritage site. All proposals for granting leases are subject to scrutiny and must go through Kew and Defra's governance. All proposals must comply with the protections in the planning framework and, in every case, the lease will contain any restrictions that may be necessary. The very status of Kew and all the protections it comes with make its property one of the safest in terms of conservation that could be envisaged.

In conclusion, I emphasise that this is very much Kew's Bill. It is about enabling Kew both to manage assets on a sound and sustainable commercial footing and to enhance the site and support its core objectives. Kew's trustees need this Bill to do what is necessary. The Bill is an opportunity for us to support

Kew. Enabling it to maintain and enhance both core and non-core parts of its estate will be crucial to its long-term success and its global role in addressing the many challenges of enhancing a natural world that is undoubtedly in trouble; plants and fungi, and a better understanding of them, will help us enormously to meet those challenges. As I said, this is a two-clause Bill. It may be modest in size but, once enacted, its impact will be of immense benefit to Kew and help it further in its valuable work, which has been described in previous weeks, perhaps previous years, as part of our generation's custodianship, ensuring that we know more answers about how we will turn things around. Probably unknowingly, previous generations have done things to this planet that we all now regret. As the Minister responsible for Kew—one of the biggest privileges in government, I think—I see the scientists and management there on a very regular basis. This Bill is one that they desire and that will help them to do so much of what we desire. I beg to move.<sup>22</sup>

During the debate, concerns were expressed that the Department may in future use the increased income to justify a decrease in grant-in-aid, for example by Baroness Warwick (speaking for Labour):

[...]I hope that in replying the Minister will reassure the House and commit to this additional resource being indeed additional, which will enable Kew to reinforce even further its reputation as a world centre of excellence in sciences.<sup>23</sup>

In the Minister's reply he referred to the anticipated amount of revenue and stressed that it would be additional to Kew's other income: "...It is the intention that the proceeds which result from this Bill should provide an additional source of income for Kew."<sup>24</sup> During the debate the Minister indicated that Kew expected to increase income by around £15 million through the change:

...While the full scale of the benefits have not been fully market-tested, depending on options and planning decisions, the advice from Kew is that they would be likely to generate up to £15 million of income and cost avoidance, along with the chance to explore further opportunities as the result of this legislation. Kew intends to invest the income in infrastructure, enabling it to deliver its mission.<sup>25</sup>

The status and regulation of Kew under charity law were probed, with Lord Hodgson (Con) asking about restrictions on charities around land, and the overall impact of charity law on the proposed changes.<sup>26</sup> The Minister responded:

[...]

I will look in *Hansard* at the specific points on the charity matters that my noble friend Lord Hodgson referred to. As the principal regulator, the Secretary of State has a duty to take reasonable steps to ensure that Kew is complying with its duty under charity law. The Secretary of State has a relationship with the Charity Commission as set out in the Defra-Charity Commission memorandum of understanding. For a body to be a charity, it

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<sup>22</sup> [HL Deb 7 May 2019 Vol 797 c1147-49](#)

<sup>23</sup> [HL Deb 7 May 2019 Vol 797 c1150](#)

<sup>24</sup> [HL Deb 7 May 2019 Vol 797 c1168](#)

<sup>25</sup> [HL Deb 7 May 2019 c1168](#)

<sup>26</sup> [HL Deb 7 May 2019 Vol 797 c1161](#)

must exist for its charitable purpose for the public benefit only and therefore must demonstrate independence from any forces that might seek to prevent it doing so. The Charity Commission's review of the register reports that, where a governmental authority has been given powers under a charity's governing document—in this instance, the National Heritage Act—it is bound to exercise those powers solely in the interests of the charity, and therefore the Secretary of State cannot exercise that power for the Government's own benefit. I should also say that I have studied the memorandum of understanding, and I am very happy to discuss that issue with my noble friend if he wishes.<sup>27</sup>

[...]

In summing up, the Minister clarified the properties which Kew intended to renovate and let at the current time:

[...]

The noble Lord, Lord Carrington, and the noble Baroness, Lady Jones of Whitchurch, referred to the group of non-core estate properties that Kew wishes to attend to. As has been said, there are four houses and three flats on the edge of the site, mainly on Kew Green. The five properties are currently let on one-year leases following renovation work which has been partly funded by a loan. Two properties are unoccupied and require substantial renovation work to bring them up to a habitable condition. This is about ensuring that non-core property can be attended to and for the income then to go towards enhancing infrastructure and the core properties, which is what the Kew trustees wish to attend to. Kew will focus on this portfolio of properties in the first instance, in particular the two unoccupied properties. I am sure that there will be other opportunities.<sup>28</sup>

[...]

Concerns raised about potential future development of the land currently used as a car park were addressed in a later [letter from the Minister](#).<sup>29</sup>

## 3.2 Committee Stage

No changes were made to the Bill at Committee Stage in the House of Lords. During the debate four of the eight amendments were moved, and all four were withdrawn after debate. Committee Stage was completed in one day, 21 May 2019.

Lord Hodgson (Con) introduced amendment 1 which would have required consultation with the Charity Commission before a lease was granted. The Minister told the House that his legal advice was that the amendment would not have the intended effect. He also felt it was not needed:

[...]

One thing is clear: if a lease was at odds with anything, the Secretary of State would decline to grant it in the first place. With this in mind, and on the advice of departmental lawyers, the Secretary of State would not grant a lease that was in any way

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<sup>27</sup> [HL Deb 7 May 2019 Vol 797 c1168](#)

<sup>28</sup> [HL Deb 7 May 2019 Vol 797 c1168](#)

<sup>29</sup> [Deposited Paper \(DEP2019-0599\)](#)

contrary to Kew's objectives as set out in the National Heritage Act 1983, the governance document of Kew Gardens dated July 2017, and the Kew framework document dated June 2018, since this would risk placing the board in breach of its own statutory obligations and the framework and governance documents. For example, no lease of any land or building could ever restrict public access to the plants, collections and other facilities at Kew as this would be contrary to Section 24 of the National Heritage Act 1983<sup>30</sup>

[...]

The Minister offered to discuss the issue further with Lord Hodgson and the amendment was withdrawn.

Amendment 2 was laid by Lord Whitty (Lab) with the intention of restricting any leases granted:

...to the condition that activities on or in the land or buildings leased will contribute to, be supportive of, or be compatible with the core botanical, scientific, environmental, educational and amenity activities of the Royal Botanic Gardens, its World Heritage status and its charitable objectives<sup>31</sup>

The Minister reassured the House about existing processes:

[...]

First, as a UNESCO world heritage site and conservation area with 44 listed buildings, Kew Gardens is subject to some of the highest level of scrutiny and statutory approvals available under the planning system—as it should be, of course—and this will not change under the Bill. Regardless of any additional conditions that might be placed on the lease by the Secretary of State, any significant internal or external developments under the lease, whether structural or otherwise, would be subject to the relevant development permissions. The local planning authority, with advice from Historic England, in particular, would be responsible for deciding whether a proposed development should be allowed to go ahead and whether to grant planning permission for new buildings, major alterations, including any to listed buildings, or significant changes to the use of a building or piece of land. The Bill will not change or replace this governance process.

[...] <sup>32</sup>

and went on to detail the additional planning restrictions applicable. The amendment was withdrawn.

Amendment 3 was a probing amendment by Baroness Jones (Lab) seeking to ensure additional revenue would be reported separately. The Minister set out this would happen under existing reporting arrangements. The amendment was withdrawn.<sup>33</sup>

Amendment 5 would require an 'impact assessment' to be published after the Act was passed on the property portfolio at Kew.<sup>34</sup> This was grouped with other amendments on information around the financial

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<sup>30</sup> [HL Deb 21 May 2019 Vol 797 c1880](#)

<sup>31</sup> [HL Deb 21 May 2019 Vol 797 c1882](#)

<sup>32</sup> [HL Deb 21 May 2019 Vol 797 c1889](#)

<sup>33</sup> [HL Deb 21 May 2019 Vol 797 c1893-95](#)

<sup>34</sup> [HL Deb 21 May 2019 Vol 797 c1895](#)

impact and management of longer leases. The Minister assured the Committee that:

[...]

The need to scrutinise the impacts of lease proposals will be fulfilled by Kew in taking specialist advice and preparing proposals for consideration by, first, its executive board and board of trustees and, ultimately, the Secretary of State. This includes the involvement of Kew's finance committee, audit and risk committee and capital development committee, as well as Defra. As I have said, and as we have all realised, Kew will focus on the seven residential properties currently let on assured shorthold tenancies or empty. As I have said, Kew has no immediate plans beyond that.

[...] <sup>35</sup>

The amendment was withdrawn.

### 3.3 Report Stage

Report Stage in the Lords took place on 5 June 2019 and Third Reading took place on 11 June 2019.

At [Report Stage](#) <sup>36</sup> three amendments were considered and two were added to the Bill.

Baroness Jones (Lab) moved amendment 1 which intended to restrict any extended lease granted to residential use only. <sup>37</sup> Concerns were raised at Committee Stage about potential future development beyond the seven residential properties currently being considered. The Minister went into further detail on Kew's plans and the amendment was withdrawn.

Lord Whitty (Lab) moved amendment 2

2: Clause 1, page 1, line 5, leave out "such a lease" and insert "a lease granted in reliance on subsection (1)" <sup>38</sup>

and the debate also considered amendment 3 at the same time:

3: Clause 1, page 1, line 5, at end insert—

"(3) The Secretary of State may grant a lease in reliance on subsection (1) only if satisfied that the lease would not have an adverse impact on—(a) the outstanding universal value of the Royal Botanic Gardens, Kew, as a World Heritage Site, or (b) the ability of the Board of Trustees of the Royal Botanic Gardens, Kew, to carry out its functions under section 24 of the National Heritage Act 1983. (4) In subsection (3), "World Heritage Site" means a property appearing on the World Heritage List kept under article 11(2) of the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage adopted at Paris on 16 November 1972 (list of properties recognised by the World Heritage Committee as having outstanding universal value)." <sup>39</sup>

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<sup>35</sup> [HL Deb 21 May 2019 Vol 797 c1899](#)

<sup>36</sup> [HL Deb 5 June 2019 Vol 798 c96-](#)

<sup>37</sup> [HL Deb 5 June 2019 Vol 798 c96](#)

<sup>38</sup> [HL Deb 5 June 2019 Vol 798 c102](#)

<sup>39</sup> [HL Deb 5 June 2019 Vol 798 c110](#)



These amendments were introduced by Lord Whitty (Lab), following discussion with the Department and Kew, and were intended to deal with the concern that the powers in the Bill were too 'open-ended' and that Peers wished to ensure there was restrictions in place on the extension of leases to protect the scientific and amenity value of Kew. The amendments require the Secretary of State to consider and be satisfied that the terms of the lease would not have any adverse impact upon the UNESCO World Heritage Status of Kew or the ability of the Board of Trustees to carry out their functions under Section 24 of the *National Heritage Act 1983*. Lord Gardiner indicated that the amendments were supported by the Government and they were added to the Bill.

The Bill passed its [Third Reading](#) in the Lords on 11 June 2019<sup>40</sup>

## 4. Commons stages

### 4.1 Second Reading

During the Bill's [Second Reading](#) in the Commons on 24 June 2019<sup>41</sup>, the Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs, David Rutley MP, noted the Government's acceptance of the Lords amendments which would place the duty on the Secretary of State to ensure any lease did not have an adverse impact on value of Kew's and the way it operates. He stressed the importance of Kew's scientific research and status as a global resource for knowledge of plants and fungi. He said that Kew's mixed funding model was successful and stressed the opportunities the Bill would provide:

Attracting capital investment to refurbish buildings within the boundaries of Kew is one of the big opportunities available, but the current 31-year limit on leases imposed by the Crown Lands Act 1702 has made this difficult to realise. The Bill will allow leases to be granted on land at Kew for a term of up to 150 years. Longer leases will enable Kew to realise additional income from land and property, and will reduce maintenance liabilities and running costs. The additional income generated will help Kew to achieve its core objectives, maintain its status as a UNESCO world heritage site, and prioritise maintaining and developing its collections as well as improving the quality of its estate.<sup>42</sup>

The Minister told the House that the Bill had the support of Kew's Board of Trustees and local residents. He outlined the financial benefits which could arise from the planned changes:

Of the properties that we are talking about today, five are currently let on a one-year lease following renovation work, partly funded by a loan, and two are unoccupied and require substantial renovation to bring them up to a habitable condition or make them fit to become office accommodation. In the first instance, Kew would like to focus on that portfolio of properties, particularly the unoccupied properties. That portfolio can itself generate a capital sum or remove liability for renovation or maintenance works—a cost avoidance of about £15 million over a 10-year period.<sup>43</sup>

George Eustice MP (Lab) asked about the possibility of future lease extensions. The Minister replied that

It would be possible to extend the lease in the normal way, except for the fact that a lease would never go beyond 150 years. There are different protections in place because Kew is on Crown land.<sup>44</sup>

and went on to detail the conditions that would apply to any lease granted.

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<sup>41</sup> Kew Gardens (Leases) (No. 3) Bill [HL], Commons Second Reading, [HC Deb 24 June 2019 | Vol 662 c493-](#)

<sup>42</sup> [HC Deb 24 June 2019 | Vol 662 c494](#)

<sup>43</sup> [HC Deb 24 June 2019 | Vol 662 c503](#)

<sup>44</sup> [HC Deb 24 June 2019 | Vol 662 c496](#)

Concerns over broader development were debated, and Sir Oliver Heald MP (Con) called for Kew to have a low-carbon transport policy.<sup>45</sup> Steven Pound MP (Lab) noted the provision of public transport serving Kew.<sup>46</sup>

Dr David Drew MP, Shadow Minister for Farming and Rural Affairs, spoke for the Opposition<sup>47</sup>, saying that they had no intention of dividing the House and were happy for the Bill to be quickly passed as amended in the Lords. He recalled the Science and Technology Select Committee [report](#) from the 2014-15 Session, noting the decrease in the proportion of Kew's funding from grant-in-aid since 1983 and that this had been partly mitigated by comparatively high entry fees, which could deter visitors if further increased. He noted that the estimated £15 million which could be raised by the new leases, while it would contribute significantly to Kew's income, would be a one-off amount and it was necessary that it should go directly to Kew. Zac Goldsmith MP (Con), whose constituency includes Kew Gardens, agreed that this income should not be seen as a substitute for visitor income or Government funding.<sup>48</sup>

Dr Drew called specifically for the Government to contribute to the cost of digitising Kew's herbarium records. The Minister in his summing up acknowledged the importance of preserving this collection:

Although I cannot prejudge the outcome of the forthcoming spending review, the importance of Kew's mission and of securing the institution's future means that my Department will be working closely with Kew to put forward the strongest possible case. That includes significant investment in digitising Kew's herbarium collection<sup>49</sup>

The Bill passed its Second Reading without a Division and was [committed](#) to the Legislative Grand Committee (England), having been certified by the Speaker as being within devolved legislative competence and relating exclusively to England.

Standing Order No 83K provides that if a bill in its entirety is certified as relating exclusively to England, it may only be committed to a public bill committee comprised of Members representing seats in England or, rather than to a Committee of the whole House, to the Legislative Grand Committee (England).

Although this is not the first bill to have been certified as relating exclusively to England in its entirety<sup>50</sup>, this is the first bill to be committed to the Legislative Grand Committee (England).

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<sup>45</sup> [HC Deb 24 June 2019 | Vol 662 c495](#)

<sup>46</sup> [HC Deb 24 June 2019 | Vol 662 c496](#)

<sup>47</sup> [HC Deb 24 June 2019 | Vol 662 c497-](#)

<sup>48</sup> [HC Deb 24 June 2019 | Vol 662 c501](#)

<sup>49</sup> [HC Deb 24 June 2019 | Vol 662 c503](#)

<sup>50</sup> The *Secure Tenancies (Victims of Domestic Abuse) Bill 2017-19 [HL]*, the *Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Bill 2017-19* and the *Tenant Fees Bill 2017-19* were all committed to public bill committees that comprised only Members from constituencies in England, see Project EVEL, [Data](#), [Primary Legislation 2017-19 session]

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