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Levelling Up and Regeneration Bill 2022-23: Progress of the Bill

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Summary

The Levelling-up and Regeneration Bill 2022-23 had its First Reading in the House of Commons on 11 May 2022. Second Reading took place on 8 June 2022. The Bill's Committee Stage began on 21 June 2022 and ended on 20 September 2022. A list of members of the Public Bill Committee can be found in the Appendix of this briefing paper. Transcripts of the oral evidence and the Committee debates can be found under the 'Committee debate' section of the Bill's pages on the Parliamentary website.

This briefing paper gives details of the progress of the Bill during Second Reading and Committee Stage in the House of Commons. Minimal amendments to the Bill were accepted in Committee. This briefing uses the clause numbers that apply at Report Stage, when the Bill had finished Committee Stage. These may differ from the clause numbers that were actually used during Committee Stage, as some amendments introduced new clauses at earlier points in the Bill.

At the time of writing there is no date for Report and Third Reading of the Bill. As of 9 November 2022, some amendments have been tabled [PDF] to be considered on Report.

The Bill, and its Explanatory Notes, can be found on the Parliamentary website. The House of Commons Library's briefing paper for the Second Reading of the Bill can also be found on the Parliamentary website.

The Government published a press release on 11 May 2022 setting out the aims of the Bill. It also published a policy paper on 11 May 2022 entitled Levelling Up and Regeneration: further information.

Content of the Bill

The Bill would make a range of legislative changes associated with the Government's "levelling up" agenda, which intends to reduce geographical, economic, social and health inequalities. Many of these changes, though not all, were foreshadowed in the February 2022 White Paper Levelling Up the United Kingdom. The main measures that the Bill would introduce are:

- Statutory requirements regarding the levelling-up 'missions'. These would create a statutory requirement for the Government to report to Parliament on progress against levelling up missions that have been set out in a 'statement of levelling up missions' laid in Parliament;

- New **'combined county authorities' (CCAs) to act as recipients of powers and funding under devolution deals** within England. These are alternative legal structures to the combined authorities and mayoral combined authorities (MCAs) that exist in some parts of England. Some

of the legislative provision for combined authorities and MCAs would also be altered by the Bill, to bring them into line with the proposals for CCAs in the Bill;

- The introduction of an **infrastructure levy** to be implemented by English local authorities, intended to replace the Community Infrastructure Levy (CIL) and most developer contributions to local infrastructure via 'section 106 agreements';

- **Changes to compulsory purchase** to support regeneration. Currently, local authorities may use compulsory purchase to achieve the objective of promoting or improving the economic, social or environmental well-being of their area. This definition would be expanded, to specify that "improvement" includes regeneration;

- Powers to **auction tenancies in high street shops**. Local authorities would be able to "designate" high streets or town centres that are important to the local economy, then serve a letting notice on landlords of premises in those areas which have been vacant for the past year (or over a year from the previous two years). If the landlord then fails to rent out or make use of the premises, the local authority can arrange for a rental auction and require the landlord to rent out the premises to a particular tenant;

- Requirements for local authorities to produce **environmental outcomes reports**;

- Requirements to make available certain information regarding **land ownership**, to increase the transparency of ownership of, and interests held in, land.

The Bill would also deal with a number of other matters:

- Overhauling the procedure through which local authorities rename streets, to allow local support for the change (or not) to be expressed;

- Permitting local authorities to charge up to 200% council tax on furnished holiday homes;

- Enabling the Government to direct local authorities to reduce borrowing levels and sell assets if certain indicators are breached;

- Amendments to the legislative foundation of development corporations in England, making it easier for local authorities to establish them;

- Making permanent certain changes to the pavement licensing regime that were introduced during the Covid-19 pandemic;

- Providing powers for the Government to initiate a review of the governance of the Royal Institute of Chartered Surveyors (RICS) in response to recent concerns;

- Replacing the provisions of the Vagrancy Act 1824 in regard to begging and rough sleeping;
- Requiring local authorities to have access to an up to date historic environment record.

Territorial extent

Many parts of the Bill would extend only to England and Wales, and in some cases would have effect only in England.

The parts of the Bill concerning levelling up missions, planning data provision, environmental outcomes reports and the review of RICS extend to the whole of the United Kingdom. The parts concerning combined authorities, local government, street names, planning, the infrastructure levy, compulsory purchase, development corporations, rental auctions on high streets, and pavement licensing, extend to England and Wales but have practical effect only in England. The parts concerning land information, historic environment records, and the Vagrancy Act extend to England and Wales.

1 Levelling-up missions

Levelling-up 'missions' are the government's targets for reducing geographical, economic or social disparities.

Part 1 of the Bill would place a duty on the government to publish a "statement of levelling-up missions". The mission statement must include target dates for meeting each of the missions and set out metrics for how progress will be measured. The government would be able to modify the mission statement and update the metrics and target dates.

The Bill would also require the government to report annually on progress towards achieving the missions (clause 5). The government would be able to discontinue pursuing a mission, by giving reasons in the annual report.

The Government has said that the twelve missions set out in the Levelling Up White Paper would form the basis of the first statutory statement of levelling up missions after the Bill becomes law.[1]

1.1 Overview of committee stage

Part 1 of the Bill was considered during the 5th and 6th sittings of the Committee on 28 June 2022. There were no amendments made to Part 1 during committee stage although several opposition amendments were moved.

The debate in Committee focused on the level of independent scrutiny in the Bill and the powers for the government to make changes to the missions and metrics. Broadly, opposition members argued that the Bill gives too much power to the Executive to assess its own progress on levelling up and to change the levelling up missions and metrics without proper scrutiny. They argued this limited the substance of the Bill and compromised the long-term commitment to levelling up.

In response, the Government argued that the Bill allows Parliament to scrutinise levelling up, through the laying of the statement of levelling up missions and the annual reports on progress. The Government argued that Parliament, the public, think tanks and civil society would hold the Government to account, using the publicly available data attached to the levelling up metrics.

1 PBC Deb 28 June 2022, c198

The Opposition moved several amendments on topics including:

- Independent oversight and scrutiny of the levelling up missions;
- The Government's powers to change the levelling up missions and metrics;
- The content of the levelling up mission statement and Parliamentary approval;
- The resources and action plan needed to deliver levelling up.

The opposition amendments were resisted by the Government and were either withdrawn or defeated on division. The Committee also divided on whether clause 4 (which would give the government power to change the levelling up metrics and target dates) should stand part of the Bill. Opposition members objected to clause 4 standing part but were defeated on division.

Areas that are likely to be returned to at subsequent stages include:

- whether the annual levelling up progress reports should be produced by an independent body; and
- whether Ministers should have the power to discontinue levelling up missions or change the levelling up metrics without Parliamentary approval or independent oversight.

1.2 Amendments at Committee stage

Independent oversight of levelling up progress

The Shadow Minister, Alex Norris, spoke to a series of amendments to clause 1 and 2 that sought to require an independent evaluation of the government's progress on levelling up.[2]

Alex Norris argued that the Bill currently leaves the Government to "mark its own homework". He said that independent oversight of progress against the levelling up missions was required to avoid the risk that the Government give their own interpretation of progress as a "huge political success".[3]

He and other opposition members highlighted the importance of independent oversight to good policy making. Other examples of independent bodies that scrutinise government policy progress against targets were highlighted,

[2] Amendments 3, 5, 10 and 12. New Clause 1 was tabled by Judith Cummins MP.

[3] PBC Deb 28 Jun 2022, c151-2

including the Office for Budget Responsibility, the Committee on Climate Change and Parliamentary select committees.[4]

Alex Norris also highlighted that independent oversight is important for ensuring that the levelling up commitments are implemented long-term and outlast changes in government. He argued that the levelling up missions have broad cross-party support and therefore are "well placed to be embedded in an independent body".[5] Additionally, he argued that scrutiny is also about holding other players in the levelling up agenda to account, such as regional authorities.

Labour's amendments were supported by Liberal Democrat MP Tim Farron and SNP spokesperson Patricia Gibson, who agreed that without independent scrutiny, the legislation is a "fanfare" and is not necessary.[6] Patricia Gibson described the lack of accountability in the Bill as "a real flaw".[7] She also raised these concerns during the Second Reading debate, describing the Bill as "mere smoke and mirrors" with "more bluster" than substance.[8]

In response, the then Minister Neil O'Brien argued that the Government "absolutely recognised" the important of seeking expert advice.[9] He pointed to the Levelling Up Advisory Council that had been established to provide the Government with advice to inform the design and delivery of the missions. He argued that Parliament, the public, think tanks and civil society would play the role of scrutinising the Government's progress, by utilising the publicly available data linked to the levelling up metrics. He said it was "unclear" what an independent body would add.[10]

The amendments were not pushed to a division, but the Shadow Minister Alex Norris said that the opposition would return to this issue in at future stages. He said it was disappointing that efforts to add independence and "real analysis" to the Bill had been resisted by the Government.[11]

Levelling up mission statement

Opposition members introduced several amendments related to the content of the levelling up mission statement.

Shadow Minister Alex Norris moved amendment 14 to clause 1, which sought to require that the first statement of levelling up missions must include the missions listed in the Levelling Up White Paper.[12] He argued this was required

4 PBC Deb 28 Jun 2022, cc 151, 156
5 PBC Deb 28 Jun 2022, c153
6 PBC Deb 28 Jun 2022, c160
7 PBC Deb 28 Jun 2022, c159
8 HC Deb 8 Jun 2022, c847
9 PBC Deb 28 Jun 2022, c160
10 PBC Deb 28 Jun 2022, c161
11 PBC Deb 28 Jun 2022, c205
12 PBC Deb 28 Jun 2022, c191

to give substance to the Bill and the Government's commitment to levelling up.[13]

Then Minister Neil O'Brien responded that the Government could not accept the amendment because it was drafted such that the missions as set out in the amendment did not match those in the White Paper exactly.[14] The Minister said it was important that the missions were not in the legislation so that they could be flexible.

Mr Norris pressed amendment 14 to a division, but this was defeated by 10 votes to 6.[15]

Several other amendments were moved during the committee stages regarding the content of the missions:

- Labour MP Emma Lewell-Buck moved amendments 29 and 30 to clause 1, to require that the levelling up missions include details of how the missions were aligned to the UN sustainable development goals to end poverty and hunger.[16] She was supported by the Opposition front bench and Tim Farron MP for the Liberal Democrats.

- Labour MP Rachel Maskell moved New Clause 44 to require the Government to include a mission on environmental equality in the statement of levelling up missions.[17]

Parliamentary approval of the levelling up missions

Alex Norris introduced amendment 11 to clause 5, which sought to require Parliament to vote to approve any revisions to the levelling up statement.[18] Clause 5 would require the Minister to review the statement of levelling up missions every 5 years and lay a report on that review before Parliament; it would require that the levelling up mission statement be revised in accordance with that report.

The Opposition argued that clause 5 gave too much power to the Executive to change the missions without scrutiny. Shadow Minister Alex Norris MP noted that there was no process for a vote in Parliament on the content or changes to the missions, only a requirement to make statements and lay reports. He questioned whether these requirements could be met by a written ministerial statement without a debate.[19]

Then Minister Neil O'Brien argued that the Bill already provides for "significant parliamentary oversight" and that it would be "disproportionate"

13 PBC Deb 28 Jun 2022, c193
14 PBC Deb 28 Jun 2022, c198
15 PBC Deb 28 Jun 2022, Division number 1, c201
16 PBC Deb 28 Jun 2022, c185
17 PBC Deb 20 Oct 2022, c855
18 PBC Deb 28 Jun 2022, c214
19 PBC Deb 28 Jun 2022, c217

to require both Houses to approve the addition or discontinuation of missions.[20] The Opposition did not push the amendment but said it would return to this issue at later stages.[21]

Delivering levelling up: resources and action plan

The Opposition introduced amendment 4 to clause 1 which sought to require that the Government must publish an action plan alongside the statement of levelling up missions that sets out how the Government will deliver the missions.[22]

Alex Norris argued that, given the broad range of policies in the Levelling Up White Paper, a proper action plan was required to ensure that the details are delivered. He argued that the White Paper was not an action plan, for example because it lacked detailed dates. Tim Farron, for the Liberal Democrats, agreed, describing the levelling up programme as a "project with no project management".[23]

The then Minister Neil O'Brien responded that the amendment was not necessary. He argued that the Government agreed that the levelling up missions must be accompanied by detailed actions, and that the Levelling Up White Paper constituted an action plan. He also pointed to Clause 2(2)(c), which places an obligation on the government to produce an annual report that includes future plans to deliver each of the missions.[24] Amendment 4 was withdrawn.

Opposition amendment 13 to clause 1 sought to require the Government to publish, alongside the levelling up mission statement, the resources available to communities for levelling up. Alex Norris argued that the proper allocation of resources was crucial to whether levelling up would be a success. He said that the amendment was required for the "sake of transparency and proper scrutiny of Government spending in this area".[25] The amendment was supported by Tim Farron for the Liberal Democrats and Patricia Gibson for the SNP.

Then Minister Neil O'Brien responded that, while the Government agreed with the "spirit behind the amendment", it did not think it was needed.[26] The Minister argued that there were official figures on public spending widely available and that the Government were working on producing better spatial data to inform levelling up. He argued that resourcing was larger than just

20 PBC Deb 28 Jun 2022, c216
21 PBC Deb 28 Jun 2022, c218
22 PBC Deb 28 Jun 2022, c201.
23 PBC Deb 28 Jun 2022, c203.
24 PBC Deb 28 Jun 2022, c204.
25 PBC Deb 28 Jun 2022, c167
26 PBC Deb 28 Jun 2022, c174.

money distributed through levelling up funds and should consider the totality of government spending.[27] The amendment was withdrawn.

Levelling up annual reports

The Opposition introduced amendment 6 to clause 2, which sought to remove the provisions allowing Ministers to discontinue a levelling up mission through the annual reporting process (clause 2, subsections (4) and (5)).[28]

Alex Norris said that the Opposition welcomed the obligation on Ministers to report annually but that the "unfettered ability" to drop missions should not be reserved to Ministers themselves.[29] He said it would allow ministers to drop a mission with a "message of discontinuation" if they are failing to meet a mission. He said the provisions undermine a long-term commitment to levelling up and present a "real risk to delivery".[30]

The Government argued that the provisions were required to allow policies to be adapted to changing circumstances rather than to avoid scrutiny.[31] The Minister gave the example of the R&D mission being tied to the spending review period, meaning that it would need to be revised at the end of that period.

Opposition members were dissatisfied with the Government response, arguing that revising and dropping missions were different things, and that the Minister made it sound like the missions were a "short-term tick-box" exercise.[32]

Opposition amendments 7 and 8 to clause 3 sought to reduce the time for the levelling up progress report to be published, from 120 days after the end of the reporting year, to 30 days.[33] Shadow Minister Alex Norris, supported by Tim Farron, argued that 120 days was too long to wait for reporting and would give insufficient time to change the course of policy before the next reporting year. Members argued that officials would be working on the report well ahead of the end of the reporting period so a shorter timeframe should be achievable. The Government argued that the 120-day period was needed to ensure a quality report and to allow relevant data and statistics to be published.[34] The amendments were withdrawn.

At later sittings, Labour MP Rachel Maskell moved New Clause 83 to require the government to review and report on the public health and poverty effects of the Act and New Clause 8 to require the government to report on industrial

27 PBC Deb 28 Jun 2022, cc174-177.
28 PBC Deb 28 Jun 2022, c205.
29 PBC Deb 28 Jun 2022, c205.
30 PBC Deb 28 Jun 2022, c206.
31 PBC Deb 28 Jun 2022, c207.
32 PBC Deb 28 Jun 2022, c208.
33 PBC Deb 28 Jun 2022, c210.
34 PBC Deb 28 Jun 2022, c211.

support, such as new factory openings and new manufacturing jobs.[35] The Minister, Dehenna Davison, argued that the clauses were not needed. She pointed to other mechanisms for assessing trends in public health and poverty and said that the levelling up reports would cover these topics. On manufacturing she argued that the new clause would add a disproportionate reporting burden on businesses and pointed to the Government's new spatial data unit. The clauses were withdrawn.

Clause 4 – changes to mission methodology and metrics

Opposition members objected to Clause 4 standing part of the Bill. Shadow Minister Alex Norris argued that it "simply reserves too much power to Ministers seeking to evade and avoid being honest about what they have and have not been able to deliver".[36] He said it would allow Ministers to change "virtually everything about the missions and move the goalposts should it suit them".[37]

Then Minister Neil O'Brien argued that clause 4 was required to enable the Government to update the metrics for the levelling up missions if relevant data sources change or improve.[38]

The Committee divided and Clause 4 was ordered to stand part, 10 votes to 6.[39]

35 PBC Deb 20 Oct, c919; PBC Deb 18 Oct, c805.
36 PBC Deb 28 Jun 2022, c213.
37 PBC Deb 28 Jun 2022, c214.
38 PBC Deb 28 Jun 2022, c213.
39 PBC Deb 28 Jun 2022, c213, Division 2.

2 English devolution

2.1 Introduction

Part 2 of the Bill relates to the transfer of powers from central government to combined authorities in England via 'devolution deals'. Since 2014 successive Governments have agreed to transfer powers, normally to authorities headed by a directly-elected mayor. Further details of this policy can be found in the Library briefing paper Devolution to local government in England.

Part 2 chapter 1 of the Bill makes provision for the establishment of 'combined county authorities' (CCAs). This is a new type of sub-national body that would act as a recipient of powers and responsibilities within the Government's policy on English devolution. A CCA would be a similar body in many respects to a combined authority or a mayoral combined authority, bodies that may be established via the Local Democracy, Economic Development and Construction Act 2009 and the Cities and Local Government Devolution Act 2016.

Reports in mid-2022 have suggested that the Government is negotiating with several areas to establish CCAs, or to devolve power to a single 'lead' authority (normally a county council). This follows on from commitments in the February 2022 Levelling Up White Paper.[40] Negotiations are proceeding with Cornwall, Suffolk, Norfolk, the North-East / Durham, and Lincolnshire. Two new deals were announced in August 2022: York and North Yorkshire, and the East Midlands (Derbyshire and Nottinghamshire).

Part 2 chapter 2 of the Bill also makes alterations to the legal framework for existing combined authorities, to bring them into line with the provisions for CCAs in part 2 chapter 1 of the Bill. Those parts of the Bill were not debated at Committee stage. Part 2 chapter 2 also includes a small number of miscellaneous amendments to local government legislation, which are covered in section 3 of this briefing paper.

The debates at Committee Stage focused on:

- Requirements for public consultation when establishing or altering a CCA;

[40] See DLUHC, Levelling Up the United Kingdom, 2022, p235

- The Government's rationale for supporting directly-elected mayors;
- What functions the Government intends to devolve to CCAs, with particular focus on Police and Crime Commissioner (PCC) functions;
- The role of district councils in CCAs. The Bill provides that district councils cannot be constituent members of CCAs, which has aroused some disquiet amongst district councils as to their role;
- CCA constitutional matters;
- Overview and scrutiny, and accountability of CCAs.

Opposition members moved a number of technical amendments in the debate on Part 2 chapter 1. Alex Norris MP, for Labour, stated that:

> Some basic principles govern the amendments. First, we want to see greater public involvement. Secondly, we want to see strengthened local leadership. Thirdly, we want to see access for all communities to the highest level of powers. Fourthly, we want the Government to be non-prescriptive on the governance model. [41]

The Government did not accept any of the amendments, and five of them were rejected after a division in the Committee. Details of the debates are set out below, drawing also on the oral and written evidence provided to the Committee.

2.2 Consultation provisions

Alex Norris MP introduced Amendment 46, to **clause 7**, that would have required a public consultation to take place before the establishment, dissolution, or amendment of the area of a county combined authority (CCA). He linked the amendment specifically to the need to encourage public support for levelling up, saying that CCAs:

> ...must be bodies that drive collaboration across the public, private and voluntary sectors and, critically ... that connect the public to the process of levelling up and improving their communities, getting the public involved in the decisions that shape their communities and lives.[42]

Tim Farron MP, for the Liberal Democrats, referred to the importance of local identity when establishing new governance structures:

> The reality of local identity is hugely significant. A consultation in which a few engaged people fill in a form on the internet is not consultation. It is a consultation in name, but the majority of people are not actually listened to..... I want it to be deeply embedded so that communities actually get a say

41 PBC Deb, 30 Jun 2022, c224
42 PBC Deb, 30 Jun 2022, c224

> about the boundaries that may be formed by any new combined council authorities.[43]

The Bill does not include any requirements for combined county authority boundaries to take account of "the identities and interests of local communities".[44] Nor are they required to take account of the geographical boundaries of other public bodies, such as Police and Crime Commissioners or the Integrated Care Systems introduced into the National Health Service in 2022.[45]

For the Government, the then Minister, Neil O'Brien MP, stated that the amendments were unnecessary because the Bill already provides sufficient opportunities for consultation "on a proposal to establish, amend or abolish a CCA".[46] Alex Norris withdrew the amendment.

2.3 Directly-elected mayors

The then Minister, Neil O'Brien, made some observations regarding the Government's policy on establishing directly-elected mayoralties:

> ...Through the framework in the White Paper, there is an option to have a devolution deal without a Mayor, so that option clearly is there; it is possible. We are clear about that, and that may well the right thing, as either a transitional or permanent step, for a number of different places. However, the Government have made it clear that they will go further for places that do have a Mayor because then there is that accountable leadership.[47]

The Levelling Up White Paper's devolution framework provided for three 'levels' of devolution deal. Level 3 would provide the largest amount of devolved power, and requires a directly-elected mayor. Level 2 would not require a directly-elected mayor, and some powers would therefore be unavailable at that level. Level 1 would comprise enhanced joint working arrangements without new institutions or governance arrangements.[48] Alex Norris probed the reasoning behind the divisions between the different levels of devolution, suggesting that:

> There is nothing so specialised or individualised that the powers should be exercised by an individual rather than by geographical partners who have chosen to collaborate in the collective interest, with each having derived a mandate from the local ballot box. ... Why does that require a super-person at

43 As above, c226-7

44 Certain types of review of local government boundaries are required to take into account "the identities and interests of local communities": see section 8 of the Local Government and Public Involvement in Health Act 2007.

45 A description and map of the ICS boundaries introduced in April 2022 can be found at NHS, Integrated care in your area, April 2022. Of the devolution deals in existence at the time of writing, only those in Greater Manchester, South Yorkshire and Cornwall cover the same areas as ICSs.

46 PBC Deb, 30 Jun 2022, c230

47 PBC Deb, 5 Jul 2022, c294

48 See DLUHC, Levelling Up the United Kingdom, 2022, p140

> the head of it to make it go, if it is not what communities want? My contention is that there is no functional reason for that; it is a matter of choice and taste for the Government.[49]

This reflected oral evidence to the Committee from Councillor Tim Oliver, chair of the County Councils Network:

> I think that in the case of a county council leader, that person [an accountable individual] already exists. I know that my residents know exactly who to write to if they have any issues, particularly on potholes. We do not necessarily need to have a directly elected Mayor or leader to deliver the devolved aspects and benefits that will come with the Bill. We respect the Government's position, but we do not see that as an absolute prerequisite.[50]

Mr Norris moved an amendment to clause 25 that would have prevented the Secretary of State from establishing a mayor of a CCA without the CCA's consent. In response to his points, Neil O'Brien said:

> Clearly, we could devolve all these powers—do all these things—to an unelected committee. … All those things are totally feasible, and we could do that. It is a perfectly viable model. However, it is not the model we prefer, for various reasons… it is not for our convenience, but for the convenience of voters in these places. If we have just a committee, how is that committee held to account by a normal voter?
>
> Let us take the Greater Manchester example, with 10 local authorities. We have got to choose where the new tramline is going to go. Is it going to go to place A or place B? The committee meets, there is no Mayor, and it decides the tramline is going to go to place A, not place B. I do not like that, as a voter; I wanted it to go to place B. What do I do, and who do I hold to account? Perhaps my local authority leader. I go to my local authority leader and she says, "I voted for place B, sorry, but I got outvoted." What am I supposed to do now? Do I vote against her or for her at the next election? There is no one for me to hold to account if things are run by a committee.[51]

Mr Norris pressed the amendment to a division, and the amendment was rejected by 9 votes to 5.[52]

2.4 Functions of CCAs

The Bill contains enabling legislation allowing Ministers to pass a very broad range of public body functions to CCAs. What those functions might be are not specified on the face of the Bill. This reflects the provisions for existing combined authorities in the Cities and Local Government Devolution Act 2016.

The White Paper announced that the Government would pursue 'trailblazer deals' with Greater Manchester and the West Midlands, to devolve more

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49 PBC Deb, 5 Jul 2022, c298
50 As above, 21 Jun 2022, c95
51 As above, 5 Jul 2022, c301-302
52 As above, 5 Jul 2022, c305

extensive powers than those currently available via the maximum 'level 3' deals that the White Paper outlined. In early October 2022 the Local Government Chronicle reported that formal negotiations on these deals had not begun.[53] Other media reports state that Andy Burnham, the mayor of Greater Manchester, is seeking to take on responsibility for railway stations, the entire post-16 education system, and the power to deny public funds to bad landlords;[54] and to explore land value capture.[55] Andy Street, the mayor of the West Midlands, has been reported as seeking control over all skills funding for 16-18 year olds, funding for adult training, careers provision, housing affordability, 'levelling up zones', plus tentative discussions of fiscal devolution.[56]

In oral evidence to the Committee, Tracy Brabin, the Mayor of West Yorkshire, stated that her priority was greater freedom to use existing powers, rather than seeking new ones:

> At the moment, we are a bit hamstrung on delivering the types of skills we need in an agile way in response to business, because we are being told by Westminster, "This is the project; this is what you have to deliver" without the understanding of the complexity of delivering skills training for those furthest away from going back to college. On climate change, we have to get away from the beauty contests and the way we have to bid for funding for projects—for example, for electric vehicle charging points. We have to be given the autonomy to help the Government to deliver on their mission statements.[57]

Ms Brabin also stated that holding Police and Crime Commissioner powers for West Yorkshire was the most significant of her responsibilities, as it enabled her to take an integrated approach to public health matters across the region.[58] At the time of writing, only the metro-mayors of West Yorkshire and Greater Manchester hold these powers, and they will be available to the mayor of York and North Yorkshire, the first elections for which will take place in May 2024.[59] Andy Street, the mayor of the West Midlands, has expressed interest in taking on PCC responsibilities, but other local stakeholders are opposed to this.[60]

Later at Committee Stage, the then Minister, Neil O'Brien, suggested that the functions offered to specific areas would be determined in part by

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53 Jessica Hill, "Formal trailblazer devolution deal talks have not begun", Local Government Chronicle, 4 Oct 2022

54 Ant Breach, Manchester's renaissance is underway – what next?, Centre for Cities, 4 May 2022

55 Jessica Hill, "Greater Manchester chief Boylan: 'Our default is to seek to work together'", Local Government Chronicle, 4 April 2022

56 Andy Street, Let's get our region back on track and improve our potential, 2021 election manifesto, p11; Jessica Hill, "Andy Street's trailblazer devolution proposals revealed", Local Government Chronicle, 4 Aug 2022

57 PBC Deb, 21 Jun 2022, c13-14

58 As above, c16

59 See DLUHC, York and North Yorkshire Devolution Deal, 1 Aug 2022

60 PBC Deb, 21 Jun 2022, c95: see also Jessica Hill, "Andy Street's trailblazer devolution proposals revealed", Local Government Chronicle, 4 Aug 2022; HoC PBC, Levelling-Up and Regeneration Bill, Written evidence submitted by the West Midlands PCC, 24 Jun 2022

'geographic alignment' and 'institutional maturity'.[61] Mr O'Brien opposed an Opposition amendment to clause 18 that would have required the Government to devolve a power on request to any CCA if it had already been made available to another CCA. The Committee divided on that amendment and rejected it by 9 votes to 6.[62]

When the Committee examined **schedule 3**, Alex Norris moved amendment 37, that would have prevented the Secretary of State from devolving some, but not all, PCC functions to a directly-elected mayor. In other words, either all, or no, PCC functions would have to be devolved. For the Government, Neil O'Brien indicated that this was a reserve power, intended for possible future use if the PCC role evolved, but that the Government had no plans to use it at present. He also made some further remarks about geographical alignment:

> The levelling-up White Paper talks about how, if the boundaries did not quite align and there was a strong desire locally for that, we would look at the geographies over time and whether it was worth changing them in order to make them fit. I stress that that is probably a long-term function.[63]

The Opposition pressed the amendment to a division, and the amendment was rejected by 9 votes to 4.[64]

2.5 District councils and CCAs

Clause 8 (11) of the Bill provides that, where a CCA is established, its constituent members will be drawn from the county and unitary authorities in the area of the CCA. District councils will not be constituent members (although a CCA could choose to invite them to become non-constituent members). This reflects the Government's concern that, if district councils were required to be CCA members, one or two district councils could exercise a veto on the agreement of a devolution deal and the formation of a CCA.

Existing combined authorities require the consent of all of the local authorities in their area in order to be established. In 2015-6, this consent requirement led to the abandonment of devolution deals that had been agreed in Norfolk, Greater Lincolnshire and the North-East, when a few councils refused to agree to the deal (see the Library briefing paper Devolution to local government in England for further details). The Bill permits CCAs to avoid that scenario. For the Government, Neil O'Brien MP said:

> I do not think it is fair that one district can veto progress for a large number of neighbouring districts and boroughs for top-tier authorities, particularly if it is not being forced to do anything, as is the case under the Bill. ....I can think of one area that we [are] currently discussing that has a very, very large number

61 See PBC Deb, 30 Jun 2022, c275-276
62 As above, c277-278
63 As above, c322
64 PBC Deb, 5 Jul 2022, c322-323

> of district councils, and it is exceedingly unlikely that we would be able to agree a sensible agreement if every single one of them were given a veto.[65]

District councils not being constituent members of CCAs would also have implications for the functions of CCAs. **Clause 16** of the Bill would permit CCAs to take on local authority functions, provided that the CCA's constituent members consent to it taking on a function. In principle, this clause could permit CCAs to take over district council functions: as district councils cannot be constituent members, they would be unable to consent to, or oppose, the change. Members (including Richard Graham and Laura Trott) noted this possibility during the Second Reading debate.[66] The District Councils Network submitted written evidence to the Public Bill Committee opposing **clause 8** (11):

> The District Councils' Network is calling for the Levelling-up and Regeneration Bill to be amended to include:
>
> 1. A governance model that enables districts to be full partners. All district councils in the CCA area should have the right to be constituent members of a CCA.
>
> 2. The majority consent of district councils to be required for the formation of a CCA.
>
> 3. The consent of all district councils to be required before any statutory functions of district councils can be exercised by a CCA
>
> ...We are concerned that the present wording of the Bill does not provide for district councils to be constituent members of a Combined County Authority in Clause 8 (11). This is at odds with the approach taken for combined authorities in the 2009 Act. It is an unnecessary exclusion. There is no evidence from the operation or governance of existing combined authorities to show that district councils do not or cannot play a positive and constructive role.[67]

Councillor Sam Chapman-Allan, the chair of the District Councils Network, expanded on this point during oral evidence to the Committee:

> ... it is important that those individuals and sovereign councils buy into being a part of that CCA. In turn, they have to be a constituent part. We are talking about combined authorities, so district councils need to be combined in the decision-making process. There should absolutely not be a veto. I do not think that any individual in that combined authority should have the opportunity to veto, but if they are relinquishing some of that sovereignty through partnership and collaboration, they should have an equal say in how policies, strategy, spend and projects come forward.[68]

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65 As above, c233

66 HCDeb 8 Jun 2022 c872, c899

67 District Councils' Network, Submission to the Levelling Up and Regeneration Bill Public Bill Committee, 29 Jun 2022. 'The 2009 Act' is the Local Democracy, Economic Development and Construction Act 2009. See also written evidence submitted by Broadland and South Norfolk District Councils, 8 Jul 2022.

68 See PBC Deb 21 Jun 2022, c52

The Secretary of State, Michael Gove, acknowledged these concerns at Second Reading:

> Although I am a strong advocate of the mayoral combined authority model...we need to be respectful of district councils and the structure of local government in those parts of the country that do not—and, indeed, need not or should not—move towards that model. I look forward to engaging with him and the Association of District Councils on how we can make sure that our devolution drive is in keeping with the best traditions in local government...[69]

At Committee Stage, the then Minister, Neil O'Brien, indicated that he had written to the District Councils Network to assure them that the Government had no intention of using the powers in the Bill to remove functions from district councils without their consent.[70] He also stated, during oral evidence, that "the Government completely agree that no sovereign body should lose power without consent, and that lower-tier councils should have a vote where they are pooling powers".[71] There would be additional opportunities for district councils to be involved in negotiations around devolution deals.[72]

The Bill would permit district councils to become non-constituent members of a CCA. A CCA could also choose to give voting rights to its non-constituent members.[73] Equally, the Bill does not prevent a county and its district councils from establishing a mayoral or non-mayoral combined authority, in which the district councils would be full members.[74]

Neil O'Brien opposed amendment 15, to **clause 7**, moved by Alex Norris. This would have required the Government to publish a review of the merits of CCAs against those of combined authorities within 12 months of the Bill becoming law. He argued that few, if any, CCAs would be established at that point.[75]

2.6 Constitutional matters

Alex Norris introduced amendments 16 and 17 to **clause 8**, that would have had the effect of allowing the CCA broad control over its constitutional arrangements after its establishment. He argued that bodies that exercised considerable sums of public money should be able also to exercise control

69 HCDeb 8 Jun 2022 c824
70 See the exchange at PBC Deb 30 Jun 2022, c268
71 As above, 21 Jun 2022, c53
72 As above, c269
73 This option is available through clause 9 of the Bill. The Bill also specifies certain decisions on which CCAs may not permit non-constituent members to have a vote; and it permits the Government to make further regulations on these matters.
74 If this Bill passes these types of authority could still be established using the provisions in the Local Democracy, Economic Development and Construction Act 2009 and the Cities and Local Government Devolution Act 2016.
75 PBC Deb 30 Jun 2022, c233

over their constitutional arrangements. In response, for the Government, Neil O'Brien said:

> If I were a local government leader considering joining a CCA, I would want to know that the key arrangements for it, such as voting arrangements, would be stable over time and could not suddenly be changed by a potentially transient majority of local authority leaders who are members of it.[76]

The Committee returned to this debate via a number of further amendments, as set out below.

Equality audits

Alex Norris introduced two amendments that would have required the Government to publish an annual audit of the age, gender and ethnicity of all associate and non-constituent members on each CCA. Non-constituent members are individuals appointed to membership of the CCA by non-constituent bodies (such as Local Enterprise Partnerships, health bodies or district councils), whilst associate members are individuals appointed to membership to give the CCA access to their expertise. Mr Norris said:

> It is crucial... that our democratic organisations and public bodies strive to reflect the communities that they serve.... Poor representation is a bad thing not just for those who are under-represented and suffer the consequences of a decision-making process that does not reflect their needs or interests, but for the institutions themselves. When they do not represent considerable parts of the population, they lose their legitimacy.[77]

For the Government, Neil O'Brien rejected the amendment on the basis that the Government did not wish to set limits on CCAs' decision-making regarding non-constituent and associate members.[78]The Opposition pressed the amendment regarding associate members to a division, which rejected the amendment by 9 votes to 6.[79]

Constitutional reviews

Alex Norris introduced amendment 21 to **clause 12**, that would have required a CCA to publish the findings of a constitutional review conducted under clause 12 of the Bill. The Bill as drafted would permit a review to be commissioned by the mayor or by a majority of CCA members. For the Government, Neil O'Brien responded that this amendment was superfluous:

> ...the CCA's decision [to conduct a constitutional review] must be made at a meeting of the CCA. CCA meetings, like those of all local authorities, are conducted with full transparency. That means that interested parties,

76 As above, c238
77 As above, c239
78 As above, c243
79 As above, c245

> including the public, can attend CCA meetings, and papers must be made available in advance. The CCA will also need to publish its constitution.[80]

Equality impact assessments

Alex Norris introduced amendment 47 to **clause 13**, that would have required a CCA's overview and scrutiny committee to produce an equality impact assessment. For the Government, Neil O'Brien opposed this amendment on the grounds that CCAs would already be covered by the public sector equality duty in the Equality Act 2010. He also said that:

> It is the Government's intention that CCAs will be expressly subject to the public sector equality duty, which we will do by consequential amendments to the Equality Act, meaning that CCAs have to integrate equality considerations into their decision-making processes as soon as they are established. There is therefore no need to place a further burden on CCAs by requiring them to produce a separate equalities impact assessment.[81]

Alternative names and titles

The Bill requires any decision to change the name of a CCA to have agreement of two-thirds of CCA members voting. Alex Norris moved amendment 23 to **clause 15**, which would have removed the supermajority requirement, permitting a name change by simple majority. In opposing the amendment for the Government, Neil O'Brien stated that the clause sought "to ensure that name changes are undertaken only where they will make a real impact, rather than where they are just a rebranding exercise".[82] He also suggested that a name change could cause difficulties for organisations that held contracts with the CCA, and it therefore should not take place without substantial support.

Local authorities that wish to change their name must obtain a two-thirds majority of councillors voting, at a meeting specially convened for the purpose.[83] Most recently, Shepway District Council in Kent changed its name to Folkestone & Hythe District Council as of 1 April 2018.[84]

The Bill also permits directly-elected mayors to adopt alternative titles, such as 'leader', 'governor' or 'commissioner'. This derives from concerns that areas that are wholly or largely rural would be opposed to a single-person executive titled a 'mayor', on the grounds that term is associated with urban areas. The Bill would permit a CCA to adopt an alternative title to 'mayor', by simple majority. Those cluses were not debated at Second Reading or in Committee.

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80 As above, c254

81 As above, c258

82 As above, c264

83 See section 74 (1) of the Local Government Act 1972

84 BBC, "Shepway council votes for £10,000 name change", 19 Jan 2018

Deputy mayors

The Bill requires a CCA directly-elected mayor to appoint a statutory deputy mayor from amongst the constituent members of the CCA. Alex Norris introduced amendment 34, to **clause 26**, to permit an elected mayor of a CCA to appoint as many deputy mayors as they chose.[85] Appointees would have to be eligible to stand as an elected mayor. For the Government, Neil O'Brien argued that clause 27 of the Bill would give CCA mayors the power to delegate functions to constituent members of the CCA, and that a further power of appointment was unnecessary.

Clause 26 of the Bill would permit the elected mayor to appoint one deputy mayor from amongst the constituent members of the CCA. This must be done by existing metro-mayors in combined authorities. Some metro-mayors have also appointed many or all of the constituent members of their combined authorities to subject portfolios, whilst others have appointed external individuals as lead advisors.

Deputy PCC mayors

Metro-mayors who have PCC responsibilities must appoint a 'deputy PCC mayor'. This person cannot be the same person as the statutory deputy mayor, and is not required to be a constituent member of the MCA. Alex Norris moved an amendment that would have permitted the statutory deputy mayor to be appointed as the PCC deputy mayor. In opposing the amendment, the then Minister, Neil O'Brien, cited the workload that one individual holding both those roles would face.[86]

The two deputy PCC mayors in existence at the time of writing – Baroness Beverley Hughes in Greater Manchester, and Alison Lowe in West Yorkshire – are not constituent members of their MCA.

2.7 Overview and scrutiny committees

Alex Norris introduced an amendment that would have required CCA overview and scrutiny committees to have as members the chairs of overview and scrutiny committees from the district councils covered by the CCA. This amendment was motivated by two concerns. One was to draw on the scrutiny expertise of the chairs.[87] The other was to use overview and scrutiny as a means of representing district councils within CCA decision-making structures, given that they will not themselves be constituent members of CCAs (see section 2.5 above).

85 PBC Deb 5 Jul 2022, c307
86 PBC Deb 5 Jul 2022, c324
87 As above, c259

For the Government, Neil O'Brien MP opposed the amendment on the grounds that it could require a CCA overview and scrutiny committee to be unduly large in an area containing many district councils. The committee must include a majority of its membership from constituent authorities, so the amendment would cause an area with 15 district councils to have a 31-strong overview and scrutiny committee. Mr O'Brien also opposed the amendment because it could oblige district councils to be involved in a CCA if they had no wish to be.

Overview and scrutiny committees provide one dimension of the accountability arrangements for combined authorities. The Secretary of State, Michael Gove, also acknowledged at Second Reading that concerns had been expressed about the effectiveness of combined authority scrutiny.[88] Proposals have been made to improve their current functioning. For instance, in July 2020 the think-tank UK Onward proposed that combined authority overview and scrutiny committees should be relaunched as Mayoral Scrutiny Panels, with a membership consisting of 50% local councillors, 25% independent experts, and 25% local MPs.[89]

During oral evidence to the Public Bill Committee, the mayor of West Yorkshire, Tracy Brabin, suggested that mayors could also face Parliamentary scrutiny:

> It would be really empowering to have a direct relationship with the Treasury [so that we] could get the funding pot, with the delivery assessed on the outcomes. We could then have extra scrutiny from not just our own colleagues here in West Yorkshire but, potentially, the Public Accounts Committee and Committees like yourselves. We could be part of the outcome story, rather than just waiting for the government to open up the floodgates on things we have to bid for, in which case it is all about the scrutiny of the process rather than the outcomes.[90]

2.8 Fire services

Rachael Maskell introduced an amendment for the Opposition that would have provided a power to provide additional funding for fire and rescue services controlled by a CCA mayor. The Government has indicated that it supports the transfer of fire and rescue authorities to Police and Crime Commissioner (PCC) control across England.[91] It also supports directly-elected mayors, where they exist, taking on both functions.[92] In some

88 HCDeb 8 Jun 2022 c824

89 Adam Hawksbee, Give Back Control: realising the potential of England's mayors, 2022, p84

90 As above, c14

91 See Home Office, Reforming our Fire and Rescue Service, May 2022

92 At the time of writing, the only metro-mayoralty with fire and rescue responsibilities is Greater Manchester. The PCCs in Essex, Northamptonshire and Staffordshire have taken on fire and rescue responsibilities. The PCC in North Yorkshire also has fire and rescue responsibilities, which will pass to a new elected mayoralty from May 2024.

localities this is less easy, as PCC, combined authority, and fire and rescue authority boundaries do not always align.

For the Government, Neil O'Brien opposed the amendment on the grounds that powers already existed for the Government to pay grant to fire and rescue authorities. The amendment was rejected on a division, by 9 votes to 5.[93]

2.9 Miscellaneous local government amendments

Opposition Members introduced a large number of new clauses in the final three sittings of Committee Stage. None of the amendments were accepted, but many relate to ongoing debates within the local government world. They are as follows.

Virtual meetings

Greg Smith (Con, Buckingham) introduced an amendment that would have permitted local planning authorities to meet virtually (see also section 4.9 below). At present, local authorities in England have no powers to hold formal meetings or make decisions other than in person (though devolved legislation provides local authorities in Scotland and Wales with this power). A power to do so, introduced during the Covid-19 pandemic, lapsed in May 2021. A Government consultation on the issue closed in June 2021, but no further developments have occurred at the time of writing.[94] The Minister, Dehenna Davison, stated that the Government would respond shortly to the 2021 consultation.[95]

Capital investments

Rachael Maskell introduced an amendment that would have required local authorities to publish an economic appraisal of any capital investment of £2 million or more.[96] Dehenna Davison stated that the Government believed that the safeguards in clause 71, alongside the wider accountability framework, would be adequate to monitor local government decision-making.

Assets of community value

Rachael Maskell introduced an amendment to the Assets of Community Value (England) Regulations 2012 that would have made it compulsory to list "parish churches and associated glebe land" as assets of community value.

93 PBC Deb 5 Jul 2022, c335
94 DLUHC, Local authority remote meetings: call for evidence, March 2021
95 PBC Deb 18 Oct 2022 c839-840
96 PBC Deb 18 Oct 2022 c843-846

Lee Rowley said that the Government would prefer the decision to list assets of community value to remain with local authorities.

Disposal of public assets

Tim Farron introduced a new clause that would have permitted NHS bodies, Police and Crime Commissioners, the (London) Mayor's Office of Policing and Crime and the London Fire Commissioner to dispose of assets to community bodies at less than market value. These bodies are currently omitted from Government guidance listing public bodies that may dispose of assets for less than market value. More information on this debate can be found in section 4.1 of the Library briefing paper Assets of community value. Lee Rowley indicated that the Government did not support the new clause, but undertook to engage with Tim Farron regarding his specific concerns.

Alternative electoral systems

Tim Farron introduced a new clause that would have permitted local authorities to introduce an alternative electoral system to the first past the post system. Welsh local authorities have recently acquired this power. For the Government, Dehenna Davison said:

> We are all clear about the merits of first past the post as a robust and secure way to elect representatives. It is well understood by voters and provides for strong and clear local accountability, with a clear link between elected representatives and those who vote for them, in a manner that other voting systems may not. It is important that the voting system is clearly understood by electors and they have confidence in it.[97]

Business rates

Tim Farron introduced a new clause that would have required the Government to undertake a review of business rates. Mr Farron stated that he believed that the Government "should abolish the business rates system and replace it with a commercial landowner levy, shifting the burden of taxation from tenant to landowners".[98] This reflects proposals from a group associated with the Liberal Democrats, published in 2018 in a report entitled Taxing land, not investment.

For the Government, Dehenna Davison stated that legislation was unnecessary to undertake a review, referring to the 'fundamental review' of business rates that reported alongside the 2021 budget (see the Library briefing Reviewing and reforming local government finance for more details).

97 PBC Deb 20 Oct 2022 c880

98 As above, c882

Community right to bid

Alex Norris introduced a new clause that would have transformed the community right to bid into a right of first refusal for community organisations. The new clause would also have provided community organisations with twelve months instead of six in which to table a bid. For the Government, Lee Rowley would not accept the new clause but he accepted a need to address the issue:

> I absolutely accept the need to review the existing legal and policy frameworks underpinning community ownership. We have said already in the levelling-up White Paper that we will consider how the existing assets of community value framework could be enhanced, but we probably need more time to consider that and whether changes to the framework are workable in practice...[99]

Councillor standards

Emma Lewell-Buck introduced a new clause that would have reintroduced a national standards regime for councillors in England, analogous to the 2000-2011 Local Government Standards Board. Dehenna Davison stated that the Government did not accept the case for a national regime. This issue was examined in the 2019 report Local Government Ethical Standards, from the Committee on Standards in Public Life, and the Government's response, published in March 2022

Executive councillor accountability

Emma Lewell-Buck introduced a new clause that would have imposed a statutory requirement on executive councillors to answer oral or written questions from other councillors. For the Government, Dehenna Davison said:

> In their published constitutions, many councils will already set out the procedure for both elected members and members of the public to ask questions at full meetings of the council, or at any other committee meeting. However, we firmly believe that the Government would be going beyond the role that they should play in local matters if they required in law that such councillors answer questions. Local authorities are already subject to checks and balances as part of the local government accountability framework.[100]

99 PBC Deb 20 Oct 2022 c902

100 As above, c908

3 Local authorities: miscellaneous provisions

3.1 Creating local authority mayors

Provisions in **clauses 67-70** concerning local authority mayoralties were not debated at Committee Stage. These provisions would adjust the time limits that must elapse between referendums on local authority mayoralties and other changes in governance arrangements, under certain circumstances. They would also permit the Government to revisit devolution deals if a local authority holding devolved powers chose to abolish a mayoralty. Clauses 69 and 70 permit mayors of local authorities and existing combined authorities to be known by titles other than 'mayor'.

3.2 Capital finance risk regulations

Clause 71 would provide the Government with additional powers to intervene in local government capital finance decision-making when certain circumstances apply. In the clause stand part debate, Alex Norris asked for clarification of what the powers would be used for in practice. In response, Neil O'Brien said:

> In recent years, a small minority of local authorities have taken excessive risks with taxpayers' money: they have become too indebted, or have made investments that have proved too risky. To give some examples, local authorities have engaged in investment activities in markets they know nothing about, such as energy companies, and lost tens of millions of pounds of taxpayers' money. Some have not had the governance structures in place that would enable them to make, or assure themselves of, investment and borrowing decisions. Some have borrowed up to £1 billion when they have only had a core spending power of just over £10 million, and others have not set aside funds to pay off their debt when it becomes due. The National Audit Office reported that 20.8% of local authorities' property acquisitions in the period 2016-17 to 2018-19 were outside of their region.... To be clear, the Government have no intention of restricting the activities of local authorities that operate responsibly. We are clear that measures must be as targeted and proportionate as possible to protect local services and taxpayers...[101]

[101] PBC Deb 5 Jul c349

3.3 Council tax

Council tax on second homes

Clause 72 would permit local authorities to impose an empty homes premium – a higher rate of council tax on long-term empty properties – after a property had been empty for one year instead of two. This reflects the operation of the empty homes premium in Scotland and Wales. Clause 73 would also permit a premium to be applied to second homes. At present a premium can only be applied on properties that are 'unoccupied and substantially unfurnished'. The new powers would be available from the 2024-25 financial year.

For the Opposition, Alex Norris proposed an amendment that would have permitted billing authorities to impose a maximum of 300% additional council tax on second homes, and to do this within six months, rather than a year, of a property becoming a second home. In support of the amendment, Rachael Maskell MP said:

> … we should give local authorities the powers to decide, should they have need, to impose the additional levy on second homes and ensure that it works for their community. Of course, we would argue that local authorities do not have to do that, but having the option available is important. …this option should be considered as a way to address the issue far faster, especially in properties that are not primary residences, and to benefit the community by deterring the purchase of second homes. Pacing it, making the increased council tax not mandatory but optional, is really important. Shortening the timescale is appropriate.[102]

For the Government, Neil O'Brien acknowledged that the timescales set out in the Bill could be altered, but suggested that the Government's judgement on them was broadly correct:

> The Government believe that homeowners should have sufficient time to take steps to bring an empty property back into use. There is no hard and fast rule for calculating that period, but our judgment is that 12 months gets that balance right.
>
> …
>
> The Government believe it is appropriate to allow councils to increase the council tax premium in stages that reflect the length of time a property has been left empty, rather than imposing it immediately at the six-month point. If, in a place like North Norfolk, we took a typical council tax band D property at roughly £2,000, going to a 300% second homes premium would mean a council tax bill each year of £8,120. In Scarborough, it would mean a bill of £8,386. In South Lakeland, it would be £8,242, and somewhere like Dorset it would mean an annual bill of £9,160. These are not trivial sums of money, and

[102] As above, c354

> it is right for us to consider the impact of the initial measures of the 100% precept before we decide to go further.[103]

Mr O'Brien also stated that the Bill gives the Secretary of State power to make regulations changing the maximum additional amount of council tax payable on second homes (see clause 73 (2) of the Bill).

Council tax on holiday lets

In a further amendment, Mr Norris proposed to extend the power to charge additional council tax on second homes to properties that are available to let for less than 252 days and actually let for less than 182 days in any 12-month period. These provisions engage a parallel debate about whether holiday lets should be charged council tax or business rates: further information on that is available in section 8.4 of the Library briefing paper Business rates. In April 2023, regulations will come into force providing that any property available for let for 140 days, and actually let for 70 days, in a twelve-month period will pay business rates rather than council tax. Mr Norris said:

> This would not only close the loophole for those seeking to avoid council tax; it would also provide…a better delineation of what is a genuine holiday let, with lets provided all year round by a genuine business contributing significantly to the local economy and therefore legitimately qualifying for a business rate.[104]

In response, Neil O'Brien said that the Government was sympathetic to many of the points being made, but would want further evidence before taking action.

Rachael Maskell MP introduced an amendment that would have altered the definition of a second home to one where the property had no resident for six months or more of the year. She related this to concerns about the broader impact of empty homes on a neighbourhood:

> It is reasonable to expect a property owner to visit the property every six months. A longer period would raise questions of whether they in fact reside there. … if they do not visit a property for six months we can conclude, under the definitions in the clause, that it is an empty dwelling.
>
> This is an important issue, because empty homes, especially during a period of inclement weather, can impact on neighbouring properties. Gardens can become unwieldy and overgrown in less than six months … a resident called me into her garden in Tang Hall on Sunday and showed me the consequences of a home being neglected for a period of around six months. The brambles were about 6 feet high and encroaching on her garden space. These things really matter to neighbourhoods. Neglected properties can also spread damp to each other, which is another concern for neighbours.[105]

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103 As above, c355-356

104 PBC Deb 5 Jul 2022, c351

105 As above, c376-377

For the Government, Marcus Jones MP opposed the amendment on the grounds that it could restrict the definition of second homes:

> ...the assessment of whether a property is a second home will take into account a number of factors and not just the period of occupation. A reference to the number of days may well preclude treatment of the property as a second home when other factors suggest that, in effect, it is being used as a second home. The amendment could result in a reduction in the number of second homes liable for the premium.[106]

3.4 Street names

Clause 74 of the Bill relates to the alteration of street names. It would ensure that any proposed street name change in England must have 'necessary support' before it can proceed, using local referenda. It would allow the Secretary of State to issue regulations to set out the rules and requirements for any such referenda (e.g. required level of voter turnout, the required majority required for approval).[107]

Clause 74 and schedule 5 were debated on Tuesday 12 July 2022.[108] No amendments were made. Two amendments to clause 74 were tabled by Labour MPs Rachael Maskell (amendment 85), and Alex Norris, Shadow Minister for Levelling Up, Housing, Communities and Local Government (amendment 70).[109]

Amendment 85 would have amended clause 74 to ensure that local authorities were required to consider "the historical, cultural or archaeological significance of a name change" as well as ensuring there was necessary public support.

Rachael Maskell argued that additional safeguards might be required to ensure street name changes were made appropriately:

> Names could be changed at the stroke of a vote, but it is important to put in place checks and balances, including a consultation process and engagement with the wider community stakeholders and residents, to ensure that streets have appropriate names.[110]

Responding for the Government, the then Minister, Marcus Jones MP, said that any public consideration of a street name change would likely weigh up any historical considerations anyway. He added that the amendment might "make it harder to secure name changes that have local support but where new considerations, such as the need to honour a local person or event, take

106 PBC Deb, 12 Jul 2022, c379-380

107 Levelling-up and Regeneration Bill 2022-23. See the Commons Library briefing Levelling Up and Regeneration Bill 2022-23, Section 3.4 for further details of this clause

108 PBC Committee Stage Decisions 19 July 2022 [PDF]

109 PBC Committee Stage Decisions 19 July 2022 [PDF]

110 PBC Deb 12 July 2022 c390

precedence over an archaeological interest. For instance, some Olympians had streets named after them following the 2012 Olympics".[111]

Amendment 70, together with amendments 71 and 72, would have amended clause 74 so as to remove a power to make regulations about referendums on street names, and replace that power with statutory requirements for local authorities to consult residents and the wider community. The aim of the amendment was to keep a requirement on local authorities to consult residents, but remove the requirement for formal referenda. Alex Norris said:

> The current clause will cause a great deal of confusion, and the referendum requirement will impose significant costs and increased demand on electoral registering authorities, returning officers and electoral staff. It would create a whole industry in pursuit of a problem that we are yet to see exists.
>
> Amendments 70 to 72, which have been tabled after we talked to local government representatives, are designed to offer something that is perhaps more practical.[112]

Responding for the Government, the Minister said that the Government believed that "people should have the final say on the character of the area in which they live" and that "a significant number of respondents to the consultation want a proper say",[113] not least because a street name change can have many administrative implications for residents, such as:

> ...amending the title of their property or the addresses on their car logbook, bank accounts, utility bills, driving licence, and a number of other things that we could all reel off. Such things are important considerations, and that is why we are setting out down our chosen path.[114]

Alex Norris argued that, as no impact assessment for the Bill had yet been published, it was hard to see the problem that this clause was meant to solve, but that he would withdraw his amendment.[115] The Minister said committed to seeing "what more can be done to expedite the impact assessment".[116] An impact assessment has not been published at the time of writing.

111 PBC Deb 12 July 2022 c390
112 PBC Deb 12 July 2022 c394
113 PBC Deb 12 July 2022 c395; DLUHC Consultation outcome Government response to the technical consultation on street naming 5 July 2022
114 PBC Deb 12 July 2022 c395
115 PBC Deb 12 July 2022 c396
116 PBC Deb 12 July 2022 c398

4 Planning

4.1 Introduction

The Bill provides for extensive changes to the planning system. These include:

- Requiring local planning authorities (LPAs) to make planning decisions in accordance with their local development plan unless material considerations strongly indicated otherwise;
- Introducing national development management policies (NDMPs), which would be given the same weight as local plans in decision-making and which local plans could not repeat;
- Requiring local plans, minerals and waste plans, and (as far as appropriate) neighbourhood plans to contribute to the mitigation of, and adaption to, climate change;
- Giving the Secretary of State the power to make regulations permitting residents on a street to propose development on their street and to vote on whether development on their street should be given planning permission ("street votes");
- Extending the time limit for enforcement action against unauthorised development from four years to ten years;
- Requiring developers to provide a commencement notice to the LPA, specifying when they expect works to start, and removing two current requirements for completion notices: that the Secretary of State must approve them and that they can only be served after the deadline for commencement of planning permission has passed;
- Replacing the current system of developer contributions (through section 106 agreements and the Community Infrastructure Levy) with a new non-negotiable Infrastructure Levy.

4.2 Planning

Conservative and Labour Members welcomed the fact that zonal planning proposals set out in the Planning for the Future White Paper were not taken

forward in the Bill.[117] Proposals to digitise the planning system, to expand commencement and completion notices, and to strengthen enforcement powers in the Bill were also welcomed by Members.

Planning issues that were debated at length included national development management policies (NDMPs) and the Infrastructure Levy (IL). Further analysis of these debates is provided below.

Members also questioned why some issues were not addressed in the Bill. Conservative Members asked the Government to make housing "targets … advisory not mandatory",[118] "curb the powers of the Planning Inspectorate" and to introduce "greater protection for our Green Belt".[119] Labour Members questioned the lack of provisions for affordable housing in the Bill.[120]

National development management policies

Members, including Clive Betts (Lab), the Chair of the Levelling Up, Housing and Communities Committee, expressed concern that NDMPs would be given primacy over Local Plans if there was a conflict between the two.[121] Theresa Villiers (Con) said these provisions would lead to the "erosion of local control over planning" and called NDMPs "an aggressive power grab by the centre".[122]

Michael Gove, the Secretary of State for Levelling Up, Housing and Communities, defended NDMPs, arguing that they were "no more than a more efficient way to make sure that the existing NPPF [National Planning Policy Framework] and any future revisions of it are included in Local Plans".[123] Stuart Andrew, the then Minister for Housing, said the intention was not to "override local plans" but to "reduce the administrative burden on local councils" by shifting "the onus of delivering national priorities" to the Government.[124]

Stuart Andrew also offered examples of which issues NDMPs might address, such as net zero, climate change, heritage issues, and green belt protection.[125]

Infrastructure Levy (IL)

Several Labour Members expressed concern about the new IL the Bill would introduce, particularly its ability to deliver affordable housing. Lisa Nandy, shadow Secretary of State for Levelling Up, Housing and Communities,

117 HC Deb 8 Jun 2022, c846
118 As above, c862; c861
119 As above, c857; c899
120 As above, c886
121 As above, c908
122 As above, c857-c858
123 As above, c828
124 As above, c911-912
125 As above, c911-912

questioned whether it would "raise more or less money than the current system",[126] and Clive Betts (Lab) sought reassurance that it would not reduce the number of affordable homes being built.[127] Miriam Cates (Con) called it "a fantastic way to ensure that development gives back to communities".[128] Some, including Andrew Selous (Con), expressed concern about its ability to deliver GP surgeries and schools.[129]

Michael Gove said that the IL would allow local authorities to set rates to ensure that "a fixed proportion of affordable housing can be created".[130] He also said the Government would consult on the levy to ensure that it would also provide for healthcare infrastructure.[131]

Labour and Conservative Members also raised queries about the timing of payment (on completion rather than when development commences).[132]

Stuart Andrew defended payment on completion, arguing that this would allow the levy to respond to market conditions so that "when prices go up, so will the levy".[133] Michael Gove also argued that "if the development value … for the developer is greater over time, local communities can get more of it".[134]

4.3 Planning

No significant changes were made to the planning clauses in the Bill at Committee stage, except for a Government amendment to Schedule 11. The amendment would allow the Infrastructure Levy (IL) to be spent on non-infrastructure items. There were also a number of minor technical Government amendments which were all agreed to without a vote.

The Government also introduced three new planning clauses to the Bill: new clause 62 would affect how compulsory purchase compensation is calculated, and new clauses 60 and 61 would make changes to the "development consent" process for major infrastructure projects.

As in the Second Reading debate, the most contentious planning clauses were those on Nationally development management policies (NDMPs) and the Infrastructure Levy (IL). The Committee discussed these clauses at length, and the Opposition pushed a number of amendments on them to a vote.

126 As above, c844
127 As above, c852
128 As above, c896
129 As above, c834
130 As above, c829
131 As above, c829; c897-c898; c889
132 As above, c830
133 As above, c913
134 As above, c830

4.4 National development management policies

Clauses 83 and 84 would introduce NDMPs which would, in addition to local plans, guide decision-making on planning matters "unless material considerations strongly indicate otherwise".[135] The clauses would also provide that any conflict between a local plan and an NDMP must be resolved in favour of the NDMP.[136] The Government said NDMPs would make local plans faster to produce and easier to navigate.[137]

The Bill's provisions relating to NDMPs, their role in the planning system, and their status relative to local plans are discussed in Section 5.2 of the Commons Library briefing on the Levelling Up and Regeneration Bill.[138]

Labour, Liberal Democrat, and Conservative Members of the Committee expressed concern that NDMPs would lead to the primacy of national over local policies. Labour and Liberal Democrat Members also expressed concern about lack of limits on the scope of NDMPs and lack of consultation and scrutiny requirements for them.[139]

Role and status of NDMPs

Matthew Pennycook moved amendment 86 which would require any conflict between a local development plan and a NDMP to be resolved in favour of the local development plan, reversing the provision set out in clause 83.[140] He called this "one of the most essential changes required in revising the Bill".[141] Conservative Members tabled a similar amendment (57), which was discussed at the same time.[142]

Matthew Pennycook argued clauses 83 and 84 represented "a radical centralisation of planning decision-making and a corresponding erosion of local control".[143] He also expressed concern that "the Bill provides unlimited scope for what is to be covered by national development management policies" and what would remain "within the preserve of local decision-making". He argued that the objective of certainty and simplicity of local plans should not require them to be subordinate to NDMPs.[144]

The then Minister for Housing, Marcus Jones rejected the amendments, calling them "counterproductive".[145] He said NDMPs would make it easier for

135 Levelling Up and Regeneration Bill [as introduced], cl 83(2), sub-s 5B
136 Levelling Up and Regeneration Bill [as introduced], cl 83(2), sub-s 5C
137 DLUHC, Policy paper: Levelling Up and Regeneration: Further information, 11 May 2022
138 Commons Library briefing, Levelling Up and Regeneration Bill 2022-23, section 5.2
139 PBC Deb 12 Jul 2022, c442; c456
140 PBC Deb 12 Jul 2022, c428
141 PBC Deb 12 Jul 2022, c429
142 PBC Deb 12 Jul 2022, c433
143 PBC Deb 12 Jul 2022, c432
144 PBC Deb 12 Jul 2022, c432
145 PBC Deb 12 Jul 2022, c437

local planning authorities (LPAs) to produce plans by allowing them to focus on locally important issues and also make local plans easier to use.[146] He said NDMPs would ensure "important policy safeguards … will be upheld with statutory weight" and would provide "a necessary safeguard in situations where plans are out of date".[147]

Marcus Jones also said the NPPF prospectus, which would set out the changes the Government will make to national planning policy,[148] would set out "our initial thinking on the scope of the policies and the principles for their production".[149] He later provided examples of what NDMPs might cover:

> The sort of things that we envisage them covering are standard policies—for example, avoiding inappropriate development in a green belt and areas at significant risk of flooding or coastal erosion; protecting nationally important habitats and heritage, and assets such as listed buildings; and ensuring that access for pedestrians, cyclists and people with disabilities or reduced mobility is taken into account when assessing development proposals.[150]

Consultation and scrutiny requirements for NDMPs

Matthew Pennycook also moved amendment 87 to clause 84, which would have set required an NDMP to undergo public consultation and parliamentary scrutiny requirements prior to being designated. He said this would bring the process for NDMPs in line with the process for National Policy Statements (NPSs), which guide decision-making on major infrastructure projects.[151] He argued that without the "appropriate input from communities and their representatives", the Government were "far more likely to get it wrong" which could result in "people feeling that their concerns are overlooked and their interests are subordinated to other priorities".[152]

Marcus Jones argued against public consultation requirements, stating that the Bill already allowed the Secretary of State to undertake consultation if appropriate, and that scope for urgent action should exist.[153] He also argued against parliamentary scrutiny requirements, arguing that NDMPs would serve "a broader purpose" than NPSs.[154]

146 PBC Deb 12 Jul 2022, c437
147 PBC Deb 12 Jul 2022, c437
148 HC Deb 8 Jun 2022, c822 [correction]
149 PBC Deb 12 Jul 2022, c438; PBC Deb 14 Jul 2022, c454
150 PBC Deb 14 Ju Jul ly 2022, c454
151 PBC Deb 14 Jul 2022, c447-451
152 PBC Deb 14 Jul 2022, c450
153 PBC Deb 14 Jul 2022, c452-453
154 PBC Deb 14 Jul 2022, c454

4.5 Development plans

Schedule 7 (introduced by Clause 87) deals with local plans, joint spatial development strategies, and supplementary plans. Among other things, Schedule 7 would set provisions for the preparation and examination of local plans as well as supplementary plans and minerals and waste plans. The Government said these changes would help deliver a system in which decisions on applications were "genuinely plan-led".[155]

The Bill's provisions for plan-making are discussed in Section 5.2 of the Commons Library briefing on the Levelling Up and Regeneration Bill.[156]

Rachael Maskell (Lab/Co-op) asked whether LPAs would be required to update their local plans and supplementary plans every five years (amendments 117 and 127) and whether the evidence base used to produce plans would be limited to data from the last five years (amendment 134).[157]

Marcus Jones responded that regulations would require LPAs to update their local plans, but not their supplementary plans, every five years.[158] He also said a blanket five-year limit on the materials used in the production of plans would limit the information being used. Whether plans were backed up by relevant and up-to-date evidence would be tested at examination.[159]

During the debate on Schedule 7, Marcus Jones also mentioned that the Government would produce guidance on community engagement, which would "show different ways in which communities and industry can get involved" in the planning system.[160]

Among other things, Schedule 7 sets requirements for local plans, joint spatial development strategies, and supplementary plans to "contribute to the mitigation of, and adaption to, climate change".[161] Matthew Pennycook welcomed these references but asked for a requirement for them to be interpreted in line with the Climate Change Act 2008 (amendment 101).[162]

Marcus Jones said the National Planning Policy Framework (NPPF) already required LPAs to plan in line with the provisions of the Climate Change Act 2008. He also said the Government would consult on this "as part of the wider changes needed to deliver the Bill's ambition after Royal Assent".[163]

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155 DLUHC, Policy paper: Levelling Up and Regeneration: Further information, 11 May 2022
156 Commons Library briefing, Levelling Up and Regeneration Bill 2022-23, section 5.2
157 PBC Deb 12 Jul 2022, c424-425; PBC Deb 14 Jul 2022, c498; PBC Deb 19 Jul 2022, c545
158 PBC Deb 12 Jul 2022, c427; PBC Deb 14 Jul 2022, c500
159 In response to Amendment 134: PBC Deb 19 Jul 2022, c546
160 PBC Deb 14 Jul 2022, c487-489
161 Levelling Up and Regeneration Bill [as introduced], schedule 7, paragraph 15C(6); schedule 7, paragraph 15AA(8); schedule 7, paragraph 15CC(9)
162 PBC Deb 14 Jul 2022, c506
163 PBC Deb 14 Jul 2022, c508-509

Matthew Pennycook pushed the amendment to a vote, because he said he did not hear "a convincing argument" why the Government would not alter "the definitions of climate change mitigation and adaption in the Bill so that they aligned with the legislation". The amendment was defeated by 8 votes to 5.[164]

4.6 Neighbourhood planning

Clause 88 would provide that neighbourhood plans must not be inconsistent with, and must not repeat, NDMPs. Clause 89 would prohibit them from preventing development proposed in local plans. The Bill would also introduce neighbourhood priority statements,[165] which the Minister said would "make it easier and quicker for communities" to get involved in planning.[166]

The Bill's provisions on neighbourhood planning are discussed in Section 5.5 of the Commons Library briefing on the Levelling Up and Regeneration Bill.[167]

In the debate on neighbourhood plans, the Committee also discussed flood resilience and prevention, second homes, and holiday lets.

Flood resilience and prevention

Rachael Maskell (Lab/Co-op) moved amendment 133, alongside which the Committee also discussed new clauses 2 to 7. Among other things, Rachael Maskell called for the introduction of a certification and accreditation scheme for flood prevention and resilience improvements. She also asked for the flood insurance scheme FloodRe to be extended to cover businesses (in addition to homes) and to require insurers to participate in the Build Back Better scheme (under the scheme, the installation of flood resilience measures is offered to those affected by flooding reduced cost).[168]

Matthew Pennycook argued these provisions were needed because "the Bill as a whole does nowhere near enough to address the specific issue of the susceptibility to flooding".[169]

Marcus Jones said the Government would publish a property flood resilience road map which would explore "the best approach to ensure property flood resilience professionals undertake work that meets industry standards" and establish "mechanisms to collect the evidence insurers need to recognise property flood resilience and factor it into their premiums".[170] He rejected

164 PBC Deb 14 Jul 2022, c509
165 DLUHC, Levelling Up and Regeneration Bill: Explanatory Notes (PDF), paragraph 1382
166 PBC Deb 14 Jul 2022, c488
167 Commons Library briefing, Levelling Up and Regeneration Bill 2022-23, section 5.5
168 PBC Deb 19 Jul 2022, c533-c534
169 PBC Deb 19 Jul 2022, c535
170 PBC Deb 19 Jul 2022, c537

extending the FloodRe scheme and highlighted that the Build Back Better scheme was deliberately introduced on a voluntary basis.[171]

Second homes and holiday lets

Tim Farron (Lib Dem) moved amendment 119; alongside the amendment, the Committee also discussed new clauses 38 and 39. The proposed changes would have created new use classes within the planning system for second homes and holiday lets, required new owners to seek permission to use a house as a second home, and allowed neighbourhood plans to limit the number of second homes or holiday lets in their area.[172] The new clauses and the amendment were supported by Labour Members, who argued second homes and holiday lets contributed to housing pressures and rising house prices.[173]

The then Minister, Marcus Jones, rejected the creation of new use classes because of the burden this would place on LPAs.[174] He said neighbourhood plans were already permitted to set policies concerning the sale and use of properties in their area and named St Ives, where a neighbourhood plan introduced a principal residence policy, as an example.[175]

The Minister also referred to an ongoing consultation on tourist accommodation registration.[176] The Government has not yet published a response to the consultation at the time of writing. He also said the Government would consider the matters drawn to its attention in Committee and would "see what amendments are tabled on Report".[177]

Tim Farron said existing measures, such as the council tax premium, "will not touch the sides" of the problem and LPAs would need additional resources to make use of their powers.[178] He pushed the amendment to a vote, where it was defeated by 8 votes to 5.[179]

4.7 Community involvement: "Street votes"

Clause 96 would introduce a "street votes" system that would allow residents on a street to propose development and to determine, by means of a vote, whether to consent to development. This clause is a placeholder which would

171 PBC Deb 19 Jul 2022, c538
172 PBC Deb 19 Jul 2022, c515-518
173 PBC Deb 19 Jul 2022, c520
174 PBC Deb 19 Jul 2022, c521
175 PBC Deb 19 Jul 2022, c521
176 PBC Deb 19 Jul 2022, c521; Department for Digital, Culture, Media and Sports, Developing a tourist accommodation registration scheme in England, Open consultation, June 2022
177 PBC Deb 19 Jul 2022, c522
178 PBC Deb 19 Jul 2022, c522
179 PBC Deb 19 Jul 2022, c521-522

be replaced with substantive provisions through regulations.[180] The street votes system is discussed in Section 5.8 of the Commons Library briefing on the Levelling Up and Regeneration Bill.[181]

Though not opposed to trialling a street votes system, Matthew Pennycook questioned the nature of the placeholder clause and the practicalities of the system. He asked what requirements would need to be met for a street to vote on a proposal, how street votes would interact with local and other plans, and how LPAs would be supported to deal with the demands that the new system would place on them.[182] Tim Farron (Lib Dem) expressed concern that street votes could prove divisive for relations between neighbours.[183]

Matthew Pennycook argued that there is a "risk that a badly designed system could have a detrimental impact on local authorities, communities and those struggling to rent or buy a home of their own".[184] He highlighted the impact that street votes could have on housing supply and affordability, arguing that street votes would be "used to add space and value to existing properties" but make it "harder for first-time buyers to get on the housing ladder".[185]

The then Minister said he had "heard their views" on the placeholder clause and promised to write to the Members, answering their questions. No amendments were moved on street votes.[186]

4.8 Planning permission for Crown Development

For Crown development[187] that is of national importance and needs to be carried out as a matter of urgency, Clause 97 would allow the appropriate authority to apply for planning permission directly to the Secretary of State. The Secretary of State would make a decision on the application if they considered it to be of national importance (and, if relevant, urgent) and otherwise refer it back to the LPA.

The then Minister, Marcus Jones, argued that a "faster, more proportionate route" was needed to gain planning permission for Crown development because the current route took "too long to deal with truly urgent Crown development". He added that, given their "national importance", the

180 DLUHC, Levelling Up and Regeneration Bill: Explanatory Notes (PDF)
181 Commons Library briefing, Levelling Up and Regeneration Bill 2022-23, section 5.8
182 PBC Deb 19 Jul 2022, c565-568
183 PBC Deb 19 Jul 2022, c568-569
184 PBC Deb 19 Jul 2022, c568
185 PBC Deb 19 Jul 2022, c567
186 PBC Deb 19 Jul 2022, c570
187 Crown land is defined in section 293 of the Town and Country Planning Act 1990 as land in which there is a Crown or Duchy interest. Government guidance provides further information on Crown land and planning provisions that apply to Crown development.

Secretary of State was better placed to grant planning permission to Crown developments than LPAs.[188]

Marcus Jones said these powers would be used "sparingly and only where it is clear that there is an urgent need for an accelerated decision in the wider public interest". Examples could include centres "to accommodate an influx of refugees" or "medical centres in the event of a pandemic". He also said the Secretary of State would consult local authorities and other statutory bodies and notify local communities.[189]

Matthew Pennycook expressed concern that the clause was a way of securing planning consent developments such as asylum centres "irrespective of the harm they cause for those placed in them or the impact on local communities". He pointed out that "moments of crisis", "issues of national importance", and "clear and urgent need" were not defined in the Bill. He asked for safeguards to be placed on the powers set out in the Bill.[190]

In response, Marcus Jones said the Government had been "clear that the new powers will be taken only in exceptional circumstances". The Committee was divided on whether Clause 97 should stand part of the Bill, and it was agreed by 8 votes to 5.[191]

4.9 Developer contributions: Infrastructure Levy

Clauses 115-117 of the Bill would introduce a new Infrastructure Levy (IL), a locally set and non-negotiable levy to be charged on development. Schedule 11 sets out a framework for the IL, but details would be set out in regulations. The policy paper accompanying the Bill provides further information: the IL would "be applied above a minimum threshold", and rates would "be set as a percentage of gross development value" (GDV), that is, the value of a property when it is sold.[192]

The IL would replace the Community Infrastructure Levy (CIL); a levy that LPAs can currently choose to (but are not required to) impose on development in their area.[193] Section 106 agreements, an existing mechanism for negotiating with a developer about the provision of infrastructure and required to support

188 PBC Deb 19 Jul 2022, c571

189 PBC Deb 19 Jul 2022, c570-572

190 PBC Deb 19 Jul 2022, c574

191 PBC Deb 19 Jul 2022, c575

192 DLUHC, Policy paper: Levelling Up and Regeneration: Further information, 11 May 2022

193 The CIL was brought into force in 2010 by the Community infrastructure Levy Regulations 2010, made under section 206 of the Planning Act. The Regulations empowered LPAs to impose a levy but did not require them to do so. The Commons Library briefings on Planning obligations: Section 106 agreements and the Community Infrastructure Levy provide further information on current arrangements.

a development, would not be abolished entirely but used in a "narrowly targeted way" to support the "delivery of the largest sites".[194]

The then Minister said a new system was needed because the current approach was "uncertain and fragmented" and "protracted negotiations" caused delays in the planning process. The IL, he argued, would deliver a "unified and streamlined approach" and create a "more straightforward and efficient system".[195] The Government said the IL would ensure that "developers pay their fair share to deliver the infrastructure that communities need".[196]

The Bill's provisions on the IL are discussed in Section 5.13 of the Commons Library briefing on the Levelling Up and Regeneration Bill.[197]

Matthew Pennycook called it "one of the most consequential aspects of the Bill, with potentially far-reaching implications for not only the provision of core infrastructure but the supply of affordable housing".[198] In the debate on Clause 115, Matthew Pennycook expressed concerns about the following:

- The lack of detail in the Bill, including that the Bill "merely provides the basic framework for the levy" and that "almost all detailed design is to follow in regulations after some form of consultation";[199]
- Whether the IL would "secure as much, let alone more, public gain from developers" or whether it would "lead to less infrastructure and less affordable housing";[200]
- Whether the IL would result "in a system of developer contributions that is at least as complex as the present one" which, he said, called into question the rationale of the Government to introduce "a simpler, more transparent, and more certain system";[201]
- The use of the gross development value (GDV) of a development to calculate IL liability which, he said, could create "a system in which the infrastructure required to support development will not be in place when it is needed".[202]

To address these concerns, Matthew Pennycook moved amendment 142 which would have made the IL optional rather than mandatory. The Committee also

194 DLUHC, Policy paper: Levelling Up and Regeneration: Further information, 11 May 2022
195 PBC Deb 6 Sep 2022, c611-612
196 DLUHC, Policy paper: Levelling Up and Regeneration: Further information, 11 May 2022
197 Commons Library briefing, Levelling Up and Regeneration Bill 2022-23 CBP 9558, Section 5.13
198 PBC Deb 6 Sep 2022, c601
199 PBC Deb 6 Sep 2022, c601-602; c604
200 PBC Deb 6 Sep 2022, c602
201 PBC Deb 6 Sep 2022, c602
202 PBC Deb 6 Sep 2022, c606

discussed amendments 145 and 146 which would have given authorities discretion over which metric to use to calculate IL liability.[203]

Marcus Jones emphasised the importance of the IL operating in broadly the same way everywhere to reduce complexity and ensure consistency. This would also allow for the sharing of expertise and a common appeals process. He confirmed that LPAs would be able to set IL rates locally.[204]

In response to a question of how long it would take to pilot and roll out the IL, the Minister said the "test and learn" approach taken to implement the IL would take place "over this decade".[205]

Matthew Pennycook pressed amendment 142 to a vote "to make the point very firmly that we think that local authorities should have discretion in adopting the levy and core elements of its design". The amendment was defeated by 8 votes to 5. [206]

In the subsequent debate on Schedule 11, the Committee discussed various questions: the ability of the IL to meet affordable housing and infrastructure needs, the payment of the IL on completion, the setting of IL rates, and the use of section 106 agreements. Further analysis of these debates is provided below.

All amendments that were pressed to a vote (amendments 142, 150, 162) were defeated, and all other amendments that were moved (amendments 58, 148, 153, 165, 169) were withdrawn. Other issues that were raised but not pursued included the use of IL rates to promote brownfield development and to create green spaces in urban areas.[207] Matthew Pennycook also raised the issue of resourcing pressures on LPAs.[208]

The Government moved an amendment to Schedule 11 that would allow LPAs to spend IL receipts on non-infrastructure projects, such as improvements to local services or the delivery of local programmes (Amendment 196).[209] The amendment was agreed without a vote.[210]

Use of IL receipts: Meeting affordable housing and infrastructure needs

Matthew Pennycook expressed concern that there were no provisions in the Bill that would require an LPA to meet a certain level of affordable housing or infrastructure. The Bill only required LPAs to "have regard to the desirability"

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203 PBC Deb 6 Sep 2022, c600-601. This would have also required leaving out Clause 115 which would restrict the use of the CIL to Greater London and Wales.

204 PBC Deb 6 Sep 2022, c612

205 PBC Deb 6 Sep 2022, c613

206 PBC Deb 6 Sep 2022, c616

207 PBC Deb 8 Sep 2022, c663

208 PBC Deb 6 Sep 2022, c591

209 PBC Deb 6 Sep 2022, c621-622

210 PBC Deb 6 Sep 2022, c624

to maintaining affordable housing levels. This would lead, he said, to the "baking in of poor performance".[211] To address these concerns, he moved the following amendments:

- Amendment 148 would have prevented the use of IL proceeds for non-infrastructure purposes,[212]
- Amendment 150 would have limited the IL to infrastructure and retained section 106 agreements for affordable housing,[213] and
- Amendment 153 would have tied the definition of affordable housing to the Housing and Regeneration Act 2008. The Committee also discussed amendment 155, which would have linked IL rates to affordable housing needs identified in its local plan.[214]

The then Minister, Marcus Jones, rejected these amendments. He said regulations would ensure that "infrastructure and affordable housing remain priorities" while allowing LPAs to spend specified amounts of the IL on non-infrastructure items.[215] He said the Government was committed to "the delivery of at least as much, if not more, on-site affordable housing" as through the current system.[216]

When asked whether IL receipts on projects not listed in the Bill (amendment 169),[217] the then Minister of State, Paul Scully, responded that "the list [in the Bill] is not supposed to be exhaustive and comprehensive" and "should a local authority wish to spend the levy on items of infrastructure that are not expressly stated in the list …, it will indeed be able to do that".[218]

Matthew Pennycook said he was "not reassured" as "there is nothing in the Bill that guarantees that the levy framework … will lead to a situation in which at least as much affordable housing is required". He pressed Amendment 150 (which would have retained section 106 agreements for affordable housing) to a vote, where it was defeated by 8 votes to 5.[219]

Timing of payment and use of gross development value

Labour and Conservative Members highlighted that using gross development value (GDV) – that is, the value of a property when it is sold – to calculate IL liability would mean payments would not be made until the development was completed. Matthew Pennycook said this could result in "a situation where

211 PBC Deb 6 Sep 2022, c632
212 PBC Deb 6 Sep 2022, c619-620
213 PBC Deb 6 Sep 2022, c623-626
214 PBC Deb 6 Sep 2022, c630-634
215 PBC Deb 6 Sep 2022, c621
216 PBC Deb 6 Sep 2022, c628
217 PBC Deb 8 Sep 2022, c669-670
218 PBC Deb 8 Sep 2022, c673-674
219 PBC Deb 6 Sep 2022, c629-630

the infrastructure required to support development will not be in place when it is needed".[220]

Matthew Pennycook contrasted the GDV to the current system of developer contributions: the CIL which is based on floor space and section 106 agreements which are negotiated alongside the planning decision-making process. He argued that the current system provided greater certainty, since liability and the expected amount of contributions were clear from the start.[221]

Greg Smith (Con) and Matthew Pennycook asked for IL liability to be paid upfront prior to development commencing (Conservative amendment 58)[222] or "within reasonable period" of development commencing or in phases (Labour amendment 161).[223] Both amendments were later withdrawn.[224]

Marcus Jones defended the use of GDV to calculate IL liability, stating that this would capture land value uplift and reduce pressures on developer cash flow. He said early and staged payments would be possible; the details would be set out in regulations and consulted on.[225]

The Minister also said LPAs would be able to borrow against future IL receipts or use past IL contributions to deliver infrastructure upfront.[226] Matthew Pennycook had previously questioned these solutions, arguing this would result in the "transfer of risk and cost from the private to the public sector" and break the "link between individual sites and IL contributions".[227]

Setting of IL rates: Viability assessments and Secretary of State powers

Matthew Pennycook expressed concern that LPAs might have to undertake viability assessments of individual sites to set IL rates rather than being able to perform area-wide viability assessments (Amendment 162).[228] This could allow developers and landlords to drive down IL rates.[229]

Matthew Pennycook also expressed concern that the Bill would provide the Secretary of State with powers to "intervene and overturn locally determined IL rates" (Amendments 163 and 164)[230] and to direct a charging authority to revise its charging schedule (Amendment 165).[231]

220 PBC Deb 6 Sep 2022, c640
221 PBC Deb 6 Sep 2022, c603-609
222 PBC Deb 6 Sep 2022, c648
223 PBC Deb 6 Sep 2022, c648-649
224 PBC Deb 6 Sep 2022, c652
225 PBC Deb 6 Sep 2022, c651-652
226 PBC Deb 6 Sep 2022, c651-652
227 PBC Deb 6 Sep 2022, c606; PBC Deb 6 Sep 2022, c614
228 PBC Deb 8 Sep 2022, c657-658
229 PBC Deb 8 Sep 2022, c659
230 PBC Deb 8 Sep 2022, c662
231 PBC Deb 8 Sep 2022, c675

The then Minister, Paul Scully, highlighted that "local rate-setting is indeed essential to the levy design". Because "the levy must be charged in a coherent and consistent way", however, the Secretary of State might need to adjust rates.[232] He stated that these powers would be used "only very sparingly".[233] A forthcoming consultation would set out the Government's approach to different rates.[234]

He also said that the Secretary of State would be able to require a charging authority to review – not necessarily to alter – its charging schedule to ensure charging rates were "reviewed on a timely basis". Regulations would set out "any further circumstances" when the Secretary of State could use their powers.[235]

Matthew Pennycook pressed amendment 162 to a vote because he remained concerned the Bill would allow developers to "drive down IL rates at the point at which they are set". The amendment was defeated by 8 votes to 5.[236]

4.10 Compulsory purchase

Part 7 of the Bill (clauses 142-152) deals with compulsory purchase powers. A compulsory purchase order (CPO) allows local authorities and other public bodies to compulsorily acquire land, provided that they have ministerial approval. The Bill would extend compulsory purchases powers, for example, clause 140 would extend them to also cover regeneration schemes.

The Bill's provisions on compulsory purchase powers are discussed in Section 8 of the Commons Library briefing the Levelling Up and Regeneration Bill.[237]

The Government moved new clause 62 (currently clause 152) to amend how compulsory purchase compensation is calculated. It would ensure that the value of alternative development is considered only when the LPA certifies that it would have been granted planning permission.[238] The Government had announced and consulted on reforms to the compulsory purchase compensation between June and July 2022.[239]

Matthew Pennycook expressed support for new clause 62, stating that "it is right to seek to reform the system".[240] He also said the Opposition was

232 PBC Deb 8 Sep 2022, c660
233 PBC Deb 8 Sep 2022, c662
234 PBC Deb 8 Sep 2022, c661
235 PBC Deb 8 Sep 2022, c675-676
236 PBC Deb 8 Sep 2022, c662
237 Commons Library briefing, Levelling Up and Regeneration Bill 2022-23 CBP 9558, Section 5.13
238 PBC Deb 13 Oct 2022, c729-730
239 DLUHC, Compulsory purchase – compensation reforms: consultation, June 2022
240 PBC Deb 13 Oct 2022, c731

"supportive" of the other provisions on compulsory purchase in the Bill, calling them "sensible and proportionate measures".[241]

4.11 New clauses

A number of new clauses not directly linked to other provisions in the Bill were also moved at Committee. Those linked to the Bill's existing provisions are discussed under the relevant section headings in this briefing paper.

The Government moved two new planning-related clauses (60 and 61, to be inserted after clause 110). These clauses would make changes to the "development consent" process to speed up decision-making on major infrastructure projects.[242] The background to and debate on these clauses is set out below.

Labour, Liberal Democrat, and Backbench Conservative Members also proposed a number of new clauses at Committee. The new clauses addressed below are those that were pushed to a division or received cross-party support. None of these clauses were added to the Bill.

Development consent for major infrastructure projects

Major infrastructure developments (relating to energy, transport, water, or waste) are classed as Nationally Significant Infrastructure Projects (NSIPs) and are considered under the "development consent" process. The decision-making power on NSIPs rests with the relevant Secretary of State rather than with the LPA. The Planning Act 2008, as amended by the Localism Act 2011, sets out the approval process for NSIPs.[243]

The Planning Inspectorate will examine applications for Development Consent Orders (DCOs) on behalf of the Secretary of State and make recommendations to help inform their decision. Currently, the examination process takes six months. The final decision on whether to grant, or refuse, a DCO rests with the relevant Secretary of State.[244]

The Government proposed adding two new clauses to the Bill to speed up the DCO process. These changes, it said, would "improve the performance of the NSIP planning process".[245] They follow an operational review of the process.[246]

241 PBC Deb 13 Oct 2022, c730-731

242 PBC Deb 18 Oct 2022, c796-797; c799-800

243 Planning Act 2008; Localism Act 2011

244 Planning Inspectorate, National Infrastructure Planning: The process, undated

245 DLUHC, Policy paper: Improving performance of the NSIP planning process and supporting local authorities, August 2022

246 MHCLG, Correspondence: Nationally Significant Infrastructure Projects regime: Operational review, July 2021

- New clause 60 (clause 111) would give the relevant Secretary of State the power to create a fast-track examination procedure for projects that "meet quality standards".[247] Under current legislation, the Secretary of State can set an extended but not a shortened deadline;

- New clause 61 (clause 112) would also give the Secretary of State the power to create a decision-making process to make non-material changes to applications after a DCO is granted.[248]

In a policy paper published in August 2022, the Government said it would consult on the qualifying criteria, the underlying regulations, and the guidance changes that would accompany them. [249] It also said projects submitting their applications from September 2023 would be eligible for the fast-track route if they met qualifying criteria.[250]

Alongside the changes introduced through the Bill, the Government said it would also introduce other measures to improve the DCO process. These include a review of the Renewable Energy and National Networks National Policy Statement (NPSs).[251] NPSs are used by the relevant Secretary of State to decide DCO applications.[252]

Matthew Pennycook expressed "serious" concern about the implication of these changes to the DCO process. He argued that the examination stage was important to allow communities to express their views on NSIPs, and he asked what timescales the fast-track procedure would follow and which projects would qualify for the fast-track route. He also expressed concern that these powers would be used to approve fracking schemes.[253]

Lee Rowley, the Under-Secretary of State for Housing, responded that fracking was not part of the NSIP process. He reaffirmed the Government's intention to produce guidance on criteria for the fast-track route and to consult on that guidance but did not give any indication of the shortened timeframe that the Government had in mind.[254] New clauses 60 and 61 were agreed to stand part of the Bill without a vote.

Unsuccessful non-Government clauses

A number of new clauses moved by Labour and Liberal Democrat Members of the Committee sought to add provisions to the Bill to address climate change.

247 PBC Deb 18 Oct 2022, c796-797

248 PBC Deb 18 Oct 2022, c799-800

249 DLUHC, Policy paper: Improving performance of the NSIP planning process and supporting local authorities, August 2022

250 DLUHC, Policy paper: Improving performance of the NSIP planning process and supporting local authorities, August 2022

251 DLUHC, Policy paper: Improving performance of the NSIP planning process and supporting local authorities, August 2022

252 Planning Inspectorate, National Infrastructure Planning: National Policy Statements, undated

253 PBC Deb 18 Oct 2022, c797-798

254 PBC Deb 18 Oct 2022, c799-800

Tim Farron (Lib Dem) moved new clause 63 which would have brought forward the date from which the Future Homes Standard will apply to 2023. The Future Homes Standard updates energy efficiency standards for new homes and is currently set to apply from 2025.[255]

Lee Rowley rejected bringing the date forward, arguing that the buildings and construction sector needed time to adapt their working practices to adhere to the updated standards.[256] Tim Farron pushed the new clause to a vote, where it was defeated by 8 votes to 6.[257]

Matthew Pennycook moved new clause 72, alongside which the Committee also discussed new clause 82. These would have aligned approval for onshore wind projects to the NSIP process: projects above 50MW would follow the DCO process, and LPAs would determine applications for projects below 50MW. The clauses would have also removed restrictions the National Planning Policy Framework (NPPF) places on onshore wind projects.[258]

Matthew Pennycook referred to the Government's September 2022 Growth Plan, which included a commitment to bring onshore wind planning policy in line with planning for other forms of infrastructure. He asked whether this commitment was still in place.[259] Lee Rowley responded that the Government would bring forward information on their "continuing commitments and intentions" on the process for onshore wind projects.[260]

Matthew Pennycook moved new clause 73 which would have made climate change mitigation and adaptation a consideration in all planning decisions. He argued that existing requirements were "insufficiently robust" to meet the Government's net zero target and that the Bill was "a missed opportunity" to align the planning system with climate change goals.[261]

Lee Rowley pointed to existing requirements for LPAs to consider climate change mitigation and adaption.[262] Matthew Pennycook pressed the new clause to a vote to "drive home how important we feel the issue is". The new clause was defeated by 8 votes to 6.[263]

A number of new clauses also received cross-party support during the debate. However, the Government did not support them, and they were not pushed to a division. These include:

- New clause 12, moved by Greg Smith (Con), would have required Ministers and LPAs to consider the impact of their policies on the agricultural sector and food production. Greg Smith expressed concern

255 PBC Deb 20 Oct 2022, c878
256 PBC Deb 20 Oct 2022, c878-879
257 PBC Deb 20 Oct 2022, c879
258 PBC Deb 20 Oct 2022, c892-893
259 PBC Deb 20 Oct 2022. c892
260 PBC Deb 20 Oct 2022, c893
261 PBC Deb 20 Oct 2022, c894-896
262 PBC Deb 20 Oct 2022. c896-897
263 PBC Deb 20 Oct 2022, c897-898

that planning applications for housing and solar farms on agricultural land were approved despite a presumption against development in the NPPF.[264] Tim Farron (Lib Dem) expressed similar concerns;[265]

- New clause 16, also moved by Greg Smith (Con), would have required LPAs to have regard to an applicant's prior record of delivery when assessing planning applications.[266] The Committee also discussed new clause 37, which was supported by Matthew Pennycook. He argued that those who consistently breach planning control should face sanctions;[267]

- New clause 17 would have given communities the right of appeal against the granting of planning permission. The clause was moved by Greg Smith (Con)[268] but also received support from Rachael Maskell (Lab/Co-op) and Tim Farron (Lib Dem);[269]

- New clause 28, moved by Greg Smith (Con) and supported by Ben Bradley (Con), would have allowed LPAs to hold virtual planning committee meetings and reach planning decisions virtually. [270] This would have reinstituted a temporary measure that existed during the Covid-19 pandemic. New clause 69, which was supported by Matthew Pennycook and Tim Farron (Lib Dem), had the same aim.[271] Matthew Pennycook pointed out that there was broad consensus among Members when it came to reducing barriers to community engagement in the planning process.[272]

264 PBC Deb 18 Oct 2022, c811-812
265 PBC Deb 18 Oct 2022, c812-813
266 PBC Deb 18 Oct 2022, c817
267 PBC Deb 18 Oct 2022, c817-818
268 PBC Deb 18 Oct 2022, c820
269 PBC Deb 18 Oct 2022, c820-821; c821
270 PBC Deb 18 Oct 2022, c836; c838
271 PBC Deb 18 Oct 2022, c837-838; c839
272 PBC Deb 18 Oct 2022, c837-838

5 Environmental outcomes reports

The Government signalled its intention to change how the environmental impact of plans and projects is taken into account in the August 2020 Planning White Paper (PDF). This stated the aim of introducing a "quicker, simpler framework for assessing environmental impacts and enhancement opportunities".

Currently, plans and major projects are assessed via a Strategic Environmental Assessment (SEA) for any significant plans or programmes (often as part of a Sustainability Appraisal) and via Environmental Impact Assessments (EIA) for individual projects. The Bill proposes replacing these with Environmental Outcomes Reports (EORs), with details of how these will be implemented to be set out in secondary legislation.

In addition, and more controversially, the Bill proposes that EORs will be deemed to meet the requirements of the Conservation of Habitats and Species Regulations 2010, known as the Habitats Regulations. Under these, a habitats regulations assessment (HRA) is required if a plan or project proposal could significantly harm the designated features of a European site of importance. The regulations were introduced to implement a range of EU legislation protecting certain types of conservation sites, which are listed in the Government guidance.

Further background and details of the proposals are set out in the Library Briefing on the Levelling up and Regeneration Bill.

5.1 Second Reading

During Second Reading Michael Gove, Secretary of State for Levelling Up, Housing and Communities said that the proposals in the Bill for environmental outcome reports would "strengthen environmental protection".[273]

In response to a question from Caroline Lucas asking why the Bill did not include a net zero test for planning, the Minister set out the Government's approach to taking environmental outcomes forward:

> I will say three things as briefly as I can. First, a document setting out how we intend to change national planning policy that will be published in July will say significantly more about how we can drive improved environmental outcomes. Secondly, there is in the Bill a new streamlined approach to ensuring that all

[273] HC Deb 8 Jun 2022 c831

> development is in accordance with the highest environmental standards. Thirdly, as the hon. Lady knows, under the 25-year environment plan and with the creation of the Office for Environmental Protection, the non-regression principle is embedded in everything that we do.[274]

The document referred to the Minister has not yet been published by the Department.

During the debate, Clive Betts, chair of the Levelling Up, Housing and Communities Committee, said the Committee welcomed the plans to improve environmental impact assessments. It would also be testing "how they will work in practice".[275]

Margaret Greenwood highlighted during the debate to the view of the Better Planning Coalition which raised concerns about the proposals for EORs. The Coalition view, whilst recognising the potential to improve environmental assessment, was that the current proposals gave "far too much leeway to Ministers to amend and replace vital aspects of environmental law."[276] It concluded that:

> Any new environmental assessment system should be set out in primary legislation, not in secondary, make specific reference to targets and other requirements, policies and goals, using existing definitions, and clearly deliver for nature, climate, cultural heritage and landscape.[277]

5.2 Committee stage

There were no Government amendments to **clauses 118 to 132** covering Environment Outcomes Reports. There were a number of proposed Opposition amendments. The majority were withdrawn but two, amendments 176 and 181 were pushed to a vote. Both were rejected.

Amendment 176 would have introduced a requirement in clause 122 of the Bill aimed at ensuring that "the new system of environmental assessment would not reduce existing environmental protections in any way rather than merely maintaining overall existing levels of environmental protection".[278]

Responding, Paul Scully, Minister of State, Department for Levelling Up, Housing and Communities, did not support the amendment. He said the Government had recognised the need to provide assurance that the environment would continue to be protected. In addition, the clause was "drafted specifically to mirror the provisions of the EU-UK trade and co-

274 HC Deb 13 Jun 2022 c2MC [as corrected]
275 HC Deb 8 Jun 2022 c852
276 Better Planning Coalition, Second Reading Briefing – Levelling up and Regeneration Bill, 1 June 2022
277 Better Planning Coalition, Second Reading Briefing – Levelling up and Regeneration Bill, 1 June 2022
278 HOC PBC 8 Sep 2022 c697

operation agreement" to ensure they complied with non-regression requirements in the agreement. [279]

When putting the amendment to a vote the Shadow Minister for Housing and Planning, Matthew Pennycook, explained Labour's specific concerns:

> In particular, what concerns us about the non-regression provision in clause 120 is the reference to only
>
> "providing an overall level of environmental protection".
>
> We are extremely concerned that that might mean that environmental harm could take place at a local level because the Government could say, "Overall, we are satisfied that the level of protection has been maintained." [280]

Amendment 181 proposed a change to Clause 129 (then clause 127), which as drafted by the Government would allow EORs to meet the requirements of the Habitats Regulations. The amendment aimed to ensure that any specified environmental outcomes arising from EOR regulations would "augment not substitute" the provisions of the Habitats regulations.[281]

In response the Minister explained how the Government intended the new system would interact with existing regulations:

> Clause 127 also replicates the current ability to allow for co-ordination between environmental assessment regimes and habitats regulations. Those provisions are necessary to ensure we are able to manage the transition to the new system without introducing multiple requirements and costly duplication. As with all the provisions under this part, the use of these powers will be bound by our commitment to non-regression and our duty to consult on new regulations. That means that, in managing the transition, EOR regulations that interact with the habitats regime or other listed environmental legislation cannot reduce the overall level of the environmental protection. The requirements of the existing habitats regulations assessment legislation will continue to need to be met. Given the need to manage the effective transition to the new system while honouring our commitment to non-regression, I hope the hon. Member for Greenwich and Woolwich will consider withdrawing amendment 181.
>
> In addition to the interaction between the old and the new systems, EORs will replace the existing EU-derived systems of environmental impact assessments and strategic environmental assessments. Given the breadth of environmental assessment regimes, the Government intend to take a phased approach to the introduction of environmental outcome reports. The powers in clause 127 are necessary to manage that phased introduction.[282]

Mathew Pennycook called the provisions in clauses 122 and 130 a "fundamental weakness" of the that part of the Bill. He expressed concerns that clause could allow the Secretary of State "to substitute the protections afforded by those [existing] regulations with weaker requirements that had

279 PBC Deb 8 Sep 2022 c699
280 PBC Deb 8 Sep 2022 c700
281 PBC Deb 8 Sep 2022 c707
282 PBC Deb 8 Sep 2022 c708

undergone only limited parliamentary scrutiny under the affirmative procedure".[283] Both amendments were put to a vote and rejected by 8 votes to 5.

[283] PBC Deb 8 Sep 2022 c709

6 Development corporations

A development corporation is a public body established via one of four statutory procedures. Development corporations have been used as an independent vehicle to acquire and repurpose land in order to drive the systematic regeneration of an area. They were also used to manage the development of 'new towns' in the second half of the 20th century. Additional details of the four statutory procedures can be found in the Library briefing paper on the Levelling Up and Regeneration Bill.

Development corporations established under the four different statutory procedures have slightly different powers. Part 6 of the Bill would standardise the range of powers available to each type of development corporation. It also establishes a power for local authorities to request the formation of a development corporation.

Development corporations were mentioned only in passing at the Bill's Second Reading, and debate at Committee stage was brief. **Clauses 133 to 137, 139**, and **140** were not debated at Committee. For the Opposition, Matthew Pennycook stated that part 6 was "largely uncontroversial" and that the Opposition was supportive of the measures.[284]

He introduced two new clauses that would have required an independent examination to take place before the establishment of any new local development corporation.[285] This would be undertaken by an independent person appointed by the Secretary of State. The amendment also would have required that "any person who makes representations seeking to change a proposal for designation of a locally-led urban development area must, if they so request, be given the opportunity to appear before and be heard by the person carrying out the examination".[286]

For the Government, the Minister, Dehenna Davison, stated that a public process was unnecessary, as the Bill would provide that any local authority proposing to establish a development corporation would have to provide evidence to the Secretary of State of extensive public consultation. The new clauses were withdrawn.

Mr Pennycook also introduced amendments to **clause 140** (then clause 138) that would have required the board of a development corporation to include at least three members representing a "local qualifying body", which could be a parish or town council or a neighbourhood forum. The intention was to

284 HoC PBC 13 Oct 2022 c719

285 The Opposition introduced separate but identical new clauses for development corporations created under the Local Government, Planning and Land Act 1980 and the New Towns Act 1981.

286 HoC PBC 13 Oct 2022 c717

"strengthen those corporations' legitimacy in the eyes of the public and help ensure that the significant planning powers those corporations will exercise enjoy a degree—albeit a limited degree—of local community oversight".[287]

Dehenna Davison stated that the Government intended to make equivalent regulations to the New Towns Act 1981 (Local Authority Oversight) Regulations 2018. These provide that "the oversight authority must have regard to the desirability of appointing one or more persons resident in or having special knowledge of the locality in which the new town will be situated".[288] Mr Pennycook withdrew the amendment.

[287] As above, c725

[288] See the New Towns Act 1981 (Local Authority Oversight) Regulations 2018, schedule 1 paragraph 11

7 Compulsory letting of vacant high street premises

As introduced, Part 8 comprised clauses 150 to 177 of the Bill. Following amendments made to other Parts at Committee Stage, Part 8 now comprises clauses 153 to 180. No amendments to Part 8 itself were made at Committee Stage.

Part 8 of the Bill implements commitments within the Levelling Up White Paper, to bring forward measures to "incentivise landlords to fill vacant units to rent our vacant properties to prospective tenants". This would "tackle both supply and demand side issues" and "increase the attractiveness and vitality of our high streets".[289]

7.1 Second Reading

Part 8 of the Bill attracted cross-party support at the Second Reading debate. The Secretary of State, Michael Gove, said the provisions would "ensure that we have the entrepreneurs that we need and the small businesses that we want on the high streets that we love".[290] Opposition front bench speeches did not directly address Part 8 in their speeches.

The Shadow Minister for Digital, Culture, Media and Sport, Rachel Maskell, said she welcomed the "opportunity to auction off empty units", but asked the Government to "look further at ensuring that spaces above shops are utilised".[291] A number of Government backbench MPs[292] all expressed general support for the measures in Part 8.

The then Housing Minister, Stuart Andrew, closed the debate by saying Part 8 would encourage landlords "to put empty buildings to good use".[293]

289 DLUHC, Levelling Up the United Kingdom, 2022, p211
290 HCDeb 8 Jun 2022 c825
291 As above, c873
292 As above, c863-890
293 As above, c910

7.2 Committee Stage

At Committee Stage, Opposition members tabled eleven amendments to Part 8.[294] No amendments were made.

Of the eleven amendments:

- One (amendment 188) simply sought to remove clause 156 (the "local benefit condition") and was not specifically discussed;
- Eight were debated and subsequently withdrawn by the Labour Opposition; and
- Two (taken together) were pressed to a division.

The latter two categories are discussed below.

Amendments withdrawn following debate

The amendments withdrawn were:

- Amendment 185, which would have required "consultation with the local community" before a street or area was "designated" under **clause 153** (bringing it within the scope of the procedure in Part 8);
- Amendment 186, which would have sought to allow the "local community" to apply for a street or area to be designated under clause 153;
- Amendment 195, which would have defined the "local community" for the purposes of the above two amendments as "persons resident in the vicinity of premises";

The Minister, Dehenna Davison, said that these three amendments were not needed as "local authorities are uniquely placed to make that designation, based on their deep knowledge of their own area".[295]

- Amendment 189, which would have amended **clause 157** to reduce the period after which an initial letting notice would expire from ten weeks to 28 days;
- Amendment 190, which would have amended **clause 158** to seek to "prevent the landlord from transferring the premises between related entities while the initial letting notice is in force";

294 Levelling-up and Regeneration Bill (Amendment Paper), Committee Stage: Thursday 13 October (PDF), pp2-5

295 PBC Deb 13 Oct 2022 c734

- Amendment 191, which would have amended **clause 160** to reduce the period of time before a final letting notice can be issued from eight weeks to two weeks;

- Amendment 193, which would have required the Secretary of State to lay regulations under **clause 165** (setting out the process for rental auctions) before Parliament within 90 days; and

- Amendment 194, which would have amended **clause 178** to remove a landlord's right to obtain compensation for damage caused when the local authority, or its agent, forces access to a site following a failure to allow such access by the landlord.[296]

Amendments pressed to a division

Clause 155 of the Bill would give the Secretary of State a Henry VIII power to change how long premises must have been vacant for before the "vacancy condition" is satisfied, which is a necessary condition for initiating the process leading to compulsory rental auctions. **Clause 163** of the Bill would grant the Secretary of State a Henry VIII power to amend the grounds (in Schedule 15) on which a landlord can appeal against the issue of a final letting notice.

Amendments 187 and 192 sought to remove both of these Henry VIII powers.[297] Shadow Minister Alex Norris said that amending the Bill in this way would "give communities certainty on what they are getting from this legislation. It will also give us protection in the future".[298] In response, the Minister, Dehenna Davison, said the Henry VIII powers "provide much-needed flexibility to ensure that auctions deliver the intended policy outcome"[299] and noted that "any change will be subject to the affirmative procedure, and the approval of Parliament, before coming into force".[300]

Mr Norris then said he was "not sure that [he] can accept the argument of flexibility" as he "cannot believe that there would not be appropriate legislative vehicles, either in a local government, property or business space, that would give the Government the opportunity to alter the provision".[301] He therefore pressed amendment 187 to a division, where it was defeated by 7 votes to 4.[302]

Technical amendment to clause 195

Whilst no amendments were made to Part 8 during Committee Stage, the Government made a drafting amendment (number 77) to clause 195, which

296 Levelling-up and Regeneration Bill (Amendment Paper), Committee Stage: Thursday 13 October (PDF), pp2-5
297 PBC Deb 13 Oct 2022 c739
298 As above, c740
299 As above
300 As above, c741
301 As above, c742
302 HOC PBC Division 16, 3 Oct 2022

sought to correct "a drafting omission by applying the negative procedure to regulations under Part 8 (unless they amend primary legislation, in which case the affirmative procedure will apply under the existing drafting of the clause)".[303]

The Minister, Lee Rowley, explained that the Delegated Powers Memorandum accompanying the Bill stated that all regulation-making powers under Part 8 of the Bill would be subject to the negative resolution procedure (unless they amended primary legislation), but that this position "was not reflected in the Bill's drafting".[304] Mr Rowley therefore proposed an amendment to clause 195, which was agreed.

[303] PBC Deb 18 Oct 2022 c795

[304] As above

8 Information about interests and dealings in land

The land market in England and Wales currently lacks full transparency, particularly when land control arrangements are used (i.e. opaque arrangements short of actual ownership such as options and conditional contracts). **Part 9** of the Bill (**clause 181** and **182**) would provide the Secretary of State with an enabling power to require the Chief Land Registrar (HM Land Registry, responsible for land registration in England and Wales) or another person exercising public functions in England and Wales on behalf of the Crown (as determined by regulations) to collect information on the ownership and control of land, and on transactional dealings used to exercise control over land.

Part 9 (clauses 181 to 186) was considered in Committee during the twenty third sitting on 13 October 2022. There was broad support for Part 9 and no divisions took place. However, the Opposition did ask questions about how the enabling power would be used.

For the Government, Dehenna Davison said that taken together **clauses 181** to **186** would provide "crucial tools to ensure that the property market is fair, transparent, competitive and resilient".[305] Under **clause 183**, regulations made under Part 9 must specify certain key information, including the description of person on whom the requirement falls, the occurrence or circumstances that give rise to the requirement, the time limit for complying with the requirement, and the person to whom the required information is to be provided. In the 2020 consultation, Transparency and competition: a call for evidence on data on land control (PDF),[306] the Government proposed that parties to contractual control interests would not be able to protect their interest at the Land Registry until the required information had been supplied.

In Committee, the Minister said that draft instruments would be laid before the House under the affirmative procedure, so Parliament would have the opportunity to debate and approve regulations made under **clauses 181** and **182** before they come into force. In addition, regulations allowing for the payment of fees to cover the costs of collecting information would also be made under the affirmative procedure.

[305] PBC Deb 13 October 2022 c764

[306] Ministry of Housing and Local Government, Transparency and Competition: A call for evidence on data on land control (PDF) August 2020, (accessed 24 October 2022)

Matthew Pennycook, Shadow Minister for Housing and Planning, said the Opposition fully supported the Government's aims:

> We agree with the Government that reform in this area has the potential to help expose anti-competitive behaviour by developers, tackle strategic land baking, aid smaller-sized enterprises to acquire land for development, facilitate more effective land assembly by local authorities and others, and help communities to better understand the likely path of development in this area.[307]

However, he said there was concern that much of the detail about how the enabling power would be used was to be 'fleshed out' in future regulations.[308] He asked the Minister to provide information on three specific issues:

- First, whether the Government intends to require all those with contractual control interests in land to disclose information, or whether the focus would be targeted on a more limited range of persons or categories of person.[309]

- Second, on the basis that the current Land Registry arrangements on the redaction of prejudicial information are to be retained, whether the Government intends to make any other exceptions (e.g. information that is genuinely commercially sensitive).[310] Currently, developers who enter into contractual arrangements (such as a right of pre-emption, option or conditional contract) often choose to protect their interest at the Land Registry using arrangements intended to keep commercially sensitive details private.

- Finally, he asked the Minister to give the Committee some sense of how the disclosed information would be published.[311] During Second Reading of the Bill, Lisa Nandy, the Shadow Secretary of State, had expressed concerns that the Government were seeking to withhold information on arrangements used by developers to control land.[312]

Tim Farron, the Liberal Democrat spokesperson for Housing, Communities and Local Government, said that he also supported the aims of Part 9 of the Bill:

> We are talking about disclosure relating to those who would seek to keep their ownership of land out of the public eye, and therefore away from the interference of local authorities and others. That is crucial, and this is an important part of the legislation. I am glad that the Government is pursuing the issue.[313]

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307 As above
308 As above
309 As above
310 As above
311 PBC Deb 13 October 2022 c764
312 HC Deb 8 June 2022 c843
313 PBC Deb 13 October 2022 c765

However, he asked about the extent to which the Government was seeking clarity of ownership generally, and the extent to which ownership could be adjudicated. He highlighted rural or semi-rural communities, where there are significant chunks of land that are potentially common spaces, and could be enhanced as public spaces, but nobody knows who owns them.[314]

Regarding the publication of information collected under clauses 181 and 182, Dehenna Davison said that the Government would publish this information as machine-readable open data accessible to the public. This would be in line with its commitments set out in the 2017 Housing White Paper (PDF) to make the land market more open and competitive.[315] However, other information gathered and retained (e.g. for national security purposes) and held by the Government would not be made publicly available. The Minister said the Government was seeking to achieve a fine balance between making the land market as transparent as possible while protecting the privacy of personal data.[316]

Regarding the other questions raised, the Minister said she would write to both Matthew Pennycook and Tim Farron.

314 As above

315 Department for Communities and Local Government, Fixing our broken housing market (PDF) Cm 9352, February 2017, (accessed 24 October 2022)

316 PBC Deb 13 October 2022 c766

9 Miscellaneous provisions

9.1 Pavement licences

Clause 187 (then 184) and **Schedule 17** of the Bill would make permanent the regime for pavement licences, as set out in the Business and Planning Act 2020. The regime introduced by the 2020 Act applies in England only. Government guidance, updated in July 2022, explains how the system currently operates.[317]

For the Opposition, Alex Norris expressed support for the Government's proposals on pavement licences.[318] However he moved amendments to "enhance" the system. None were accepted, and Clause 187 and Schedule 17 were agreed without division.[319]

Pavement licensing and roads

Amendment 199 would have allowed a pavement licence to include part of a carriageway, where the carriageway was adjacent to an eligible pavement (for example). Alex Norris said the amendment was needed because, at present, a licensed area could take up part of a pavement, but not part of a carriageway unless vehicles were already restricted or excluded from it. The amendment would allow a pavement licence to use part of the carriageway adjacent to a pavement. Local authorities would be able to decide where it was appropriate to allow use of the carriageway.[320] Dehenna Davison, the Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities, said there were already ways of doing this – e.g. through traffic regulation orders under the Road Traffic Regulation Act 1984 or pedestrian planning orders under section 249 of the Town and Country Planning Act 1990.[321] Alex Norris withdrew his amendment.

Amendment 203 would have enabled local authorities to consider the needs of road users when deciding whether to grant a pavement licence.[322] Alex Norris said he wanted to test the Government's views on whether a local

317 DLUHC/MHCLG, Guidance: pavement licences (outdoor seating), 26 July 2022 (accessed 21 October 2022

318 PBC Deb 18 October 2022 cc771-2

319 PBC Deb 18 October 2022 c784

320 PBC Deb 18 October 2022 cc771-2

321 PBC Deb 18 October 2022 c773

322 PBC Deb 18 October 2022 c778

authority could refuse a licence that inhibited or unduly influenced "the free flow of people or their enjoyment of the public amenity".[323]

In response, Dehenna Davison said local authorities already had to consider the continuing flow of pedestrians and other road users on the highway when determining licence applications. Moreover, ensuring that pavements remained accessible to everyone was a condition of temporary pavement licences issued by councils. If that condition was not met, licences could be revoked.[324] Alex Norris withdrew the amendment.[325]

Amendment 206 would have allowed a local authority to require that furniture was removed from a highway when it was not in use, as well as imposing a condition to require the licensee to prevent smoke-drift affecting those in the vicinity.[326] Dehenna Davison said pavement licences could be granted, subject to any condition that a local authority considered reasonable (under section 5(1) of the 2020 Act). Alex Norris withdrew the amendment.[327]

Amendment 207 would have allowed local authorities to issue £500 fixed penalty notices to persons who left or put removable furniture on a street in contravention of a notice.[328] **Amendment 208** would have made it an offence to contravene a local authority notice requiring a person to remove furniture or to refrain from putting it on the highway.[329] Alex Norris said that many licensing authorities had "highlighted the challenge of not being able to adequately enforce" the temporary pavement licence regime. He gave the following example: "if a premises puts tables and chairs outside its business without a licence, the licensing authority is not the one that can take action; it needs the highways authority to do that".[330] Alex Norris said his amendments would give councils a range of different enforcement approaches, depending on the circumstances of each case. The amendments were supported by the Local Government Association, the Institute of Licensing and the National Association of Licensing and Enforcement Officers.[331]

Dehenna Davison said the Bill would "lead to appropriate protection of our communities by giving local authorities powers that work as a deterrent and to directly tackle issues where notices are ignored".[332] She noted that section 148 of the Highways Act 1980 created an offence of depositing, without lawful

323 PBC Deb 18 October 2022 c778
324 PBC Deb 18 October 2022 c779
325 PBC Deb 18 October 2022 c779
326 PBC Deb 18 October 2022 c781
327 PBC Deb 18 October 2022 c782
328 PBC Deb 18 October 2022 c782
329 PBC Deb 18 October 2022 c782
330 PBC Deb 18 October 2022 cc782-3
331 PBC Deb 18 October 2022 c784
332 PBC Deb 18 October 2022 c784

authority or excuse, things that cause interruption to users of the highway.[333] Alex Norris withdrew the amendments.[334]

Fees

Amendments 204 and 205 would have enabled a local authority to share in the profit accruing from a licence enabling a licensed business to trade on a highway, and to charge to a licensee the cost of maintaining and cleansing the licensed part of the highway.[335] In response, Dehenna Davison said that local authorities had the flexibility to set fees at any level under the fee cap to respond to local circumstances. At a time of rising costs, the Government did not want to impose additional charges on business, particularly given that the hospitality industry was one of the hardest hit by the pandemic.[336] Alex Norris withdrew the amendments.[337]

Consultation requirements

Amendment 200 would have caused the public consultation period for licence applications would begin from the date on which the local authority sent a receipt to the applicant. **Amendment 201** would have amended section 2 of the 2020 Act so that the consultation period would be 28 days, rather than 14.[338] Alex Norris said the amendments were necessary because the current application and consultation processes for licences "did not adequately protect the public interest, particularly with regard to having suitable time to engage in a consultation".[339]

Dehenna Davison said the regime under the 2020 Act had been successful because it provided a "simpler and more streamlined process to gain the licence". She claimed the amendments would place unnecessary new administrative processes on local authorities by requiring a receipt to be sent to all applicants. The amendments could also create a delay in the process, meaning that licences could take longer to be determined should receipts not be processed within reasonable timescales. The Minister also pointed out that the Government was seeking to double the consultation and determination periods, compared with the temporary process, to ensure that communities had sufficient opportunities to comment on applications.[340] Alex Norris withdrew his amendments.[341]

333 PBC Deb 18 October 2022 c784
334 PBC Deb 18 October 2022 c784
335 PBC Deb 18 October 2022 c774
336 PBC Deb 18 October 2022 c775
337 PBC Deb 18 October 2022 c776
338 PBC Deb 18 October 2022 c776
339 PBC Deb 18 October 2022 c776
340 PBC Deb 18 October 2022 c777
341 PBC Deb 18 October 2022 c778

Determination of licences

Amendment 202 would have allowed a local authority 28 days to determine a licence application, instead of 14.[342] When speaking to the amendment, Alex Norris explained that the Bill retained a "stringent regime whereby a local authority must determine an application for a pavement licence within a fixed period". This was originally seven days: the Bill would increase it to fourteen. If the local authority failed to make a determination, the application would be deemed to have been granted.[343] Alex Norris said it was "reasonable to expect a little more time for determination, not least because local authorities are hard-pressed". He also noted that the two-week period would not align with most applications people might make to their local authorities: "for example, it would certainly not align with an alcohol licence - ordinarily, that would not be determined in 14 days, and it definitely would not be deemed to be granted if the clock had run out".[344]

Dehenna Davison resisted the amendment, claiming it "would create a slower process than that which it replaces".[345] Alex Norris said that was the intention. There was a risk that the Bill's provisions could result in system "just a little too streamlined". He withdrew his amendment but hoped the Minister would "keep thinking" about the issue.[346]

9.2 Historic environment records

Historic Environment Records (HERs) provide information on historic buildings and landscapes as well as archaeological sites and finds in an area. They are maintained and managed by local authorities.[347] Clause 188 would require local authorities to take reasonable steps to obtain information to include in their HERs and keep their HERs up-to-date. It would also allow the Secretary of State to draw up regulations on how to store and publicise this information.

Lee Rowley, the Under-Secretary for Levelling Up, Housing and Communities, said the Bill would put HERs on "a statutory footing for the first time". This would "ensure that local plans and planning decisions are informed by an understanding of an area's history".[348]

Clause 188 (then 185) did not generate a significant amount of discussion or debate. Rachael Maskell (Lab/Co-op) expressed support for the provision on HERs but called for greater involvement of archaeologists and conservation

342 PBC Deb 18 October 2022 c780
343 PBC Deb 18 October 2022 c779
344 PBC Deb 18 October 2022 c780
345 PBC Deb 18 October 2022 c780
346 PBC Deb 18 October 2022 c780
347 Historic England, Information Management: Historic Environment Records (HERs), undated
348 PBC Deb 18 Oct 2022, c786

officers in the planning process (amendment 130).[349] In response, Lee Rowley said the Government would consider these concerns when drawing up guidance on HERs.[350]

9.3 Review of RICS

Clause 189 would give the Secretary of State power to appoint an independent person to carry out a review of the governance of the Royal Institution of Chartered Surveyors (RICS) and its effectiveness in meeting its objectives.

The clause falls against a backdrop of ongoing independent reviews of RICS governance and the debate about how to value flats in tall buildings following the Grenfell Tower tragedy. The Library's briefing on the Bill ahead of second reading provides further background.[351]

Clause 189 was considered in the 24th sitting of the committee, on 18 October 2022.[352] Minister Lee Rowley said that the clause would be used "extremely sparingly" but that it was "reasonable and proportionate" for the Government to have the power to commission reviews, should it be necessary.[353]

Shadow Minister Matthew Pennycook MP said that the Opposition had no issue with the clause in principle but questioned the Government on its wording.[354] He said that RICS had raised "deep concerns" about the clause and the precedent it would set for the independence of RICS and of other royal chartered bodies. He said that RICS had argued that the clause was not needed as RICS had accepted in full the recommendations of the independent Levitt review and subsequent Bichard Review, including committing to regular independent reviews. Mr Pennycook questioned whether the clause should be revised in light of these commitments.

Mr Rowley said the Government would engage with RICS in the coming weeks and before further stages of the Bill to understand its concerns and "see what reassurances" could be provided.[355]

9.4 Vagrancy Act

Sections 3 and 4 of the Vagrancy Act 1824 create offences for begging and rough sleeping respectively.[356] Section 81 of the Police, Crime, Sentencing and

349 PBC Deb 18 Oct 2022, c785
350 PBC Deb 18 Oct 2022, c786
351 Library briefing, Levelling Up and Regeneration Bill 2022-23, 1 Jun 2022.
352 PBC Deb 18 Oct 2022, from c787.
353 PBC Deb 18 Oct 2022, c789.
354 PBC Deb 18 Oct 2022, c788.
355 PBC Deb 18 Oct 2022, c789.
356 Sections 3 and 4, Vagrancy Act 1824

Courts Act 2022 (the PCSC Act) provides for the repeal of the Vagrancy Act in full.[357] However, this legislation has not yet been commenced and the Vagrancy Act therefore currently remains in force.[358]

Clause 190 of the Bill would enable the Home Secretary to, by regulations, make provisions for conduct that is considered an offence under sections 3 and 4 of the Vagrancy Act. This could include creating criminal offences or civil penalties for such actions. In effect, this would enable the Government to replace the begging and rough sleeping offences that the Vagrancy Act provides, disregarding its repeal. **Clause 190** is a 'placeholder' clause. The Government intends to provide details of what the replacement provisions would look like at a later stage. It was agreed to in Committee without a division.

Dehenna Davison, Parliamentary Under Secretary for DLUHC, said that whilst the Government recognised that the Vagrancy Act "was antiquated and not fit for purpose",[359] it also needed to balance its "role in providing essential support for the most vulnerable with ensuring that the police and other agencies can protect communities".[360] The Government launched a public consultation to seek views on replacing the Vagrancy Act.[361] Dehenna Davison said that the intention behind this placeholder clause was to allow the Government to introduce "appropriate legislation" once responses to the consultation have been analysed.[362]

Clause 190 (then clause 187) attracted criticism from Opposition Members. Matthew Pennycook (Labour Shadow Minister for Housing and Planning) called the Vagrancy Act an "embarrassing remnant of Georgian England's approach to the poor and destitute" that should be "consigned to the dustbin of history in its entirety", not brought back or reformed in a modern form.[363] Similarly, Rachel Maskell (also Labour) said it was an "abomination" and "completely unacceptable" to attempt to put the Vagrancy Act provisions back into legislation.[364] Tim Farron (Liberal Democrats Spokesperson for Communities and Local Government) shared their views, stating that the clause was "gratuitous" and "morally wrong" and would serve "no value to society".[365]

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357 Section 81, Police, Crime, Sentencing and Courts Act 2022

358 Further detail on the Vagrancy Act and its use in relation to begging and rough sleeping is set out in the Library briefing paper Rough Sleepers: Enforcement Powers (England). For more discussion on its repeal provided for in the Police, Crime, Sentencing and Courts Act 2022, see section 11.4 of the Library briefing for second reading of the Levelling Up and Regeneration Bill 2022-23.

359 PBC 18 October 2022, c789

360 As above

361 The Home Office ran the public consultation on replacing the offences previously held in the Vagrancy Act from 7 April 2022 to 5 May 2022. At the time of writing the Government had not yet published its response.

362 PBC 18 October 2022, c789

363 PBC Deb 18 Oct 2022, c790

364 PBC Deb 18 Oct 2022, c792

365 PBC Deb 18 Oct 2022, c791

Labour said it would not oppose the clause at this stage of proceedings. However, both Matthew Pennycook and Rachel Maskell urged the Government to reconsider its position and voluntarily withdraw the clause from the Bill.[366] Matthew Pennycook stated that if the Government does not, Labour "will work with Members from across the House to ensure that it is removed on Report".[367]

Dehenna Davison promised that following Committee stage, the Minister with responsibility for rough sleeping would write to each member of the Committee to "outline the next steps" for developing the provisions to replace the Vagrancy Act.[368]

The concerns raised by opposition members during the debate about clause 190 centred around four key issues:

Going against the wishes of Parliament

Members argued that the House had already "made it clear that it wished the Vagrancy Act to be repealed in full" when it voted for this to be added to the PCSC Act.[369] The Government was criticised for disregarding this process and attempting to delay the repeal of the Vagrancy Act. Rachel Maskell called it "an insult" to Parliament.[370]

Lack of necessity

Opposition members argued that replacing sections 3 and 4 of the Vagrancy Act was unnecessary because "plenty of provisions already exist"[371] in the law that provide the police with "sufficient powers to tackle harmful types of begging, harassment, antisocial behaviour and exploitative activity."[372]

Counterproductive measures

Opposition members argued that allowing new offences (and/or civil penalties) to be created for rough sleeping and begging would come with "all the damaging and counterproductive implications" that that Vagrancy Act offences currently entail.[373]

366 PBC Deb 18 Oct 2022, c790 and c792 (respectively). Tim Farron also urged the Government to withdraw the clause from the Bill: see PBC Deb 18 Oct 2022, c791

367 PBC Deb 18 Oct 2022, c790

368 PBC Deb 18 Oct 2022, c794

369 PBC Deb 18 Oct 2022, c790

370 PBC Deb 18 Oct 2022, c792

371 PBC Deb 18 Oct 2022, c791

372 PBC Deb 18 Oct 2022, c790. Some examples of legislation that were given included the Anti-social Behaviour Act 2003, the Modern Slavery Act 2015 and the Fraud Act 2006.

373 PBC Deb 18 Oct 2022, c790. For more discussion on the concerns about the impact of the Vagrancy Act and criminalising rough sleeping and begging, see section 11.4 of the Library's briefing on Levelling Up and Regeneration Bill 2022-23 , or sections 3 and 4 of the Library briefing, Rough Sleepers: Enforcement Powers (England).

Tim Farron argued that when people are street homeless and in housing need, they may also be facing a range of other challenges such as addiction that they need help with. Laws that criminalise them for rough sleeping do not address these issues and instead add to a sense of shame. He argued "the last thing that they need is to be criminalised" and that this would just displace them somewhere else. Instead, he stated, the focus should be on doing "something to meet their needs."[374]

Rachel Maskell said that criminalising or introducing civil sanctions for begging would not just affect those sleeping rough. She argued that debts, and difficulties navigating the social security system and getting support, can leave "people who are living in hostel accommodation, sofa surfing, and so on" turning to begging as a "mechanism by which to survive, feed themselves and get through the day or night".[375] She concluded that:

> ...we should provide support and pathways for people out of that situation ... We need restitution and opportunity, not blame and criminalisation of the most vulnerable people in our communities.[376]

Lack of clarity and scrutiny

Concerns were raised about the Committee being asked to approve a "placeholder clause" that would allow much more substantial legislation to be introduced later without any clarity about what those provisions would be. Matthew Pennycook highlighted that:

> because clause 187 is a placeholder clause, we have absolutely no idea as we debate it today what the "suitable replacement legislation" will look like ... It could include positive measures that featured in the consultation that the Minister mentioned, which was launched in April, such as multi-agency outreach, but there is a clear risk that any replacement regime introduced via the powers provided for by this clause could once again criminalise people who are begging or sleeping rough.[377]

Dehenna Davison said that:

> ...the Government are absolutely committed ... to not criminalising anybody simply for having nowhere to live. The intent of any replacement legislation will not be to criminalise people for being homeless.[378]

However, despite the Minister's commitment, members of the Committee remained concerned that subsection (2) of clause 190 "effectively will allow for the recriminalisation of homelessness".[379] Emma Lewell-Buck (Labour) argued that the Committee was being asked "to have faith that the Government do not want to criminalise rough sleeping", but:

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374 PBC Deb 18 Oct 2022, c791

375 PBC Deb 18 Oct 2022, c792

376 As above

377 PBC Deb 18 Oct 2022, c790

378 PBC Deb 18 Oct 2022, c793. See also c794.

379 PBC Deb 18 Oct 2022, c793

> [the Government] is asking us to approve a clause that will allow them to do just that. We are not debating what the Government are doing on rough sleeping; we are debating this legislation.[380]

[380] As above

10 Appendix

Members of the Public Bill Committee

The Public Bill Committee for this Bill sat from 21 June to 20 October 2022. There were 27 sittings.

Chairs: Sir Mark Hendrick; Philip Hollobone; Sheryll Murray; Ian Paisley

Stuart Andrew (Pudsey) (Con)

Ben Bradley (Mansfield) (Con)

James Cartlidge (South Suffolk) (Con)

Dehenna Davison (Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities)

Tim Farron (Westmorland and Lonsdale) (LD)

Colleen Fletcher (Coventry North East) (Lab)

Patricia Gibson (North Ayrshire and Arran) (SNP)

Nigel Huddleston (Lord Commissioner of His Majesty's Treasury)

Simon Jupp (East Devon) (Con)

Emma Lewell-Buck (South Shields) (Lab)

Rachael Maskell (York Central) (Lab/Co-op)

Robbie Moore (Keighley) (Con)

Jill Mortimer (Hartlepool) (Con)

Alex Norris (Nottingham North) (Lab/Co-op)

Neil O'Brien (Harborough) (Con)

Matthew Pennycook (Greenwich and Woolwich) (Lab)

Lee Rowley (Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities)

Greg Smith (Buckingham) (Con)

Matt Vickers (Stockton South) (Con)

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