**Written Evidence to the Levelling Up and Regeneration Bill Committee**

**Current Clause 97 of the Levelling Up and Regeneration Bill**

**Submission by Asylum Matters, Medical Justice and Helen Bamber Foundation**

**Introduction**

1. Asylum Matters, Medical Justice and Helen Bamber Foundation submit this evidence jointly in relation to Clause 97 of the Levelling Up and Regeneration Bill as introduced. Further information about our organisations is at the end of this submission.

2. [Clause 97 of the Bill](https://publications.parliament.uk/pa/bills/cbill/58-03/0006/en/220006en.pdf) allows the ‘appropriate authority’ to apply to the Secretary of State for planning permission instead of the Local Planning Authority where the development is in England and considered to be of national importance and urgent, or of national importance and not urgent.

3. We are concerned that Clause 97, if allowed to stand part of this Bill, will remove the proper and necessary checks on the exercise of executive power in the running and management of the asylum accommodation system in England, and will result in serious adverse impacts and harm both for people seeking asylum and for local communities in England.

4. It is vital that the obligation remains to consult local communities on substantive developments relating to asylum accommodation. We consider that the Home Office has consistently sought to avoid scrutiny of its proposals for large scale institutional facilities on Crown Land, and that Clause 97, whilst extremely broadly drawn, is aimed at least in part at bypassing what controls there currently are, in the institution of a new system of permanent asylum ‘accommodation centres’ in the UK.

**Background**

5. The Government has announced its intention to move towards a system of large-scale asylum ‘accommodation centres’ (also sometimes referred to as ‘reception centres’) in which to place people seeking asylum who would otherwise be destitute, whilst they await a decision on their asylum claim.

6. On 14 April 2022 the Prime Minister made a [major policy speech](https://www.gov.uk/government/speeches/pm-speech-on-action-to-tackle-illegal-migration-14-april-2022), stating people seeking asylum *‘will be housed in accommodation centres like in Greece, with the first of these to open shortly’*. On the same day, Home Secretary Priti Patel [announced](https://www.gov.uk/government/news/world-first-partnership-to-tackle-global-migration-crisis) the Government would *‘also shortly open a new, bespoke, reception centre’* on an ex-RAF base in Linton-on-Ouse, North Yorkshire.

7. Prior to this announcement, in September 2020 the Government instituted the use of profoundly unsuitable former Military of Defence barracks in Penally, Pembrokeshire and Napier, Kent as [‘contingency (temporary) accommodation’](https://questions-statements.parliament.uk/written-questions/detail/2021-11-03/HL3676) for people seeking asylum. The facility at Penally closed in March 2021. The facility at Napier remains in use. The Government has outlined that it [could serve as a ‘pilot’](https://www.legislation.gov.uk/uksi/2021/962/pdfs/uksiem_20210962_en.pdf) for processes in the proposed new centres.

8. In December 2020 the Government announced its intention to ‘accommodate’ people seeking asylum in prefabricated constructions on derelict Ministry of Defence Land at [Barton Stacey (Hampshire)](https://www.mirror.co.uk/news/politics/priti-patel-plans-dump-300-23194180) and in the shadow of the Immigration Removal Centre at [Yarls Wood, Bedfordshire](https://www.theguardian.com/uk-news/2020/dec/16/home-office-criticised-over-plan-to-house-asylum-seekers-at-yarls-wood). Neither development came to fruition.The development at Yarl’s Wood was halted [one day before](https://www.landmarkchambers.co.uk/home-office-abandons-military-barracks-style-asylum-camp-at-yarls-wood/) an extended deadline on a claim for judicial review.

9. All the sites are or have been proposed on Crown Land. All have been subject to controversy - and in the case of [Napier](https://www.theguardian.com/uk-news/2021/jun/03/napier-barracks-asylum-seekers-win-legal-challenge-against-government) and [Penally](https://www.duncanlewis.co.uk/news/Duncan_Lewis_Solicitors_challenge_the_Home_Office%E2%80%99s_use_of_the_Penally_Camp_exmilitary_barracks_to_house_up_to_236_men_seeking_asylum_%287_December_2020%29.html) barracks legal challenge - over the profound harm caused to people seeking asylum placed in them, in respect of the mechanisms used to secure their use, as well as because of the lack of Government consultation of local communities where they have been situated, and resulting impacts on community cohesion. [Concerns at Barton Stacey](https://hansard.parliament.uk/commons/2021-04-27/debates/A3F6363E-6A0C-4B20-9308-C4A8253497E0/SupportForAsylumSeekers) [included](https://www.theguardian.com/uk-news/2020/dec/09/planned-asylum-seeker-site-hampshire-village-open-prison-barton-stacey) the fact that the accommodation would be located next to a Ministry of Defence firing range and shooting school, had poor access to running water, and that residents would have difficulty in accessing services and activities given the remote location of the site. At Yarl’s Wood [concerns included](https://appgdetention.org.uk/wp-content/uploads/2021/12/211209-APPG-on-Immigration-Detention-Report-of-Inquiry-into-Quasi-Detention.pdf?x47279) the proximity of the site to a detention centre, the inappropriate nature of the site for accommodation and the lack of information on services to be provided.

10. [Persistent concerns](https://appgdetention.org.uk/wp-content/uploads/2021/12/211209-APPG-on-Immigration-Detention-Report-of-Inquiry-into-Quasi-Detention.pdf?x47279) at the still open Napier barracks include: a lack of effective screening processes and safeguards; vulnerable people accommodated at the site, including those who are self-harming or suicidal; lack of privacy and sleep deprivation caused by the shared facilities; geographical and social isolation experienced by residents; inadequate conditions, safeguarding, healthcare and access to legal advice, and severe consequences for people’s mental health due to the detrimental impact of being in a prison-like, military setting. The High Court in June 2021 [ruled](https://www.judiciary.uk/wp-content/uploads/2021/06/Napier-Barracks-judgment.pdf) that the provision of the accommodation was unlawful, inter alia for not meeting the minimum standards required under S96 of the Immigration and Asylum Act 1999. In February 2022, MPs from the APPG on Immigration Detention visited the site in follow up to their [inquiry on quasi-detention](https://appgdetention.org.uk/inquiry-into-quasi-detention/) and said they remained [‘deeply concerned’](https://appgdetention.org.uk/napier-barracks-visit-report-published/) about conditions, calling for the camp to be closed. A [recently published report by the Chief Inspector of Borders and Immigration](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1087021/A_re-inspection_of_Napier_Barracks__March_2022.pdf) re-inspecting the barracks noted improvements, but found ongoing issues, including with sleep deprivation for residents and state of the accommodation.

11**.**  In this context, it is vital that any large-scale institutional facility on Crown Land, such as the ‘accommodation’ facility proposed at Linton-on-Ouse, which risks inflicting such harm, is subject to an adequate level of democratic scrutiny, including by the local communities and local services that will be affected. This has not happened to date. The present Clause 97 would appear to remove safeguards ensuring such scrutiny *should* take place.

**Planning and impact on local communities**

12. Both at [Penally](https://questions-statements.parliament.uk/written-questions/detail/2021-02-24/158149-24.158149.h%26s%3Dasylum%2Bsection%3Awrans) and Napier, it is our understanding thatthe Government sought to rely on part Q emergency ‘permitted development rights’ for Crown Land to allow it to open the facilities.

13. The facility at Penally opened on 21 September 2020 and closed on 21 March 2021. Minister Kevin Foster [stated](https://questions-statements.parliament.uk/written-questions/detail/2022-01-18/106753) *“Penally provided emergency capacity in response to pressures put on the asylum estate during the pandemic. As those pressures have eased, we have decided not to extend emergency planning permission beyond six months and close Penally.”*

14. At [Napier barracks](https://ilpa.org.uk/home-office-consultation-on-napier-barracks-planning-application/), permission was granted under Part Q, Part 19 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (‘GPDO’). Initially Class Q only allowed use for 6 months but, [‘largely as a result of the Covid-19 pandemic’](https://caselaw.nationalarchives.gov.uk/ewhc/admin/2022/1635), that period was subsequently extended to 12 months, until 20 September 2021.

15. The Secretary of State subsequently granted herself permission to use Napier Barracks for a further period of five years, without any public consultation, through the unusual procedure of using delegated legislation: [The Town and Country Planning (Napier Barracks) Special Development Order 2021 (‘SDO’)](https://www.legislation.gov.uk/uksi/2021/962/made). This was laid before Parliament on 27 August 2021. The Government’s approach was criticised by the House of Lords Secondary Legislation Scrutiny Committee, which [raised concerns](https://committees.parliament.uk/publications/7347/documents/79400/default/) including that the legislation granting the permission had been laid whilst Parliament was in recess and that ‘insufficient information’ had been provided by the Government about developments at Napier.

16. The Special Development Order came into force on 21 September 2021 and granted temporary planning permission for a change of use to accommodation for persons seeking asylum to the end of 20 September 2026. The Home Office ran a public [‘consultation’](https://www.gov.uk/government/consultations/napier-barracks-planning-application) after the fact on the change of use. We, and others, did not consider this to be a meaningful consultation in any sense, as it took place after the fact of the decision being made. The [Planning Statement](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1045331/Planning_Statement_Napier_Jan22.pdf) issued with the consultation included a commitment to complete a Statement of Community Involvement and publish this on the consultation website. Nothing has been published to date, despite the consultation closing on 30 January 2022.

 17. In a [judgment](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fdpglaw.co.uk%2Fwp-content%2Fuploads%2F2022%2F06%2FHough-final-judgment.docx&wdOrigin=BROWSELINK) handed down on 24 June 2022, the High Court ruled that the decision in August 2021 to grant planning permission on the site for a further 5 years was unlawful. The judge ruled that there was a failure to have proper regard to the Public Sector Equality Duty and that the nature of the development raised *‘very obvious issues…in particular in relation to…potential victimisation and harassment…and the fostering of good relations’*. The judgment stated that *‘The provision of a large amount of segregated accommodation for male asylum seekers on the edge of the town has the obvious potential to create tensions within the local community’*; that *‘there was no consideration…of …longer-term impacts on community relations’* , and that *‘Although the Minister knew that the use would continue for five years, he did not have information about how that would impact on community relations over that period and what other steps could or should be taken.*’ A [further hearing](https://dpglaw.co.uk/high-court-home-office-self-grant-of-planning-permission-for-napier-asylum-camp-unlawful/) to determine the form of final order grant is awaited.

18. The currently proposed facility at Linton-on-Ouse is different from those at Penally and Napier, in that it is explicitly part of a new policy to place people seeking asylum in permanent large-scale, segregated facilities most accurately described as [‘quasi-detention’](https://appgdetention.org.uk/wp-content/uploads/2021/12/211209-APPG-on-Immigration-Detention-Report-of-Inquiry-into-Quasi-Detention.pdf?x47279). This is a profound shift away from the system of asylum dispersal which has meant that for the last twenty years, people seeking asylum have been housed as an integral part of our communities where they can access support, friendship, and advice.

**Lack of consultation**

19. Home Office procurement of asylum accommodation has long been characterised by a lack of consultation with local communities and local government. In our view this has been systemically apparent in the use of hotels to accommodate people during the pandemic, as well as in Penally (the Secretary of State for Wales stated he [first had discussions with the Home Secretary](https://questions-statements.parliament.uk/written-questions/detail/2020-11-24/120097) on Penally nine days before it opened, and the local health board [was informed three days prior](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005065/An_inspection_of_contingency_asylum_accommodation_HMIP_report_on_Penally_Camp_and_Napier_Barracks.pdf)); and at Napier (where the local council*,* the local MP, local and district councillors [wrote to the Home Office](https://www.kentonline.co.uk/folkestone/news/military-barracks-to-house-asylum-seekers-233772/) to protest they had been given *‘very little notice of the decision’* to open the barracks and that it was *‘one they could not support’*). A similar lack of consultation occurred at [Barton Stacey](https://www.dailyecho.co.uk/news/18934048.hampshire-council-leader-slams-plans-asylum-seeker-centre/) and at [Yarls’ Wood](https://www.theguardian.com/uk-news/2021/jan/16/legal-action-launched-against-plan-to-house-asylum-seekers-at-yarls-wood).

20. Nowhere is this lack of local consultation more starkly apparent currently than in the small rural village of Linton-On-Ouse (population approximately 600 adults), where the flagship announcement of the first ‘reception’ or ‘accommodation’ centre to accommodate 1500 people seeking asylum in an ex-RAF base in the village was made without any reference to the local community, the [Parish Council](https://lintononouse.com/), the [District Council](https://www.hambleton.gov.uk/news/article/272/statement-in-response-to-government-plans-for-an-asylum-seekers-centre-at-linton-on-ouse), the [Police and Crime Commissioner](https://www.northyorkshire-pfcc.gov.uk/for-you/linton-on-ouse-2022/) or local police or health services. The justification initially given for this was that it was [‘part of a bigger series of announcements](https://www.lintononouseparishcouncil.org.uk/_UserFiles/Files/_Minutes/0-1._Linton_Minutes_21_April_2022.pdf)’.

21. From our work in this area, we know it is difficult to overstate the degree of uncertainty, distress and outrage caused to residents in Linton-on-Ouse by the total lack of consultation, the way the announcement was handled and the lack of consideration shown to them. A [concerted local campaign](https://www.lintonaction.co.uk/) is underway against the proposed facility, dubbing it the Wrong Plan in the Wrong Place.

22. As happened both at [Napier](https://www.kentlive.news/news/kent-news/far-right-mob-make-odd-4533197) and Penally, Linton-on-Ouse become [a place of interest to far right activists](https://scoutnews.substack.com/p/a-sleepy-yorkshire-village-becomes) almost immediately following the announcement. There has been leafleting of residents, [including](https://hopenothate.org.uk/2022/05/13/parachuting-in-and-hijacking-concerns-the-far-right-come-to-lynton-on-ouse/) from [groups with Neo-Nazi links,](https://hopenothate.org.uk/2022/05/13/parachuting-in-and-hijacking-concerns-the-far-right-come-to-lynton-on-ouse/) activists are seeking to use the development to further their followings on social media and community cohesion has been affected. At both [Napier](https://www.opendemocracy.net/en/opendemocracyuk/i-feared-i-would-die-life-inside-the-napier-barracks-asylum-seeker-housing/) and [Penally](https://www.bbc.co.uk/news/uk-wales-54248512), such attention from far-right groups translated to harassment of people seeking asylum once they were on site.

23 Mr Kevin Hollinrake MP has [referenced this issue](https://www.bbc.co.uk/news/uk-england-york-north-yorkshire-61576756?at_medium=RSS&at_campaign=KARANGA) and further brought the issue of the proposed centre to Parliament on several occasions. In an [adjournment debate on 24 May 2022](https://hansard.parliament.uk/Commons/2022-05-24/debates/8ABDF66A-EBB5-4EF8-B6D2-8389CD4DD5E4/AsylumReceptionCentreLinton-On-Ouse) he described the process as ‘[an abuse of power’](https://hansard.parliament.uk/Commons/2022-05-24/debates/8ABDF66A-EBB5-4EF8-B6D2-8389CD4DD5E4/AsylumReceptionCentreLinton-On-Ouse), stating ‘[residents are sacrificial lambs to a national policy](https://hansard.parliament.uk/Commons/2022-05-24/debates/8ABDF66A-EBB5-4EF8-B6D2-8389CD4DD5E4/AsylumReceptionCentreLinton-On-Ouse)’, that the village is ‘[collateral damage](https://hansard.parliament.uk/Commons/2022-05-24/debates/8ABDF66A-EBB5-4EF8-B6D2-8389CD4DD5E4/AsylumReceptionCentreLinton-On-Ouse)’ and that the plans were ‘[half-baked](https://hansard.parliament.uk/Commons/2022-05-24/debates/8ABDF66A-EBB5-4EF8-B6D2-8389CD4DD5E4/AsylumReceptionCentreLinton-On-Ouse)’.

25. Hambleton District Council has [issued a Pre-Action Protocol letter and is currently considering its position](https://www.hambleton.gov.uk/news/article/286/update-on-linton-on-ouse) in relation to legal action in relation to the proposed development.

26. In this context, we consider it even more important that local communities where there are any proposals for ‘accommodation centres’ are properly consulted on substantive developments which, if they proceed, will of necessity profoundly affect their lives. It is our assessment that the Home Office has consistently sought to avoid scrutiny of its proposals for large scale institutional facilities on Crown Land.

**27.** **We consider that current Clause 97 would have the effect of allowing the Home Office to bypass current local planning controls with respect to Crown Land in England and thus avoid consulting local people and other stakeholders about the development of facilities like this, and that it should not stand part of the Bill.**

**Asylum Matters** is a charity working locally and nationally to address systemic issues in the asylum system and advocate for positive change. Our four regional representatives work in North East England, North West England, the West Midlands and Yorkshire and Humber. In December 2021 we documented some of the experiences of people seeking asylum who had lived in institutional accommodation, including Napier and Penally barracks in a report ‘[In a Place Like Prison’](https://asylummatters.org/wp-content/uploads/sites/24/2021/12/In-a-place-like-prison.pdf). Those who gave interviews consistently described feelings of being criminalised, retraumatised, punished and segregated by this type of accommodation with resulting severe impacts on mental health.

**Medical Justice** is a charity offering independent medical advice and assessments to people held in immigration detention in the UK. We receive between 800 and 1,000 referrals each year. Our clinicians write medico-legal reports (MLRs) that document people in detention’s physical and psychological scars of past torture, as well as serious health conditions, the impact of detention, and/or injuries sustained during removal attempts or in detention. We also engage in advocacy and parliamentary work, including running the secretariat to the APPG on immigration detention. The APPG carried out a [comprehensive inquiry](https://appgdetention.org.uk/wp-content/uploads/2021/12/211209-APPG-on-Immigration-Detention-Report-of-Inquiry-into-Quasi-Detention.pdf?x47279) into the use of quasi-detention in 2021, and a [follow-up visit](https://appgdetention.org.uk/napier-barracks-visit-report-published/) in 2022.

**The Helen Bamber Foundation** is a specialist clinical and human rights charity that works with survivors of trafficking, torture and other forms of extreme human cruelty. Our multidisciplinary and clinical team provides a bespoke Model of Integrated Care for survivors which includes medico-legal documentation of physical and psychological injuries, specialist programmes of therapeutic care, a medical advisory service, a counter-trafficking programme, housing and welfare advice, legal protection advice and community integration activities and services. HBF provided evidence to the [legal challenge to the use of the Napier site](https://www.helenbamber.org/resources/latest-news/statement-napier-barracks-ruling), which was accepted by the High Court Judge; to the APPG on Immigration Detention inquiry; and to the [Napier planning consultation](https://www.helenbamber.org/resources/reportsbriefings/response-napier-barracks-planning-application-consultation).