

Clause 101 of the Levelling Up and Regeneration Bill – Crown Development

Taking power away from communities

Joint Briefing to the House of Lords – Committee Stage of the Levelling Up and Regeneration Bill
Asylum Matters, Medical Justice, the Helen Bamber Foundation, Ripon City of Sanctuary

- **Clause 101 of the Levelling Up and Regeneration Bill allows the ‘appropriate authority’ to apply to the Secretary of State for planning permission instead of the Local Planning Authority where a development on Crown Land¹ is in England and considered to be of national importance and urgent, or of national importance and not urgent.**
- **We consider the purpose of Clause 101 is to allow the Government to bypass controls that currently exist, when developing a new system of large-scale permanent asylum ‘accommodation centres’ in the UK.**
- **Clause 101 would remove the obligation to consult the public in communities in England about facilities like this. It constitutes a mechanism for the avoidance of public scrutiny, would result in serious adverse impacts for local communities and people seeking asylum and should not stand part of the Bill.**

Current clause 101 of the Levelling Up and Regeneration Bill

Currently, local residents have a right to appear and be heard in decisions about local planning which affect them. Current Clause 101 of the [Levelling Up and Regeneration Bill](#) introduces two new routes to apply for planning permission for the development of Crown Land in England: where the development is considered to be of **national importance**, and where it is necessary that the development be carried out as a **matter of urgency**, and where development is of **national importance but not considered to be urgent**.² The provisions **would allow the appropriate authority (such as Government Departments and others with a Crown or Duchy Interest) to apply directly to the Secretary of State for planning permission in these two circumstances instead of the Local Planning Authority.**

This constitutes a widely drawn mechanism allowing the Secretary of State to grant planning permission for controversial developments on Crown Land in England, bypassing the planning system. The only bodies that the Secretary of State would have to consult before granting permission under this provision are the

¹ Crown land is defined as land in which there is a Crown interest or a Duchy interest (per [section 293 of the Town and Country Planning Act 1990](#)). Operational Crown land is land owned or managed by Crown bodies that is used or held for operational purposes. Examples of Crown bodies that have operational land include: the Ministry of Defence (e.g. military bases, training and research facilities); Ministry of Justice (e.g. prisons and probation hostels); the Security and Intelligence Agencies; the Forestry Commission (Public Forest Estate) and others. Further information is available at: <https://www.gov.uk/guidance/crown-development#Definitions-of-Crown-land>

² See HL 84 [Explanatory Notes to the Bill](#) pp95-99

local planning authority and *'such other persons as the Secretary of State considers appropriate.'* There would be no right for the public to be consulted as part of this process. One likely consequence is that Government will seek to exclude members of the public entirely from decisions about placing harmful large-scale asylum 'accommodation' or detention facilities in local neighbourhoods.

See [here](#) (theme 3, paras 13-15) for a legal opinion inter alia addressing this Clause and its impact on current planning laws. This opinion has been commissioned by Rights Community Action.

A systemic lack of consultation

The Government has consistently sought to avoid public scrutiny and consultation about construction or operation of harmful large scale institutional facilities for asylum 'accommodation'. The Home Office previously successfully opened such facilities on ex-military sites at [Coltishall](#) in Norfolk (now closed, despite an [attempt to reopen](#) it in 2022), [Napier](#) in Folkestone (still open) and [Penally](#) in Pembrokeshire (now closed). It has further [made attempts](#), despite local opposition, to construct or operate similar facilities in [Barton Stacey](#), Hampshire, in a facility on the [Yarl's Wood Immigration Removal Centre](#) site in Bedfordshire, and from April 2022 at an ex-military base in the rural village of Linton-on-Ouse, North Yorkshire. All of these projects have been the subject of intense controversy – and, in the cases of [Napier](#), and [Penally](#), legal challenge - over the profound harm to people seeking asylum, as well as the lack of Government consultation of local communities, and resulting impacts on community cohesion. At both [Yarl's Wood](#) and at [Linton-on-Ouse](#), pre-action correspondence was issued and the developments were halted prior to judicial review.

At Penally, the Secretary of State for Wales stated he [first had discussions with the Home Secretary](#) about use of the site nine days before it opened, and the local health board [was informed three days prior](#); and at Napier, the local council, local MP, local and district councillors [wrote to the Home Office](#) 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](#) and at [Yarl's Wood](#).

In the case of [Napier](#), planning permission for the facility was initially secured under Class Q emergency development rights, for 6 months, subsequently extended to 12. The then 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 Government's approach was criticised by the House of Lords Secondary Legislation Scrutiny Committee, which [raised concerns](#) including that the [The Town and Country Planning \(Napier Barracks\) Special Development Order 2021 \('SDO'\)](#) had been laid whilst Parliament was in recess and that 'insufficient information' had been provided by the Government about developments at Napier. After the fact, the Home Office ran a public ['consultation'](#) on the change of use of the site. We, and others, did not consider this to be a meaningful consultation, as it took place after permission was extended. The [Planning Statement](#) that was issued at this time included a commitment to complete a Statement of Community Involvement. This has still not been published, despite the consultation closing on 30 January 2022. In a [judgment](#) handed down on 24 June 2022, the High Court ruled that the decision to grant planning permission 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 development raised *'very obvious issues...in particular in relation to...potential victimisation and harassment...and the fostering of good relations'*.

Lack of consultation by Government has had serious effects on community cohesion in places where large scale institutional sites have been contemplated. In April 2022 Government announced its intention to move towards a system of large-scale permanent asylum 'accommodation centres' in which to place people seeking asylum who would otherwise be destitute, whilst they await a decision on their asylum claim. A flagship announcement of a facility to 'accommodate' 1500 people seeking asylum on an ex-RAF base in a village of approximately 600 adults in Linton-on-Ouse, North Yorkshire was made without any reference to the local community, the Parish Council, the [District Council](#), the [Police and Crime Commissioner](#) or local police or health services. A justification initially given for this was that it was ['part of a bigger series of announcements'](#).

From our work in this area, it is difficult to overstate the effect this had on local residents. As at both [Napier](#) and Penally, Linton-on-Ouse became [a place of interest to far right activists](#) almost immediately following the announcement. There was leafleting of residents, [including](#) from groups with Neo-Nazi links, activists sought to use the development to further their followings on social media and community cohesion was affected. At both [Napier](#) and [Penally](#), such attention from far-right groups translated to harassment of people seeking asylum once they were on site. The development at Linton-on-Ouse was eventually stopped following a [concerted local campaign](#) mounted by residents and the [constituency MP](#); and the [issuing of pre action correspondence](#) by the District Council.

The future – national programmes without local consent

Current planning laws, and in particular the right of local residents to be heard on decisions which affect them, have proved a barrier to Government when attempting to institute large-scale harmful 'accommodation' facilities. We and others, including [a cross-party group of parliamentarians](#), are clear such facilities constitute a form of quasi-detention and cause profound and irreparable harm. The [Home Office procurement pipeline](#) currently indicates that it plans to tender out to the amount of £70 million for the design, build and management of such facilities over two years beginning in June 2023, when the current bill could reasonably be expected to have become law.

Both in this context and as a matter of principle, we consider it crucial that local people in local communities should retain a right to be heard on substantive large-scale developments, such as asylum 'accommodation' centres which, if they proceed, will of necessity profoundly affect their lives.

Clause 101 will allow Government to impose such facilities on local communities. It should not be allowed to 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](#)'. 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](#) into the use of quasi-detention in 2021, and a [follow-up visit](#) 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](#), which was accepted by the High Court Judge; to the APPG on Immigration Detention inquiry; and to the [Napier planning consultation](#).

Ripon City of Sanctuary is one of around 125 grass-roots groups around the UK and Ireland, under the umbrella of City of Sanctuary UK (established 2007), which all work together to offer a warm welcome to refugees and asylum-seekers. They provide direct support to individuals, and according to their local context the groups also engage in: campaigning; distribution of clothing and food; public awareness and myth-busting; and movement-building by awarding 'of Sanctuary' status to schools, colleges, universities, libraries, theatres, maternity units, gardens and other organisations which have clearly and consistently demonstrated a commitment to welcoming refugees.