

JRS UK Evidence to Secondary Legislation Scrutiny Committee on SI 2021/962

This evidence relates to SI 2021/962 The Town and Country Planning (Napier Barracks) Special Development Order 2021.

The evidence has been compiled by the [Jesuit Refugee Service \(JRS\) UK](#). JRS UK supports people seeking asylum and people in immigration detention. Since autumn 2020, this has included providing pastoral and practical support to asylum seeking men accommodated at Napier barracks, working both inside the barracks and supporting a nearby weekly drop-in centre.

1. Summary

- a. SI 2021/962 will extend planning permission to use Napier barracks as asylum accommodation until September 2026 or until the Secretary of State allows previously planned development work to proceed on the site. The Order comes into force, if allowed to do so, on 21st September 2021, when permission to use the site as asylum accommodation would otherwise lapse.
- b. We are concerned that SI 2021/962 will extend the use of Napier barracks as asylum accommodation despite serious ongoing problems at the site since it was opened, and strong evidence that placement at the site poses a risk of harm to asylum claimants including 1) criticism from the Independent Chief Inspector of Borders and Immigration (ICIBI) and HM Inspectorate of Prisons (HMIP)¹, 2) a recent High Court judgement against the Home Office in which Napier was found to be unlawful,² and 3) two COVID-19 outbreaks at the site, following the use of dormitory accommodation contrary to the advice of Public Health England.³ The second outbreak is ongoing as of the time of writing, 06.09.2021.
- c. As such, we are concerned that extension poses a risk of harm to asylum seekers, poses a risk to public health, and raises issues of public concern.
- d. We therefore submit that this extension is both politically and legally significant, and likely to be of interest to the House, as per the Committee's Terms of Reference paragraph 4(a).
- e. We note strong evidence that decisions around Napier are and continue to be made without meaningful consultation with appropriate stakeholders and public authorities; and are particularly concerned about this given the myriad of problems surrounding Napier.
- f. We note that SI 2021/962 constitutes the use of emergency planning powers, and further note that: 1) evictions from asylum accommodation paused due to the COVID-19 pandemic have recommenced; 2) asylum applications are at comparatively low levels; and 3) the Home Office have been aware that permission to use Napier barracks as asylum accommodation was going to lapse in September 2021 for some time. We therefore suggest that the use of *emergency* powers is not justified.
- g. We further note that SI 2021/962 was laid on the last possible day that it could be laid to avoid a lapse in planning permission for Napier; and that this was during parliamentary recess, which

¹ICIBI, "[An inspection of contingency asylum accommodation](#): HMIP report on Penally Camp and Napier Barracks" (July 2021).

²*R (NB & Ors) v Secretary of State for the Home Department* [2021] EWHC 1489 (Admin).

³See section 5 below for further details.

continues for a significant portion of the period in which the SI can be prayed against, and immediately before a bank holiday weekend.

- h. We submit that the High Court judgement in relation to Napier strongly suggests the need for serious scrutiny of the site.
- i. In light of the above paragraphs e-h, we are concerned that SI 2021/962 inappropriately avoids scrutiny of the decision to extend the use of Napier barracks, and submit that this is politically significant and likely to be of interest to the House as per the Committee's Terms of Reference paragraph 4(a).

2. What is the context of SI 2021/962 and what will it do?

- a. The disused MoD site at Napier barracks in Folkestone was redeployed as asylum accommodation in September 2020, and emergency planning permission was granted for this purpose. The existing permission ceases on 21st September 2021.
- b. SI 2021/962 was laid on Friday 27th August 2021 and will come into effect on 21st September 2021. It extends emergency planning permission for Napier barracks to be used as asylum accommodation until either September 2026, or until the Secretary of State allows possession of Napier barracks so that building work can commence in accordance with pre-existing planning permission, specifically phase 4 of the outline planning permission granted by Shepway District Council pursuant to application number Y14/0300/SH, if sooner.⁴
- c. The Home Office has announced plans to use the site as asylum accommodation until September 2025. It is therefore likely that the practical effect of SI 2021/962 will be to extend the use of Napier barracks as asylum accommodation until then, *i.e.* for a further 4 years.

3. The High Court judgement on Napier barracks

- a. In the case of *R (NB & Ors) v Secretary of State for the Home Department* [\[2021\] EWHC 1489 \(Admin\)](#), Mr Justice Linden ruled on 3rd June 2021 that:
 - i. The accommodation at Napier barracks was inadequate in that it did not meet the minimum standards required by the Immigration Act 1999 Section 96 IAA.
 - ii. Both the process for *selecting* people to be sent to Napier barracks, and the process for monitoring their ongoing suitability whilst there, were flawed and unlawful.
 - iii. From 15th January 2021, when residents were given an order not to leave the site until they were permitted to leave, the claimants were unlawfully detained, both under common law and under the European Convention of Human Rights.
- b. The Court did allow the Home Office the opportunity to resolve the problems identified but stated that if the barracks were going to continue to be used then "*there would clearly need to be substantial improvements in the conditions there, and lower numbers of asylum seekers living there for significantly shorter periods, with measures to reduce the risk of Covid infection which are consistent with PHE advice*".⁵ Mr Justice Linden further stated that there would

⁴ SI 2021/962, Paragraph 4, section 2.

⁵ *R (NB & Ors) v Secretary of State for the Home Department* [\[2021\] EWHC 1489 \(Admin\)](#), paragraph 239.

need to be a “*better system for identifying those for whom such accommodation is not suitable and for detecting cases where, although suitable when initially transferred, it ceases to be during the course of their stay*”.⁶

- c. The Court’s judgement:
 - i. Demonstrates the need for scrutiny of decisions with regard to Napier, in order to ascertain whether and how far the problems identified have been resolved.
 - ii. Suggests a lack of legal accountability with reference to decisions made about Napier – such that, for example, unlawful detention could occur.
 - iii. Renders the use of Napier as asylum accommodation a matter of public concern and political significance, and therefore of concern to the House.
 - iv. Demonstrates the legal significance of Home Office decisions relating to Napier.
- d. Both further remarks made by the Judge, and evidence submitted for the court case, demonstrate the harmfulness of the site *qua* asylum accommodation and wider problems at the site, which will be cited below.

4. The Independent Chief Inspector of Borders and Immigration and HM Inspectorate of Prisons report on Napier and Penally

- a. The former Independent Chief Inspector of Borders and Immigration raised a number of serious concerns about Napier including, *inter alia*, the following:⁷
 - i. “the failure to consult local stakeholders on whose services and support the camps would be reliant before taking the decision to proceed was a serious mistake and the need to move at speed is not a satisfactory excuse.”⁸
 - ii. Screening of potential residents for physical and mental health problems was “wholly inadequate”, with all those interviewed at Napier reporting feeling depressed and a third feeling suicidal.
 - iii. Extremely poor communication with people accommodated at Napier.
- b. In their report commissioned by the ICIBI, the HMIP similarly raised concerns about failure to consult with local stakeholders and generally very poor planning; screening of potential residents; and poor communication from the Home Office.
- c. The HMIP also expressed “serious safeguarding concerns in relation to Napier”, specifically highlighting a lack of support for people who self-harmed, and extremely vulnerable individuals who remained at the site for long periods.⁹
- d. The HMIP report also noted residents “feeling trapped in poor conditions”.¹⁰

⁶Ibid., paragraph 239.

⁷In a letter appended to ICIBI, “An inspection of contingency asylum accommodation”. Many of the points referenced here applied to Penally as well as Napier.

⁸Ibid., p.4

⁹ICIBI, “An inspection of contingency asylum accommodation”, paragraph S7, p.12.

¹⁰Ibid., paragraph S9, p.12.

- e. The Home Office released HMIP’s report, and the ICIBI’s appended letter, on the afternoon of 22nd July 2021, the last day before parliament’s summer recess, thereby limiting parliament’s ability to hold the government to account on it.

5. COVID-19 outbreaks at Napier and the advice of Public Health England

- a. Napier was originally opened as asylum accommodation against the advice of Public Health England, which warned that the risk of COVID-19 spreading onsite was too great.¹¹
- b. There was a major outbreak of COVID-19 at Napier barracks in January 2021.¹²
- c. In his ruling against the Home Office in relation to Napier, Mr Justice Linden found that a COVID-19 outbreak at the site had been “inevitable”.¹³
- d. There is now a second, ongoing, outbreak of COVID-19 at Napier barracks.¹⁴
- e. This demonstrates an ongoing public health risk attached to the use of Napier barracks as asylum accommodation, and suggests that any adjustments made to make the site more ‘COVID safe’ are utterly inadequate.
- f. Further, the Home Office’s original failure to heed public health advice, and their extension of Napier despite a second COVID-19 outbreak, suggests that the decision to extend the use of Napier may not be based on a proper assessment of the available evidence, or consultation with appropriate stakeholders and experts.

6. What can we learn from the recurring concerns about Napier?

- a. There is strong evidence from the HMIP, ICIBI, and the High Court case that Napier was originally opened without proper consultation with local stakeholders and without meaningful consultation with relevant public authorities, notably Public Health England.
- b. There is strong evidence of repeated failures in screening and ongoing monitoring for vulnerability of residents at Napier. This is corroborated by the direct experience of JRS UK, whose staff members frequently support potential victims of torture and trafficking placed in Napier.
- c. There continue to be serious public health questions about the use of Napier. The COVID-19 pandemic is ongoing despite the availability and relative efficacy of vaccination; some individuals will remain unvaccinated; and individuals seeking asylum are disproportionately likely to be vulnerable. Furthermore, it is by now clear that Napier barracks is a poor context for disease control generally.

¹¹R (NB & Ors) v Secretary of State for the Home Department [2021] EWHC 1489 (Admin); ICIBI, “An inspection of contingency asylum accommodation: HMIP report on Penally Camp and Napier Barracks”, paragraph S3, p.11.

¹¹R (NB & Ors) v Secretary of State for the Home Department [2021] EWHC 1489 (Admin).

¹²<https://www.bbc.co.uk/news/uk-england-kent-56183137> (accessed 06.09.2021).

¹³R (NB & Ors) v Secretary of State for the Home Department [2021] EWHC 1489 (Admin).

¹⁴<https://www.bbc.co.uk/news/uk-england-kent-58186216>. JRS UK have also been informed of this by residents of the barracks whom we are supporting.

- d. Poor communication from the Home Office to residents is a major issue. This will obviously impact both residents' well-being and the working of the asylum process for those at Napier. It is also indicative of systemic failure in relation to planning around Napier.
- e. Many issues raised by HMIP and ICIBI, and in the High Court case, suggest that Napier is, in general, a harmful context for asylum claimants:
 - i. Mr Justice Linden's finding that the accommodation was "inadequate".
 - ii. Reports of residents of Napier feeling trapped and suicidal.
 - iii. Reports of a lack of physical and mental health support for residents.
- f. These issues are corroborated by JRS UK's direct experience of working with people in Napier. We have found:
 - i. A pattern of spiralling mental health among people placed at Napier. Many people arrive already struggling with self-harm and/ or suicidal ideation, so this is a profoundly harmful context for them.
 - ii. Chronic sleep deprivation among residents at Napier.
 - iii. Conditions that are cold and dirty and afford no opportunity for privacy or social distancing.
 - iv. An isolated and prison-like setting.
 - v. A total lack of mental health support onsite; very minimal healthcare onsite, and problems for residents in accessing healthcare in the community.
 - vi. A sense among residents, in line with HMIP's observation, of being trapped on site.
 - vii. Profound vulnerabilities and histories of trauma among residents at Napier are not always obvious on the surface and can be difficult for individuals to disclose in general. Napier is then a very poor context for disclosure, as the prison-like setting is not conducive to building trust. We are therefore concerned that it is not possible to create a screening mechanism for Napier that would pick up all relevant vulnerabilities.
 - viii. There is very little communication with residents about their asylum case. Additionally, it is very difficult to access adequate legal advice, and individuals frequently go ahead with asylum interviews without having consulted a legal advisor.¹⁵ Virtually no one placed at Napier is able to access face to face meetings with legal advisors, and this seriously obstructs identification and disclosure of trauma.
- g. We are concerned that there are repeated and serious failings at Napier, occurring in concert with a lack of planning and consultation, and an unresponsiveness to evidence.
- h. We therefore submit that the decision to extend the use of Napier is politically and legally significant, and that scrutiny of the decision to extend the use of Napier is badly needed.

¹⁵ For further details of issues in access to legal advice and further details on health issues, see the APPG on detention's inquiry into quasi-detention, oral evidence session 1, available on the APPG on Detention website: <https://appgdetention.org.uk/inquiry-into-quasi-detention-oral-evidence-sessions/>

7. Questions around the use of emergency planning powers to extend the use of Napier

- a. The Home Office's justification for using emergency planning powers is unprecedented pressure on the asylum support system due to COVID-19 and high numbers of asylum claimants arriving via small boats.¹⁶
- b. However, evictions from asylum accommodation that had been paused due to the pandemic have recommenced, albeit against the advice of many experts.¹⁷ The context in which emergency planning permission was granted in September 2020 has therefore changed.
- c. Asylum applications are at comparatively low historic levels¹⁸ and it is the overall number of asylum applications, rather than the number of people arriving *via* a specific method, which is most likely to determine pressure on asylum support.
- d. It is especially incongruous that emergency planning powers should be used to extend the use of Napier for five years, as it is unclear how this can be an emergency measure. Emergency planning powers are intended for use in an extreme situation, not one in which there is recourse to standard planning routes, with the checks and balances those entail.
- e. Furthermore, accommodation intended for use over such a long period most especially requires the health and safety and suitability checks that are part of planning control, and benefits from engagement with local community and stakeholders. This has not taken place.
- f. The extension of Napier *qua* asylum accommodation occurs alongside measures to expand the use of asylum accommodation centres in the Nationality and Borders Bill.¹⁹ This calls into question whether the use of a separate, out of town centre to accommodate asylum seekers is indeed an emergency measure, as opposed to either a pilot for centres envisaged in the Borders Bill, or the first such centre.
- g. JRS UK is aware of Napier residents being told that, if they speak out against conditions at Napier, this will have a negative impact on their asylum case.²⁰ This suggests an attempt to silence dissent and avoid scrutiny of Napier.

¹⁶ As explained to stakeholders, including JRS UK team members, in a meeting on Friday 27th August 2021.

¹⁷ <https://nacom.org.uk/statement-and-briefing-we-condemn-the-increasingly-hostile-actions-of-this-government-towards-people-seeking-protection/> (accessed on 06/09/2021).

¹⁸ Asylum applications in the UK peaked in 2002 at 84,132. They have since fluctuated. In 2018, the UK received 29,504, in 2019, it received 35,737, and in 2020 it received 29,456. In the year ending March 2021, it received 26,903, applications. See House of Commons Library [Research Briefing](#) on Asylum Statistics, July 2021.

¹⁹ [Nationality and Borders Bill](#), Clause 11.

²⁰ We gave evidence on this topic to the APPG on detention, for their ongoing inquiry into the use quasi-detention as asylum accommodation. Publication of this evidence is forthcoming.

Response from the Home Office

1. **There has been criticism from the Independent Chief Inspector of Borders and Immigration (ICIBI) and HM Inspectorate of Prisons (HMIP) about the running of Napier - in your response to my previous questions you included links to the HMIP report and the government response but please could you now provide a short summary of the main criticisms and the government response that I may include in the advice to the Committee. Please provide the same for ICIBI if different.**

Response: The HMIP report on Napier was commissioned by the ICIBI and was intended for publication as an annex to the overall inspection report on Contingency Asylum Accommodation, which was formally announced in January 2021. The HMIP report was initially shared with the department for information in March 2021. The ICIBI later made the decision to conclude this part of the inspection separately to the wider inspection.

The HMIP report for Napier outlined four areas of improvement regarding the running of these sites, summarised below:

a. Leadership & management

Summary areas for improvement

- Shortfalls in the management of both sites on the part of both Clearsprings (CRH) and HO.
- HO gave CRH less than two weeks to make the site operational; consultation with local stakeholders was inadequate
- Public Health England (PHE) advised HO that single rooms with en-suite bathroom facilities suitable for self-isolation provide the lowest risk accommodation and should be made available; but that if single occupancy accommodation were restricted, accommodation where cohorting in small groups is possible should be provided.
- Crown Premises Fire Safety Inspectorate's (CPFSI) concerns about fire safety at Napier that had not been fully addressed

Actions

- Context: as a result of the global pandemic HO was unable to move people from asylum accommodation. This, together with sustained asylum intake including from small boats, resulted in a rapid increase in the use of contingency accommodation. In order to ensure there was sufficient accommodation capacity for HO to fulfil its statutory obligations it was important that additional capacity was brought on swiftly.
- Napier was set up at pace: identified w/c 7.9.20, with the aim of operationalising 2-3 weeks later
- PHE recognised that single en-suite rooms were not always possible and set out considerations for when congregate residential settings were used, including on maintaining social distancing and on infection control measures.
- Significant improvements have been made to Napier on Covid safety:
 - Both organisations have appointed senior managers to oversee on-site operations
 - Residents are offered COVID vaccinations
 - Service users take a lateral flow test on arrival and then twice / week, as do staff; visitors are also asked to take the test on or before arrival.

- Extensive Covid-19 signage is displayed in 10 languages; there is, staggered access by block to some communal areas; and social distancing in others e.g. prayer rooms.
 - windows in communal buildings are kept open; service users are encouraged to open dormitory windows
 - Sports take place in the outside areas, permitted under current PHE guidance.
 - HO and CRH have developed joint management tools (e.g. COVID management and risk assessment plans).
 - CRH have prioritised fire risk management work, have rectified defects and put on additional staff as mitigation.
- We are working closely with the provider to ensure that the accommodation and services available at Napier remain adequate and enable us to meet statutory obligations

b. Safety

Summary areas for improvement

- Many of the residents felt depressed and hopeless at their circumstances, and there were serious safeguarding concerns; at times service users were threatened by protesters outside the camps.

Actions

- The system of onsite monitoring has significantly improved with publication of the suitability criteria which identify those deemed unsuitable for dormitory style accommodation.
- Onsite staff have safeguarding training and ligature training; Migrant Help advisers on site are also trained in identifying safeguarding needs. There are telephone mental health assessments, and NGOs actively engage with service users to raise their knowledge of the suitability criteria.
- The wellbeing of asylum seekers is taken extremely seriously, and all necessary and legal steps are taken to protect people in our care. Additional security has been deployed for the safety of the residents.
- There is an onsite nurse

c. Respect

Summary areas for improvement

- The report concluded that the accommodation was unsuitable for long term use and that the numbers living at the camp when it was full made social distancing impossible. Uncertainty about length of stay and the progress of residents' asylum claims was a source of distress.

Actions

- Where CRH fell short of their contractual standards, we ensured that remedial action was taken.
- We have improved the site to support the wellbeing of those living there and have limited the maximum duration of stay to 60 - 90 days and introduced effective processes to move residents to dispersal accommodation.

- Service users with admissible claims now have their asylum interview conducted by video conference whilst at Napier. Decisions are made once a move to dispersal accommodation has taken place, which helps reduce uncertainty.
- Migrant Help now provide onsite advice with 2 full time advisors for support through the asylum process and access to Legal advice.

d. Preparation for leaving the accommodation

Summary areas for improvement

- The report found that residents received little notice of accommodation moves to or from the barracks. There was little focus on helping residents to prepare for the next steps.

Actions

- Accommodation moves generally happened at fairly short notice in response to customer need and/or accommodation becoming available, and it has been most practicable to provide briefing prior to moving followed by full induction on arrival at the alternative accommodation.
- HO has restricted the length of stay for those in Napier to between 60 and 90 days. If a stay is longer than 60 days, users will be moved to dispersal accommodation before day 90. If any service user is found not to fit the suitability criteria after they move to Napier, they are moved offsite at the earliest opportunity to alternative accommodation. The aim is to better manage the expectations of service users and provide a sense of certainty.

2. There was a recent High Court judgement against the Home Office in which Napier was found to be unlawful: please briefly describe the key points of the Court's ruling and the Home Office response to it.

Response The claimants brought their claim on four grounds and the Court found against the Home Secretary on the following grounds:

(1) That the accommodation did not comply with the minimum standards set out in the Immigration and Asylum Act 1999 or the Reception Conditions Directive 2013/9/EC. The Court found that, whether on the basis of issues of COVID-19 or fire safety taken in isolation or looking at the cumulative effect of the decision making about, and the conditions in, the barracks, the accommodation did not ensure a standard of living which was adequate for the health of the claimants. Insofar as the Home Secretary considered that the accommodation was adequate, that view was irrational.

(2) That the process for applying the Home Secretary's criteria for selecting people to be accommodated at Napier Barracks was flawed and unlawful. The Court found that the Home Secretary had accepted that the barracks were not suitable to accommodate asylum seekers who were, in broad terms, vulnerable. For that reason, suitability assessment criteria were applied to screen out those for whom the barracks were unsuitable. However, the system, which operated when the claimants were transferred to the barracks, and whilst they were there, fell below the fairly low standard required by the application of the principle in Secretary of State for Education and Science v Tameside MBC [1977] A.C. 1014. The Court said that, if the barracks were to continue to be used, there had to be substantial improvements in the

conditions, and lower numbers living there for significantly shorter periods, with measures to reduce the risk of COVID-19 infection. There also had to be a better system for identifying those for whom such accommodation was not suitable and for detecting cases where, although suitable when initially transferred, it ceased to be during their stay.

(3) That a letter to residents of 15 January instructing them not to leave the Barracks amounted to a breach of Article 5 ECHR (right to liberty). The terms and effect of the 15 January letter went beyond merely advising the residents of their legal duty to self-isolate. The letter instructed them to remain in a particular place, stated that the instruction was underpinned by law and threatened that it would be enforced by legal process. It did so in a context in which the overwhelming likelihood was that the contents of the letter would be taken at face value and that the majority of residents would not be willing to challenge what was said. The residents rightly understood that they were being held in the barracks. That was one of the key reasons for the disturbances in late January. Some residents might have chosen to defy the order, but that did not affect the position of those who obeyed it. The letter amounted to a breach of Article 5. Neither the alleged curfew nor the alleged detention of the fourth claimant amounted to a breach of Article 5.

The claimants' claim that being accommodated at the Barracks, and the conditions to which they were subject whilst there, breached their rights under Articles 2 (right to life), 3 (prohibition on torture and inhuman or degrading treatment or punishment) and 8 (right to respect for private and family life) of the ECHR was rejected.

We have implemented significant improvements since February 2021, following the High Court's finding that for the period between September 2020 and February 2021, the accommodation provided at Napier was inadequate for the purposes of the Immigration and Asylum Act 1999 and the Asylum Seekers (Reception Conditions) Regulations 2005 and Reception Directive 2003/9/EC. The improvements we have made include:

- The re-introduction of sports and recreational activities;
- The introduction of outdoor seating and tables;
- Weekly virtual meetings between Home Office officials and residents, and the main subcontractor meeting residents weekly to identify and act on concerns;
- The provision of visiting dentistry on site and continued free travel to medical appointments;
- The re-introduction of NGOs on site to provide activities, advice, and support;
- Installing electrical sockets for each sleeping area and rolling out individual lights to enable individuals to control the light around them at night;
- Installation of CCTV on the site;
- A joint general risk register and issues log along with a business continuity plan and evacuation plan have been developed, which has improved the operation of the site and confidence of the onsite teams;
- Conducting asylum interviews for those who are eligible.
- Clarification that residents at Napier are not detained and are free to come and go

Specifically, in terms of managing public health in relation to Covid-19, we are:

- Working with NHS to ensure all residents of Napier are offered vaccinations against Covid-19;
- Ensuring new residents take a lateral flow test on arrival and thereafter twice a week;
- Ensuring all staff take a lateral flow test twice a week
- Ensuring all visitors take a lateral flow test on arrival;
- Providing extensive Covid-19 signage in the top 10 languages;
- Providing residents with personal cleaning kits.
- Improved cleaning regime for accommodation blocks and communal spaces
- Reminding and encouraging compliance with current COVID –19 guidance

3. There have been two COVID-19 outbreaks at the site, following the use of dormitory accommodation contrary to the advice of Public Health England. The second outbreak is ongoing. What was PHE's advice and what are Home Office doing to address their health concerns?

Response: Following the COVID outbreak earlier in the year a series of improvements have been made at Napier including, in conjunction with PHE, the development of a more robust COVID Management Plan for Napier.

Regarding the 'ongoing' outbreak. 5 people tested positive for COVID between 06 August and 30 August and in conjunction with advice from PHE the COVID Management Plan was invoked for each. The most recent person tested COVID positive following a PCR test on 30 August 21. The infected person and those in his accommodation block deemed to be close contacts undertook the required period of isolation. The period of isolation ended on 09 September. As of 09 September, there are no known cases of COVID at Napier.

4. Given all these criticisms about the unsuitability of the premises, why is the usage extension being sought for 5 years rather than a shorter period?

Response: An extension for a five-year period enables the Home Office certainty of occupation and will allow the Department to plan for and invest in the site. There have been significant improvements to the Napier site over the past year in response to the previous criticisms. The investment programme will allow the Home Office to refurbish the accommodation and ensure it will continue to be fit for purpose. As set out in the SI and its supporting documents, the continued use of the Napier site will inform the final design of accommodation centres through testing and piloting new processes.

5. Why, when it has been known since the use of Napier started that the planning permission for the Barracks would run out on 20 September, the instrument was laid at the last possible moment using special powers rather than a more routine measure?

Response: The accommodation at Napier was set up as a temporary measure in September 2020 in response to the enormous pressures placed on our asylum system by the coronavirus pandemic. The Home Office's intention has always been to return the site to the Ministry of Defence once these pressures had been allayed. However, these pressures remain, and a decision was made to continue our use of the Napier Barrack as asylum accommodation beyond 21 September 2021. At this

point to ensure continued occupation without illegally occupying the site the Home Office had to enact a Special Development Order.