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Public Participation in Renaming Processes: Navigating Sir John Hawkins

Emily Haslam^{*} and Suhraiya Jivraj[†]

Abstract—Debates about whether to remove, rename or ‘retain and explain’ monuments, buildings and street names play an important part in contemporary disputes about the construction and meaning of history. They also contribute to a significant cultural and socio-legal reassessment of Britain’s colonial and slave-trading past. We explore how two local governmental legal processes dealt with renaming controversies. More specifically, we examine the extent to which they facilitated consultation and what impact this had on local debates. In doing so, we ask how legal processes around renaming can be prefigured to generate more transformative understandings of controversial histories without further polarising the ‘culture war’. This exploration shines a critical light on the role of law in debates about Britain’s past and offers valuable lessons for future legal development.

Keywords: consultation, local democracy, public participation, slave trade, street renaming, transformative justice

1. Introduction

Recent years have seen heightened debates about the contemporary continuities, legacies and commemorations of states’ slave-trading and colonial pasts, with the Black Lives Matter (BLM) and the Rhodes Must Fall Oxford (RMF) movements, as well as calls for a ‘decolonised curriculum’ in education.¹ Such debates have led to questions about the renaming, removal, replacement or retention and explanation of monuments, buildings and street names which commemorate controversial historical figures.² In this article, we explore the responses of two

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¹ See further eg Farzana Shain and others, ‘From Silence to “Strategic Advancement”: Institutional Responses to “Decolonising” in Higher Education in England’ (2001) 26(7–8) *Teaching in Higher Education* 920.

² See further Gabriella Garton Grimwood, ‘Contested Heritage: Controversy Surrounding Public Monuments’ (House of Commons Library, 17 December 2021) <<https://researchbriefings.files.parliament.uk/documents/CBP-9405/CBP-9405.pdf>> accessed 5 February 2024. For a discussion of the arguments around statues, see eg Gary Young, ‘Why Every Single Statue Should Come Down’ *The Guardian* (1 June 2021) <www.theguardian.com/

local councils, Medway in North Kent and Plymouth, to calls to rename parts of the urban landscape that had commemorated Sir John Hawkins (1532–95), older cousin to Sir Frances Drake, widely recognised to be the first English slave trader and Treasurer of Elizabeth I's navy.

The site renamed in the town of Chatham (in Medway) was a car park and that in Plymouth was a square.³ While not grand memorials, they are significant because people navigate their everyday lives through such quotidian parts of the urban landscape. Local conversations on renaming, like those that took place in Medway and Plymouth, have been happening across the UK,⁴ yet they remain relatively unexplored in the legal literature. Understanding how such conversations are taking place, and how they are enabled or constrained by the legal processes that frame them, is vital. As Drayton observes, how history is portrayed in the cityscape or the 'extramural museum' is important for the expression of cultural power, for the representation and construction of communities and for how people experience place.⁵ Our important and timely intervention, then, is to make an original contribution to the scant discussion in legal literature of the role that law and legal processes play, and *could* play, in these debates, with a focus on public participation. Our central questions are how can these conversations facilitate such debates without fuelling the culture war narratives⁶ and, more specifically, how, if at all, can law contribute to this end?

Chatham and Plymouth followed different processes to deal with the renaming of parts of the urban landscape. Unlike Plymouth Council, Medway Council did not follow its existing Street Naming and Numbering Guidance because it was inapplicable to a car park, and instead adopted a bespoke process by setting up a Monuments and Place Names Working Group, which led to the renaming of the car park. In Plymouth, objection to the renaming of Sir John Hawkins Square became the subject of judicial proceedings, and the final name of the square remains undecided at the time of writing. The different trajectories channelled participation in different ways, but debate about consultation was central to the controversies that occurred in both places. Contestation focused on the

artanddesign/2021/jun/01/gary-young-why-every-single-statue-should-come-down-rhodes-colston> accessed 18 August 2023. See further comments in The Rt Hon Lucy Frazer KC MP and Lord Parkinson of Whitley Bay, "Retain and Explain" Guidance Published to Protect Historic Statues (DCMS Press Release, 5 October 2023) <www.gov.uk/government/news/retain-and-explain-guidance-published-to-protect-historic-statues> accessed 5 February 2024.

³ After over four centuries of shipbuilding, the Royal Docks in Medway closed in 1984 with the loss of over 7000 skilled jobs. Sue Nicholson, 'Chatham Dockyard: Lasting Impact Three Decades On' (*BBC News*, 31 March 2014) <www.bbc.co.uk/news/uk-england-kent-26615288> accessed 19 June 2023.

⁴ See further eg the Lambeth Archives report, commissioned by the Council, identifying locations with historic links to the trans-Atlantic slave trade and colonialism and followed up with 'community listening events' <www.lambeth.gov.uk/sites/default/files/2021-01/statues-and-memorials-lambeth-united-summary-document.pdf> accessed 22 May 2024; in Scotland <www.museumsassociation.org/museums-journal/news/2022/09/edinburgh-must-fill-the-gap-on-its-role-in-the-slave-trade-says-review-group/> accessed 22 May 2024.

⁵ Richard Drayton, 'Rhodes Must Not Fall? Statues, Postcolonial "Heritage" and Temporality' (2019) 33(4) *Third Text* 651, 653.

⁶ On culture wars, see eg Bobby Duffy, 'Britain's Descent into Culture Wars Has Been Rapid, but It Needn't Be Terminal' (*The Conversation*, 12 May 2022) <<https://theconversation.com/britains-descent-into-culture-wars-has-been-rapid-but-it-neednt-be-terminal-182885>> accessed 18 September 2024; Bobby Duffy and others, "'Culture Wars' in the UK" (The Policy Institute, KCL, IPSOS, June 2021) <www.kcl.ac.uk/policy-institute/assets/culture-wars-in-the-uk.pdf> accessed 10 September 2024

extent of consultation required and desirable, who should be consulted and how or in what forms consultation should take place. Underpinning these questions was the broader issue of control over the creation and meaning of history. While the legal processes deployed did not have clear answers to these questions, the different approaches to consultation that were followed significantly shaped the outcomes and the opportunities the renaming provided, or failed to provide, for a richer engagement with the histories of modern capitalism and the slave trade.⁷ From these case studies, we cast a cautionary light on the ability of current legal and administrative processes to navigate complex colonial histories in the context of debates about renaming.

However, we argue that, as the Medway and Plymouth examples demonstrate, there are potential valuable opportunities through legal and administrative processes for engaging more meaningfully around Britain's contested history with citizens whose everyday experiences of place are affected by it. We begin by outlining our methodology in relation to the empirical research before setting out the theoretical lens from which we approached questions of consultation, including its contested meanings within the literature. Then we consider how transformative justice could frame engagement with the public around contested heritage in ways that avoid the rancour of the culture war. We then set out the legal context for our case studies, focusing first on street renaming and then consultation requirements. Next, we turn to our two case studies, the renaming processes followed in Medway and Plymouth respectively. We identify and analyse the missed opportunities for a transformative approach to the contested legacy of Sir John Hawkins in the cityscape. We bring together existing guidance and practice from other sites in order to generate a body of contextual knowledge which could form the basis for the development of legal approaches to renaming which contribute to a richer understanding of contested histories.

2. Theoretical Lens and Methodology

We began our study intending to focus on the local authority response to the civic protests against sites named after Hawkins and other figures with colonial legacies in the Chatham area, close to our own locality. With funding from the Society of Legal Scholars, we set out to explore how law and legal processes channelled these debates in Chatham, including the extent to which they facilitated public participation. During the period of our research, the Levelling Up and Regeneration Bill, which changed the law on street renaming, was being debated in Parliament. As well as conducting research in the Medway Archives, we obtained ethical approval from Kent Law School to interview participants. We conducted semi-structured online interviews with the then Chief Legal Officer of Medway Council (the unitary local authority for the Medway towns, including Chatham) and three councillors from across the two main political

⁷ See further eg Eric Williams, *Capitalism and Slavery* (Andre Deutsch, 1964); Ian Baucom, *Spectres of the Atlantic: Finance Capital, Slavery, and the Philosophy of History* (Duke UP 2005).

groups, including the chair of the Monuments and Place Names Working group, the leader of the Labour group and a councillor who put forward one of the motions on renaming (see below). We chose interviewees in order to obtain a deeper understanding of the renaming process as the particular role that the interviewees played within them gave us unique insights into how the processes worked and the factors that were considered or not. We also observed online council meetings in real time, watched and/or listened to subsequent recordings and consulted council minutes. As our research unfolded, we discovered that protests and ensuing council debates were taking place around Sir John Hawkins Square in Plymouth. Therefore, we extended our desk-based research to analyse council documents and other relevant news material relating to Plymouth by way of comparison.⁸

As we discuss in more detail in section 4, contestation about consultation was central to debates in both sites. Yet academic literature does not give clear guidance on the issues of consultation that come to the fore in renaming debates. This article begins to bridge that gap. However, while our concern here is with debates about consultation, it is but one form of public participation in decision making. This article is part of a broader project on legal processes and renaming which is also likely to encompass other forms of participation, and we use the term ‘consultation’ here in a non-technical sense. In general, public participation can encompass a range of measures. For example, in the context of environmental law, Lee and Abbot use the term broadly in connection with ‘mechanisms that allow the public to evaluate, comment on or influence regulatory decisions, at a broad policy level or in respect of individual projects’.⁹ As studies which followed Carole Patemen’s seminal work, *Participation and Democratic Theory*, show, participation in a liberal democracy is not a heterogeneous concept and there is no one set of practices that can be adhered to.¹⁰ Berner, Amos and Morse observe that ‘Elected officials regard effective participation as being passive and channelled through elected officials ... Staff sees effective participation coming from educated citizen advocates. Citizens see effective participation as being interactive, in the spirit of direct democracy’.¹¹

In a similar vein, Petitjean observes that forms of participatory democracy may lie on a continuum from weak (‘faible’) to strong (‘fort’).¹² He contrasts situations where citizens only have a say ‘downstream’ (‘qu’en aval’), namely after the

⁸ At the time, due to COVID-19 and funding constraints, we were unable to conduct interviews and onsite archival research in Plymouth.

⁹ Maria Lee and Carolyn Abbot, ‘The Usual Suspects? Public Participation under the Aarhus Convention’ (2003) 66(1) MLR 80, 81.

¹⁰ Carole Patemen, *Participation and Democratic Theory* (CUP 1970); Rod Dacombe and Phil Parvin ‘Participatory Democracy in an Age of Inequality’ (2021) 57(2) Representation, 145, 146–147. See further Maureen M Berner, Justin M Amos and Ricardo S Morse, ‘What Constitutes Effective Citizen Participation in Local Government? Views from City Stakeholders’ [2001] Public Administration Quarterly 128. On navigating disparities of power and colonial legacies in the context of deliberative democracy, see Subhabrata Bobby Banerjee, ‘Decolonizing Deliberative Democracy: Perspectives from Below’ (2022) 181 Journal of Business Ethics 283.

¹¹ Berner, Amos and Morse (n 10) 128.

¹² Olivier Petitjean, ‘Introduction: Concepts and History of Participatory Democracy’ (National Centre for the Territorial Public Service 2016) 9 (translated from French by the authors) <www.citego.org/bdf_dossier-269_fr.html> accessed 18 September 2024.

decision has been taken, with strong forms of participatory democracy which give space to citizens at all stages, including ‘upstream’ (‘en amont’), namely by being involved in defining the problems to be addressed.¹³ However, participation is not a panacea,¹⁴ and recent years have seen increasing challenge to embedding rights of public participation in the UK.¹⁵ Even whilst it is grounded in challenging what Petitjean describes as the unilateralism of representative democracy,¹⁶ participation is not free from the influence of power dynamics, including in its methods and design,¹⁷ and it is riven with issues of inclusion.¹⁸ In the context of contested heritage, it is, therefore, a huge challenge for law to facilitate public participation in ways that enable transformative dialogue.¹⁹ As we argue in section 4 below, such processes also need to be supported through, and grounded upon, broader extra-legal initiatives, including in the field of education. Given the importance of consultation to the debates we explored, coupled with the gaps and challenges identified above in the academic literature, we turned to work of Burch-Brown on transitional justice and contested heritage.²⁰ Building on this, we drew for further inspiration on transformative justice, a body of literature which develops transitional justice further. This literature provides a way to frame the values that could underpin consultation in the context of contested heritage in ways that could avoid the pitfalls of culture war. We do not advocate for a specific form of consultation as the effects and type required will depend on the particular context and situation under discussion. However, the literature we draw on underlines the importance of ensuring greater participation in legal processes around renaming than the law currently requires and in ways that can move beyond the binarised culture war debates.

Transitional justice, in particular aims to address the legacies of violence typically in post-conflict situations; it is often part of a broader process of state building and involves, for example, ‘trials, truth telling, institutional reform and reparations processes’.²¹ Whilst not immediately applicable to street renaming outside of a post-conflict situation, the field has been increasingly drawn upon

¹³ *ibid.*

¹⁴ See further eg John Morison, ‘Citizen Participation: A Critical Look at the Democratic Adequacy of Government Consultations’ (2017) 3 OJLS 636; Lee and Abbot (n 9) 87–8, 107.

¹⁵ Maria Lee, ‘The Aarhus Convention 1998 and the Environment Act 2021: Eroding Public Participation’ (2023) 86(3) MLR 756, 757.

¹⁶ Petitjean (n 12).

¹⁷ Kevin J Brown, ‘The Banishment of the Poor from Public Space: Promoting and Contesting Neo-Liberalisation at the Municipal Level’ (2020) 29(4) Social and Legal Studies 574, 588; Morison (n 14) 652.

¹⁸ For extensive discussion, see eg Iris Marion Young, *Inclusion and Democracy* (OUP 2002). On navigating disparities of power and colonial legacies in the context of deliberative democracy, see Banerjee (n 10). See also eg Morison, who argues ‘appeals to democracy through consultation are available to be equally used and misused in support of a range of wider projects and processes of governance’: Morison (n 14) 657. See further Brown, who argues in the context of PSPOs ‘Those minority groups who may be negatively affected by the terms of a PSPO ... are hard to reach groups when it comes to consultations’: Brown (n 17) 587.

¹⁹ On the challenges of participation in the context of environmental law, see further Lee (n 15) 779.

²⁰ Joanna Burch-Brown, ‘Should Slavery’s Statues Be Preserved? On Transitional Justice and Contested Heritage’ (2022) 39 Journal of Applied Philosophy 807. Other theoretical frameworks might include critical race theory or decolonial studies but, given the contestation over their use in education, drawing on that body of work may fuel rather than navigate the culture wars.

²¹ Paul Gready and S Robins, ‘From Transitional to Transformative Justice: A New Agenda for Practice’ (2014) 8 *International Journal of Transitional Justice* 339, 339–40.

(since its early preoccupation with civil and political human rights) to address questions about colonial violence and racial injustice,²² albeit less so in colonial metropole societies. While welcome, expanding transitional justice thinking in this way is not without its challenges given its origins in Western liberal thinking and in ‘the international systems created mainly by these centres of global power’.²³ Notwithstanding this, what transitional justice literature offers here is a productive provocation to think about the implications of how consultations did and did not take place from the perspective of developing a richer understanding of Britain’s past for all sides in debates about contested heritage.²⁴

As mentioned, we took inspiration from the approach to contested heritage in the work of Burch-Brown, a member of the We Are Bristol History Commission, tasked with consulting the public about the future of the Colston statue and plinth.²⁵ Burch-Brown’s academic work draws on a transitional justice approach emphasising four key rights to: justice, truth, reparation and guarantees of non-recurrence.²⁶ She uses these rights as a basis to argue for strategies to deal with contested heritage from ‘preserving, removing, recontextualising, and reclaiming’ as part of meaningful consultation involving public participation. At a local level, this is one of the central steps to achieve community dialogue.²⁷ She continues that a successful process depends on *how* it is ‘enacted’, stating:

[M]any successful responses involve some form of symbolic reconfigurations or reclaiming, very broadly conceived, so that locations of current or former celebratory iconography become *reparative sites of memory*. The best form of reclaiming can build pride, identity, *agency*, and commitment to repairing injustices.²⁸

Another related approach is that of transformative justice which explicitly addresses ‘concerns *such as structural and everyday violence*’.²⁹ For Gready and Robins, transformative justice is ‘transformative change that emphasizes local agency and resources, *the prioritization of process* rather than preconceived outcomes and the challenging of unequal and intersecting power relationships and structures of exclusion at both the local and the global level’.³⁰

²² Hugo van der Merwe and M Brinton Lykes, ‘Racism and Transitional Justice’ (2020) 14 *International Journal of Transitional Justice* 415, 416–18.

²³ *ibid* 416.

²⁴ For an in-depth discussion of participation in the context of transformative justice, see Gready and Robbins (n 21).

²⁵ Joanna Burch-Brown and others, ‘The Colston Statue: What Next? We Are Bristol History Commission Short Report’ (Bridging Histories 2022) 3 <https://bridginghistories.com/resources/D2065_Burch-Brown_Report_2.2.22_web.pdf> accessed 19 June 2023.

²⁶ Joanna Burch-Brown, (n 20).

²⁷ On ‘inclusive community engagement’ in the context of memorialisations, see further Ben Stephenson, Marie-Annick Gournet and Joanna Burch-Brown, ‘Reviewing Contested Statues, Memorials and Place Names: Guidance for Public Bodies’ (University of Bristol 2021) 6 <[www.bridginghistories.com/heritage-resources](https://bridginghistories.com/heritage-resources)> accessed 19 June 2023; more generally, see Local Government Association, ‘Building Cohesive Communities: An LGA Guide’ (March 2019) 26–8 <www.local.gov.uk/sites/default/files/documents/10.31%20Community%20cohesion%20guidance_04.2.pdf> accessed 18 August 2023.

²⁸ Burch-Brown (n 20) 807 (emphasis added).

²⁹ Gready and Robbins (n 21) 340 (emphasis added). See further eg Paul Gready and Simon Robins (eds), *From Transitional to Transformative Justice* (CUP 2019); van der Merwe and Brinton Lykes (n 22) 417–18. This call has not gone uncontested. See Lars Waldorf, ‘Between Transition and Transformation: Legal Empowerment as Collective Reparations’ in Gready and Robins (idem).

³⁰ Gready and Robins (n 21) 340 (emphasis added).

We draw on Gready and Robins's call for participation and process to be used as a 'potentially emancipatory' 'tool of transformation',³¹ in order to aim for 'transformative change'.³² Participation, they argue, is 'a key element of empowerment that sees the marginalized challenge, access and shape institutions and structures from which they were previously excluded'.³³ This requires attempting to ensure that all sides feel meaningfully consulted. This is an immense undertaking on the part of citizens, and it echoes the Local Government Association (LGA) report, *Responding to Calls for Public Realm Changes*, annexed in the Geoplace best practice guidance, which highlights that:

Establishing a community dialogue can allow a divisive issue to become an opportunity for understanding on both sides. The aim of dialogue should be that sections of the community talk to each other, as well as to the decision-making body, encouraging people to understand how a name or statue makes others feel and how removing what someone sees as part of their heritage makes *them* feel.³⁴

This, then, is independent of the substantive outcome, but is a necessary outcome in *itself*.³⁵ These approaches are valuable in thinking about the role that law and legal process play, and might play, in the context of debates about controversial historical figures, including the extent to which they do, and could, facilitate particular forms of public participation. These framings attempt to reckon with painful, often contested, pasts and their consequences, whilst being alert to ongoing disparities of power. Greater rather than lesser public participation can play a role in that reckoning by providing a valuable opportunity for transformative engagement around Britain's contested history. In particular, public participation, including consultation, can broaden the range of perspectives that are considered,³⁶ and can enable previously excluded groups to be included in decision-making processes. It can also usefully reveal the fault lines and challenges in the constitution of contemporary Britain. However, the uncertainty around public participation at a general level, that we have explored in this section, is reflected in the more specific legal provisions on renaming, including in recent changes to the law. It is to these that we now turn.

³¹ *ibid* 357.

³² *ibid* 340. See also Burch-Brown (n 20). On the relationship between transitional and transformative justice, see Gready and Robins (n 29).

³³ Gready and Robins (n 21).

³⁴ Local Government Association, *Responding to Calls for Public Realm Changes in GeoPlace*, The law and best practice for the re-naming of streets and buildings, (December 2020) <https://static.geoplace.co.uk/downloads/The-law-and-best-practice-for-the-renaming-of-streets-and-building_FINAL-Dec-2020.pdf> Annex F, 46, 47. GeoPlace LLP is 'owned equally' by the Local Government Association and the Ordnance Survey, and is responsible for 'collating, managing and maintaining the primary UK authoritative geospatial address and street data' <www.geoplace.co.uk/> accessed 18 August 2023.

³⁵ On transformative participation which is 'less focused on preconceived outcomes', see Gready and Robins (n 21) 358. See also Petitjean (n 12).

³⁶ In the context of environmental decision making, see Lee and Abbot (n 9) 82; Lee (n 15) 757.

3. Street Renaming Law and Public Consultation

Previous and existing law on street renaming does not give clear answers to the many questions that can arise about public involvement in the context of contested heritage. This section charts these uncertainties and points to guidance and further practice that could provide a productive starting point for the development of a more transformative legal approach to issues of renaming parts of the built environment commemorating controversial figures from Britain's colonial history.

Previously, legal processes and procedures on street (re) naming were spread across a range of legislation, including the Public Health Acts Amendment Act 1907, the Public Health Act 1925 and the London Building Acts (Amendment) Act 1939 (which applies in Greater London).³⁷ These Acts allowed street names to be changed by local authorities without the consent of those affected, apart from the 1907 Act, which requires two-thirds of the ratepayers (now council tax payers) of the street to consent to the change. (However, local authorities outside of Greater London area could disapply the 1907 Act in favour of the 1925 Act, which did not require such consent.) Clearly, these laws were not drafted with the issue of navigating debates about controversial historical figures in mind. Thus, prior to the Levelling Up and Regeneration Act 2023 (LURA), local councils were compelled to apply these laws and other local street-naming procedures to circumstances that were not previously envisaged, or to adapt and develop new processes in circumstances where street-naming legislation and regulations were inapplicable. Local authorities faced with calls to rename parts of the urban landscape are now required to follow a new process when altering street names according to the LURA. Section 81 LURA requires local authorities to have the 'necessary support' before a proposed name change can proceed, and the Act prescribes a penalty for anyone 'wilfully, and without the consent of the local authority' obliterating, defacing, obscuring, removing or altering 'the altered name' (section 81(4)). However, the Act does not specify how the 'sufficient local support' will be gauged other than through a possible referendum (section 81(8)). This is surprising because referenda were not included in the various options presented in the preceding 2022 government's technical consultation paper on street naming,³⁸ and post-Brexit literature raises concerns about referenda within a representative model of democracy.³⁹ Moreover, section 81 LURA applies to street renaming, and it would therefore presumably be inapplicable to

³⁷ See further Richard Harwood QC, Catherine Dobson and David Sawtell, *Contested Heritage—Removing Art from Land and Historic Buildings* (Law Brief Publishing 2022); Richard Harwood QC, 'What's in a Name? Changing Street Names' (April 2022) <www.39essex.com/information-hub/insight/whats-name-changing-street-names> accessed 19 June 2023. On the Levelling Up and Regeneration Bill more generally, see Rhiannon Ogden-Jones, 'Legal Uncertainty and the Levelling-Up and Regeneration Bill 2023' (*UK Constitutional Law Association Blog*, 28 June 2023 <<https://ukconstitutionallaw.org/>> accessed 18 August 2023).

³⁸ Department for Levelling Up, Housing and Communities, 'Technical Consultation on Street Naming' (Monday 11 April 2022 to Sunday 22 May 2022) <www.gov.uk/government/consultations/technical-consultation-on-street-naming/technical-consultation-on-street-naming> accessed 19 June 2023.

³⁹ See further eg Morison (n 14) 637.

the renaming of a site such as a car park (the subject of our first case study). This is a technical distinction which lands arbitrarily, but it also leaves councils free to adopt bespoke processes, such as the one Medway's Working Group explored in section 4 below. Such processes open up a potential opportunity to experiment with wider public participation.

The 2022 technical consultation explored some central questions relating to public participation in the context of contested heritage. It asked, for example, whether communities on a street (and its surrounding area eg in the case of a public square) should be involved in any renaming decision-making process.⁴⁰ It also sought views on defining who the 'electorate' should be, eg just residents or also businesses, and on how to engage with them. It further asked whether a simple majority or a supermajority should be required, and whether the process by which local authorities should seek consent when changing a street name should be set out in regulations and/or statutory guidance.⁴¹ The government responded to the consultation results by stating that it would modernise the current renaming system found in multiple Acts of Parliament, 'replacing them with a clear requirement (based on the principles set out in 1907 legislation) ... to establish in law the democratic right of communities to be engaged'.⁴² It also welcomed the 'strong support' for the proposals in the technical consultation, including that local authorities should engage 'the local electorate through consultations or questionnaires administered in person', which was supported by 77 per cent of respondents.⁴³

It was therefore surprising, although not inconsistent with a more general move away from participation in other fields,⁴⁴ that the LURA did not include any of these proposals, leaving an unclear steer for any future contestations. During the Commons Committee stage debates, Alex Norris, then Shadow Minister for Levelling Up, Housing, Communities and Local Government, tabled an amendment (subsequently withdrawn),⁴⁵ which sought to replace the government power to make regulations with statutory requirements for local authorities to consult residents and the wider community, and to remove the requirement for formal referenda. The LGA also stated that

it is seeking to remove the clauses in the Bill and replace with new clauses which would require local authorities to consult *residents and the wider community* before making changes to street names, *and to have regard to the outcomes, but allow flexibility over the method adopted to consult*.⁴⁶

⁴⁰ Department for Levelling Up, Housing and Communities, 'Technical Consultation' (n 38).

⁴¹ *ibid.*

⁴² Department for Levelling Up, Housing and Communities, 'Consultation Outcome: Government Response to the Technical Consultation on Street Naming' (5 July 2022) s 6 <www.gov.uk/government/consultations/technical-consultation-on-street-naming/outcome/government-response-to-the-technical-consultation-on-street-naming> accessed 6 September 2023.

⁴³ *ibid.*

⁴⁴ We are grateful to one of the anonymous reviewers for this point.

⁴⁵ Mark Sandford, 'Levelling Up and Regeneration Bill 2022–23: Progress of the Bill' (Commons Library Research Briefing, 9 November 2022) 35–6 <<https://researchbriefings.files.parliament.uk/documents/CBP-9662/CBP-9662.pdf>> accessed 19 June 2023.

⁴⁶ Local Government Association, 'Levelling Up and Regeneration Bill Committee Stage, House of Lords' (February 2023) <www.local.gov.uk/parliament/briefings-and-responses/levelling-and-regeneration-bill-committee-stage-house-lords> accessed 19 June 2023 (emphasis added).

However, these amendments were not adopted. Ongoing vagueness around gauging ‘sufficient local support’ therefore remains.

The question of public consultation in relation to contested heritage was side-stepped by guidance (October 2023) from the Department for Culture, Media & Sport (DCMS). This sets out a policy of retaining ‘commemorative heritage assets’. While it notes that ‘Retaining an asset in situ is often sufficient and no “explanation” is needed’, it also recognises that ‘in some cases, retained commemorative heritage assets could be accompanied by a comprehensive explanation that allows the whole story’, the ‘retain and explain’ policy.⁴⁷ It remains to be seen whether this approach will influence the application of section 81 LURA, and how any new regulations under section 81(7) LURA relating to ‘sufficient local support’ will be implemented in relation to street renaming.

Given this uncertainty, we turn for further guidance to sources on consultation in law more generally, and guidance and practice on consultation in cases of contested heritage beyond the context of street renaming.

There is no general legal duty to consult, although one may arise, for example, from a statute or legitimate expectation.⁴⁸ Therefore, ‘a decision-maker will usually have a broad discretion as to how a consultation exercise should be carried out’.⁴⁹ However, courts have established basic standards for carrying out consultations where they do take place by means of the so-called Gunning Principles.⁵⁰ These criteria for legitimate consultation, submitted by Stephen Sedley QC, adopted by Mr Justice Hodgson and approved of in later cases, are central in determining whether public consultations have been carried out in a fair and legitimate manner. These are, first, that consultation should take place when proposals are at a ‘formative stage’. Next, the proposers

must give sufficient reasons for any proposal to permit of intelligent consideration and response. Third, that adequate time must be given for consideration and response and fourth, that the product of consultation must be conscientiously taken into account in finalising any statutory proposals.⁵¹

While these are foundational principles where local authorities consult, in the situations explored in this article both local authorities did not consult, and therefore these principles did not formally apply. Thus, it remains to be seen how they would be interpreted in the context of contested heritage. Moreover, while critical to determining whether consultations have been carried out legitimately, they

⁴⁷ Department for Culture, Media and Sport, ‘Guidance for Custodians on How to Deal with Commemorative Heritage Assets That Have Become Contested’ (5 October 2023) < www.gov.uk/government/publications/guidance-for-custodians-on-how-to-deal-with-commemorative-heritage-assets-that-have-become-contested/guidance-for-custodians-on-how-to-deal-with-commemorative-heritage-assets-that-have-become-contested > accessed 5 February 2024.

⁴⁸ See eg s 3(2) of the Local Government Act 1999. See further Morison (n 14) 640. While there is some discussion about the development of a more expansive right to consultation, in his review of government consultations, Morison doubts whether courts would go further to develop ‘an all-encompassing requirement for decision makers to engage in general consultation on any decision they wish to make’ (641).

⁴⁹ *R (Greenpeace) v Secretary of State for Trade and Industry* [2007] EWHC 311 (Admin) [2007] ALL ER 192[62].

⁵⁰ See further Lee (n 15) 766; Morison (n 14) 641.

⁵¹ *R v Brent London Borough Council, ex parte Gunning* (1985) 84 LGR 168 [189].

do not (and perhaps cannot be expected to) address all of the complex questions about consultation to which commemorations in the built environment give rise, such as whether and when consultations should take place and who should be consulted. As noted, some of these questions were explored in the above technical consultation. Because the Gunning Principles do not address the question of who should be consulted, it is not clear that they will always be able to ensure that all sides feel meaningfully heard in a way that enhances community cohesion.

However, there is other guidance which, taken together with the Gunning Principles, could contribute to this end. Specifically in relation to renaming processes, the best practice guidance from GeoPlace LLP on the renaming of streets and buildings refers to the LGA Report on Responding to Calls for Public Realm Changes which aims to ensure ‘that whether or not a proposed change takes place, the outcome does not damage community cohesion and indeed provides an opportunity to enhance it’.⁵² Relatedly, the report emphasises that ‘all sections of the community have to feel heard by decision-makers, but also by each other’.⁵³

Further non-legal guidance can be found as an outcome of the debates around the Colston Statue in Bristol. Even though it took a long time to reach a point of meaningful consultation in Bristol, the toppled Colston statue was displayed in the M Shed museum as part of a local public consultation on how the history of Bristol’s role in the slave trade should be retold.⁵⁴ This consultation involved a short survey on whether the statue should be continued to be displayed in the museum (where it is now permanently displayed) and if so, how.⁵⁵ It also asked what should happen in the plinth space from which the statue was removed, as well as inviting people to express how they felt about the statue being pulled down.⁵⁶ Almost 14,000 people responded to the survey, with half of them being Bristol residents.⁵⁷ The findings and recommendations form the basis of ‘Reviewing Contested Statues, Memorials and Place Names’, guidance which the drafters (‘a team of professionals and academics working in the field of placemaking, engagement and inclusion’) intended ‘to help public bodies take responsibility for their memorial landscapes in a way that is transparent, inclusive, accountable, fair and democratic’.⁵⁸ The Commission’s report emphasises that:

We see the need to develop processes and practices, both locally and nationally, that encourage active participation in creating more representative public space. When

⁵² (n 34) 46.

⁵³ *ibid.*

⁵⁴ <<https://exhibitions.bristolmuseums.org.uk/the-colston-statue/>> accessed 22 May 2024.

⁵⁵ Burch-Brown and others (n 25).

⁵⁶ *ibid.* 3. On the response by the Mayor of Bristol see ‘The future of the Colston statue’ <<https://thebristol-mayor.com/2023/11/09/the-future-of-the-colston-statue/>> accessed 9 November 2023.

⁵⁷ Burch-Brown and others (n 25) 4. The survey seems to have been fairly representative of ‘different neighbourhood deprivation levels’ and the general population. However, under-24-year-olds and people identifying as black or Asian were slightly under-represented. Paper questionnaires, ‘extra outreach in neighbourhoods with lower initial response rates’ including ‘live events for residents of neighbourhoods with lower initial participation’, events at schools and ‘two tours of M Shed with community leaders’ also took place, *ibid.* 4–7.

⁵⁸ Stephenson, Gournet and Burch-Brown (n 27).

making decisions around contested heritage, public bodies should develop and follow processes that are fair and transparent, inclusive, participatory, evidence-based and committed to justice.⁵⁹

Achieving this is not without its challenges. Broader participation contributes to better decision making precisely because it enhances the different forms of evidence available to decision makers. Yet, as both the report and guidance demonstrate, it is essential to curate the conversation, including through embodied and experiential educational and cultural means.⁶⁰ This approach seeks to navigate the culture war in ways that foster more inclusive, non-confrontational dialogue, healing and 'community cohesion' rather than fuel and further polarise contestations over history and memory. However, the approach towards consultation followed in relation to the Colston statue is unlikely to be adopted for renaming streets in Bristol. Here, council policy requires 'that all property owners on a given street provide their consent for its name to be changed, as such a move incurs administrative costs for those individuals/businesses to change legal documents etc'.⁶¹ While the financial logic underpinning the required consent is clear, the question of renaming parts of the quotidian urban landscape can raise similar issues to those raised by more monumental artefacts. As Alderman explains, 'named streets are powerful memorial spaces because they inscribe a commemorative message into many facets of daily urban life'.⁶² As will become apparent, the experiences of Medway and Plymouth emphasise the importance of curating meaningful conversations to navigate contested heritage in relation to everyday sites just as much as for more monumental parts of the cityscape. It is to these case studies that the article now turns, to understand the role that law plays, and might play, in debates about renaming parts of the cityscape and to contribute much needed knowledge about the operation of these processes in specific local contexts.

4. Public Consultation in the Renaming of Sir John Hawkins

While the debates relating to both sites were divided along party political lines, the positions adopted on consultation at a general level did not reflect party political stances. Thus, unsuccessful Labour proposals in Medway urged the council to incorporate community involvement when considering monuments and place names,⁶³ whereas in Plymouth, Conservative councillors sought a public vote on alternative names for the square.

⁵⁹ Burch-Brown and others (n 25) 19.

⁶⁰ Stephenson, Gournet and Burch-Brown (n 27).

⁶¹ Ellie Kendall, 'Bristol Streets Named after Edward Colston Won't Be Changed, Says City Council' (*Bristol Live*, 31 May 2023) <www.bristolpost.co.uk/news/bristol-news/bristol-streets-named-after-edward-8483270> accessed 22 May 2024.

⁶² Derek H Alderman, 'Street Names as Memorial Arenas: The Reputational Politics of Commemorating Martin Luther King Jr in a Georgia County' (2002) 30 *Historical Geography* 99, 101.

⁶³ Medway Council Minutes (16 July 2020) <<https://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=4668&T=1>> accessed 19 June 2023; audio recording <<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=122&MId=4668&Ver=4>> accessed 19 June 2023.

A. Sir John Hawkins in Chatham

Even during his lifetime, Hawkins was a controversial figure, and his legacies in Chatham are multivalent. However, his maritime connections are likely to have prompted his commemoration in Medway. In general, Chatham's naval connections are a source of pride amongst many people in Medway, and the UNESCO World Heritage tentative list includes Chatham Dockyard and its Defences.⁶⁴ Hawkins's commemoration includes his name being inscribed in the now demolished Sir John Hawkins Way, formerly the Sir John Hawkins car park, and a portrait and monument to him in Chatham Church.

Although Medway and its docks are today more commonly remembered for their role in anti-slavery naval patrols, Hawkins's slave-trading fleet overwintered at Medway.⁶⁵ Chatham had been established by Elizabeth I as a royal dockyard in 1567, and when Hawkins became Treasurer and then Comptroller of the Navy, in 1577 and 1589 respectively,⁶⁶ he supervised the reorganisation of the Navy and its fleet, fashioning it into a more formidable force. His influence and fame from the victory over the Spanish Armada defeated by his Navy in 1588 led to him being knighted.⁶⁷ Hawkins's further legacies include the Chatham chest and the Sir John Hawkins Hospital, both celebrated in Medway. He jointly established the Chest sometime between 1588 and 1590 as a voluntary and then compulsory levy on seamen's wages set aside, stored in an iron chest with five locks, to provide relief to those injured in service when needed.⁶⁸ The Hospital of Sir John Hawkins, Knight in Chatham was founded in 1592 and was granted its charter of incorporation in 1594. Established in response to a proliferation of injured and homeless seamen in Kent after the Armada, it now provides dockworkers, ex-service personnel and former members of the merchant navy with eight flats for independent living.⁶⁹ There is also a communal room where Hawkins's coat of arms is displayed alongside other historical artefacts, which can be seen during open days. Although there is some disagreement, it is generally accepted that Hawkins's coat of arms includes a representation of an enslaved individual,⁷⁰ and it was agreed during the litigation on the renaming of the square in Plymouth that Hawkins's family crest bore an image of an enslaved individual.⁷¹ Although there has been a campaign to rename the hospital the International Roots

⁶⁴ <<https://whc.unesco.org/en/tentativelists/5670/>> accessed 19 June 2023.

⁶⁵ 'From Freedom 1807: The Chatham Dockyard Story, Chatham Historic Dockyard, 2007, Panel 2' <www.antislavery.ac.uk/items/show/578> accessed 19 June 2023.

⁶⁶ 'Sir John Hawkins', *Encyclopaedia Britannica* (12 March 2004) <www.britannica.com/biography/John-Hawkins-English-naval-commander> accessed 19 June 2023.

⁶⁷ Records of the Hospital of Sir John Hawkins KT in Chatham (1500) 1594–1987, Rochester upon Medway City Archives, GB 1204 CH 108, NRA 3880, 2.

⁶⁸ This gave impetus to the 1592 Parliament act for soldiers and mariners' relief; in 1803, the Chest was merged with the Greenwich Hospital welfare programmes, with the Chest itself being displayed at the National Maritime Museum and now the Chatham Historic Dockyard. Harry Kelsey, *Sir John Hawkins Queen Elizabeth's Slave Trader* (Yale UP 2003) 243. See further SB Black, 'The Chest at Chatham, 1590–1803' (Kent Archaeological Society 2017) <kentarchaeology.org.uk/journal/111/chest-chatham-1590-1803> accessed 30 March 2025.

⁶⁹ <<https://hawkinshospital.org.uk/history>> accessed 19 June 2023.

⁷⁰ Kelsey (n 68) 32–3; Ronald Pollitt, 'John Hawkins's Troublesome Voyages: Merchants Bureaucrats, and the Origins of the Slave Trade' (1973) 12(2) *Journal of British Studies* 26, 26.

⁷¹ *Bamping v Plymouth City Council*, Plymouth Magistrates Court, 4 December 2020 [6].

Hospital,⁷² the hospital is not council property and, having been established by Royal Charter, would need a statute to change its name,⁷³ and therefore does not feature in the debates we discuss below.

(i) *Sir John Hawkins car park*

We found scant information about the reasons and process behind the initial naming of the car park and flyover, and when the latter was demolished in 2009, controversy over its demolition (as part of a waterfront regeneration scheme) did not appear to have extended—at least publicly—to its name.⁷⁴ A search in the Medway Archives Centre revealed little except that the flyover may have been named some years after its construction. Council archivists were also unable to provide further information about the decision to name the flyover,⁷⁵ and the councillors we interviewed also had no further knowledge about this. One supposition was that the road was built on land which had formed part of the Sir John Hawkins's Hospital estate. Given the lack of documentary evidence and institutional memory, we assume that the naming of the flyover and car park was reasonably uncontentious at the time for those immediately involved. However, in the wake of the BLM protests in Medway, two petitions urged the council to rename the car park and remove a grade II-listed statue of Lord Kitchener, which, as the property of the Royal Engineers, was outside the Council's remit.

On 16 July 2020, during a long and at times contentious online council meeting, Medway Council debated its response to calls to rename the car park. The Conservative leader of Medway Council submitted motion 20A, proposing the establishment of a cross-party Working Group on Monuments and Place Names to 'review ... memorials, historic markers, and monuments in Medway to consider what changes, if any, would be appropriate'. The motion stated:

Council notes that individual experiences and personal heritage will always shape the way in which individuals interpret and relate to the world around them. This includes symbolic items present in public spaces, as well as the names given to public areas.

It continued:

[W]hilst we cannot change the past, it is our civic duty to honour Medway's heritage by telling our story in a way which aims to be as meaningful and respectful to everyone of Medway's residents today as possible, regardless of heritage or ethnic origin.⁷⁶

The centrality of the question of participation in any such group was immediately apparent. Labour proposed a series of unsuccessful amendments to this motion,

⁷² This was started in 2019 <www.change.org/p/chatham-residents-rename-the-hospital-of-sir-john-hawkins> accessed 19 June 2023.

⁷³ <<https://hawkinshospital.org.uk/history>> accessed 19 June 2023.

⁷⁴ See eg 'Campaign to Save Flyover Steps Up' (*BBC News*, 10 April 2007) <<http://news.bbc.co.uk/1/hi/england/kent/6540519.stm>> accessed 19 June 2023.

⁷⁵ Medway Council, 'Monuments and Place Names Working Group, Outcome Report' (17 November 2020) Appendix 3 <<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=55398>> accessed 19 June 2023.

⁷⁶ Medway Council Minutes (n 63).

including the establishment of ‘a cross party group of members and wider community participation’, and advocated for an agreement to ‘encourage the development of a school curriculum that includes appropriate focus on and exploration of Black History and the history of ethnic minority people’.⁷⁷ However, motion 20A was passed unamended and a series of other motions followed, including a Conservative motion on modern slavery and an independent motion to rename the car park after the late Dame Vera Lynn, who had been a patron of the Medway Queen Preservation Society.⁷⁸ Then Labour Councillor Adeoye, within whose central Chatham ward the car park was located, put forward motion 20D. This motion repeated the core demands of the previously unsuccessful Labour-proposed amendments, stating that the council:

Recognises and celebrates the vitally important role played by black and ethnic minority people in building modern Britain, including their role in two world wars, as well as the Windrush generation who helped rebuild the country following the Second World War.⁷⁹

It affirmed that:

Slavery is a genocidal abhorrence, a trade in human life for private gain and corporate profit. While we cannot escape our shared history of the oppression of black people and the continuing pain of racism, we recognise that we should ensure that Medway will not, in any way, glorify those who have benefited from slavery.⁸⁰

The issue of community involvement in a working group raised significant debate, which quickly became polarised along party lines and caught up in a broader history of contention between the two main parties. Those arguing in favour of a cross-party working group of councillors emphasised the removal of debate from the political maelstrom. The leader of the Council emphasised the importance of ensuring that ‘this work [was] done in a calm and dispassionate manner’.⁸¹ When introducing motion 20A, he noted the ‘orderly and good humoured’ demonstration that had taken place in Medway.⁸² The meeting became particularly charged, however, around how he described behaviour that had taken place elsewhere, a comment which he subsequently withdrew after some discussion.⁸³ Like the earlier Labour proposed amendments, motion 20D failed to pass, and the question of the naming of the car park was deferred to the cross-party working group.

Within a model of representative democracy, a council meeting might seem to be the ideal local forum for such important discussions. However, while the

⁷⁷ *ibid.*

⁷⁸ *ibid.*

⁷⁹ *ibid.*

⁸⁰ *ibid.*

⁸¹ Medway Council audio recording (n 63).

⁸² *ibid.*

⁸³ *ibid.* Similarly, the then Secretary for State for Communities Robert Jenrick MP claimed tighter planning laws were necessary to stop statues and monuments from being ‘removed on a whim at the behest of a baying mob’, cited in Geraldine Kendall Adams, ‘Minister Outlines Controversial Rules to Protect Statues from “Baying Mob”’ (*Museums Journal*, 19 January 2021) <www.museumsassociation.org/museums-journal/news/2021/01/minister-outlines-tougher-rules-to-protect-statues-from-baying-mob/> accessed 19 June 2023.

recording of the Medway council meeting was made available afterwards, the aspects of the online meeting dealing with the car park did not start until about four hours and 40 minutes into the meeting and finished around two hours later, in the early hours of the morning, with debates caught up in broader political divisions between the two main parties. Under these circumstances, a council meeting may not be an ideal forum for generating transformative debate.

The establishment in Medway of the working group can be read as an attempt to bypass this bipartisan framing. The Monuments and Place Names Working Group met three times. It was constituted by eight councillors (five Conservative and three Labour) and focused on council-owned property. In its first meeting, on 22 September 2020, it agreed the following:

1. This Working Group will consider monuments and place names of infrastructure in Medway, but not street names.
2. Names should honour Medway's heritage.
3. Names should tell the story of Medway.
4. Names should be respectful to all Medway's residents, regardless of heritage or ethnic origin.⁸⁴

Several names were considered for the car park, including Waterfront Way, Scott's Car Park and St John's Car Park. When the group reported on 17 November 2020, it decided to recommend to cabinet that the car park be changed to St John's Car Park due to its proximity to St John's Church.⁸⁵ Noteworthy is that the tailor's shop where William Cuffay, the future Chartist leader, had been apprenticed (his father, Chatham Cuffay, had worked at the dockyard) was close to the Sir John Hawkins Hospital and a short walk from the car park.⁸⁶ There would, therefore, have been other important local figures to commemorate. As the Medway African and Caribbean Association (MACA)'s Black History Live project demonstrates, Medway is not short of prominent black people to commemorate, including Samuel Coleridge-Taylor, Sarah Forbes Bonnetta and Asquith Xavier, to whom a plaque was erected in October 2020 in Chatham Station.⁸⁷ Cuffay was discussed by the Working Group, but only in relation to a church in which one of his family was christened.⁸⁸ However, in July 2021, a blue plaque was erected to Chatham and William Cuffay in the Historic Dockyard.⁸⁹

In general, the Working Group appears to have been uncontentious. The Chair of the Working Group observed:

⁸⁴ Medway Council, 'Outcome Report' (n 75) Appendix 2.

⁸⁵ Medway Council, Meeting of Monuments and Place Names Working Group, Record of the Meeting, 17 November 2020 3; Medway Council, 'Outcome Report' (n 75).

⁸⁶ <medway.gov.uk/info/200393/cuffay_and_chatham_exhibition/1161/apprentice_taylor> accessed 30 March 2025. On Cuffay, see further <<https://libcom.org/article/story-william-cuffay-black-chartist>> accessed 18 August 2023, reproducing Peter Fryer, *Staying Power: The History of Black People in Britain* (Pluto Press, 1984).

⁸⁷ See further Medway African and Caribbean Association (MACA)'s Black History Live project <www.black-historylive.org.uk/online-resource/> and <www.networkrailmediacentre.co.uk/news/plaque-unveiled-and-dedicated-to-pioneer-for-black-equality-asquith-xavier> accessed 19 June 2023.

⁸⁸ Interview with the Chief Legal Officer (17 December 2020).

⁸⁹ <<https://thedockyard.co.uk/news/celebrating-medways-black-heroes/>> accessed 19 June 2023.

Originally there was the John Hawkins flyover, which was demolished, so the *raison d'être* of calling it Sir John Hawkins car park, was null and void. So we didn't have too much problem in changing the name of that, but we had to go through all the due process.⁹⁰

However, some disagreement did emerge in its third and final meeting as to how the reasons for the change of name should be presented. In the end, the group agreed the following: 'Sir John Hawkins has links to the slave trade and the cross-party Working Group recommends the changing of the name to something that is more in keeping with Medway's cultural heritage and future.'⁹¹

The Working Group recommended no other change of name. On 15 December, Medway Council cabinet adopted the Working Group's recommendation unanimously after virtually no discussion. According to the Chief Legal Officer:

...we followed a new process which is—and we sort of looked around to see where the power is, and basically if you can't find where the power is, the power's with cabinet. So that's why cabinet took the decision.⁹²

The name has now been changed and the council has borne the cost of a new sign.

While the question of community involvement was central to debates in the 20 July Council meeting, this does not seem to have been the case in the Working Group. In the council meeting, the education portfolio holder emphasised the ongoing and potential cooperation between schools, MACA and the Medway Diversity Forum (MDF), and later in the same meeting, when introducing motion 20A, the leader of the Council referred to the Council's record of working with the MDF, its work with the curriculum and its support of Black History Month.⁹³ However, opportunities to work directly with such community stakeholders were not taken up as they might have been. For example, neither of these groups was invited to participate in the Working Group, although it should be noted that one member of the Working Group was a trustee for MACA, with another a director of the MDF.⁹⁴ The Working Group Chair observed:

I don't recall that being mentioned inviting people, although we could have done. I don't think that anybody actually invited anybody else or even raised the issue from our side or from the Labour side. Other than looking at social media, which we all did ... But actually inviting individuals to the meeting via Teams ... I don't think MS Team is that popular in the wider public ... But yet I think what it was our public consultation was looking at Tweet and Facebooks and things like that. And as I said earlier there wasn't—there wasn't a lot of controversy.⁹⁵

⁹⁰ Interview with the Chair of the Medway Monuments and Place Names Working Group (1 March 2021).

⁹¹ Working Group Record of the Meeting (n 85).

⁹² Interview with the Chief Legal Officer (n 88).

⁹³ Medway Council audio recording (n 63).

⁹⁴ Medway Council, Meeting of Monuments and Place Names Working Group Record of the Meeting 22 September 2020.

⁹⁵ Interview with the Chair of the Medway Monuments and Place Names Working Group (n 90).

Since no consultation in a formal technical or legal sense took place, the Gunning Principles did not apply. Interestingly, at least one of the councillors we spoke with had a different understanding about how far it would have been possible to invite other participants, and the Chief Legal Officer expressed surprise ‘that at no stage did any of the Labour members have a go at that issue’. Although working groups are not public meetings, they are subject to freedom of information (FOI) requests, so we were able to be sent the minutes by the legal officer’s team with the permission of the group. He stated that he was interested ‘whether we could publicise the meeting a bit more, because to all intents and purposes it’s a private informal meeting’.⁹⁶

Thus, although debates about participation and consultation did not surface directly in the group, there appeared to be some ambiguity about participation and the nature of the group and its audience. Nevertheless, constituents had other opportunities to make their views known. For example, councillors emphasised their accessibility to constituents.⁹⁷ For Councillor Adeoye, the public petition could arguably represent some public consultation, although ‘it doesn’t really tell us any story or narrative or anything like that’.⁹⁸ Social media also provided some measure of public feeling.⁹⁹ In general, the approach to public participation adopted reflected a model in which individuals and groups came forward rather than one in which the council reached out to the community. In contrast, the LGA has recognised the potential value of community leaders’ assistance ‘where appropriate’ in engaging ‘hard-to-reach groups’.¹⁰⁰ Practice elsewhere has also sought to engage the community more broadly in making decisions about the public realm.¹⁰¹ The potential value of consultations was outlined by one councillor. In our interview with her, Councillor Adeoye stated that consultations can ensure councillors get ‘the pulse of the community ... whether it’s positive whether it’s negative. We need to hear it and we need to know whether we are serving the community.’ She further stated they ‘highlight areas we need to work on and that cannot be underrated’.¹⁰² From this perspective, then, consultation—for example, in the form of the proposed community task group—could have cast a vital light on the challenges of negotiating a shared understanding of Britain’s past and future.

(ii) *Consultation: missed opportunities in Medway*

Community involvement, whether through a task force or involvement of groups such as MACA in the Working Group, was not considered crucial to reach an outcome in relation to the renaming of the car park. Moreover, the process adopted for renaming the car park was not linked to questions about education and the

⁹⁶ Interview with the Chief Legal Officer (n 88).

⁹⁷ Interview with Councillor Maple (3 June 2021).

⁹⁸ Interview with Councillor Adeoye (31 March 2021).

⁹⁹ Interview with the Chair of the Medway Monuments and Place Names Working Group (n 90).

¹⁰⁰ GeoPlace (n 52) 46.

¹⁰¹ See eg Commission for Diversity in the Public Realm in London <www.london.gov.uk/programmes-strategies/arts-and-culture/diversity-public-realm> accessed 31 January 2025.

¹⁰² Interview with Councillor Adeoye (n 98).

curriculum in Medway more generally. Of course, it is possible that the discussions around Hawkins did generate greater knowledge at a general level about the man and his legacy than existed previously. One interviewee said they had been unaware of Sir John Hawkins before these debates, with another suggesting that people in Chatham—other than individuals connected to the Sir John Hawkins Hospital—may not have known much about him. The leader of the Labour group emphasised that the Working Group process provided a ‘pretty useful history lesson’, with the process giving a ‘more rounded history’.¹⁰³ At the same time, the council debates revealed contestation about the history of slavery and the slave trade that might have been mediated through historians, education and the involvement of schools already involved in the MACA Black History Live project, rather than through party politics. It is, of course, impossible to know how a broader curriculum that prefigured these debates might have impacted upon the debates about (re)naming in the public sphere. For example, in the council debate, while the role of Conservative politician William Wilberforce in abolition was emphasised by one Conservative councillor, there was very little mention by others (except for Councillor Adeoye) of the role of black activists, such as the prominent black activist Olaudah Equiano, who had been a so-called powder boy on HMS *Namur*, the remains of which lie in Chatham’s historic dockyard.

Part of ensuring greater knowledge and understanding is, as Burch-Brown explains, to combine any removal with contextualisation. The lack of this is most immediately apparent in that the change of the car park’s name was not accompanied by any explanation of the change or the reasons for it, nor an account of the controversy surrounding Hawkins. While plaques have been erected to prominent black figures in Medway, the renaming of the car park to St John’s Car Park has erased this contentious history from the built environment. The Chief Legal Officer observed:

They did not think about, that I can recall, having anything that refers back to Sir John Hawkins, they just want to start again and replace the signs and change the name, so that’s what we’re going to do. But there’ll obviously be a history in terms of cabinet meeting or what have you.¹⁰⁴

Legal and administrative processes are, as the Legal Officer suggests, a historical record of sorts, but inevitably only accessed by a limited group.

It is impossible to know what broader consultation might have brought, but involving more stakeholders in the Working Group might have led to an alternative telling of history for current and future generations. Moreover, from a transformative justice perspective, process is important in itself alongside the particular outcome.¹⁰⁵ Similarly, when introducing the unsuccessful motion 20D, Councillor Adeoye explained:

¹⁰³ Interview with Councillor Maple (n 97).

¹⁰⁴ Interview with the Chief Legal Officer (n 88).

¹⁰⁵ See further the discussion at n 30.

The new proposed community task group will be an opportunity to hear directly from the people of Medway, and even more powerful, in the way in which we respond to issues of diversity and inclusion, by literally ensuring inclusion within the conversation.¹⁰⁶

Thus, the hope is that public participation in such processes in and of itself can be transformative. Insistence on the strictures of representative democracy in a bipartisan system (despite opportunities for greater community involvement) may risk this ambition by limiting the engagement of marginalised groups with these processes. That is not to say that determining who should be consulted or included within any such process is straightforward. Including groups such as MACA in the Working Group would have resulted in a different process, likely with different outcomes to a process which involved a community task group, although both would have led to wider public participation than the process that was followed in Medway. We have emphasised that a range of different practices constitute participation and consultation. As already stated, whilst favouring a model that includes some form of public involvement, our intention here is not to argue for a specific form of public participation. Rather, our aim is to explore the actual and potential impact of the presence or absence of participation and to ask how dialogue can best be facilitated to generate more complex understandings of contested histories through an empowering process that seeks to disrupt and minimise rather than fuel the culture war. There is no single route to such a transformative process, which is inevitably context-specific.

Irrespective of the specifics of who participates, it is essential to curate conversations in a way that provides a basis for transformation, that is, by contributing to more rounded understandings of complex histories on all sides. This is an enormous task on the part of everyone involved. It relies upon a range of initiatives, including in the field of education. Such processes prefigure and, it is hoped, inform debates taking place through legal processes. At the same time, legal processes such as street renaming can also provide a catalyst for these and other initiatives. It seems that in Medway an opportunity was missed to explore and retell various perspectives on controversial histories with the dockyard at their heart. In its unsuccessful bid for City of Culture 2025, Medway highlighted the centrality of the dockyard to the area's history emphasising the importance of creating 'a legacy for Medway and sense of belonging', deepening 'local pride within our communities' and improving 'diversity and inclusion'.¹⁰⁷ Could the renaming of the car park have provided an opportunity for local communities to address those histories more openly, in a similar way to that which was done in Bristol's M Shed with the Colston statue, for example around the Chatham Chest constituting, in Burch-Brown's words, one of a number of possible 'reparative sites of memory'?¹⁰⁸ And how might law and legal processes be formulated to contribute to that end?

¹⁰⁶ Medway Council audio recording (n 63).

¹⁰⁷ <<https://wearemedway.co.uk/medway-launches-its-aspiration-for-city-of-culture-2025/>> accessed 30 March 2025.

¹⁰⁸ Burch-Brown (n 20) 807.

B. Sir John Hawkins Square, Plymouth

Hawkins was born in Plymouth, where he was later MP for a short time,¹⁰⁹ and where he lived when he was not in London or Chatham rebuilding the Navy. Hawkins embarked on his first slave-trading journey in 1562, as marked by a tourist information plaque in Sir John Franklin Square. Although half of the approximately 300–400 individuals transported died, the venture generated enough profits for Hawkins's second journey in 1563 to attract a larger syndicate of powerful individuals, including Queen Elizabeth I. His third venture (1567) saw the loss of all but two ships to the Spanish, with most of his crew either killed or captured.¹¹⁰ The reasons for naming the square after Sir John Hawkins in 1983 were given in the city engineer's report for the Plymouth Highways Subcommittee as follows:

Because of Sir John Hawkins' association with the Elizabethan period and the importance of his contributions towards the standing of the old City it is felt that the commemoration should be linked with the Elizabethan part of the City in the vicinity of the Magistrates Court.¹¹¹

(i) Sir John Hawkins Square

Following the BLM protests nationally, Plymouth saw demonstrations directed at Sir John Hawkins Square, highlighting its offence particularly to its black population. As in Chatham, calls for renaming ensued, with a petition supported by over 5000 people leading to the removal of the street sign. This decision to take the signs away was made by the Assistant Chief Executive of Plymouth City Council, who cited incidents of national and local vandalism and graffiti as the reason the signage should be removed.¹¹² With a statement made by the then Council leader in June 2020, it seemed the renaming was a *fait accompli*, with the legal process a matter of formality:

We listened to those who found the relatively recent naming of the square after Hawkins offensive and are changing it. We've had a number of potential new names put forward and feel that naming the square after Jack Leslie would be very appropriate given his pioneering role as a black player in English football. He deserves to be remembered and commemorated in the city that he represented for most of his professional career.¹¹³

¹⁰⁹ Kelsey (n 68) 143.

¹¹⁰ *ibid*; Pollitt (n 70) 27–8; 'Sir John Hawkins' *Encyclopaedia Britannica* (n 66).

¹¹¹ Cited in Carl Eve, 'Why Plymouth Square Was Named after Slave Trader Sir John Hawkins in the '80s' (*Plymouth Live*, 9 July 2020) <www.plymouthherald.co.uk/news/history/plymouth-square-named-after-slave-4308620> accessed 19 June 2023.

¹¹² See response to an FOI request to Plymouth City Council which outlines the reasons for removal of the sign <www.whatdotheyknow.com/request/renaming_of_sir_john_hawkins_squ#incoming-1629375> accessed 19 June 2023. On the petition, see <www.change.org/p/rename-sir-john-hawkins-square-stop-commemorating-england-s-first-slave-trader> accessed 19 June 2023.

¹¹³ Plymouth City Council, 'City Council Proposes Naming City Square after Plymouth Argyle Pioneer' (18 June 2020) <www.plymouth.gov.uk/city-council-proposes-naming-city-square-after-plymouth-argyle-pioneer> accessed 19 June 2023. See further Statement from the Leader of the Council to Cabinet (9 June 2020) <www.plymouth.gov.uk/newsroom/mainstories/statementleadercouncil> accessed 19 June 2023.

The Council leader recognised that the square had only been renamed after Sir John Hawkins in 1983 to mark the Elizabethan area of the city. He recognised Plymouth's 'incredible maritime history' and stated that this action was not an attempt to 'change history'.¹¹⁴ He emphasised that it was important to 'remember and acknowledge this in a way that tells a fuller story about his life and doesn't commemorate him in way that gives offence', and that a new, more 'rounded story' that did not downplay the role of Hawkins and other historical figures from the city would be told at the city's museum (The Box).¹¹⁵ It would also include a plaque by the listed statue of Sir Francis Drake and other monuments with a narrative about their roles in the slave trade.¹¹⁶ A proposed Renaming Order was issued, with the requisite 21-day statutory notice period. In accordance with section 18 of the Public Health Act 1925 procedure, Plymouth's street-naming process required the 'Naming & Numbering Officer' to 'summarise the request' for a name change and 'consult the local ward Councillors and the relevant Cabinet Member' with any recommendations for further action.¹¹⁷ City Council minutes and a response to a later FOI request after the name change had been publicised show that the request to begin the renaming process was made by the St Peter and the Waterfront Ward Councillor, with the Cabinet Member with Responsibility for Renaming proposing renaming the square after Jack Leslie,¹¹⁸ the black footballer who had played for the local Plymouth Argyle team between 1921 and 1934,¹¹⁹ the only black professional player at the time.

A member of the public submitted the following question to the City Council Meeting on 22 June:

As a proud Plymouthian, I am bewildered that Leader of the Council has made a decision to change a street name, based on a small minority. It's offensive the majority of our city has been insulted in such a derogatory manner. Can Councillor Evans ensure the proper consultation will ensue?¹²⁰

As the Street Numbering and Naming Policy states, a consultation exercise 'with all residents living along the street to be changed to obtain their views' can take place subject to the Ward Councillor's and Cabinet Member's approval 'for a period of 4–6 weeks or until enough responses are received from residents to give a clear view of their preference'.¹²¹ However, the square had no residential

¹¹⁴ Statement from the Leader of the Council to Cabinet (n 113).

¹¹⁵ Plymouth City Council, 'City Council Proposes' (n 113).

¹¹⁶ Statement from the Leader of the Council to Cabinet (n 113).

¹¹⁷ Plymouth City Council, 'Street Naming and Numbering Process' <www.plymouth.gov.uk/sites/default/files/SNN_Policy_2018.pdf> 10–11 accessed 19 June 2023.

¹¹⁸ Other names for the square that were put forward via various channels included Equality Square ('member of public email') and People of First Light Square ('suggested by officers to tie in with the Mayflower 400 celebration'); see WhatDoTheyKnow, 'Renaming of Sir John Hawkins Square' <www.whatdotheyknow.com/request/renaming_of_sir_john_hawkins_squ#incoming-1629375> accessed 19 June 2023.

¹¹⁹ Plymouth City Council, 'City Council Proposes' (n 113).

¹²⁰ Plymouth City Council Minutes (22 June 2020) <<https://democracy.plymouth.gov.uk/ieListDocuments.aspx?CId=276&MId=9346>> accessed 19 June 2023. A Plymouth City Council cabinet meeting from 14 July 2020 also included a question from a member of the public on the renaming of Drake Ward in Plymouth <<https://democracy.plymouth.gov.uk/ieListDocuments.aspx?CId=254&MId=9355>> accessed 18 August 2023.

¹²¹ Plymouth City Council, 'Street Naming and Numbering Process' (n 117).

properties, so there was no requirement for ‘at least two thirds of the residents’ to agree with the proposed change. The Public Health Act Street Renaming Notices should be displayed in ‘conspicuous positions at both ends of the street to be renamed for a period of one month’, as per the statutory requirement under section 18 of the Public Health Act 1925.¹²² This enables ‘any person aggrieved by the proposed Renaming Order to lodge an appeal with the local Magistrates Court within 21 days of the posting of the Notices’, after which the Council has to wait for the Magistrates’ decision.¹²³ Thus, although a motion to hold a public consultation on the name of the square was raised at the Council meeting on 22 June, it was not debated in full, but rather voted against, in favour of the Council following its regular street-renaming procedure, which does not comprise a public vote.

In total, 56 complaint letters were put forward, of which only two qualified as notices of appeal and were heard by the Plymouth Magistrates Court. However, District Judge Jo Matson said that the letters of objections which did not satisfy the formal requirements of the appeal were also considered (though not any that were considered ‘derogatory and inflammatory’).¹²⁴ Of the two qualified notices, only the one issued by a Mr Danny Bamping proceeded to an initial hearing on 11 September 2020 and a later detailed hearing on 13 November 2020.¹²⁵

Mr Bamping’s argument included that the Council’s actions were a ‘knee-jerk reaction’ to the BLM campaign and were not democratic as there had been no debate with constituents.¹²⁶ During the court proceedings, the Ward Councillor stated that the requests for changing the name of the square preceded the BLM protests of 2020, and that the protests had made the change more urgent and brought ‘things to a head’.¹²⁷ Amongst the arguments Mr Bamping put forward were that the Council’s decision was ‘wrong’ and ‘racist’ as the decision to rename the square ‘was based upon Mr Leslie’s race’ and that the local authority did not have the power to change (as opposed to amend) a street name.¹²⁸

The Council argued *inter alia* it had fully met its legal requirements, national guidance and its own policies on street renaming.¹²⁹ On 4 December, District Judge Jo Matson agreed with the Council and rejected Mr Bamping’s appeal. She rejected the argument that the Act only empowered it to ‘alter’ rather than

¹²² *ibid.*

¹²³ *ibid.*

¹²⁴ *Bamping* (n 71) [56, 58, 61].

¹²⁵ Edward Oldfield, ‘Jack Leslie Square: Court Date Set for Appeal against Renaming Plymouth City Centre Square after Black Footballer’ (13 September 2020) <www.plymouthherald.co.uk/news/plymouth-news/jack-leslie-square-court-date-4507282> accessed 19 June 2023.

¹²⁶ *Bamping* (n 71) [9].

¹²⁷ *ibid.* [35]. See further Edward Oldfield, ‘Court Hears Legal Challenge to Renaming Plymouth Square after Black Footballer Jack Leslie’ (*PlymouthLive*, 16 November 2020) <www.plymouthherald.co.uk/news/plymouth-news/court-hears-legal-challenge-renaming-4700434> accessed 19 June 2023.

¹²⁸ Oldfield, ‘Court Hears Legal Challenge’ (n 127); *Bamping* (n 71) [9]. A chronological list of Mr Bamping’s arguments and communications can be found on his website <<https://dannybamping.com/our-council/>> accessed 19 June 2023. See further ‘Council Defeats Legal Challenge over Decision to Rename Square Called after Elizabethan Sailor with Slave Trade Links’ <www.localgovernmentlawyer.co.uk/litigation-and-enforcement/400-litigation-news/45596-council-defeats-legal-challenge-over-decision-to-rename-square-called-after-elizabethan-sailor-with-slave-trade-links> accessed 17 February 2025.

¹²⁹ *Bamping* (n 71) [10].

‘change’ road names.¹³⁰ She was also persuaded that the council had already been exploring altering the square’s name even before the BLM movement arose.¹³¹ She acknowledged that she was required to give ‘significant weight’ to ‘the opinion and decision taken by the duly elected authority’, which she considered had given ‘proper consideration and reasons’.¹³² She confirmed that the Council was not obliged to publicly consult,¹³³ although she recognised that the Council had complied with its policies and consulted Mr Leslie’s family.¹³⁴

After the case, the then leader of the Conservative group reiterated his concerns about the decision, which he said had only been ‘instigated’ by the BLM protests, stating that the judgment was disappointing as ‘the people of Plymouth had no say in the removal of the name or a suitable alternative’.¹³⁵ Charlotte Davies explains how Mr Bamping prepared to appeal the decision by way of case stated but then filed an unsuccessful claim for judicial review.¹³⁶ Mr Bamping appealed against the refusal to grant Judicial Review (which he later dropped) and issued a further three proceedings.¹³⁷ On 3 April 2023, the High Court refused another claim for judicial review, and an Extended Civil Restraint Order was issued to limit further litigation.¹³⁸

On 8 November 2023, Plymouth City Council issued a Public Health Act 1925 notice to alter the name of the ‘street’, namely Sir John Hawkins Square, to Justice Square, giving 21 days for any appeals to be lodged with the Magistrates Court.¹³⁹ Although an appeal was lodged, the Council subsequently announced that the coming into force of the new legislative changes required it to recommence the process and therefore the appeal was cancelled.¹⁴⁰

(ii) *Public consultation—potential opportunities in Plymouth*

Unlike in Medway, debates about consultation in Plymouth were mediated in part through the court process. However, litigation channels debate in ways that can risk obscuring the fundamental underlying issues. This is illustrated by the unsuccessful argument that the 1925 Public Health Act only permitted councils to make ‘alterations’ rather than ‘changes’ to street names. It is, of course, important for councils to be legally accountable for their adherence to statute. At the same time,

¹³⁰ *ibid* [43], [76].

¹³¹ *ibid* [66]–[70].

¹³² *ibid* [82].

¹³³ *ibid* [45], [82].

¹³⁴ *ibid* [50].

¹³⁵ Edward Oldfield, ‘Judge Dismisses Appeal against Renaming Plymouth Square after Black Footballer Jack Leslie’ (*PlymouthLive*, 26 January 2021) <www.plymouthherald.co.uk/news/plymouth-news/judge-dismisses-appeal-against-renaming-4767376> accessed 29 June 2023.

¹³⁶ Charlotte Davies, ‘Sir John Hawkins and His Epic Voyage All the Way to the Court of Appeal (and Back Again)’ (6 April 2023) <www.linkedin.com/pulse/sir-john-hawkins-his-epic-voyage-all-way-court-appeal-back?utm_source=share&utm_medium=member_android&utm_campaign=share_via> accessed 19 June 2023.

¹³⁷ *ibid*.

¹³⁸ *ibid*.

¹³⁹ <www.plymouth.gov.uk/sites/default/files/2023-11/PHA%20Notice%20-%20Sir%20John%20Hawkins%20Square_20231108.pdf> accessed 9 June 2024; <www.plymouth.gov.uk/new-name-proposed-city-centre-square> accessed 9 June 2024.

¹⁴⁰ Plymouth Council, ‘Statement on Renaming of Square’ (18 September 2024) <www.plymouth.gov.uk/news/statement-renaming-square> accessed 30 December 2024

while a narrowly focused legal argument might be considered to take the political heat out of the debate, the technical nature of such a question can leave parties on both sides dissatisfied because it overlooks the deep-seated issues of identity, history and memory at the heart of such disputes. However, this begs the question where and how else such issues might be addressed. At the time of the first council debate on renaming the square, the then leader of the Council stated that ‘a much fuller story about our city’s seafaring history’ that ‘will fully acknowledge the terrible role that the likes of Sir John Hawkins played in the slave trade’ would be retold in the local museum, gallery and archive, The Box.¹⁴¹ He added:

We also think it is important to acknowledge and commemorate the victims of the slave trade with a new memorial to those who lost their lives and liberty. We will put this in the Peace Garden on The Hoe. We will also aim to ensure that where possible existing monuments such as the listed statue of Sir Francis Drake on The Hoe are accompanied by a narrative referring to their role in the slave trade.¹⁴²

He also highlighted the role of Plymouth in the abolition of the slave trade and its ‘long and proud history of welcoming oppressed communities’.¹⁴³ Following Burch-Brown, it is feasible, we suggest, for the mix of ‘preserving, removing, recontextualising, and reclaiming’ evident in the leader’s statement to be proposed as part of meaningful consultation involving public participation. This is one of the central steps to achieving community dialogue and is the process, namely how it is enacted, that is crucial for a successful outcome, including creating ‘reparative sites of memory’.¹⁴⁴

At the time of writing, The Box, mentioned by Tudor Evans as a potential site for retelling the fuller story of Hawkins, has exhibitions including on the theme of colonial and imperial journeys as part of its 100 journeys permanent galleries.¹⁴⁵ The exhibition also includes archival material from Plymouth’s anti-slavery movement.¹⁴⁶ The Box recognises there is more to do.¹⁴⁷ It will be interesting to see if any initiative is taken to develop a fuller story of Hawkins,¹⁴⁸ as well to as involve the public in a wider conversation. A fuller and rounder understanding of the role of Plymouth in the Triangular Trade and how it benefited from it, alongside its role in the anti-slavery movement, could navigate the culture war in a more successful, transformative manner, especially given there is already awareness and an apparent appetite amongst the public, including secondary students, to have their voices heard.¹⁴⁹ Our future work will explore how such

¹⁴¹ Statement from the Leader of the Council to Cabinet (n 113).

¹⁴² *ibid.*

¹⁴³ *ibid.*

¹⁴⁴ Burch-Brown (n 20) 807. See also Local Government Association, ‘Building Cohesive Communities’ (n 27) 26–8.

¹⁴⁵ <www.theboxplymouth.com/permanent-galleries/100-journeys> accessed 19 June 2023.

¹⁴⁶ *ibid.*

¹⁴⁷ <www.theboxplymouth.com/anti-racism-statement> accessed 19 June 2023.

¹⁴⁸ See eg Royal Museums Greenwich, ‘Who Was John Hawkins?’ <www.rmg.co.uk/stories/topics/john-hawkins-admiral-privateer-slave-trader> accessed 19 June 2023.

¹⁴⁹ See further eg Colleen Smith, ‘Outcry over School House Named after Slave Trader Sir John Hawkins’ (*DevonLive*, 10 June 2020) <www.devonlive.com/news/devon-news/outcry-over-school-house-named-4213249> accessed 19 June 2023.

efforts, particularly where they involve wider public engagement, could offer useful lessons for thinking about the parameters and conduct of legal consultations.

C. Lessons from the Case Studies

Legal and administrative processes are significant in debates about contested heritage because they are a prime (albeit not the only) site through which local debates about contested heritage take place. Moreover, democratic and courtroom processes can lend legitimacy and an authority to the outcome which all parties seek. Such processes additionally provide a formally documented snapshot into the challenges of negotiating history, memory and identity in contemporary Britain. At best, they could provide a framework for moving towards a transformed understanding on all sides of debates about contested heritage. However, as this article has highlighted, they can also limit the range of voices that get heard and can be subject to the vagaries of a party-political system. Our case studies demonstrate how renaming processes that follow a model of representative democracy depend very much on the political makeup of each local council involved with implications for the processes adopted and the associated historical knowledge produced.

However, while debates in both locations saw calls for greater consultation, the positions adopted on consultation at a general level did not reflect party political stances suggesting the importance of consultation at a broad level. Thus, unsuccessful Labour proposals in Medway urged the council to incorporate community involvement, whereas in Plymouth, Conservative councillors sought a public vote on alternative names for the square. While both councils have met their legal obligations, it seems that a deep-seated desire to be consulted is unlikely to be met by judicial statements reiterating representative democracy, such as those of District Judge Jo Matson emphasising that she was ‘obliged to pay great attention to the opinion of the Council as the duly constituted and elected local authority’ and as such ‘should not lightly reverse their conclusion’.¹⁵⁰

By prioritising representational power through councillors rather than facilitating more direct participation of local citizens, the existing model can leave key questions about the nature and extent of participation unaddressed. As practice in Medway and Plymouth demonstrates, current law does not require public consultation in every instance where a name change is proposed, and leaves unanswered questions as to the extent to which consultation should take place, amongst whom and how. We have suggested that the processes—and therefore outcomes—of renaming in the case studies discussed here could have been done differently, including by taking up missed opportunities to work with local citizens, for example through community infrastructure and educational channels. These opportunities could have been part of addressing power and other (local) disparities whilst avoiding the polarisation of the culture war. Such approaches could potentially be transformative in relation to outstanding and future calls for

¹⁵⁰ *Bamping* (n 71) [77].

renaming, and could inform the implementation of legislation on street renaming.¹⁵¹ Drawing on these processes to inform legal debate is vital, but in order to ensure this is done consistently, legal and administrative processes need to be formulated to ensure wider consultation.

5. *Conclusion: Consultation and Contested Heritage*

We have argued that the legal and administrative process around renaming parts of the cityscape could provide the basis for a move towards a more transformative justice approach regarding contested heritage. However, current approaches are limited in facilitating the wider participation that is necessary for developing a richer understanding of contested heritage and in aiding the development of processes that avoid the bitterness of culture war. Extra-legal processes provide the potential for doing just that, and in so doing offer useful lessons for a potential legal direction of travel. Nevertheless, the existence of these extra-legal processes should not mitigate the need for further legal development in this area. In responding to this legal challenge, it is crucial to embrace the fact that the construction of history and memory in the built environment is a community affair. This requires some form of public participation and engagement going beyond what existing practices of representative democracy provide. However, as the Bristol History Commission Report demonstrates, the purpose of undertaking public consultation needs to be clear,¹⁵² and the way it is carried out is critical because a change of name is not an end in itself, but should be a catalyst for broader reflection, engagement and understanding of Britain's past. Yet, achieving this is a huge undertaking on the part of citizens and councils. There are, though, already existing sources that could be drawn upon, such as the LGA Report on Responding to Calls for Public Realm Changes, the Gunning Principles (where consultations take place) and the government's technical consultation (as explored in section 3). These could provide the starting point for longer term work towards developing a transformative process that also pays attention to local contexts. In this respect, the LURA can be seen as a lost opportunity because, while the previous government's desire to modernise the applicable legislation had merit, it could have gone further, in accordance with its own technical consultation and commitment to strengthening democratic participation at a local level, by stipulating the methods of consultation more clearly in line with the results of the 2022 technical consultation. Had the responses to the technical consultation been followed, it could have come closer to facilitating more meaningful debates and therefore transformative outcomes.

It remains to be seen how councils will apply the LURA provisions to the commemoration of controversial historical figures in the cityscape as they navigate

¹⁵¹ See eg the argument of Morison that more needs to be done to ensure consultations have greater 'participatory validity' and 'democratic value': Morison (n 14) 636.

¹⁵² Tim Cole and others, 'The Colston Statue: What Next? We Are Bristol History Commission Full Report' (Bridging Histories 2022) <<https://bridginghistories.com/resources/History-Commission-Full-Report-Final.pdf>> accessed 18 August 2023.

highly politicised waters. That said, the 2024 elected Labour government may decide to take a different approach altogether, given that it has replaced the words ‘levelling up’ with ‘local government’, returning the relevant department’s name to the Ministry of Housing, Communities and Local Government. Whatever the way forward, it is vital to reflect on existing practice as a way of understanding contemporary local struggles about identity, memory and history, the challenges of negotiating a shared understanding of Britain’s past, present and future, and the role of law in those processes. The next stage of our research explores how such processes have taken place across a range of different sites across the country both before and after the enactment of the LURA,¹⁵³ so that we can interrogate the potential transformative impact of these processes in their local contexts. Perhaps, even more so, in light of far-right activity,¹⁵⁴ the need for education around the histories of coloniality and its contemporary legacies to feed into processes that can channel and transform deep-seated feelings remains all the more urgent.

¹⁵³ See further Haslam and Jivraj, Public Consultation and Local Democracy in Re-naming Processes, funded by BA/Leverhulme Small Research Grant (SRG2324\240431) <<http://research.kent.ac.uk/public-consultation-in-re-naming-processes/>> accessed 30 March 2025.

¹⁵⁴ See further eg Jessica White and others, ‘Simmering Hate: Riots Mark an Escalation of Far-Right Extremism in the UK’ (RUSI, 15 August 2024) <www.rusi.org/explore-our-research/publications/commentary/simmering-hate-riots-mark-escalation-far-right-extremism-uk> accessed 10 September 2024; Centre for Justice Innovation, ‘A Question of Delivery: Riots, Southport and the Criminal Justice System’ (5 April 2024) <<https://justiceinnovation.org/articles/question-delivery-riots-southport-and-criminal-justice-system>> accessed 10 September 2024; Milo Comerford and Jacob Davey, ‘UK’s Southport Riots Show Extremism Is Evolving—Policy Should Too’ (LAWFARE, 23 August 2024) <www.lawfaremedia.org/article/u.k.-s-southport-riots-show-extremism-is-evolving-policy-should-too> accessed 10 September 2024.