



Department for Levelling Up,
Housing & Communities

Dehenna Davison MP
Minister for Levelling Up
2 Marsham Street
London
SW1P 4DF

Our reference: 21298170

Bill Kidd MSP
The Scottish Parliament
Edinburgh
EH99 1SP

25 OCT 2022

Dear Bill,

Thank you for your letter of 28th September to the Secretary of State regarding the Levelling Up and Regeneration Bill. I understand the strong interest which you have in some aspects of the Bill, and hope that I can offer some reassurance on the matters which you have raised.

It may be easiest to start with the provisions relating to environmental assessment, as the digital powers that you also refer to are closely related to these insofar as they have implications for the devolved administrations. Clause 116 allows the Secretary of State to make regulations to set 'specified environmental outcomes'. Under the new framework of environmental assessment, relevant proposed plans and projects will require an environmental outcomes report that considers their impact on the delivery of these specified outcomes. Outcomes will be set following consultation and parliamentary scrutiny and will, for the first time, allow the UK Government to reflect environmental priorities directly in the decision-making process. This shift will give clarity to decision-makers and the public as to whether a plan or project is in line with clear, understandable criteria and our wider environmental goals, providing context to the assessment of any potential effects.

Taking the power to set outcomes in secondary legislation allows flexibility for these outcomes to change and evolve as our understanding of the environment deepens, or our aims grow beyond current government policy. If outcomes were set in primary legislation, it would be much more difficult to update or change outcomes in response to new situations. We have committed to public consultation to ensure relevant stakeholders have the opportunity to shape these outcomes, and the regulations will be subject to the affirmative procedure.

The intention is that the powers in the Bill are used in relation to the environmental assessment regimes where the UK Government has competence. We have however taken a limited power to legislate in areas of devolved competence, exercisable only once there has been consultation with the devolved administrations. This power was included at introduction to maintain the current position for those circumstances where the UK Government has historically legislated for matters within areas of devolved competence, such as between the inshore and offshore region for marine works. Not including this power could lead to there being areas where the new framework of assessment could not be rolled out, potentially undermining the delivery of certain types of development.

We are, however, keen to continue discussions with the devolved administrations to consider the broader position in respect of environmental assessment, recognising the importance of respecting devolution settlements. This includes discussion on whether and to what extent

devolved administrations may wish to adopt this framework of powers through the Bill. Providing concurrent powers would allow devolved ministers to, for example, make provision in relation to devolved matters, such as environmental outcomes, in their respective nations and would help the UK maintain a coherent approach to environmental assessment across the four nations.

Clause 75 (power in relation to the processing of planning data) enables the UK Government to set national data standards to facilitate the creation of data that is consistently held and processed. This clause is concerned with the form of information requirements (content) which are created through other planning acts. The flow of reliable and consistent data is expected to stimulate the development and adoption of new software and services for the planning sector and to foster a more efficient and effective planning system. Digital tools and services should help to better engage citizens with the planning process by facilitating their understanding of planning and development proposals in their local area. Adopting these measures in the way they are drafted will ensure the benefits pass to UK environmental assessments.

Clause 75 is primarily concerned with governing the processing of planning data by English planning authorities (by virtue of the definition of “relevant planning authority” and “relevant planning enactment”). However, the inclusion of Part 5 of the Bill (Environmental Outcomes Reports) into those definitions means we have taken a limited power to legislate in that area of devolved competence following consultation with the devolved administrations. This power was included at introduction to complement the provisions for environmental assessments, as outlined above.

The discussions with the devolved administrations described above are intended to address whether these concurrent digital powers should extend to the devolved administrations. Conversations are already underway, and I would like to thank officials in the Scottish Government for their constructive engagement with those from my department. Once these discussions have concluded, the UK Government will bring forward any necessary amendments to ensure the Bill reflects what is agreed with the Scottish Government.

Clause 191 is a power to make consequential provision. The Secretary of State will only be able to use the power to make provision which is consequential on matters in the Bill or on provision made under the Bill, so we anticipate that the implications for Scotland will be limited.

I hope that the responses in this letter provide further clarification and reassurance about our proposals, which are intended to bring genuine benefits to the way that planning works and environmental goals are pursued. I want to thank your committee for their scrutiny of the Bill as part of the legislative consent progress, and for the continuing engagement between officials in the Scottish Government to as we work towards resolving these issues.

Thank you again for writing on this important matter.

With every good wish,

A handwritten signature in blue ink, appearing to read 'Dehenna Davison', with a light blue horizontal line underneath.

DEHENNA DAVISON MP

