Written evidence on the proposed Planning and Infrastructure Bill 2025 on behalf of the Association of Environmental Clerk of Works

Executive Summary

- The experience of the Associations members is that it is likely that developments cause greater harm during the construction phase than that which is assumed in environmental assessments.
- The Office for Environmental Protection have identified that there is a lack of monitoring of the implementation of mitigation, and the true effects of construction projects on the environment. This may lead to difficulty informing any required levy for the use of the EDP.
- The bill in its current form appears to lack sufficient monitoring of environmental effects during construction, to ensure that work on site matches that agreed in any EDP.

Introduction

1. The Association of Environmental Clerk of Works (AEnvCoW) is the qualifying and representative body for Environmental Clerk of Works (EnvCoWs) and aims to raise professional standards in construction site environmental monitoring, compliance, and promote good environmental management. The AEnvCoW supports the Governments aims of streamlining the consenting of development. The Association however has concerns around Part 3 of the bill relating to Development and Nature Recovery, which this response shall discuss.

2. The AEnvCoW represents the interests of those in site environmental compliance roles and has worked nationally with stakeholders including local government (such as Heads of Planning Scotland) and other professional bodies

to define the roles and responsibilities of an on-site Environmental Clerk of Works, as laid out in the Association's position statement. In general, the association believes that policy should aim to promote good environmental performance through all planning, design and delivery stages of developments, in line with conventional scientific thinking regarding nature conservation.

3. The bill proposes the implementation of Environmental Delivery Plans (EDPs) to streamline the consenting process around protected species and environmental features. While the association supports a strategic approach to nature recovery, we believe that this does not remove the need for appropriate, scientifically sound assessment and mitigation at an individual site-based level. The implementation of EDPs appears to signal a move away from the precautionary principal and the mitigation hierarchy (in its most simple form, avoid – mitigate – compensate).

4. In the Office for Environmental Protection's (OEP) review of the implementation of environmental assessment regimes in England, it was identified that there is a lack of post-decision monitoring of compliance to check required actions have taken place, and a lack of monitoring of the effectiveness of measures to ensure that harm is avoided.

Challenges and Assumptions

5. The following information focusses only on the challenges and assumptions associated with monitoring, and project compliance.

6. In order for EDPs to provide an effective mechanism to suitably offset environmental harm, the bill infers that there is sufficient understanding of the construction phase impacts of developments to translate these into a financial cost. It is our experience the current planning process often underestimates the true extent of environmental harm and often makes incorrect assumptions of the actual impacts. With the information currently available, it would be challenging to adequately inform the generation of EDPs. The bill also fails to consider the

realities of enhancing habitats, and the timescales likely to be involved before harm is offset. It may take many years to develop a habitat to a suitable condition to support the features of interest requiring the use of EDP, in the short-term leading to a real-world loss of suitable habitats.

7. It is unclear what responsibilities are removed through use of an EDP on site. Are best practice measures to be implemented regardless of the use of an EDP, for example to remove protected species from site to another, or similar to the use of the District Level Licencing scheme for Great Crested Newt is this level of mitigation up to the developer? There is an apparent risk that the implementation of EDPs may lead to harm to individuals (or multiples thereof) of protected species on sites during the construction phase, without a clear requirement for best practice to be followed such as exclusion.

8. The bill states that monitoring and reporting of the implementation of EDPs must be made by Natural England. However, it is unclear whether individual sites will be monitored, or if this is monitoring of habitats created elsewhere by Natural England under the EDP scheme.

9. As recognised by the OEP in their assessment of the EIA process, there is not sufficient monitoring in place to robustly inform the EDP process of how much damage the construction phase of an individual project may cause. It is not clear how any required EDP levy/fee be calculated with sufficient certainty that the costs implemented can offer the required offset for development.

Solutions

10. The Heads of Planning Scotland (HoPS), published a paper on the use of Environmental Clerk of Works in the planning system, in which they advocate the use of a standardised planning condition which requires an Independent Environmental Clerk of Works to monitor a projects performance. The data gathered by the Environmental Clerk of Works could be used to inform the requirements of an EDP, to support the development of a research-based levy.

11. Additionally, the EnvCoW monitoring data could provide assurance that the developer was delivering what was agreed within the EDP on site and provide monitoring reports to any responsible authority. The responsible authority would then be able to take enforcement action should performance not meet expectations. Thus, meeting the objectives of the bill to improve the natural environment.

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