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Dear Denis,

Thank you for meeting with me on 5 January to discuss the Air Traffic Management and Unmanned Aircraft (ATMUA) Bill. I promised to write and set out the Government's position with regard to your amendment to Schedule 8 which would provide a constable with the power to destroy an unmanned aircraft (UA) as an alternative to requiring a person to ground it.

I have written to you previously and we spoke last week on the subject. Whilst the content of those discussions remains true, I thought it would be helpful to set out in one place what I believe to be the three key reasons which negates the need for the Bill to specifically provide for the power to destroy an UA;

1. Legally, the powers to destroy an UA already exist;
2. Operationally, destroying an UA is not generally desirable;
3. Existing technology is such that destroying an UA is often unnecessary.

I will then conclude the letter by setting out some of our wider counter UA measures, and how the Bill supplements these, in relation to a highest-harm UA incident. This was something we discussed during the 5 January briefing.

1. The powers to destroy an UA already exist

[Section 3 of the Criminal Law Act \(CLA\) 1967](#) allows the reasonable use of force in the prevention of crime. This is not police-specific legislation, but it is legislation that the police can, and do, rely on in such circumstance where force is required. In the case of an UA, this legislation would allow for a police officer to destroy an UA in extremis if it were deemed necessary, once the relevant risk assessments had been conducted. This legislation is used for other aspects of policing which require force in the prevention of crime, such as the use of police batons. There is therefore no requirement to provide for

this power in this Bill. Indeed, doing so would set an unusual precedent and could be taken to undermine reliance on the CLA 1967 in other areas.

2. Destroying an UA is not generally desirable

As you know, the police have been extensively consulted throughout the development of this Bill. They too assess that section 3 of the CLA 1967 is sufficient and proportionate in the case of UA, in line with other areas of policing. Any UA incident is of course unique, but situations which necessitate the destruction of the UA are likely to be rare. If they did arise, reliance on section 3 of the CLA 1967 would be appropriate as it permits whatever degree of force is reasonable to counter the threat posed.

Furthermore, there are broader operational reasons why the police would not want to destroy an UA:

- Maintaining presentable evidence as part of a police investigation and any subsequent court proceedings. Destroying an UA could render digital or forensic examinations impossible, potentially compromising an investigation;
- Police use of seized UA for advancing capability amongst officers – UA remain a new area for policing. Use of seized UA provides an extremely useful training tool to advance knowledge amongst officers.

3. Destroying an UA is often unnecessary

The Government's [Counter-Unmanned Aircraft Strategy](#), published in October 2019, committed to the creation of a new national police counter-unmanned aircraft capability in the UK. This capability makes use of technology which is more sophisticated and does not by necessity result in destruction of the UA. It relies on defeat countermeasures (known as effectors or "jammers") which have a number of impacts on the UA, such as causing it to return home, landing the UA or forcing it to hover (the specific outcome depends on specific UA programming). These effectors defeat the UA and prevent whatever malicious action it was going to take in a way which is more proportionate, easier for the operator and less likely to cause unwanted collateral damage than use of technology which destroys the UA.

In our meeting on 5 January, you raised a concern that the Bill, and the package of related counter-unmanned aircraft measures we are taking, would not be impactful in a high-threat UA incident. I have therefore set out below why I believe the Bill, alongside these other measures, would have sufficient impact.

- First, our operating procedures, across a range of Critical National Infrastructure sites (such as airports) and other key sites (such as

prisons) are constantly evolving, and have significantly improved since the Gatwick 2018 drone incursion. This allows for a faster, more effective response by both the site and the police. The Bill supplements this as it extends the range of public authorities who can be given authorisations to make lawful the use of jamming equipment to counter UA.

- Secondly, as mentioned above, the police have new capabilities and counter-UA measures available to them which provide a step-change in our ability to respond to UA incidents compared to Gatwick 2018. The Bill supplements this by providing the necessary powers for the police to use this capability to its fullest extent.
- Thirdly, if an incident occurs which cannot be stopped by either our operating procedures or our police capability, we can use section 3 of the CLA 1967 to use the necessary reasonable force to stop or, where absolutely necessary and proportionate, damage or even destroy the UA.

Our aspiration for this Bill is to address an operational gap, by providing the necessary and proportionate powers for the police to effectively respond to UA incidents. We want to make sure it remains proportionate in doing so, that the actions of the police are reasonable, and that we do not inadvertently discourage or hinder the many benefits UA are bringing to the UK.

In summary, we do not want to destroy UA but if we had to in extremis, the power already exists to do so. I hope I have been able to address your concerns, and that our justification set out above demonstrates that no provisions are needed in the Bill for the police to lawfully destroy a UA where it is absolutely necessary.

I am copying this letter to all Noble Lords who spoke at Committee stage and I will place a copy of this letter in the Library of the House.

Yours,
Charlotte

BARONESS VERE OF NORBITON