Pentland Hills Regional Park Boundary Bill Committee

Stage 1 Report on the Pentland Hills Regional Park Boundary Bill
Contents

Introduction 1

Development of the proposals in the Bill 1

Approach to scrutiny of the Bill 1
  Parliamentary procedure 1

Purpose of the Bill 3

Background to the Bill 3
  Purpose of a regional park 3
  Local authority designation of a regional park 4
  The Pentland Hills Regional Park 4

Provisions in the Bill 5

General principles of the Bill 5

Establishing the need for legislation 6
  Demand for an extended Regional Park 6
  Additional protection afforded by Regional Park designation 7
  Existing powers to extend the Regional Park 9

Policy and financial memorandums 11
  Policy memorandum 11
  Financial Memorandum 11

Objections to the Bill 15
  Handling of objections 15
  The objections 15

Delegated Powers 16

Conclusions on the general principles of the Bill 16

Annexe A 17

Extracts of minutes of the Pentland Hills Regional Park Boundary Bill Committee 17
Pentland Hills Regional Park Boundary Bill Committee

To consider matters relating to the Pentland Hills Regional Park Boundary Bill.

[Images and contact information]

Committee Membership

Convener
James Dornan
Scottish National Party

Deputy Convener
David Stewart
Scottish Labour

Alex Fergusson
Scottish Conservative and Unionist Party

Mike MacKenzie
Scottish National Party

Follow the Scottish Parliament @ScotParl
Introduction

1. The Pentland Hills Regional Park Boundary Bill (the Bill) was introduced to the Parliament on 30 April 2015 by Christine Grahame MSP, the member in charge of the Bill (the member in charge). The Parliament established an ad hoc Committee on 17 June 2015 with a remit “to consider matters relating to the Pentland Hills Regional Park Boundary Bill”.  

2. The Bill was introduced under the members’ bill procedure, as specified in Standing Order Rule 9.14. The Bill is accompanied by both a policy memorandum and explanatory notes containing a financial memorandum.

Development of the proposals in the Bill

3. Christine Grahame MSP lodged a proposal for a Bill to extend the boundary of the Pentland Hills Regional Park (the Regional Park) on the 26 February 2014, accompanied by a consultation document and a map. The main proposal in the consultation was to extend the Regional Park so that it encompassed the whole of the Pentland hills range.

4. There were 65 responses to the consultation. Respondents were a mixture of public, private and representative organisations, charities and individuals. Almost two-thirds of respondents (41) were individuals. Overall, 33 respondents (51%) were in favour of the aim of the proposed Bill to extend the boundary of the current Regional Park to include the entire range of the Pentland hills. Twenty-six respondents (40%) did not support the aim of the proposed Bill. Four respondents (6%) were undecided and two (3%) did not express a view.

5. Following the consultation, a final proposal was lodged on 1 October 2014. The proposal attracted support from 18 Members - 16 from the Scottish National Party, one from the Scottish Conservative and Unionist Party, and one from the Green Party - so the right to introduce a Bill was secured.

Approach to scrutiny of the Bill

Parliamentary procedure

6. While recognising the Bill has been introduced under the members’ bill procedure, the Bill raises issues similar to those which might arise in a private bill covered by Chapter 9A of Standing Orders. Had the Bill been introduced by the Scottish...
Government it would have been covered by Chapter 9C of Standing Orders, as it would be a hybrid public bill which “adversely affects a particular private interest of an individual or body in a manner different to the private interests of other individuals or bodies of the same category or class”.  

7. There are no provisions in Standing Orders applying to members’ bills which affect private interests in such a manner, as a result of which we have written to the Standards, Procedures and Public Appointments Committee highlighting the absence of bespoke Standing Orders.

8. One of the main features of both the hybrid and the private bill processes is that they allow for representations to be heard from those affected by the Bill, through a process of advertising and intimation. We were conscious of this safeguard and as well as issuing a call for evidence, we agreed to invite objections to the Bill. We requested the member in charge to advise us of her plans to notify people living and working in the proposed extended area of the Regional Park, to enable them to decide whether to submit an objection. We allowed 60 days for objections to be made; this timescale being consistent with those set out in the hybrid and private bill processes.


10. Notices were also sent to libraries, community centres and community councils, with an instruction they should be displayed from Friday 31 July to Monday 28 September 2015 inclusive. The City of Edinburgh Council was also asked to display the notice throughout the regional park area.

11. Seven objections received in the 60 day period. During the period between 5 August and 28 September the Committee also received 12 written submissions to its call for evidence.

12. We held three oral evidence sessions. On 29 October 2015 we heard from the three local authorities involved in the management of the current Regional Park - City of Edinburgh Council (the lead authority), West Lothian Council and Midlothian Council as well as those local authorities who would be involved in the management of an extended park - Scottish Borders Council (also an objector) and South Lanarkshire Council. In addition, we took oral evidence from key stakeholders, the National Farmers Union of Scotland (NFUS) (Mr Barr, representing NFUS, also objected as an individual), Scottish Land and Estates, Scottish Natural Heritage and Ramblers Scotland.

---

7 Chapter 9C: Hybrid Bill Procedures.
8 Objections received in response to the Bill.
9 Written submissions received in response to the Committee’s call for evidence.
10 Official Reports of the evidence sessions on the Bill.
13. We followed this session on 12 November 2015 with oral evidence from other objectors: Richard Henderson, Balerno Community Council; Michael Jones, representing himself and Caroline Sanderson; and Hamish Dykes, representing David and Jane Gilchrist.

14. Our evidence taking concluded on 19 November 2015 when we heard from Dr Aileen McLeod, Minister for Environment, Climate Change and Land Reform (the Minister) and the member in charge of the Bill.

Purpose of the Bill

15. At present, the Regional Park includes approximately half of the Pentland hills range. According to the Policy Memorandum the purpose of the Bill is to “extend the existing Regional Park to encompass all (or nearly all) of the Pentland hills range, thus ensuring it is protected and that decisions about how land is used and maintained in the long-term are guided by the Regional Park principal aims”, which are—

1. To retain the essential character of the hills as a place for peaceful enjoyment of the countryside;

2. To care for the hills, so that the landscape and habitat is protected and enhanced;

3. Within this caring framework to encourage responsible public enjoyment of the hills;

4. Co-ordination of these aims so that they can co-exist with farming and other land uses within the Park.

Background to the Bill

Purpose of a regional park

16. Four regional parks have been created in Scotland. Regional parks have their origins in a report by the Countryside Commission for Scotland's A Park System for Scotland published in 1974. Legislation on regional parks was enacted in the Countryside (Scotland) Act 1981 which amended the Countryside (Scotland) Act 1967 by inserting section 48A, Regional Parks. Section 48A(1) defined a regional park as “an extensive area of land, part of which is devoted to the recreational

---

11 Policy Memorandum, para 10
12 Policy Memorandum, para 7
13 These are: Lomond Hills Regional Park, confirmed in 1986; Pentland Hills Regional Park, confirmed in 1986; Clyde Muirshiel Regional Park, confirmed in 1990. The Loch Lomond Regional Park, which was designated in 1988 was subsumed into the Loch Lomond and Trossachs National Park when it was designated in 2002. Section 48A of the Countryside (Scotland) Act 1967 has been repealed in relation to any land in a National Park by the National Parks (Scotland) Act 2000, so any land in a Regional Park which is included in a National Park is subsumed into the National Park.
needs of the public”.

Other than setting out the process for designation summarised below, section 48A(6) states “Where a planning application is made in relation to lands which fall within an area designated as a regional park, the planning authority shall have regard to the fact that the area has been so designated in considering the application”.

Local authority designation of a regional park

17. The Act gave regional councils powers to designate regional parks by order. Local authorities today have the same powers. If there are objections to an order designating a regional park, the order must be confirmed by Scottish Ministers. A detailed process for designating regional parks is set out in the Act and in the Regional Parks (Scotland) Regulations 1981. This involves notifying all landowners and occupiers of land in the proposed park and giving an opportunity for them, the public, and certain other consultees to make objections. Any objections must be taken into account by Ministers in deciding whether to confirm regional park designation.

The Pentland Hills Regional Park

18. The Regional Park was designated on 22 October 1984, following a public inquiry, this designation was confirmed in September 1986. The Regional Park extends for 15 miles south east from the summit of Caerketton Hill, which itself is around a mile south of the Edinburgh bypass, to Mid Hill, a mile north of Dunsyre. A map showing the existing boundary of the Regional Park is available online.

19. Following local government reorganisation, the Regional Park fell within the areas of Edinburgh, Midlothian and West Lothian councils. A minute of agreement was entered into by these three local authorities in 1997. In 2004, this agreement was amended to enable the City of Edinburgh Council to become the lead authority through its management of the ranger service.

20. The Regional Park’s budget for 2014-15 was £337,754, which came from contributions from the three local authorities and Scottish Water, who operates reservoirs in the Regional Park. The bulk of this budget, around two-thirds, is spent on staffing the ranger service. A social return on investment analysis of the Regional Park ranger service was carried out in 2013 by Greenspace Scotland. The study found that every £1 invested in the Regional Park management services might deliver around £9 of benefits.

---

14 SPICe Briefing on the Bill, page 6.
16 The Regional Parks (Scotland) Regulations 1981 No. 1613 (S.170).
17 Pentland Hills Regional Park Boundary Bill: Overview map
Provisions in the Bill

21. The Bill is short, consisting of six sections including sections on interpretation, commencement and the short title. The main sections are: Section 1, Regulations altering the boundary of the Pentland Hills Regional Park; Section 2, Procedure to be followed by relevant local authorities; and Section 3, Alteration of the boundary of the Park on the default date.

22. Section 1 of the Bill would give Scottish Ministers the power to make regulations altering the boundary of the Regional Park. Such regulations could only designate an area to the southern edge of the existing park and the extension must be proposed to Ministers by all of “the relevant local authorities” \(^{19}\) acting jointly and must include the “southern summits” (Seat Hill, Black Mount and Mendick Hill).

23. Section 2 of the Bill sets out the procedure which local authorities would follow in making a proposal for an extension to the Regional Park. Before making a proposal, they would have to give notice of it to every owner, occupier, and lessee of land within that area, and to such other persons as they consider appropriate and publish a copy of that notice in a reasonable way. The notice would be required to specify a period of not less than 28 days within which representations could be made. Local authorities would be required to consider these representations. Section 2 would also give Scottish Ministers the power to make further provisions about this procedure through subordinate legislation.

24. Section 3 of the Bill provides for a scenario where local authorities do not make a proposal to extend the boundary of the Regional Park. In these circumstances, section 3 would provide that the boundary would be altered to include all the land from the existing southern boundary of the Regional Park up to the “outer limit” \(^{20}\) two years after the date of Royal Assent.

General principles of the Bill

25. We thank Christine Grahame for bringing forward this Bill. Members’ bills are a unique way of highlighting issues of importance which might not otherwise have prominence or be explored in this detail in the Parliament. It is evident to us Christine Grahame is passionate about protecting the landscape of the Pentland hills for future generations and about responsible use of the hills. By introducing this Bill, she has created a focus on the Regional Park and its aims, as well as the particular difficulties faced by local authorities and others in meeting those aims in

\(^{19}\) Section 4 defines the relevant local authorities as the City of Edinburgh Council; Midlothian Council; Scottish Borders Council; South Lanarkshire Council; and West Lothian Council, i.e. the five local authorities part of whose area would then be in the extended Regional Park.

\(^{20}\) “outer limit” defined in the Bill as running from the existing South-westernmost point of the Park on the A70, South to Carnwath, and then following the A721 from Carnwath to its junction with the A702, and then following the A702 North to rejoin the existing park boundary in Carlops. Pentland Hills Regional Park Boundary Bill: Overview map
the coming years. We acknowledge the hard work which has been undertaken by the member and her officials in the Non-Government Bills Unit to bring this legislation before the Parliament.

Establishing the need for legislation

26. We were keen to understand the reasons behind the legislation and the potential benefits to be gained from extending the size of the Regional Park. The member in charge explained the broad purpose of the Bill was to encompass the entire range, not 45% as is the current position. She went on to expand on the significance of designation—

"Green space is important, particularly when it is situated next to urban areas. The access rights and responsibilities under the Land Reform (Scotland) Act 2003 and the Scottish outdoor access code have widened access to the countryside and increased recreational opportunities. However, that has not always been accompanied by proper use by the public, which has led to increased pressure on green space. If we are serious about retaining that green space for future generations, it needs to be protected and the increasing demand needs to be managed. Putting the whole of the Pentland hills range on a statutory footing could provide that protection."

Demand for an extended Regional Park

27. All of the witnesses were asked if they had been aware of any demand for the Regional Park’s boundary to be extended to include the southern area of the hill range.

28. Local authorities were in agreement that they were unaware of any demand for the Regional Park to be extended. Alan McGregor, from the City of Edinburgh Council, said—

"The City of Edinburgh council is not aware of any direct demand but, in its capacity as a manager of the existing regional park, it recognises that recreational use of the Pentland hills extends beyond the existing boundary. However, that has not been expressed directly in terms of a demand to extend the boundary at this stage."

29. It was suggested demand to use the Pentland hills is currently contained within the Regional Park. Michael Jones of Fairliehope, Carllops, explained he lived on the periphery of the Regional Park and he had “not found a pressure outflow coming our way”. Others who lived in the southern area of the Pentland hills held similar views that there was no demand.

---

30. Richard Henderson, Chair of the Balerno Community Council considered the current Regional Park will come under increasing pressure and referred to South East Scotland Strategic Development Planning Authority’s proposals “for an increase in the population in south-east Scotland” particularly in Edinburgh.  

31. The member in charge said there was “huge public support” and referred to her consultation where 51% of the 65 who responded were in favour of expanding the Regional Park. She said “how often do we hear about ‘demand’ from the public? The public supports proposals that are put forward”. She added she had been asked to look at a proposal to cover 100% of the Pentland hills, saying “I could say I had demand knocking at my door for us to look at the matter”.  

Feasibility study

32. A number of respondents called for a feasibility study to be undertaken before legislating. In its objection to the proposed extension to the Regional Park, Scottish Borders Council stated “There has been no assessment of the current relevance and effectiveness of the Pentland Hills Regional Park (PHRP) in terms of defined objectives.”  

33. The Minister clarified it was for local authorities to initiate and fund a feasibility study if they wanted to extend the Regional Park and confirmed “the Scottish Government would not provide funding” for such a study.  

34. It was the member in charge’s belief that “a feasibility study will not happen if the bill does not go through because people will just sit back” and she suggested a feasibility study could be a way of “kicking something into the long grass”.  

35. We consider there is a tangible difference between ‘support’ and ‘demand’. Our examination has shown there is ‘demand’ in the existing Regional Park, and in particular at ‘honey pot sites’; there is not the same evidence of ‘demand’ for use of the southern part of the Pentland hills area outwith the boundary. We believe a feasibility study would be appropriate, and in keeping with existing processes, to ascertain ‘demand’ and ‘support’.  

Additional protection afforded by Regional Park designation

36. According to the policy memorandum the aim of extending the Regional Park is to ensure that all of the Pentland hills range is protected and that decisions are guided by the Regional Park’s principal aims.  

37. Submissions to the Committee considered at least some of the Regional Park’s aims already apply to areas of the Pentland hills range that are outside the park.  

---

26 Scottish Borders Council, Written submission.  
29 Policy Memorandum, paragraph 10.
Protect and Enhance – a report prepared by Scottish Borders Council, and provided in support of its objection - argued that the extended area of the Regional Park is already protected by numerous designations—

The entire area of the proposed Park extension is within the Pentland Hills Special Landscape Area, within which there are a number of formal designations (West Water is a designated Ramsar, Special Protection Area and a site of Special Scientific Interest; the Tweed tributaries are Special Areas of Conservation; and there are SSSIs at Lynslie Burn, North Esk Valley, West Linton Fens and Grassland, and Carllops Meltwater Channels). The Special Landscape Area is protected under Local Plan Policy EP2 ‘Areas of Great Landscape Value’.  

38. The report further stated—

There are a number of Core Paths and Promoted Paths within the area that the Council protect, manage and maintain. Therefore, the key environmental interests and the use of the area for recreation within the Scottish Borders are appropriately covered.  

39. When the Minister was asked to set out her thoughts on the potential health and recreational benefits of the legislation, she said—

Given the Committee has heard there is no evidence of demand for an extension, it is difficult to make a case for health benefits. Statutory access rights already apply to the southern Pentland hills. People can already access them and derive health and wellbeing benefits, if they so wish.

The fact is that the proposed extension is quite remote and away from the big population centres. West Lothian Council described it as “the remotest part of West Lothian.”

40. The member in charge addressed the importance of protecting the whole of the Pentland hills against the pressure of house building and development—

I know that they already have some kind of protection as areas of special scenic value—all five councils that are adjacent to the proposed extended park have pointed that out—but that offers no real protection to them. The bill would provide the opportunity to offer real protection.

41. When asked for further clarification about the protection provided if the Bill only provided “a line on the map”, the member in charge said, “it would offer certain

30 Scottish Borders Council, written submission.
31 Ibid.
opportunity”\textsuperscript{34} later adding, “designation does not offer such protection” but means “councils have to have regard to that designation”\textsuperscript{35}.

42. **We are not convinced designation as a Regional Park necessarily increases protection against development, as this type of designation is intentionally light touch.** The regulations simply state that where a planning application is made in relation to lands which fall within an area designated as a regional park, the planning authority shall have regard to the fact that the area has been so designated in considering the application.

**Existing powers to extend the Regional Park**

43. Legislative power already exists for local authorities to enlarge the Regional Park area should they wish to do so under the Countryside (Scotland) Act 1967 as amended by the Countryside (Scotland) Act 1981.

44. The member in charge explained the Bill was enabling legislation with the sole purpose to extend the current Regional Park to include the whole of the Pentland hills range, “It has one aim: to extend the boundary of the Pentlands hills regional park according to road outlines—although local authorities could tweak that if they wanted to—over two years”, she added “I cannot see anything in the bill about local authorities having to pay anything, or anything about management”.\textsuperscript{36}

45. We explored this explanation with the witnesses. Anne Gray, Scottish Land and Estates questioned how “a line on a map” could achieve the Regional Park’s objectives, she said, “we do not see how the objectives of protecting the landscape, encouraging access and co-ordinating different land uses will be achieved”. She further explained “achieving any of the objectives would require resources, funding and management”.\textsuperscript{37}

46. When asked about the impact “a line on a map” would have, the Minister commented it would “create expectation about how the park would be managed and funded”.\textsuperscript{38}

47. In response to claims the Bill created ‘expectations’, the member in charge said—

\begin{quotation}
Much of the evidence on the bill has addressed a bill that is not the bill before you and which has not been drafted. That bill would have contained sections on management, funding for wardens and so on, none of which is relevant to the terms of my bill.\textsuperscript{39}
\end{quotation}

48. If the local authorities do not extend the boundary of the Regional Park by the default date (two years beginning on the day after the Bill received Royal Assent),

section 3 would impose the “outer limit” boundary. The member in charge explained this provision was necessary because unless the Bill contained a fallback position local authorities would not come to an agreement on where the boundary should be.

Consultation procedure

49. Under the existing legislation there is a detailed notification and representation process. Section 2 of the Bill requires local authorities to give notice of a proposal to every owner, occupier and lessee of land within that area and to such other persons as they consider appropriate; as well as publish a copy of that notice in a reasonable way. The notice would be required to specify a period of not less than 28 days within which representations could be made. Local authorities would be required to consider these representations. As set out above, should local authorities not act under section 2, section 3 would amend the boundary two years after the Bill received Royal Assent.

50. The Minister said “the bill represents a shift away from all the existing safeguards that are set out in the Countryside (Scotland) Act 1967 and subsequent regulations. These provisions provide a framework, procedures and a process for consultation, which need to be properly considered”. She added—

"We should not dispose of the carefully thought through consultation procedures and arrangements that are provided by the current legislation."

51. Hamish Dykes, representing the objectors David and Jane Gilchrist, raised concerns about the lack of awareness amongst the farming community of the member’s proposal, he said “the general feeling among the farmers that I have spoken to about the issue is that it all seems to have come upon us from the mist. … We are a little surprised at the stage we are all at”.

52. We appreciate why, as a members’ bill, the Bill has been drafted in such a way as to provide certainty. We are however concerned about the implications of section 3 of the Bill, which would not provide an opportunity for those living and working within the new boundary to make representations should local authorities decide not to propose a boundary. We share the Minister’s view the Bill represents a shift away from the safeguards provided in existing legislation.

---

Policy and financial memorandums

Policy memorandum

53. The lead committee is required under Rule 9.6.3 of Standing Orders to report on the policy memorandum which accompanies the Bill. We consider the level of detail provided in the policy memorandum on the policy intention behind the provisions in the Bill, the alternative approaches considered, useful in assisting us in our scrutiny of the Bill.

Financial memorandum

54. The same rule requires the lead committee to report on the financial memorandum. The financial memorandum explains that the costs on Scottish Ministers are minimal and only incurred in making regulations if local authorities choose another boundary other than the ‘outer limit’ specified in the Bill. It goes on to explain costs on local authorities would involve one-off costs (to prepare for an alternative boundary proposal and publication, distribution of the notice of such a proposal, and any additional costs relating to the Regional Park’s website, promotional material, signage and perhaps an additional car park) estimated to be in total around £30,000. With regards to local authorities’ ongoing recurring costs, the financial memorandum anticipates some additional staff will be needed, equivalent to a full-time equivalent post at £45,700. Path maintenance was also identified as an ongoing cost as it was expected inclusion in the Regional Park would lead to a higher level of path maintenance being required. Although this has not been estimated with any certainty, a minimum range from £1,000 to £6,000 per annum might be expected, for each new authority based on current spend on core paths.

55. One of the main issues for the member in charge, local authorities, stakeholders and objectors alike was the resources available to fund capital and revenue costs of the current Regional Park. City of Edinburgh Council, the lead local authority involved in managing and funding the Regional Park, stated in its written submission—

The pressure on the Council’s revenue budgets is intense and likely to intensify further. …There will also be a requirement for ongoing revenue funding in order to allow the park to be serviced and maintained.

56. Alan McGregor, City of Edinburgh Council, expanded on the current position saying “a credible and viable service is provided” but, “it is a challenge to maintain the service”. James Kinch, Midlothian Council, agreed with this statement, “Alan

---

44 Financial Memorandum, paragraph 16.
45 Financial Memorandum, paragraphs 17-23.
46 Financial Memorandum, paragraph 24.
47 Financial Memorandum, paragraph 25.
48 City of Edinburgh Council, written submission.
McGregor is right to say the service is keeping its head above water in terms of staffing” but he recognised the path system was costly to maintain.50 Ian Aikman, Scottish Borders Council, said the Council spends about “£5,000 a year on core paths and the promotion of core paths”. He explained this is taken out of its wider budget as there is no specific budget for the area.51

57. NFUS expressed the view in its written submission, “unfortunately, the reality is that the Park has always been underfunded”.52

Alternative funding model for the Regional Park

58. There was some discussion about possible alternative funding models for the existing Regional Park.

59. Ramblers Scotland suggested a Regional Park trust could be set up—

   “to seek external funding for path improvements and other visitor infrastructure. We are confident that a range of funding sources can be utilised by the Regional Park to upgrade routes, improve promotion and signage and manage access around any sensitive areas, and a wide variety of partners will be able to assist in this.

60. We heard from SNH that it had been involved in advising the Pentland Hills Regional Park Joint Committee on the pros and cons of alternative funding models. Janice Winning, stated she had advised the Joint Committee that setting up another trust would clutter the landscape of trusts already working in the Regional Park.53

61. West Lothian Council highlighted other drawbacks in its submission—

   “Concerns also remain that moving to a trust model, while it may allow some of the financial pressures to be addressed, would weaken local authority involvement in, and not address the revenue costs involved in, running the regional park.”54

62. The Minister clarified the Scottish Government is not involved in the governance of the Regional Park and advised “the Pentland Hills Regional Park Joint Committee is best placed to judge”.55

---

52 Ramblers Scotland, written submission.
54 West Lothian Council, written submission.
Funding of the proposed extended Regional Park

63. In relation to the proposal to extend the Regional Park, Hamish Dykes view was “the biggest flaw with the bill is the issue of where the funding is going to come from, if it is going to come at all”.\(^{56}\)

64. Scottish Water advised it had no budget for an extended Regional Park, as it—

> already contributes circa £10,000 per annum to the management of the Regional Park. We have not identified any additional funding for the Regional Park as a requirement in our SR15 business plan; therefore it is unlikely that we would be able to make additional contributions.”

65. It was difficult for those local authorities that would be encompassed by an extended Regional Park to assess the financial implications of the Bill. Ian Aikman, Scottish Borders Council, asked for greater clarity on the proposal to assess possible implications, for example, “on how the park will deliver, and the issues in terms of its financial position, organisation, governance and so on and how that translates to an extended area”.\(^{57}\) Malcolm Muir concurred with this position “we found nothing in the financial memorandum that would allow us to make reasonably accurate predictions”.\(^{58}\)

66. In its written submission, City of Edinburgh Council said of the proposal to extend the Regional Park—

> Expansion of the Regional Park into the southern part of the hill range will necessarily bring with it demand for capital investment in car parking, signage, path surfacing and other visitor facilities.\(^{59}\)

67. Malcolm Muir confirmed South Lanarkshire Council had “no budgets committed to the proposed extension area”.\(^{60}\)

68. In his written submission to the Committee, Peter Wang stated—

> …it would make eminent good sense in all the circumstances to retain the present boundaries. And direct existing and future funds into upgrading of car parks, including at the principal sites, a modicum of toilet facilities and access to clean water. Emphatically, the aim must be quality before mere quantity.\(^{61}\)

---

\(^{56}\) Pentland Hills Regional Park Boundary Bill Committee, Official Report, 12 January 2015, col 5.  
\(^{57}\) Pentland Hills Regional Park Boundary Bill Committee, Official Report, 29 October 2015, col 10.  
\(^{58}\) Pentland Hills Regional Park Boundary Bill Committee, Official Report, 29 October 2015, col 10.  
\(^{59}\) City of Edinburgh Council, written submission.  
\(^{60}\) Pentland Hills Regional Park Boundary Bill Committee, Official Report, 29 October 2015, col 7.  
\(^{61}\) Peter Wang, written submission.
69. Ramblers Scotland stated in its submission—

"...in the long term there are likely to be more economic opportunities flowing to businesses in this section of the park if it becomes more widely visited which will offset any investment required by the two new local authority areas in the short term."\(^{62}\)

70. In its memorandum to the Committee, the Scottish Government made no commitment to additional funding for an extended park and its preference for the status quo—

"Scottish Government does not support the Bill and proposes to maintain the status quo, whereby local authorities take the lead on the designation, planning and management of Regional Parks."\(^{63}\)

71. When asked about the evidence received from the five local authorities that they would not support the Bill unless addition funding was available, the member in charge confirmed the Bill’s implementation cost was around £7,000. She advised other estimated costs relating to implementation and estimated to be in the region of £20,000 “is the prospective cost to local authorities should they wish to create a different boundary, and parking is not part of the Bill.”\(^{64}\)

72. We acknowledge the estimated cost to implement “a line on the map” is minimal. In practice, however, we consider the legislation would create an expectation leading to increased interest in using the extended Regional Park and in turn lead to pressure to maintain and manage paths, create parking and widen the ranger service. This would inevitably require increasing funding to fulfil the aims of the Regional Park. It is clear to us that there are financial pressures on the current management of the existing Regional Park and it therefore seems illogical to extend it thus requiring any available funding to be spread more thinly across an enlarged area.

73. The Finance Committee received seven responses\(^{65}\) to its call for evidence on the financial memorandum and agreed to forward the submissions to help inform our consideration of the Bill. The majority of respondents suggested the estimates in the financial memorandum in respect of infrastructure costs (e.g. paths and parking) appeared insufficient. NFUS was concerned on its members’ behalf about the existing Regional Park funding structure because “farmers and land holders within an extended boundary will be expected to be the unofficial financiers”. The majority also considered a feasibility study was required to assess costs more accurately and identify potential sources of revenue and capital funding.

74. These submissions reinforced many of the issues raised in our evidence.

---

\(^{62}\) Ramblers Scotland, written submission.

\(^{63}\) Scottish Government memorandum on the Bill.

\(^{64}\) Pentland Hills Regional Park Boundary Bill Committee, Official Report, 19 January 2015, col 19.

\(^{65}\) Finance Committee submissions received in response to its call for evidence on the Bill.
Objections to the Bill

75. As noted earlier in this report, the Committee received seven objections.

Handling of objections

76. We invited all those who had objected to the Bill to provide oral evidence. This allowed them to explain further the concerns set out in their objections. Although we heard from Scottish Borders Council and Mr Barr (NFUS) as part of our key stakeholders session, we ensured they were given sufficient opportunity to amplify their objections.

77. As there is no procedure for members’ bills which could adversely affect a particular private interest of an individual or body in a manner different to the private interests of other individuals or bodies of the same category or class, we considered it important to provide consideration of individual objections. We have taken this approach not least for the objectors who took the time to object and provide oral evidence to the Committee, but also for the member in charge to fully understand their concerns should the Bill proceed to the amending stage. In addition, we consider it necessary to enhance the transparency of our considerations for the Parliament, who will decide whether the Bill should proceed to the next parliamentary stage.

78. Many of the reasons set out in the objections were similar to those presented in the written submissions received and the oral evidence heard. For example, issues around demand and funding of an enlarged Regional Park. This section of the report only focuses on particular private interests where the Bill potentially has an adverse impact.

79. Only those objections which do not relate to the whole Bill are discussed below. If the Parliament agrees with the Committee and the Bill does not proceed to Stage 2, all objections are disposed of. If, however, the Parliament agrees the general principles of the Bill, those objections, which are not whole bill objections (those below) remain and should be considered at Stage 2.

The objections

Mr Barr, Farmer East Kinleith

80. Mr Barr set out the individual impact the Bill would have on his livelihood citing existing issues such as damage, worrying of sheep and cattle by dogs resulting in injury or death of livestock which would be exacerbated if the Regional Park was extended. A compensation framework may have to be added to the Bill to deal with any claims.

Matthew and Geraldine Hamilton, Crosswoodhill (two separate objections)

81. Matthew and Geraldine Hamilton objected because they believed being within a designated Regional Park could be used as a reason to turn down planning
applications and to impose extra costly conditions which might impact on their businesses or home. The Bill could be amended to provide a specific appeal framework to address these circumstances.

David and Jane Gilchrist, Ingraston Farm

82. David and Jane Gilchrist objected to the Bill because they believed they would be subject to increased bureaucracy and restricted farming practices. In addition they were concerned the value of their land could be adversely affected by being in a designated Regional Park. Again a possible way of addressing these concerns would be to provide a compensation provision in the Bill.

Delegated Powers

83. We note the Delegated Powers and Law Reform Committee report\(^\text{66}\) did not draw the attention of the Parliament to the powers to make subordinate legislation in the Bill, namely—

- section 1(1) - Regulations altering the boundary of the Pentland Hills Regional Park; and
- section 2(4) – Procedure to be followed by the relevant local authorities.

84. We do not demur from this report.

Conclusions on the general principles of the Bill

85. Under Rule 9.6.1 of Standing Orders, the lead committee is required to report to the Parliament on the general principles of the Bill.

86. The Committee reports to the Parliament that it does not support the general principles of the Bill and recommends the Bill is not agreed to at Stage 1.

\(^\text{66}\) Delegated Powers and Law Reform Committee Report on the Pentland Hills Regional Park Boundary Bill at Stage 1, 50th Report, 2015 (Session 4).
Annexe A

Extracts of minutes of the Pentland Hills Regional Park Boundary Bill Committee

1st Meeting. 2015 (Session 4) Thursday 25 June

1. Declaration of interests: Members of the Committee were invited to declare any relevant interests. No such interests were declared.

2. Choice of Convener: The Committee chose James Dornan as its Convener

3. Choice of Deputy Convener: The Committee chose David Stewart as its Deputy Convener.

4. Decision on taking business in private: The Committee agreed to take item 5 in private.

Pentland Hills Regional Park Boundary Bill (in private): The Committee considered its approach to the Pentland Hills Regional Park Boundary Bill and agreed to request the member in charge to advertise and intimate the existence and import of the Bill in a manner designed to reach those who might be impacted by its proposals. In relation to advertising the Committee agreed to draw the member in charge’s attention to the requirements of the Determination by the Presiding Officer on advertisement of intention to introduce a Hybrid Bill made under Standing Order 9C.3.2(h)(ii). The Committee further agreed to request the member in charge to produce proposals as to how the member intends to satisfy—

the above requirement on intimation, and

the intent of the above Determination.

Once the Committee is satisfied with the member in charge’s proposals on advertisement and intimation, the Committee agreed to authorise the member in charge to advertise and intimate the Bill.

The Committee also agreed to adopt the procedure for objections as set out in Standing Order Rule 9C.7 and specified a period of 60 days for the receipt of objections to run from the date of advertisement or intimation, whichever is the later. The Committee further determined the proper form of objections should be as near as may be to that set out in the Determination by the Presiding Officer on proper form of objections to Hybrid Bills made under Standing Order Rule 9C.7.4.
In addition, the Committee agreed to write to the Standards, Procedures and Public Appointments Committee to draw to its attention the absence of Standing Orders covering members’ bills which may adversely impact particular private interests of individuals or bodies in a manner different to the private interests of other individuals or bodies of the same category or class.

The Committee also agreed to issue a call for evidence on the Bill.

2nd Meeting. 2015 (Session 4) Thursday 29 October

1. Pentland Hills Regional Park Boundary Bill: The Committee took evidence on the Bill at Stage 1 from—

   Alan McGregor, Regional Park Manager, City of Edinburgh Council;
   Chris Alcorn, Principal Planner, Planning and Economic Development, West Lothian Council;
   James Kinch, Land Resources Agent, Midlothian Council;
   Ian Aikman, Chief Planning Officer, Scottish Borders Council;
   Malcolm Muir, Countryside and Greenspace Manager, South Lanarkshire Council;
   Robert Barr, National Farmers Union of Scotland;
   Anne Gray, Policy Officer (Environment), Scottish Land & Estates;
   Janice Winning, Operations Manager, Scottish Natural Heritage;
   Helen Todd, Campaigns & Policy Manager, Ramblers Scotland.
3rd Meeting 2015 (Session 4) Thursday 12 November

1. Pentland Hills Regional Park Boundary Bill: The Committee took evidence on the Bill at Stage 1 from—

Richard Henderson, Chair, Balerno Community Council;
Michael Jones, Fairliehope Carlops;
Hamish Dykes, representing David and Jane Gilchrist, Ingraston Farm.

4th Meeting 2015 (Session 4) Thursday 19 November

1. Decision on taking business in private: The Committee decided consideration of its draft Stage 1 report on the Pentland Hills Regional Park Boundary Bill be taken in private at future meetings.

2. Pentland Hills Regional Park Boundary Bill: The Committee took evidence on the Bill at Stage 1 from—

Dr Aileen McLeod, Minister for Environment, Climate Change and Land Reform;
Helen Jones, Head, and Ellen Huis, Policy Officer, Landscape and Involvement with the Natural Environment Branch, Scottish Government;
Christine Grahame MSP, Member in Charge;
Diane Barr, Non-Government Bills Unit, and Neil Ross, Solicitor, Scottish Parliament.

5th Meeting 2015 (Session 4) Thursday 12 December

1. Pentland Hills Regional Park Boundary Bill (in private): The Committee considered a draft Stage 1 report.