

ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

Wednesday 6 September 2006

Session 2

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ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

†25th Meeting 2006, Session 2

CONVENER

*Sarah Boyack (Edinburgh Central) (Lab)

DEPUTY CONVENER

*Eleanor Scott (Highlands and Islands) (Green)

COMMITTEE MEMBERS

*Mr Ted Brocklebank (Mid Scotland and Fife) (Con)

*Rob Gibson (Highlands and Islands) (SNP)

*Richard Lochhead (Moray) (SNP)

*Maureen Macmillan (Highland and Islands) (Lab)

*Mr Alasdair Morrison (Western Isles) (Lab)

*Nora Radcliffe (Gordon) (LD)

*Elaine Smith (Coatbridge and Chryston) (Lab)

COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)

Trish Godman (West Renfrewshire) (Lab)

Jim Mather (Highlands and Islands) (SNP)

Jeremy Purvis (Tweeddale, Etrick and Lauderdale) (LD)

Mr Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

CLERK TO THE COMMITTEE

Mark Brough

SENIOR ASSISTANT CLERK

Katherine Wright

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 6

† 24th Meeting 2006, Session 2—held in private.

Scottish Parliament

Environment and Rural Development Committee

Wednesday 6 September 2006

[THE CONVENER *opened the meeting at 10:03*]

Item in Private

The Convener (Sarah Boyack): I welcome members, the press—if any are present—and the public to the meeting. I remind everyone to turn their mobile phones to silent and to keep their BlackBerries well away from the recording machinery. The only apology is from Nora Radcliffe, who will be slightly late as she is attending the Public Petitions Committee.

Agenda item 1 is to consider whether to take item 4 in private, to allow us to proceed with concluding our stage 1 consideration of the Environmental Levy on Plastic Bags (Scotland) Bill. The committee's decision would be published in the minutes on its web pages, which would let all interested parties know what the committee decides to do. We asked for supplementary information from the minister and Mike Pringle. Colleagues have received that information and other representations that have come in over the summer. Are colleagues content to take item 4 in private?

Members *indicated agreement.*

Regulatory Framework Inquiry

10:04

The Convener: Colleagues have received correspondence from the Subordinate Legislation Committee and its draft report into the regulatory framework in Scotland. As colleagues will recall, we made comments in writing to the Subordinate Legislation Committee at the early stage of its work last year. I gave evidence on the committee's behalf to the Subordinate Legislation Committee in November.

Colleagues have in front of them a paper that outlines the main features of the new scrutiny procedure recommended by the Subordinate Legislation Committee. There are specific issues on which the Subordinate Legislation Committee seeks comments. In the report from Mark Brough, we have a note of our previous comments on the issue so that members can see to what extent the committee's views have been taken on board. Most of our comments have been taken on board. There are one or two extra issues on which we did not comment. It is more a case of whether members are happy with where the Subordinate Legislation Committee has got to.

One of the biggest of the recommended changes is the suggestion that while a division should remain between technical and policy scrutiny, the process should be changed. Although the committee would still get a Subordinate Legislation Committee report, there would be no requirement for the committee to consider that report before it submits its own report. That is the biggest procedural change, which leaves the issue of how something should be resolved. I would like clarification on how the process works. The Subordinate Legislation Committee suggests that it would be possible for draft instruments to be changed by the Executive on very minor technical grounds, for example where there has been a mistake, a typo or a basic error. We would support that, because in the past we have supported the policy behind a statutory instrument only to end up having to deal with it twice because the first version contained a basic error. Such a change would be helpful to the system. My only question is who decides what those issues are.

Does anyone have any comments on the rolling consolidation issue?

Eleanor Scott (Highlands and Islands) (Green): I was not on the committee when it considered the issue previously and my only comment is on the exceptional Scottish statutory instrument procedure for emergency or urgent instruments. I have no problem with the procedure other than to say that it should not be overused

and that an issue should not become an emergency simply because the Executive has not got its act together in time to get the instrument ready when it should have done. I would want the use of the procedure to be monitored. I have no objection to it as an entity; it is just that it should not be an overused entity.

The Convener: It would be up to the Presiding Officer to accept such an exceptional SI. The idea of monitoring the procedure is good, because it would keep everybody on their toes. We shall pass those two comments to the Subordinate Legislation Committee.

Petition

Lamlash Bay (No-take Zone and Marine Protected Area) (PE799)

10:08

The Convener: The next agenda item is petition PE799 from the Community of Arran Seabed Trust, which requests that the Parliament supports its proposal to close an area of Lamlash bay to all forms of marine life extraction—it will be called a no-take zone—and to close the rest of the bay to mobile fishing gear. The latter will be called a marine protected area. We made an informal visit to Arran last week to discuss the petition with COAST. The petition has now been formally referred to the committee and we must decide how to proceed. A paper from the clerks makes some recommendations. Colleagues also have a paper outlining the background to the petition and some of the correspondence associated with it. Does anyone have any comments?

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): I thoroughly welcomed COAST's aspirations. What the group is trying to achieve is admirable and it subjected us to a well-presented campaign when we were on Arran. It is an interesting idea to block off part of the sea bed for 10 years and to ensure that mobile gear does not go down there. My only fear—I expressed it at the time—was that we were subjected to only one side of the argument. In the slick vox pop film that we were shown, the chap from Scottish Natural Heritage was the only person who voiced any opinion other than COAST's.

I think that the idea is interesting, but there is a marine bill coming up that will take into account much larger areas, with marine national parks coming along. We need to hear further evidence about Lamlash bay and we need to hear from the Clyde Fishermen's Association. However, is it not premature to be talking about blocking off one small area if a bill will come before Parliament this session that might make other recommendations along the same lines?

The Convener: You are absolutely right that we will have to consider the whole issue properly and enable all parties in the debate to put their cases to us. For the record, it is our understanding that the Executive is not committed to introducing a marine bill formally; that issue is under consideration, and such a bill would not come before Parliament this session. The committee has decided to undertake a marine inquiry. We will come back to the issue, as we need to take proper formal evidence and enable everyone to test out the petitioners' views.

Richard Lochhead (Moray) (SNP): I concur with much of what Ted Brocklebank said. I thank the members of COAST for their hospitality when we visited Arran for our awayday. Their presentation to us raised many fascinating issues. I particularly enjoyed the film that showed us the diverse marine life in the bay and the surrounding waters. It was very educational and highlighted some serious issues.

Of course, in such issues there is always a conflict of interests between conservation aims, the local fishing industries and others. We must consider the matter in much more detail. I was surprised that SNH—which normally falls over itself to support such initiatives—does not support Lamlash bay going through the proposed process. I would like to find out more about it and learn why that is the case.

The petitioners' aspirations are good, but I am slightly concerned by the process. The committee is already talking about an inquiry into the future management of marine matters in Scotland. We have discussed the fact that there are 85 acts, or thereabouts, that apply to Scottish waters. The process is important in deciding how to reduce conflict between the interests of different organisations and users. We must ensure that we are not just creating further bureaucracy and even more legislation on top of the 85 acts that already apply to Scottish waters. We must look at the matter holistically.

In the meantime, we must hear both sides of the arguments. Other organisations will have a view on the matter, such as the Clyde Fishermen's Association and the Mallaig and North West Fishermen's Association. It would be good to hear from fishermen who fish the bay as well as from the people who promote the petition.

Elaine Smith (Coatbridge and Chryston) (Lab): I agree that we need to hear more on the issue. I was impressed with the presentation that we were given. We also need to bear in mind that the idea has not come about overnight; these people have been looking into the issue and campaigning on it for around 10 years. Although the bay would be the first protected area of its kind in Scotland, it would not be the first worldwide or in the United Kingdom.

I am sympathetic to the aims of the petition. Considering the damage that can be done to the sea bed, which cannot recover from it, we need to take the matter extremely seriously now. We want to look at it in a wider context, but we have to reach a decision on the petition. I am inclined to support the petition, as Lamlash bay is a smallish area and it would be an experiment from which we could learn a great deal. Like other members, however, I would like to hear from other sides of

the argument, and I believe that it would be sensible to have an evidence session to do that.

10:15

Eleanor Scott: Elaine Smith has said much of what I was going to say. The presentation was very powerful, especially because the area that the petitioners are talking about is in no way pristine. It has a salmon farm and a mussel farm in it and it is used extensively by pleasure boats; all that activity would continue. The petitioners are not talking about an area of sea that nobody would be able to cross or do anything in; they are talking about a well-used expanse of water.

There was broad agreement among the stakeholders, bar one, that the proposed no-take zone was a good idea. It was clear from what SNH said on the film that we were shown that it is interested in creating such zones but that it wants to get all the ducks in a row—to have a grand plan with several zones in place all at once. I feel that that is extremely optimistic and bureaucratic and that it would take ages. COAST's petition asks for the protected area to exist for a 10-year period, whereas what SNH is asking for would take 10 years to happen. I feel that COAST's proposal for Lamlash bay would inform the thinking on the bigger picture that needs to take place.

I agree that we need to take evidence on the issue, but the presentation was powerful and I am inclined to support the proposal.

Rob Gibson (Highlands and Islands) (SNP): It is interesting that we have been able to find, for the first time, a community that is talking about the management of the sea bed. The Parliament has, by and large, supported communities that have wanted to take control of their land. By extension, any definition of land would have to include the sea around a particular place.

In the past, Government structures have been divided between those that promote wildlife conservation and those that support the fishing and agricultural industries. Both of those tendencies exist within the Scottish Executive Environment and Rural Affairs Department today. We have a problem because there is a need to get an overall view of marine strategy. In the presentation that we received from the Scottish Parliament information centre at the committee's awayday, it was noted that marine spatial planning is focused in four pilot schemes in Shetland, the Clyde, St Abbs and Mull and that the timeframe for those pilot schemes is quite extensive.

The kind of argument that Eleanor Scott sees in SNH's wish to get all the ducks in a row was not applied in the context of community buyouts of land. It was not suggested that all communities had to buy out their land on the same day. It will

be interesting to compare the proposals of the fishermen and members of SEERAD's sea fisheries division with the evidence that we have heard from other interests. The committee should take COAST's petition seriously in the context of the need to make progress in the management of the sea bed.

I point out some remarks that have been made by the Minister for Environment and Rural Development regarding cod in the Firth of Clyde. As we saw in the film, cod are spawning in the no-take zone and round about it despite the fact that they are excluded from the area at present in the statutory instrument that we pass each year. In a letter dated March this year, Ross Finnie stated:

"Available scientific data on the state and distribution of the Clyde cod stocks is of insufficient resolution to provide us with confidence that the precise formulation of the Clyde regulation offers optimal protection for the spawning cod."

That being so, we must be careful about suggesting that anything in the argument can be black and white. It is important for the committee to give PE799, on the proposed no-take zone, careful consideration in the light of the trends that there will be towards the creation of marine spatial planning and in the interests of local people who have taken the initiative to look after their nearby sea bed.

Maureen Macmillan (Highlands and Islands (Lab): We must keep an open mind at this point. We have had a persuasive presentation from the folk on Arran, and I have seen similar presentations from other parts of the world, which were very impressive. However, we must find out what the people on the other side of the argument think before we come to any conclusions. I suggest that we take forward the petition and ask for evidence on both sides. I hope that we will be able to get evidence from countries such as New Zealand, where such zones have already been created. It may be possible to get a video presentation of what people have done there. It is also paramount that the fishing interests give evidence to the committee.

The Convener: Okay. Everybody reserves comments. I suggest that we take further evidence. As members have said, we received an excellent presentation from COAST; however, we should take evidence from all those who would be affected.

In response to one of Richard Lochhead's points, I advise the committee that COAST includes local fishermen who are not part of other fishing organisations. In a sense, therefore, we have heard from some of the fishermen. We should, however, hear from COAST formally, from the fishing sector, from SNH and from the minister. Mark Brough has investigated who it might be relevant to invite to give evidence and has

suggested Scottish Creelers and Divers, which was formerly known as the Clyde and South West Static Gear Association; the Clyde Fishermen's Association; and the Mallaig and North West Fishermen's Association. That would cover the formal fishing organisations as well as the fishermen who are in COAST.

We could ask for written evidence from North Ayrshire Council, which is responsible for implementing the biodiversity action plan for the area. The council did not respond to the Public Petitions Committee when it was requested to do so, and it would be important to have its views on the matter. We should invite evidence from SNH and the minister as well. It would be possible for us to hold an evidence session in public on 20 September, if colleagues are happy about that. I think that we should keep going with the petition, as members are very interested in it. There is a lot of reading material.

Maureen Macmillan talked about access to information from SPICe. It would be useful for us to get a perspective on the issue from other parts of the world and learn what the experience has been in those places. It may, however, be a bit of a stretch to ask for that information on video.

Maureen Macmillan: I know that videos exist of the no-take zone in New Zealand; I have seen them.

The Convener: You could pass on the information that you have to the clerks.

Maureen Macmillan: I am sure that one of the environmental non-governmental organisations would be able to access them for us.

Richard Lochhead: When we invite the fishing organisations to give evidence, would it be possible to ask them to be represented by or to bring with them fishermen who fish in Lamlash bay? It would be interesting to speak to the people who actually fish there.

The Convener: Okay. If we are agreed that we will deal with the issue on 20 September, that will be recorded in the minutes of this meeting and the matter will be placed on the agenda for that meeting. We would hope to get a good discussion at that point.

Members indicated agreement.

The Convener: I thank everyone for their comments.

We move into private session, as agreed under agenda item 1, to continue our discussion of the committee's stage 1 report on the Environmental Levy on Plastic Bags (Scotland) Bill.

10:24

Meeting continued in private until 11:16.

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