



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PENTLAND HILLS REGIONAL PARK BOUNDARY BILL COMMITTEE

Thursday 19 November 2015

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CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
PENTLAND HILLS REGIONAL PARK BOUNDARY BILL: STAGE 1	2

PENTLAND HILLS REGIONAL PARK BOUNDARY BILL COMMITTEE
4th Meeting 2015, Session 4

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*David Stewart (Highlands and Islands) (Lab)

COMMITTEE MEMBERS

*Alex Fergusson (Galloway and West Dumfries) (Con)

*Mike MacKenzie (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

Helen Jones (Scottish Government)

Aileen McLeod (Minister for Environment, Climate Change and Land Reform)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Pentland Hills Regional Park Boundary Bill Committee

Thursday 19 November 2015

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (James Dornan): Good morning and welcome to the fourth meeting in 2015 of the Pentland Hills Regional Park Boundary Bill Committee. Everyone present is asked to switch off mobile phones and other electronic equipment as they affect the broadcasting system. Some committee members may consult tablets during the meeting, because we provide meeting papers in digital format.

Our first agenda item is to agree to consider our draft report in private at subsequent meetings. Are we agreed?

Members *indicated agreement.*

Pentland Hills Regional Park Boundary Bill: Stage 1

09:30

The Convener: Our only other item of business today is evidence on the Pentland Hills Regional Park Boundary Bill. I welcome Dr Aileen McLeod, the Minister for Environment, Climate Change and Land Reform. She is supported by Helen Jones, head of the Scottish Government's landscape and involvement with the natural environment branch, and Ellen Huis, policy officer with that branch.

I start by asking the minister what the benefits are of the existing Pentland hills regional park and whether she considers that those would be enhanced by extending the current boundary.

The Minister for Environment, Climate Change and Land Reform (Aileen McLeod): I am happy to answer that question, convener, but could I make some opening remarks first?

The Convener: My apologies. Would you like to make an opening statement?

Aileen McLeod: I am happy to do so. Thank you very much, convener, and good morning. Obviously, I have been carefully following the committee's work in considering the bill. We welcome the opportunity to set out the Government's view.

Although the Government recognises the geographical reasoning behind wishing to extend the southern boundary of the Pentland hills regional park, I will explain briefly the two fundamental reasons why the Scottish Government has concerns about supporting the bill at this time.

First, regional parks are a matter for local authorities, not the Scottish Government. Given the practical impact that such a designation could have on local authority priorities, my view is that decisions on regional park boundaries, funding and management should continue to be made at a local level. The committee will appreciate that it would be inappropriate for me, as the minister, to intervene in what is properly a local authority matter.

Local authorities already have the powers that are needed to extend the boundaries of the regional park, if they wished to do so. However, it has become apparent from evidence provided to the committee that the five local authorities are not aware of a demand to extend the park and do not support the bill, especially given current budgetary pressures. I am particularly conscious of the fact that the two councils that would be most affected are not seeking a boundary extension. Indeed,

Scottish Borders Council is strongly opposed to the proposal. I understand from the council's evidence that the pressure for outdoor recreation in its area is not in the southern Pentlands but elsewhere.

Secondly, I have concerns about the procedures that are set out in the bill. The Scottish Government's memorandum explains that the bill represents a shift away from all the existing safeguards that are set out in the Countryside (Scotland) Act 1967 and subsequent regulations. Those provisions provide a framework, procedures and a process for consultation, which need to be properly considered.

The committee has heard from a range of witnesses that they have concerns about the proposed boundary extension. Because of that, and for the reasons that I have set out, the Scottish Government is not able to support the bill at this time. I look forward to answering the committee's questions.

The Convener: Thank you very much, minister. I am sure that more detailed questions will be asked about some of the points that you have raised.

I come back to the question that I asked earlier. Do you consider that the Pentland hills regional park would be enhanced by extending the current boundary?

Aileen McLeod: The committee has already heard from the Pentland hills regional park manager about the visitor management services that have been provided in the park over the last 27 years. The benefits include catering for the visiting public through things such as access points, footpaths, rights of way, signage, visitor centres and advice about where to go and how to enjoy the hills responsibly. Another benefit comes from the aim of balancing the provision of services that assist visitors to enjoy the hills responsibly with the management of the landscape and the impact on existing land uses.

Whether the area would be enhanced in those regards by extending the boundary would depend very much on the level of buy-in from the local authorities involved. Obviously, three of the councils—West Lothian Council, South Lanarkshire Council and Scottish Borders Council—have already told the committee that the area that would be covered by a boundary extension would be peripheral in respect of their population centres and recreational demand.

The Convener: Do you consider that the existing governance arrangements are working well?

Aileen McLeod: To be honest, that is not really for me to judge. The Scottish Government is not

involved in regional park governance arrangements, which is how it should be. The members of the Pentland hills regional park joint committee are best placed to judge that. I am aware that the park manager told the committee that the park is

"managed as an integrated area across local authority boundaries"

and that the local authorities

"make a pretty good job of managing it as a whole."—
[*Official Report, Pentland Hills Regional Park Boundary Bill Committee*, 29 October 2015; c 7.]

The Convener: Are you aware of any demand to extend the existing regional park?

Aileen McLeod: No, I am not aware of that, and I think that all the witnesses have said that they are not aware of any demand.

The Convener: Okay. Thank you.

Alex Fergusson (Galloway and West Dumfries) (Con): Good morning, minister and officials.

The member in charge of the bill has quite rightly said that the bill, if it were passed, would simply draw a line on the map, which would delineate an area of extension that, she believes, is desirable. Her reasoning for that is that, by drawing that line on the map, the five local authorities that would be involved would basically be galvanised to work together to make it happen, regardless of the funding concerns that you have highlighted. All the local authorities—even the ones that are not against the principle of extending the park—have real concerns about there being no funding increase from somewhere to make the proposal happen. Would simply putting a new line on the map have the desired effect of pushing local authorities to work more closely together, particularly given that they appear to be fairly against the extension in the first place?

Aileen McLeod: I certainly believe that drawing a line on a map would create expectations about how the park would be managed and funded. As the member has quite rightly pointed out, we have already heard that the local authorities are concerned about that, as are the National Farmers Union Scotland and Scottish Land & Estates. The committee has heard that the budgets of the local authorities are already stretched and that there is no flexibility in them. They have explained that they would have to divert scarce resources to an area that is a low priority for them. Whether the local authorities work together is really a matter for them.

Alex Fergusson: I think that you are saying that, even if the bill were passed, the Scottish Government would have no remit over it and how it was all taken forward.

Aileen McLeod: Yes.

Alex Fergusson: Given that, my next question may be irrelevant, but do you have any idea or estimate of what additional resources might be required if the proposal were to go ahead?

Aileen McLeod: I am pretty clear that the relevant local authorities are best placed to consider that. From what I have seen from the evidence that the five local authorities have submitted, they have made it clear that resources are already pretty stretched.

Alex Fergusson: Okay. Thanks, minister.

The Convener: Were additional resources allocated to the area that originally became a regional park? Is it expected that additional resources would have to be found from somewhere if the park were extended?

Aileen McLeod: We have to remember that local authorities take the lead on regional parks. They were intended to be local authority funded and managed.

I will bring in Helen Jones.

Helen Jones (Scottish Government): Was that a reference to when the park was set up in the first place, convener?

The Convener: Yes.

Helen Jones: That was 27 years ago, and I am afraid that my memory does not stretch that far back.

The Convener: I appreciate that, but the question was really about the general principle of the creation of a regional park. Does that bring expectations that that there will be funding?

Helen Jones: At that time, there were two tiers of authorities. Lothian Regional Council set up the park, which is why the boundaries are as they are. At that time, Lothian Regional Council must have made resources available. I can go back and try to check whether there are records, but I cannot confirm precisely what its decision was. I am sorry. However, that must have been done.

The Convener: I accept that—I am simply trying to find out whether additional resources would be required if there was an extension to the regional park. Would the same thing apply to the extended area?

Helen Jones: It would. Scottish Borders Council and South Lanarkshire Council would have to dip into their pockets.

Mike MacKenzie (Highlands and Islands) (SNP): Good morning, minister. The five local authorities that are affected have told us their concerns about additional budgetary pressures and so on. That is the downside of the equation—

they are shrinking from the prospect of more challenges to their budgets and a call for greater expenditure. The upside is the potential health and recreation benefits. Are there tangible benefits to be derived from extending the boundaries of the regional park as has been proposed?

Aileen McLeod: Given that the committee has heard that 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.”—[*Official Report, Pentland Hills Regional Park Boundary Bill Committee*, 29 October 2015; c 4.]

David Stewart (Highlands and Islands) (Lab): Good morning, minister and officials. You will have gathered from our previous evidence sessions that consultation for those who live in the proposed park area is a factor. Notwithstanding your comments that the Government is not supportive of the bill, should those in the proposed park area be consulted, as set out in the Countryside (Scotland) Act 1981 and the subsequent Regional Parks (Scotland) Regulations 1981?

Aileen McLeod: Yes; absolutely. That is very important. We should not dispose of the carefully thought through consultation procedures and arrangements that are provided for by the current legislation.

David Stewart: Again notwithstanding that the Government is not in favour of the bill, if it proceeded, would you consider conducting a feasibility study prior to legislating for an extension? That is more of a philosophical question, in light of your earlier comments.

Aileen McLeod: The local authorities, NFUS and Scottish Land & Estates have said that, before the bill goes any further, a feasibility study should be carried out to assess properly the demand for boundary changes and the impact of extending the boundary. If the local authorities wanted to extend the boundary, it would be for them to agree on conducting a feasibility study. The Scottish Government would not provide funding for that. If local authorities wanted a feasibility study to assess the demand for and impact of extending the regional park's boundary, they would have to initiate and fund that themselves.

David Stewart: The minister will not be aware of what happened when Lothian Regional Council set up the original park. Perhaps when Helen Jones is doing her research, she could find out

whether there was a feasibility study at that stage. That would be useful for the committee.

Aileen McLeod: I will be more than happy to come back to the committee on that point.

Mike MacKenzie: We heard concerns from some of the objectors that extending the boundary of the regional park could increase bureaucracy and increase hurdles in the planning system. What are your comments on that?

Aileen McLeod: Local authorities would be expected to follow the guidance in the Scottish planning policy, which states:

“Proposals that affect regional and country parks must have regard to their statutory purpose of providing recreational access to the countryside close to centres of population, and should take account of their wider objectives as set out in their management plans and strategies.”

Any proposal for development would be considered on its merits in the context of the planning system.

The Convener: That is the end of our evidence session with you, minister. Thank you for your time and your succinct answers.

I suspend the meeting for a short intermission.

09:44

Meeting suspended.

09:49

On resuming—

The Convener: I welcome the member in charge of the bill, Christine Grahame MSP, who is supported by Diane Barr of the non-Government bills unit and Neil Ross, who is a solicitor in the Scottish Parliament. Would you like to make a short statement, Christine?

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): Thank you, convener. First of all, I thank all the witnesses who have given evidence and all of those who responded to the consultation.

What is the purpose of the bill? It is simply to extend the current Pentland hills regional park to include the whole of the Pentland hills range—it is nothing more than that. 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 and purpose of my bill. As we keep saying, my bill would simply draw a line on the map.

What is a regional park? The statutory definition, according to section 48A(1) of the Countryside

(Scotland) Act 1967, as inserted by the Countryside (Scotland) Act 1981, is

“an extensive area of land, part of which is devoted to the recreational needs of the public.”

It is quite distinct from a national park and all that goes with that, and I think that you will agree that the Pentland hills range fits the definition.

Why is it necessary to extend the park? An obvious argument is that, if we are defining something in legislation as the Pentland hills regional park, it should encompass the entire range, not 45 per cent of it. That is what my bill sets out to do.

Why bother to do that except out of pedantry? 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. As you know, it has been three decades since the Pentland hills regional park was created, and I do not think that we should wait another three decades in order to understand its importance.

What would the bill do? It would extend the southern boundary of the Pentland hills regional park—which brings me back to my point that it simply draws a line on the map. What it would not do is change public access rights, place additional planning restrictions on landowners or farmers, place additional governance conditions on local authorities or place any financial obligations on local authorities other than those that are detailed in the financial memorandum.

The bill would provide for the extension to happen through Scottish ministers making regulations to alter the southern boundary either as outlined in the bill or in line with an alternative proposal agreed by five local authorities. A two-year period is provided for, which would enable the five local authorities to consult and agree on a new southern boundary and would also be useful in enabling them to agree the management of the regional park and investigate funding options. That would be a welcome by-product, but it would not be a requirement of the bill. As you know, the bill has already acted as a catalyst for a fresh look at governance and funding arrangements. This is just the beginning, and I very much hope that those discussions, although tangential, will continue.

I welcome the committee's scrutiny of the bill and thank members for the opportunity to provide evidence today. I am happy to take questions.

The Convener: Thank you very much for that. You have told us what the bill would not do. Can you explain, in practical terms, the benefits that would come from extending the park?

Christine Grahame: First, it would right a wrong. When the park was first set up, it was originally intended that it would include the entire range.

Secondly, it would give not just to local authorities but to other interested bodies an opportunity to set up a new management scheme. It would give an opportunity—that is all. There would be no obligation on them to do so.

Thirdly, there would be benefits to the public. The green space around our cities, villages and communities is shrinking, with more and more pressure for house building and development. I am asking you to look 30 years ahead, not just to next week or next year. Pressures will build up over that time, and the bill will open up the possibility of offering protection to the hills. 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.

The Convener: But you have just told us that it would simply draw a line on the map.

Christine Grahame: It would. All that I am saying is that it would offer a certain opportunity. As we know, the current management of the hills in the north is under pressure.

My concern, which I think is shared by many, is that the support for the park will diminish over time, perhaps to a de minimis level. By doing this and by proposing a two-year period after royal assent before the bill comes into force—I am happy to consider a longer period, but not three decades—not just local authorities but other interested parties will have an opportunity to look at the current management and at levering in other funding. It is not the purpose of the bill, but it would certainly be a welcome consequence if that happened.

The Convener: My colleagues have a number of questions, but I want to ask just one more. Your responses suggest that, as others have mentioned, expectations will rise if the park is extended to the suggested area. Do you agree?

Christine Grahame: I do not support the view that, if and when the bill comes into force, there will suddenly be a mass exodus from cities to use the recreational assets of the Pentland hills. That

sort of thing is already happening; we already see quad bikes, horse riding and whatever on all parts of the hills, and I do not think that the public are necessarily aware—in fact, I am sure that they are not—when they move from the part of the hills that has been designated as a regional park to another part.

Therefore, I do not foresee what you suggest happening; there might be a little bit of that, but it will be at nothing like the level that some people are afraid of. There is a fear factor, with some thinking that people will suddenly leave Edinburgh, Glasgow or wherever and pile into the Pentland hills, but I do not see that sort of thing happening at all.

Alex Fergusson: Good morning, Christine. I want to ask a slightly more general question based on something that the minister said before I move on to the specific area that I want to ask about.

In her evidence, the minister made it quite clear that, previously, regional parks have been the sole preserve of local authorities and that when they have been set up, the demand has come from the local authority, the structure has been agreed by the local authority and the funding has been provided by the local authority. Why should we, as a Parliament, suddenly decide that we rather than the local authority should dictate the boundaries of a regional park?

Christine Grahame: We are not actually dictating anything, because—

Alex Fergusson: Yes, we are. We are dictating the park's boundaries if we pass the bill.

Christine Grahame: Forgive me, but actually we are not. There is a default position with regard to boundaries and if, after a period of two years, the five local authorities have not come forward with any other proposals, those boundaries will come into force. However, the local authorities have an opportunity within those two years to collectively come to a view on where those boundaries should be, although they are under no obligation to do so.

Although the boundaries have to be within the area that I have outlined with the roads and must contain three of the major hills, we are not dictating anything. I certainly hope that, although it is not mandatory for them to do so, the local authorities will come to an agreement on where those boundaries should be. Unfortunately, my concern is that, unless the bill contains a fallback position, they will not do that.

Besides, we are talking about primary legislation here. There is a duty on the member in charge to have surety in their proposed legislation, and my surety is the position that I have set out if the local authorities do nothing. There is an alternative,

which is that, if the local authorities do something, they will be able to determine specific boundaries within the roads that I have designated. I am not in any way commanding local authorities—in fact, I am hoping that they will be co-operative.

Alex Fergusson: Thank you for your answer. Although you say quite rightly that the bill is about drawing a line on a map, it seems to me that it is a bit of a thin line when it comes to those we are passing the responsibility on to.

I also hope that the member in charge agrees that, although this might be about drawing a line on a map, it would have been remiss of the committee not to have looked into the potential consequences in our scrutiny and our questions, one of which concerns section 8 of the 1981 act, which—as I am sure the member is aware—inserts section 48A into the Countryside (Scotland) Act 1967.

The member will have heard me asking about this section last week. It 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.”

I fully accept that, when the committee questioned last week’s witnesses on that point, their responses in respect of the impact were not exactly black and white. What is your view on what that section means with regard to a planning application for something within a regional park?

Christine Grahame: The words that we must focus on are “shall have regard to”. If we consider the precedent of how local authorities have dealt with areas of great landscape value that they are to “have regard to”, we will see that each local authority has interpreted that provision differently. As far as areas of great landscape value are concerned, the designation in question is a non-statutory one.

10:00

As you have rightly said, witnesses when challenged could not give any examples of planning applications in which the various local authorities made any distinction with regard to planning restrictions throughout the Pentland hills. As you will know, they are quite tough on farmers who want to build a bungalow on their farm for their retirement, and the bill will not impact on that. It may give some protection to wind farm development—but that is a may, not a must.

Alex Fergusson: I generally accept that point. We have asked for clarification from one witness who said that they were aware of some impact that the current provision had had. However, I

simply point out that the fact that the current legislation already includes the phrase

“have regard to the fact”

means that it is not going to be any easier to get planning permission, even if it is not going to be harder.

The Convener: In written evidence, Scottish Borders Council argued that the extended area of the park is already protected by numerous designations, including special areas of conservation, sites of special scientific interest and other environmental designations. What do those mean in practice?

Christine Grahame: I have just expanded on that to some extent. The concern is that designating something an area of great landscape value, as Scottish Borders and the other four councils have done, does not mean an awful lot. At the end of the day, it does not protect those areas and does not guarantee protection against development.

I should add that a regional park designation does not offer such protection, either, but turning an area into a regional park will mean that not only will councils have to have regard to that designation, but the public may also be aware of the asset on their doorstep. As we know from our in-trays, there is no better critique of planning consent than that which comes from the public at large. Although having a regional park is not like having a national park, where there are huge planning restrictions, I hope that the bill will mean that we watch what we are doing with the Pentland hills over the years.

The witness from Balerno explained how the pressures to build are impinging on that end of the hills. Although the position is not a mandatory one, my hope is that the phrase “shall have regard to” in the current legislation will come to have some purpose over the decades. I keep repeating the phrases “over the decades” and “over the years”, because my concern throughout the bill is that for 30 years now, many people have probably not even been aware that there is a regional park in the Pentlands. We have taken it for granted, and we cannot continue to do that.

The Convener: You say that the current designations do not really protect the area, but, to some extent, they make people aware of the places in question and so make them more attractive. If the same thing were to apply to the regional park, would that not raise expectations? All the time, we come back to the point about the expectation of getting more visitors and therefore more facilities to look after.

Christine Grahame: I have dealt with that. I do not see that there will be an explosion of visitors.

You should remember that the designation will be deferred and that the bill will not come into force for two years. If the bill gets through stage 3 and the Parliament agrees to it, it will be interesting to see whether the public will accept the two-year deferral.

The public often think that when a bill is passed in Parliament it comes into force straight away. It will be interesting to see what will happen in those two years. I suspect that there might be some interest at the beginning, but that will peter out and we will end up with more people visiting, but in a more responsible way. I do not think that there will be an exodus of people from the cities to the Pentland hills.

Alex Fergusson: I want to ask a supplementary before I move on to my specific questions. As you will have heard me say before, if the bill were to be enacted, there would inevitably be a headline in the papers saying, "Pentlands Regional Park Extension Agreed" alongside a large map showing that extension. As you say, there would initially be increased interest from members of the public, who would come out to visit and find that absolutely nothing had changed from the day before.

However, we come back to the business of expectation. Expectation leads to increased interest, which leads to pressure, which leads to a need for resources—and it is quite clear that there are no resources. That flaw would inevitably mean that, even if everything came together as you hoped and the local authorities eventually agreed to fund the extension, the area would have been damaged in the meantime. What are your thoughts on that?

Christine Grahame: We have already passed legislation that gives the public—to put it in common parlance—the right to roam. There are already obligations and duties on the public. The current legislation will prevail—

Alex Fergusson: I am sorry to interrupt, but the public do not have a right to roam; they have a right of responsible access. There is a big difference between the two.

Christine Grahame: I was coming to that. As I have said, the right is known in common parlance as the right to roam, and that is how the public think of it. That is not my language. My point is that there are duties on the public. As I said to the farmer who gave evidence to the committee last week, I am on the farmers' side. The last thing that I will support is people's reckless use of the countryside and their saying, "I'm entitled to walk here—dinnae you talk to me like that." I am absolutely opposed to that sort of thing, and I have seen too much of it. When I was drafting the bill, I went up into the Pentland hills and saw the issues

that were coming up, particularly in the places where there were car parking facilities and quite easy access.

Restrictions will remain—and quite rightly so. However, we could flip the coin over and argue that, if the bill were to be passed, the Pentland hills regional park would be extended to the entire range, and we could then open up the whole debate about how we use the countryside that is on our doorstep in a responsible manner. It is certainly about time that we had that debate.

I take your point about what people might suddenly do, but I see this as an opportunity. In the two-year period before the bill comes into force, it can be made clear to people that they should not let their dogs run about or whatever, that these are working hills and that the main custodians of those hills are the farmers who work them. I know all of that; as I have said, this is an opportunity.

Alex Fergusson: All of that is already part of the countryside access code.

Christine Grahame: Of course it is.

Alex Fergusson: One could make a strong case that the right of responsible access came about as a result of public demand. Where is the public demand for extending the area of the Pentlands regional park?

Christine Grahame: I would tweak the word "demand" and use "support" instead. There is huge public support for this.

Alex Fergusson: I was asking about demand, not support. They are different things.

Christine Grahame: Of the responses to the consultation, 51 per cent were in favour of the bill. That statistic—that 51 per cent—is enough. There is a great deal of support for the change. How often do we hear about "demand" from the public? The public support proposals that are put forward.

I did not pick this topic out of the blue. I did not suddenly say, "What can I do a bill about?" Instead, people came to me and said, "Christine, I would like you to look at the issue of the Pentland regional park. It doesn't cover 100 per cent of the hills, and the matter hasn't been touched for 30 years." That is how I got into this. If you want, I could say that I had demand knocking at my door for us to look at the matter. I met people before the bill was drafted. I met the Friends of the Pentlands—not all of them agree with the bill, but many do—the ramblers and other organisations. As I have said, when I put out the proposals, 51 per cent responded in favour of the bill.

In short, I prefer the word "support" rather than "demand", because people tend to support legislation. They do not demand it.

Alex Fergusson: I still think that there is a significant difference between demand and support, but I will leave that to one side just now.

What additional environmental or landscape benefits would the proposals bring?

Christine Grahame: If I might repeat the point, I think that what is there the day before the line is drawn on the map will be what is there the day after. Nothing will change; there will be no additional development and no change to the hills.

My hope is that over the two or three-year period before the bill comes into force—as I have said, I am happy to tweak that period of time—not just local authorities but other organisations will look at how those assets are properly maintained. The farmers will be part of that, and at the moment they are not. Farmers maintain their own paths, fences and so on, but in the northern part of the hills, the farmers are part of the consultative forum, along with the landowners, walkers and all the people who treasure and use the hills. This is not in the bill, but in the period when everyone can consider the matter, everyone will be together in a team. Many of them have the same views and are not in conflict about what should happen to the hills; after all, whatever benefits farmers and landowners benefits responsible users of the hills.

If we do not do any of that and the bill comes into force, nothing will have changed with regard to the public's responsible right of access to the countryside. The bill is either neutral or highly positive; it takes us forward as far as respect for the green space on our doorstep is concerned.

The Convener: Balerno community council objects to the bill on the basis that the proposed extended park does not include the area of fields to the south, east and west of the Balerno village boundary. In what ways are those areas distinct from the areas that are included in the revised park boundary in the bill?

Christine Grahame: I congratulate Richard Henderson on his evidence last week. He turned out to be very positive about my proposals, notwithstanding the fact that Balerno does not form part of them. I have huge sympathies for Balerno, where there are huge pressures.

Looking at the matter coldly, we can see that Balerno does not naturally form part of the Pentland hills. The green belt is coming under pressure, but that is not what the bill is dealing with; its focus is on what one would see as the Pentland hills range. Balerno itself is largely an urban settlement, and the inclusion of that area was rejected by the majority of respondents to the consultation on the same basis.

Balerno has its problems, but those are a matter for the City of Edinburgh Council and its planning

policy in relation to the green belt. To put it in common parlance, Balerno does not really fit into the Pentland hill range. I hope that Balerno community council accepts that, because I certainly have sympathy with regard to the difficulties that the area faces.

The Convener: Thank you.

Mike MacKenzie: Several witnesses expressed concerns about safety. One witness had concerns that an increased number of visitors might increase safety issues—they could get lost in the fog, for example, due to the topography of the part of the hills that is currently excluded from the regional park and which the bill proposes to encompass. One of the farmers had concerns about the different nature of farming in the southern part of the hills, where there are more cattle and so on. Given those concerns, should some kind of safety assessment of the proposals be made, and if so, whose responsibility would it be to carry that out?

Christine Grahame: I say to Mr MacKenzie what I said to Alex Fergusson: if the bill were to go through, that would provide a refresher course for the public on what they think is their right to roam—although it is actually a right of access with responsibility—and would help them to understand how not to impinge on farmers' livelihoods by distressing animals by their behaviour or by being reckless or ignorant. It might help the public realise that you cannot just go into a field of cows willy-nilly, because they can rally round and go for you—I have been there in the ignorant days of my teenage years. People have to know what they are dealing with.

People in towns know to look left and right when they cross the road. There are safety rules about that. In the same way, people who use the hills responsibly know which paths they should be on. I know that some farmers already indicate the paths that people should take and show them the way. People need to know that they should not cross certain fields. The bill will raise all those issues.

I do not subscribe to the idea that there will be additional safety issues on the hills. People have some personal responsibility for what they do in life and they should not go walking in the hills in thick fog. If there is a weather warning of thick fog, people should not set out for a walk if they do not know what they are doing. Other safety issues that relate to animals or equipment take us back to the legislation that gives people the right to access the countryside responsibly.

There is a positive aspect to the bill. Nobody paid any attention to the Pentland hills regional park before I introduced the bill. Now people are beginning to say, "So, we've got a regional park", and the bill has kicked off a discussion about how

we use the hills responsibly. I see that as a positive and not a negative—but I am an optimist in life, Mr MacKenzie.

10:15

Mike MacKenzie: I welcome the discussion around the bill as a positive development. It is good that we are airing the issues in the forum that the committee has provided. However, I think that the witnesses were making the point that drawing attention to the part of the Pentlands that is currently excluded and saying that it is now within the park boundary would lead to people visiting that part of the park in greater numbers. That in turn would raise greater safety concerns and give rise to potential incidents. I find it difficult to argue against that.

On occasion, the public can be quite silly: there was a report last week that, during storm Abigail—I do not know whether it was a hurricane or a typhoon—a man apparently went to the top of Ben Nevis. One can therefore understand why safety concerns arise if we actively encourage people into the countryside.

I assume that the intent is at least partly to encourage—

Christine Grahame: I am sorry, but if you go to the top of Ben Nevis in a hurricane and are blown off, you get what you deserve. There are certain things from which we cannot protect daft folk.

With regard to safety in the current regional park, I do not know of any particular issues that have arisen. There have been tragic cases of people—young men in particular—swimming in freezing cold reservoirs, despite the fences and the signs that say, “Do not swim in here.” From my recollection, that has been the only safety issue.

I am aware that there is a different issue with sheep being worried by dogs that have been let off the leash. That is a concern, because it happens in places where the farmer cannot monitor it. It happens across the Pentland hills, both within and outwith the regional park.

There are more safety issues for livestock, frankly, than there are for individuals. The Pentlands are not mountains—they are hills. As I said, if someone who is not experienced goes out in the mist, they are daft, and nobody can legislate for daftness.

David Stewart: I give Christine Grahame the opportunity to put on record the underlying aspirations and benefits of the bill.

Ms Grahame?

Christine Grahame: Sorry, Mr Stewart—I thought that you were making a statement in favour of the bill.

On the benefits, what can I say? You have been here with your own bill, Mr Stewart, so you will appreciate that it becomes your baby. The benefits, in my view, are potentially substantial.

Let us take the benefits for those who object, whose position I fully understand. In due course the bill will, if it is passed and there is a deferral period, give all the parties who cherish the hills—the farmer, the hill walker, the casual visitor and the school party—an opportunity to get their heads together and find a way of ensuring that all their proper needs are met and respected. That is one of the benefits.

Another benefit relates to the fact that so far we have not used the hills enough. I have spoken about pressure, but we have not used the hills for health purposes. Instead of the doctor prescribing pills, they could prescribe a wee walk in the hills. We have not used the hills efficiently for educational purposes, either. The hills have many advantages that, properly exercised—I stress that to Mr Fergusson—enable our children to be aware of the wildlife on their doorstep, where their meat comes from, and what farming really means and the issues that prevail.

I recently went up—on a great big four-wheel-drive thing, happily—to a farmer's land away in the middle of nowhere. Apart from the fact that it was wonderful, I realised the difficulties for the farmer in preventing rustling, which is actually very common in Scotland. Often the sheep farmer does not know until he brings the sheep down from the hills how many have been taken. Another benefit of access is that, if people are walking in the hills and see something amiss, they can tell the farmer, because he cannot be everywhere at once.

I see huge benefits from the bill. If you asked me about the disbenefits—the negative side—I would honestly be at a loss to find them. The bill presents an opportunity, not a problem. I am delighted that the negatives have been submitted, because I have to rise to answer them, as I hope I am doing. I cannot see any disbenefits, but I see benefits for generations to come.

In my short lifetime, I have seen green space melting away around wherever I have lived. If that has happened in my lifespan, what will happen to green space in the next 30 or 40 years? Perhaps the problem is not so obvious in Galloway, the Borders or the Highlands, but it is obvious in a huge conurbation such as Edinburgh that is extending outwards, with places such as Penicuik expanding to embrace the Pentland hills. The bill is intended to ensure that we do not let a creeping urbanisation happen and that, if more people need to access the hills, they do so in a responsible fashion.

We will, I hope, have in place proper warden services and so on. That is not specifically in the bill, but it is part of my vision—if I may use that awful word—for what would happen.

David Stewart: Thank you—that is helpful.

My final question is about local authorities. You have sat through the evidence sessions and followed them closely. The five local authorities concerned—Scottish Borders Council, South Lanarkshire Council, Midlothian Council, the City of Edinburgh Council and West Lothian Council—were asked specifically by the convener whether they would support the proposals in the bill without additional funding. They were all clear in saying no. How do you respond to that as the member in charge of the bill? Rightly or wrongly, funding is crucial to the proposals.

Christine Grahame: Absolutely—I was shocked when I saw how the funding for the 45 per cent of the hills that the regional park covers has diminished over the years. I am aware that the regional park is leaning very heavily on the City of Edinburgh Council to provide £0.25 million. However, that will not continue.

I did not put management and funding in the bill, as I am well aware that those issues go beyond the scope of the bill and anything that it could establish. If those things can be solved, they will not be solved by imposing anything on anybody. I am providing an opening, with a line on the map, to allow people a breathing space to consider other issues.

My bill would cost only around £7,000—that is all. The other aspects, such as the £20,000 that has been mentioned and the parking costs, are not the bill's costs. The £20,000 is the prospective cost to local authorities should they wish to create a different boundary, and parking costs are not part of the bill. In fairness, those elements are included in the financial memorandum to highlight that they might occur, but they are not part of the bill. That is a straight answer to the question, "What are the costs?" Those are the costs of the bill to local authorities and everybody else, and there is no cost to the Government.

I absolutely understand why you went into all the funding costs, and why local authorities are saying all that. They think that the bill is just the beginning and that they will have all those demands put on them. No: everything must be consensual. The current funding arrangements involving the three local authorities are by minute of agreement, which is a contract—it is tripartite consent, if you like. There is no way that the bill can impose anything on local authorities, and I would not want that to happen.

David Stewart: I asked the local authorities some questions about funding, and I will

summarise their response: they said that their existing budgets are being squeezed. From memory, when I asked them to name or identify some other funding that they could bring to the table, I do not think that any of the five local authorities could provide me with any viable and sustainable longer-term funding options. I know that you cannot answer for the local authorities, but do you accept that it would be difficult to identify non-standard or additional funding sources if the park was to be extended?

Christine Grahame: I have said to local authorities in informal meetings, "If people in your ward need their houses repaired or pot holes repaired, they will not want to put money into a regional park. They will want the other stuff done." I am very pragmatic and realistic as a politician. I am not expecting local authorities to dig into their coffers, which will probably be even smaller as time goes on. That is part of the reason why I looked at the issue. The main reason was to take into the park 100 per cent of the Pentland hills, but it was partly also to ask where, in times of recession, we can find money that is not directly from taxation.

In the northern part of the area, if the five local authorities set something up, what happens in terms of management is up to them. It does not have to be done by them; a whole range of people have to be involved. For example, we already have the Cairngorms Outdoor Access Trust and the Cairngorm mountain footpath appeal—the park there has levered in funding from a trust.

I sat through the meetings with the local authorities, and it is not for me to tell them what to do. However, as far as I know, they do not want to form another trust to take over everything, as that would be quite cumbersome. Three local authorities are considering levering in funding in partnership with trusts, mainly for capital projects but also to develop some revenue to add to the local government funding.

There are different solutions out there—they are not always to be found by making local authorities scrape the barrel for more money. We use such solutions in other sectors. I am the convener of the Justice Committee, and I know that we use them in justice. The third sector provides huge funds to support the justice portfolio.

In the same way, I think that there is an opportunity for other funding to be levered in for the park. Part of the reason why I suggested the two-year—or possibly three-year—extension period is so that greater minds than mine can come up with solutions to lever in capital funding and funding to develop revenue to maintain the park, should it be extended.

I think that the local authorities are going to consider that for the north part of the park because they can see the way the wind is blowing, but there would be no harm in looking at it for the south as well. In fact, the approach would be excellent, given that most people do not know when they cross over from the existing regional park into an area that is not in the park. The facilities that are available, albeit that they are under challenge, in the northern part—the warden service and so on—are not available at all in the southern part. I am saying that we should look at it all together and consider how we fund it.

Alex Fergusson: I have a brief supplementary that indirectly relates to that point. It is about a funding issue, although it is not quite the same one. My question arises from a point that one or two witnesses have brought to our attention—not least Mr Henderson, who, as you quite rightly said, made a very credible witness at last week's meeting. He touched on the subject of having a feasibility study into the whole issue. He said that if such a study has not happened already, it should have done. That requires funding; it requires quite a lot of resource to do a proper feasibility study. What are your thoughts on that?

Christine Grahame: Scottish Natural Heritage has said that it would assist with a feasibility study, and that is the very thing that could take place in that period of two to three years—

Alex Fergusson: I am sorry to interrupt—I agree with you entirely but my question is related to Mr Henderson's point that if a feasibility study has not happened, it should have done. In other words, there is a view, which has come from others as well, that a feasibility study should take precedence before any alterations are made.

Christine Grahame: My view—

Alex Fergusson: —is clearly different.

Christine Grahame: You will not be surprised to hear that my view is that a feasibility study will not happen if the bill does not go through because people will just sit back. They will have other priorities on their desks. This will just be a little stooshie that happened. My view is that the funds for the northern part of the Pentland hills will diminish and that nothing will happen with a feasibility study.

We have both been in the Parliament long enough to know that feasibility studies can be a way of kicking something into the long grass. I do not know how many feasibility studies I have seen in my time here, but they last a long time and some of them deliver nothing. The reason for that space of two to three years is partly to allow people to get on with a feasibility study.

Mr Henderson was quite right when he said that a feasibility study should have happened. I got the impression that he was very supportive and saw the bill as aspirational legislation that would push the agenda forward—otherwise, we would still be sitting here in 30 years.

Alex Fergusson: To be fair, I think that Mr Henderson is keen that the only part of the regional park that should be extended is the area surrounding Balerno, which is the one part that would not be extended. However, you have already explained the reason behind that, so I am quite happy to move on.

10:30

Mike MacKenzie: You have already touched on the existing funding problems. Given the evidence that the committee has heard, which I am sure you are aware of, and the concerns expressed by the five local authorities, do you consider that it is at all likely that there will be a proposal from those local authorities to extend the park under section 1 of the bill?

Christine Grahame: No, and I understand why—I mean that I understand their position entirely. I do not think that the Government or the local authorities will do anything, and they are the only parties other than me that could move things forward. I fully understand that their in-trays are very busy.

However, the bill is enabling legislation—that is all that it is. It would enable a line on the map to be drawn and a focus to be given. Years might go past, but we would have buffers to hit two or three years down the line when local authorities would have to take a view on whether they wanted that line to be the boundary. However, the burden would not fall just on local authorities, as the bill would also give all the other organisations the opportunity to look at whether there are better ways of managing the whole park and providing proper facilities to assist all the users and the people who work the land.

The local authorities will not do anything, and if the bill falls, I can assure you that nothing will happen and the local authorities will just say, "Thank goodness". However, I think that they will be very wrong because they will have missed an opportunity to find other ways of managing the park. They will still have levies to pay for the northern park, which is money that certainly the City of Edinburgh Council can ill afford to spend.

Mike MacKenzie: Thank you.

The Convener: Thank you very much. That is the end of the evidence session. I thank the witnesses for their time and their replies.

Christine Grahame: With your leave, convener, I would like to say a final thing—a very brief thing.

The Convener: I am not sure that I believe that, Christine, but go ahead.

Christine Grahame: It will indeed be brief. It occurs to me that if the regional park as currently defined lost all its funding, it would still remain a regional park. That really makes the case that, although it is very important, the funding issue is separate from the designation issue. I have to say that I do not understand how we can call it the Pentland hills regional park when it does not cover the entire Pentland hills range.

The Convener: Okay. Thank you very much. That was short indeed.

The next meeting of the committee will be on Thursday 10 December 2015, when we will consider a draft report on the bill. Before closing the meeting, I ask committee members to stay behind for five minutes.

Meeting closed at 10:32.

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