

# **ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE**

Wednesday 14 February 2007

Session 2

£5.00

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## ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

### 7<sup>th</sup> Meeting 2007, Session 2

#### CONVENER

\*Maureen Macmillan (Highlands and Islands) (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)

\*Mr Alasdair Morrison (Western Isles) (Lab)

\*Peter Peacock (Highlands and Islands) (Lab)

\*Nora Radcliffe (Gordon) (LD)

\*Elaine Smith (Coatbridge and Chryston) (Lab)

#### COMMITTEE SUBSTITUTES

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)

Alex Fergusson (Galloway and Upper Nithsdale) (Con)

Trish Godman (West Renfrewshire) (Lab)

Jim Mather (Highlands and Islands) (SNP)

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

\*attended

#### THE FOLLOWING GAVE EVIDENCE:

Sarah Boyack (Deputy Minister for Environment and Rural Development)

Helen Jones (Scottish Executive Environment and Rural Affairs Department)

Scott Martin

Mr John Swinney (North Tayside) (SNP)

#### CLERK TO THE COMMITTEE

Mark Brough

#### SENIOR ASSISTANT CLERK

Katherine Wright

#### ASSISTANT CLERK

Jenny Goldsmith

#### LOCATION

Committee Room 1



## Scottish Parliament

### Environment and Rural Development Committee

*Wednesday 14 February 2007*

[THE CONVENER *opened the meeting at 10:35*]

### Cairngorms National Park Boundary Bill: Stage 1

**The Convener (Maureen Macmillan):** Good morning. I welcome members, witnesses and members of the public and the press. We have received apologies from Richard Lochhead.

Item 1 is the final evidence session on the Cairngorms National Park Boundary Bill. Today we will hear from the Deputy Minister for Environment and Rural Development and then from John Swinney MSP, the member in charge of the bill. The Cairngorms National Park Authority has also provided some clarification of the evidence that it gave at the Blair Atholl meeting and we have a response to questions that the Finance Committee asked about the financial memorandum. Members have both submissions in their papers and they are also available on the committee's website.

John Swinney is here to give evidence later in the meeting. I notice that he is sitting in the gallery. He has the right to ask the minister questions if he wants to, but he would have to do so at the table rather than from the back of the room.

I welcome Sarah Boyack, the Deputy Minister for Environment and Rural Development, and her officials. A memorandum in members' papers sets out the Executive's position on the bill. I invite the deputy minister to introduce her officials and make any brief opening remarks.

**The Deputy Minister for Environment and Rural Development (Sarah Boyack):** I have with me Helen Jones and Mike Liddle, who are working on national parks.

I will take a few minutes to put three issues on to the agenda for the committee's consideration. First, I will set out the reasons for the original boundary designation. Secondly, I will show why the Executive strongly believes that now is not the right time to change those boundaries. Thirdly, I will set out the particular problems with John Swinney's bill.

The designation that was made in 2002 was not made on a whim. The decision was not taken lightly. Having read the evidence that was given to

the committee last week, I am struck by the fact that many people in Blair Atholl were not aware of those reasons. I am well aware of Scottish Natural Heritage's recommendation, its consideration of boundary options and the issues that it believed that the Executive needed to consider. SNH's evidence to the committee for consideration of the bill restates its initial advice to ministers that inclusion of the area identified in the bill

"would give rise to concern over the size of Park and its manageability by a single Park Authority. It also left in question any implications for the rest of Highland Perthshire. Nevertheless, SNH considered that these concerns were outweighed by the case for inclusion of this area."

At the time, SNH made recommendations to the Executive that we then considered. It was a very transparent process. Once the Executive had reached its conclusions on the draft designation order, it had to prepare a statement in support of it under the terms of the National Parks (Scotland) Act 2000. Members will recall that we debated the issue at length. The Rural Development Committee scrutinised the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003 and the Transport and the Environment Committee was the secondary committee. The Parliament divided on the Rural Development Committee's recommendation and voted for the Executive's position. It then voted 100 to 20 in favour of the order.

Parliament gave its consent after lengthy debate. The Executive made its decision and set it out in a statement accompanying the designation order on the following grounds:

"Ministers were keen to ensure that the overall size of the park was commensurate with the effective and efficient administration by the national park authority. With this in mind, Ministers had concluded that a smaller Park would be preferable."

I draw members' attention to the end of the statement, which says:

"Ministers are aware, however, that despite adjustment to the Park's boundaries, some communities on the periphery of the Park will be disappointed at being excluded. The arguments brought forward by such communities were considered seriously, with each case judged on its relative merits. However, when considering such cases the Scottish ministers had to keep in mind what was (or will be) best for the National Park as a whole ... The addition of further peripheral areas would weaken the Park's coherent identity and management of the area."

Members will have seen in the map that Highland Council prepared for the committee last week just how sharp those choices were. There were arguments for and against inclusion of a number of areas around the park, both then and now. I am happy to pass a copy of the statement to the committee. It is important to make sure that the

history of the process is accurately recorded when you consider the bill.

The park is the largest in the United Kingdom. At the time, ministers were very concerned that it should be funded properly to address the range of issues that led to its designation. The memorandum that the Executive prepared on this bill sets out the key reasons why we believe that it would be premature to change the boundary now. First, it would be damaging to the park authority's work; secondly, it would have an impact on the national park plan; and thirdly, it would prevent the park authority's progress to complete the local plan for the national park until such time as a new national park plan is in place and has been approved. A process must be gone through to get to the local plan stage.

We are now three years into the work of the national park. I believe that the national park authority has done an excellent job in bringing people together—business interests, tourism operators, nature conservation groups, wildlife organisations, land management interests and the range of local authorities and national agencies that are needed to co-ordinate their activities and investment and, crucially, the local people who live in the park.

I know that people had concerns about the establishment of the park in the first place. I was Minister for Transport and the Environment when the National Parks (Scotland) Act 2000 was passed. People had to be persuaded. We had to do a lot of work to convince them of the worth of the park and to give them the feeling that they were its owners and part of its future. I do not want to disrupt the work at this stage and I do not want to delay the good work that has been carried out thus far.

I suspect that I am not the only MSP who represents communities that feel that they have experienced consultationitis—after they are consulted, a decision is taken a year or two down the track to take a different approach, they are consulted again and no progress is made. The level of disappointment that would be experienced by communities and businesses in the park area that have been involved in that process in good faith should not be ignored. The sentiments that have been expressed by the Cairngorms Chamber of Commerce need to be acknowledged and considered.

The park authority and local communities have put a lot of time and effort into preparing their first national park plan, which is currently with the Executive for approval. It is my hope that we can get it finalised so that the park authority can get on with the job that it clearly wants to do.

Delay to the park plan would have implications for the local plan, which is also in preparation, and create further uncertainty. I acknowledge that it is a testament to the work carried out by the park authority that such a wide range of interested parties were keen to tell the committee in Blair Atholl that they wanted to join in the success that the Cairngorms national park has been perceived to be so far. However, I do not want to disrupt the momentum by getting in the way of the work that the park authority has done.

I said that I would end on the problems that the Executive sees with John Swinney's bill. It is our prime concern that now is not the time to make changes to the park's boundaries for the reasons that I just outlined. However, I will put on record what we see as serious problems with the bill.

In passing the National Parks (Scotland) Bill, ministers were clear that we wanted to enshrine the principles of our national parks in primary legislation but use secondary legislation to designate national parks and to deal with the range of important but detailed issues that each national park might throw up. We wanted to provide flexibility in the designation order process and the opportunity to make future changes through secondary legislation, rather than having to go back to primary legislation.

The bill does not clearly address the issue of the membership of the park authority. In the short term, John Swinney suggests that there be a Perth and Kinross Council nomination at the expense of one of the Highlands representatives. However, to deliver the extra member that John Swinney proposes in the long run would still require amendments to the National Parks (Scotland) Act 2000 and the designation order. Even if we were to pass the bill, it would not finish the process that would need to be followed.

10:45

The bill is silent on the issue of community representation, which I believe is one of the successes of the national parks that have been put in place. The upshot of passing the bill would be that the park boundaries would need to be redrawn to ensure that the new park residents were given the same rights and opportunities to be involved in active representation as the residents within the park's existing boundaries have. That is an important weakness in the drafting of the bill to which there is no easy fix. We spent a lot of time debating that issue, both in committee and in the Parliament, during the passage of the National Parks (Scotland) Act 2000 to ensure that we got the balance right.

Another matter that would need to be resolved is the boundaries, which is not a simple issue. I know

that exploring people's detailed concerns about boundaries would not be a simple matter.

Finally, finance is also an issue. The memorandum to the bill states that no financial implications would result from passing the bill. The Executive does not agree with that statement. The bill would have significant financial implications. At this stage, the last thing that I want is for the work on the rest of the park and the park plan to be scaled back and undermined in order to carry out the extra work that would be needed if the park was to mean anything to the new area that would be included within its boundaries.

There were good reasons for the park designation. Now is a crucial time for getting on and moving ahead with the national park. There are weaknesses in the bill. However, I think that the issues could be addressed at another point. The right time to review the whole boundaries issue is when the quinquennial review of the park is undertaken next year. I believe that we should put the interests of the park first. Next year's quinquennial review will allow us to consider issues that members might have a strong interest in pursuing. I am clear about that.

Convener, I know that I have spoken for longer than I would normally do but, after reading last week's evidence to the committee, I was concerned that the Executive needed to say a little bit more to ensure that our position is clear to colleagues. I am happy to take questions.

**The Convener:** That was useful, minister. A number of members have questions.

**Peter Peacock (Highlands and Islands) (Lab):** I draw members' attention to my interests on the matter that I have previously declared.

I am grateful to the minister for setting out the reasoning behind the original decisions that were taken. The fact that people are unclear about that reasoning was certainly a feature of the evidence that we received last week. It is also helpful to have our attention drawn to the statement that was made at the time.

Further to the minister's point about the concerns of the Cairngorms Chamber of Commerce, another conclusion that we can draw from last week's evidence is that people—perhaps myself included—did not fully appreciate the extent to which consultation on the national park plan and local plan have taken place. From the chamber of commerce's letter—it is interesting to note that the organisation represents more than 350 businesses—it is clear that businesses feel part of the consultation process and have signed up to the delivery mechanisms in both the national park plan and the local plan. They want to see those plans moving forward and being delivered.

Much of the evidence that we heard last week basically argued that, notwithstanding those concerns, it would be in the best interests of the park to make a decision now to change the boundaries as the bill provides the quickest way of doing that. Therefore, I was interested to hear the minister say that, even if the bill were passed, further legislation would be required. Will she provide further clarification on that issue, which I was not aware of?

Secondly, can she comment on whether, all things considered—if the bill received a fair passage—the bill would provide a quicker way of changing the boundaries? Is the bill the right way to make such a change?

Thirdly, what impediments or time issues—that is perhaps a better way of putting it—are involved in reconsidering, for statutory purposes, the park plan and the local plan?

**Sarah Boyack:** With the park plan, we would basically have to go back to the drawing board and draft another one. A significant area would have been added to the park, so both the new communities and the existing communities would need to be consulted on a new park plan. Thought would need to be given to the strategic issues that would need to be taken on board.

In effect, the current park plan is at the final hurdle. The plan is currently with the Executive. I would like to get on with that park plan. Once the plan is approved—depending on the quinquennial review's conclusions on boundaries—amendments to the plan could be carried out. I am concerned that we would disrupt that whole process. As you have picked up, communities within the existing boundaries feel that they just want to get on now and do the job. The park plan is currently at the final hurdle.

Secondly, until the park plan is in place, people cannot get on and do the local plan. The local park plan gives the detailed local planning guidance that the local authorities need to sign up to. Without the park plan, there cannot be a local plan.

There is no simple way to resolve this. I would rather we got on with the existing park authority. We have heard the representations that have been made by the community in Blair Atholl. I think that the right time to consider those representations—and those from one or two other areas around the park's boundary, where people still have what they regard as unfinished business—will be next year, when the quinquennial review takes place. That will be the right time to settle the issue.

Does that answer all your questions, Peter?

**Peter Peacock:** There was one about the legislative position.

**Sarah Boyack:** Even if the bill was passed, we would have to go back and amend the original National Parks (Scotland) Bill because of issues to do with the boundaries and the membership of the park authority. We would also have to amend the designation order. Passing the bill would not deal with all the legislative changes that the Parliament would need to make.

**Helen Jones (Scottish Executive Environment and Rural Affairs Department):** That is correct. If the park boundary were changed now by passing the bill, which is primary legislation, there would still be issues to be considered about the governance of the park, the drawing of the ward boundaries and the distribution of the local authority-nominated members. All of that was done in the designation order, so we would need another designation order as well.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Minister, you say that it would be better to wait until 2008. Will the review that takes place then consider the boundary, and will there be consultation around the review? What will the review process involve?

**Sarah Boyack:** It will be for ministers to set the terms of the quinquennial review. In 2004, the First Minister said that he expected that the issue of boundaries would be addressed in the review. Today, I put on record the fact that I expect the issue of boundaries to be addressed in the review. I am not prejudging the result of the review, and I am not saying that there will not be other issues that people will want to put on the table in 2008. However, it is my expectation that the quinquennial review will include consideration of boundaries and the operation of the park. We believe that that will be the right time to address those issues.

**Elaine Smith:** I just thought that it was important to get that stated clearly at this stage.

**Peter Peacock:** It is helpful to have that reassurance about the quinquennial review, but let us be absolutely clear about this. It is your firm contention that, notwithstanding what we have heard and what people believe—that pursuing John Swinney's bill would be a quicker way, in all circumstances, of getting the park moving forward in its new form—you do not think that that is the case. You believe that you would have to go back and redo the statutory bit of the park plan; that further legislation would be required in order to tidy up all the detail; and that, depending on legislative time, that could conceivably take longer than waiting for the quinquennial review.

**Sarah Boyack:** I would not want to predict the outcome of what would be quite a complicated set of processes that would be put in chain. My main comment is that passing the bill would not be the end of the story. It is the view of the Executive that it would require both primary and secondary legislation to be taken through the Parliament, and you all know that that does not happen overnight. In the meantime, that would create a huge disruption to the on-going work.

One of the key issues for the Executive when the park was established was the scale of the park and its management. The agreement that was reached at that time was for the national park to have a local plan but for planning issues still to be dealt with by the individual local authorities in the light of that local plan. Conceivably, a range of issues could be revisited in the quinquennial review.

It is not simple, but we must get on with the policy that we have established and wait for the quinquennial review. I think that that is the best and earliest opportunity; I do not think that the bill is the way in which to make changes if members have concerns. There is a better way to do that in a coherent and managed way. Also, I do not believe that the points about finance should be ignored.

**Peter Peacock:** I want to raise a completely different issue, but I am happy to leave it there.

**The Convener:** Perhaps we will come back to that later.

**Mr Alasdair Morrison (Western Isles) (Lab):** There are two issues that I would like to pursue. First, in your opening statement, you talked about the significant financial implications of the bill. Would you expand on that? Secondly, when the boundaries of any national park—either at sea or on land—are drawn, there are winners and losers. What has the Executive learned from other countries that have had national parks for years and have, over time, revisited the park boundaries? Has the Executive any knowledge or experience of what has happened in other countries? Your officials may be able to assist you with that question.

**Sarah Boyack:** I will answer your second question first. We do not have up-to-date comparators from other countries. When we were drafting the National Parks (Scotland) Bill we did a lot of work to see how other national parks operated, because we had never had them in Scotland—we were 50 years behind the rest of the UK. A lot of work was done in considering what kind of national parks we should have. You might remember that in Scotland we came up with a new way to deal with national parks compared with what happens in the rest of the UK.



Your suggestion is a good one, so I will consider with officials whether we want to pursue it. I thought that you might raise issues relating to proposals for other national parks in Scotland that are in the ether, which is what I am more seized of. When we created the Cairngorms national park, there was a lot of nervousness about it in the business community. Rather than rushing in, we listened to its concerns and considered the opportunities that the park would bring and how we could knock the perceived disbenefits out of the way. We have to listen to people. First time round, we considered how to get the park right. This time—three years on—I have been considering what the benefits have been and what lessons there are for the rest of Scotland. I am happy to consider the international comparisons, which would be a healthy development.

On financial implications, following your evidence-taking session, you received a submission from Jane Hope of the Cairngorms National Park Authority, who was clear about the authority's perspective on the committed costs, year-on-year costs and new costs, which would have to be factored in. We would have to redo all the literature, signage, the whole park plan process and the committed work that has been done on the local plan process.

The key thing that I am concerned about is the additional work that would result from adding such a sizeable area, such as work on planning and governance structures. We would have to consider whether the staff of the park were equipped. Excellent work is being done on the core paths network, but we would want to be sure about what extra resources were provided for that.

Our estimate is that the year-on-year costs for adding to the national park would be between £100,000 and £150,000. That is not in the budget. We would have to spread the cake more thinly around the rest of the national park, which I do not think would be a good outcome.

**Mr Ted Brocklebank (Mid Scotland and Fife (Con):** Notwithstanding the minister's eloquent advocacy in her presentation, I found the evidence presented last week at Blair Atholl on extending the boundaries of the national park southwards—with reference to Blair Atholl in particular, but also the Spittal of Glenshee—extremely persuasive. Evidence was given that both places were more natural gateways to the Cairngorms national park than what we have at present.

Elaine Smith elicited part of the answer to the real question, which is whether you are giving us a categorical assurance that there will be a review of the boundaries in the quinquennial review. When we discussed that earlier, the phraseology used was that there may be a review of the boundaries

at that time. Are you giving us a categorical assurance that that will happen?

**Sarah Boyack:** It would be my firm expectation that the whole issue of boundaries would be considered in the quinquennial review, although I cannot prejudge the outcome of that consideration.

**Mr Brocklebank:** I heard what you said about the year-on-year costs of taking on an extra part of the park. If the quinquennial review concluded that there should be additions to the south, I presume that you would have to accept the associated costs in any case. I understood from Jane Hope's latest written evidence that if the Drumochter marker were installed and then had to be pulled out again to be put somewhere further south, there would be an additional cost of something like £87,000. Would it not make sense not to stick that marker down if we might extend the boundaries in a year's time?

11:00

**Sarah Boyack:** A year from now will be the quinquennial review stage and, as Peter Peacock said, there will be no instant change on the ground at that point. Ted Brocklebank is suggesting that, having spent that money, we should put that hulking stone marker in someone's garage for a year or so, but that is not a good use of public resources either.

Clearly, we are where we are. The national park authority was given a job to do by the Executive and Parliament and it has got on and done it in good faith. There is no easy way to deal with these issues. I would like the authority to get on with it.

Perhaps a little bit more thought should be given to the signage. I was very interested in the discussions that the committee had last week about signage generally. Following the evidence that the committee took at that meeting, I asked my officials to go back to Transport Scotland. It is happy to meet officials from Perth and Kinross Council to talk about the signage. As a former Minister for Transport, I know that signs are always contentious around the country because of issues to do with the proliferation of signage and possible confusion.

If we can get people around the table together, I hope that we can get some kind of solution to meet the concerns of both sides. There is an issue about people being able to work with one another. The park planning authority has got to get on with its job. If more can be done to bring people into the discussions about improving access to the park area, that is a different point. We cannot say "You are now entering the park" at Blair Atholl, but I am sure that there could be a bit of creative thinking. We would certainly want to offer Perth

and Kinross Council the chance to think about that.

The money that has been spent has been spent and we now have to move on and make the most of that. We have to think about all the leaflets that are already out there with the park authority; I would not want them to be pulped. I want to get on with encouraging people to come into the area at this stage.

**Mr Brocklebank:** You are saying that it makes more economic sense to stick a pillar into the ground at Drumochter that you are prepared to accept might have to be lifted out again and positioned somewhere else in two years at a cost of £87,000.

**Sarah Boyack:** As I said, either we park the stone where it is at the moment or we get it out there. That is a judgment for the park authority to make. I would just like the park authority to get on with the job. There is no easy win on this one. Once we start spending money on the basis of a policy direction, that money is spent.

It is the same with the park plan; the last thing that I want us to do is to pulp it and to waste all the work, energy and money that have gone into it. There is no easy win and I would just like us to get on and make the most of the investment we have made in the park plan.

**Rob Gibson (Highlands and Islands) (SNP):** The minister made much of the unwieldy nature of the administration that would be needed to add Blair Atholl to the park. She also said that this is the biggest national park in the United Kingdom. Is that not just a bit like saying that our houses have the best insulation in the United Kingdom?

**Sarah Boyack:** No. The committee had a robust discussion last week, and the John Muir Trust was clear that if it had its way, most of the Highlands and Islands would be a national park. The United States has huge national parks.

When we developed the boundaries of the Cairngorms national park in 2002, they were seen as hugely challenging. We had to bring everyone on board and make the park manageable. That was a critical issue for the Executive at the time. The decision was based on the park authority's management and effectiveness, and it cannot be wished away lightly. I understand that people do not accept the decision—the Executive acknowledged that at the time—but that was the decision that was made.

**Rob Gibson:** So, if we are thinking big, presumably we want to take into account the environmental and topographical integrity of the decisions that were made. I hear you when you say that the Executive will consider those aspects during the quinquennial review. It is not easy to

look at a geological map—although I have circulated copies to members—and consider the fact that aspects of the geology that are included in the park in one place are not included in another place. The continuity of the topology is not followed. As you are a minister with responsibility for the environment, I would like to have your guarantee that the topographical and geological aspects of the park will be revisited during the quinquennial review. Is that possible?

**Sarah Boyack:** You imply that they were not considered the first time round, but I assure you that they were; we just did not agree on where the boundaries should be drawn. We are talking about the point in the process at which the Parliament gave its assent to the designation order after a lot of robust discussion. Whether or not members agreed with the Executive's judgment, I assure you that the issues were considered. It was the Executive's view at the time that we had made the right judgment call. We had to draw the boundaries somewhere. Judgments about political boundaries on maps have to be taken for a good reason. Our judgment is that we got the boundaries right the first time. The crucial point is that that does not mean that everybody agrees with that judgment.

**Rob Gibson:** Absolutely.

I will move on, as it appears that the reasons why certain aspects of topography were excluded will not be elicited from the Government. The reasons were not elicited from Allan Wilson when he explained the issues in 2002. The park includes the Angus glens and Strathdon but not the higher-value areas around Blair Atholl.

On finance, what level of efficiency savings do you expect each year from the absolute budget of the existing national park?

**Sarah Boyack:** I ask Helen Jones to answer that.

**Helen Jones:** Do you mean the efficiency savings from the current operation of the park?

**Rob Gibson:** Yes.

**Helen Jones:** That is a matter for the park authority.

**Rob Gibson:** With a local authority or similar body, what percentage of efficiency savings do you expect year on year?

**Sarah Boyack:** That is an issue for the Minister for Finance and Public Service Reform. We set a challenging budget for the national park and said that we wanted the authority to administer it as efficiently as possible. Obviously, the Executive has an overall move towards efficiency gains. However, even if an extended park could deliver

efficiency gains, it would still give the authority a lot more work to do.

**Rob Gibson:** Do you agree that it would be reasonable to expect efficiency gains of 2 per cent from the park authority?

**Sarah Boyack:** I do not want to invent a percentage off the top of my head. If members want me to check whether we have given the national park authority specific targets, I am happy to do so.

**Rob Gibson:** That would be helpful.

Do you know how much the increase in expenditure would be, according to Jane Hope, if the Blair Atholl area was included?

**Sarah Boyack:** Do you have that evidence before you?

**Rob Gibson:** Yes. Do you not know?

**Sarah Boyack:** It is in front of you.

**Rob Gibson:** She said that it would be about £100,000.

**Sarah Boyack:** Our view is that it would be about £100,000 to £150,000. The figure of £100,000 understates the amount that would be required.

**Rob Gibson:** So you know the amount, which is about 2.5 per cent of the park's budget. You say that including the Blair Atholl area would put a vast extra financial burden on the authority. How can you possibly square that claim about a financial burden of 2.5 per cent of the current budget with the requirement for efficiency savings that could easily be 2 per cent, which is lower than the Government expects from local authorities?

**Sarah Boyack:** Because we would be asking the park authority to carry out new work and to spread its present work much more thinly. The authority will decide its efficiency gains within the context of the work that it already does. We should remember that we would be asking the authority to do more work, which would not come without a cost. Our estimate is that the proposals would cost £150,000 a year.

**Rob Gibson:** Four fifths of the people who are at present employed by the park authority sit behind office desks. Can we not find a way to be more proactive with the staff and to make savings in that way?

**Sarah Boyack:** You suggest that the staff are not working hard enough or efficiently enough.

**Rob Gibson:** No, I do not.

**Sarah Boyack:** That is an issue for the quinquennial review. People who are in post in the national park authority are there to do the jobs that

need to be done. There are also project costs. One impressive piece of work has been the work on the core paths network, on which the authority has engaged with communities. People are not sitting behind their desks every hour of every day. There is a lot of engagement, which is why the park is thought to be successful in the Cairngorms area.

**Rob Gibson:** So you expect there to be a debate about the use of the money during the quinquennial review.

**Sarah Boyack:** The park authority will have to give an account to ministers of how it has spent its budget. That is one of the key purposes of the review.

**Eleanor Scott (Highlands and Islands (Green):** I will start with a question of fact—I should probably know this, but I do not. Once the park plan is approved, for how long will it last?

**Sarah Boyack:** The plan is expected to last for five years. It is expected to set out a strategic framework and to look beyond the 25-year period. It will be like a structure plan in that it is meant to be a long-term, strategic document, although that does not mean that it cannot be amended in the future.

**Eleanor Scott:** If the quinquennial review suggested that the park's boundaries should be extended along the lines of the proposal in John Swinney's bill, the same reasons for which the Executive objects to the proposal would still apply. There would still be a plan with a long shelf-life that would have to be revisited and there would still be financial implications. If the quinquennial review recommended that the boundaries should be extended, would the Executive go along with that recommendation or would its objections to the Cairngorms National Park Boundary Bill still apply?

**Sarah Boyack:** A judgment on that cannot be made in advance of the quinquennial review, the point of which is to consider what the position is and to see how effective the park's boundaries and resources have been. The Executive would have to take a view on the matter at the time. It is impossible for me to prejudge the issue.

**Eleanor Scott:** In your opening statement, you said that the larger park that was considered would have weakened the park's "coherent identity". Will you amplify a little what you said?

**Sarah Boyack:** We were conscious that, regardless of the boundaries that SNH proposed, the park authority would be the largest in the United Kingdom and that it would be a new organisation for Scotland. Loch Lomond and the Trossachs National Park Authority was developed from an existing regional park authority, so there

was a lot of experience of joint working in that area. There had been a long-term ambition to have a national park in the Loch Lomond area. Community involvement in and business support for the Cairngorms proposals were not as advanced, and there was quite a discussion about ensuring that the park would be seen to be effective and that it would be manageable. At the time, the Executive took the view that the park authority proposal in the designation order represented our best assessment of how to successfully manage and operate the park.

**Nora Radcliffe (Gordon) (LD):** I am trying to get my head around the extra burden that would be imposed by the proposed addition to the national park. How many more people and communities would be in the park? Would we basically add open hills, glens and historic walking routes through the Cairngorms?

**Sarah Boyack:** We are talking about something like an extra 690 people, a significant landmass and a few historic walking routes through the area. Members have also mentioned topographical features. However, there is no point in adding an area to the park without adding the resources that are required to manage it properly. We should consider the original principles behind the establishment of the park. Activities were to be co-ordinated. The issue was not only investment by the park authority but investment by other agencies. We want to do the job properly.

On the 690 people that I mentioned, one reason why we would have to amend the National Parks (Scotland) Act 2000 and the designation order is that we would need to redraw the boundaries for the representation of people on the national park authority. The committee spent a lot of time discussing people in communities getting to vote for representatives, rather than there being only council-nominated representatives. A process is already in place. Ballot papers will go out next week and the vote will be counted on 15 March. There would be a big question mark over that process if we shifted our position now. The matter will have to be considered in the future. The principles that were set out in the primary legislation in 2000 and the subsequent designation order are partly why the issue is complicated. I am afraid that it is not straightforward.

**Nora Radcliffe:** I accept what you have said, that the bill is probably not the answer and that it throws up problems, but let us return to first principles and the creation of a coherent national park. Do you accept that Dalwhinnie is tiny and that Blair Atholl is much bigger because it is a natural place for all the routes through the Cairngorms to emerge on to the lowland plain? If we are talking about coherence, it leaps off the map to me that we would make the park more

coherent by rounding it off and making Blair Atholl the gateway, for good geographical and historical reasons.

11:15

**Sarah Boyack:** That prompts the question, how far would you extend the park area? The Executive's view at the time was that we took the best decision. We examined SNH's proposals, which contained different options, and did not agree with all its conclusions. If it is felt that that needs to be looked at in the quinquennial review, that is fine. You could extend the national park in different directions for different topographical reasons or because of where human settlements lie. The reason that Nora Radcliffe gave is not necessarily a reason for extending the park boundaries.

We have to go back to the four original national park principles that covered coherence. There was a judgment, and we are at a point where there is no agreement on that judgment. The Executive view is that we made a good judgment at the time on the basis of the evidence. People who belong to the local communities in Blair Atholl do not agree with us. We can debate this endlessly—

**Nora Radcliffe:** It is not just the communities in Blair Atholl that do not agree with us; they represent a large body of opinion.

**Sarah Boyack:** There are two sets of arguments. One is about tourism and economic benefits and comes from people who live in and around the Blair Atholl area and the other is about environmental arguments for why the national park should be extended and comes from environmental non-governmental organisations. The Executive considered both arguments first time round and took its decision notwithstanding those views. We should follow through the decision that we took and let the park get on with its first five years. The quinquennial review will allow those issues back on to the agenda, but I will not prejudge what the choices should be five years on. Although I cannot tie future ministers' hands, I can say that the issues will come back on to the agenda for consideration. You would not expect me to go beyond that today—at least I hope that you would not.

**Nora Radcliffe:** We do not have time politically. What is the timetable to interlock the park plan and the next local plan process for planning authorities around the park? I have forgotten how long they run for.

**Sarah Boyack:** The new Planning etc (Scotland) Act 2006 says that local plans must now be reviewed every five years. That does not mean that amendments cannot be made if there are significant changes in an area over time,

because flexibility to amend has been built in. We still need to ensure that there is adequate consultation and consideration of people's views and interests, but there are processes to amend local plans. Plans set out the position for a five-year period, after which they must be replaced.

**Nora Radcliffe:** Does the revision of the park boundaries sit comfortably with the quinquennial review and the expectations about governance? Would it not be more sensible to have parallel processes, so that the boundary review is separate, perhaps on a slightly different timetable from the quinquennial review?

**Sarah Boyack:** It is up to ministers to decide on the scope of the national park authority review. The comment was made last week that once you have sorted out the principle, it is easy to get on with the detail. I wish that that were the case, but once we have sorted out the principle we still have to think through governance issues.

The original debate about whether the national park authority should have planning powers was significant, and a different view was taken in the Loch Lomond and the Trossachs area. It is not so simple to split up all those issues and view them differently. To get the right answers, we need to consider them together. I am not saying that that means we cannot take different decisions, but we have to consider governance, funding and boundary issues in the round.

The first decision was taken on the basis that the issues needed to be thought through, and the quinquennial review has to judge the success of the park plan in light of the job that the authority was given in 2002.

**Nora Radcliffe:** The timeframe for a boundary review would be slightly different from the timeframe for the job that the quinquennial review was initially expected to undertake. If we gave the boundary review more time, it might dovetail better with the quinquennial review.

**Sarah Boyack:** That is an interesting idea, and I am sure that ministers will be seized of such thoughts as they work out the scope of the quinquennial review. However, at this point in the process, it is not appropriate for me to make such detailed judgments. They should be considered nearer the time.

**Elaine Smith:** That reply leads nicely into my questions. Will the review be able to examine the whole concept of the park and whether it is doing what it was intended to do? As I recall, there were concerns about having a national park at all. If the review found that the park was not fulfilling its initial intention, might the legislation be overturned?

**Sarah Boyack:** A fundamental question is

whether the national park is succeeding in meeting its objectives, and we would be right to be concerned if that were not the case. However, the whole point behind the quinquennial review is the need for a rigorous examination of the park's administration, operation, expenditure and so on. One would expect local people to submit views to the process and for the review to address such issues.

**Elaine Smith:** Therefore, is it right to consider extending the review? You have said that it is better to wait until the five years of the review period are up, and you have been asked whether there might be any reasons for not supporting a boundary change at the moment. Perhaps one of those reasons is that the review should carry out a root-and-branch examination of the concept.

**Sarah Boyack:** We are pleased with the current progress of the park authority. We have no fundamental concerns in that respect. If the review highlights lessons that need to be learned, we will do so. However, both national parks are getting on with engaging with local communities and making the most of the national park situation. Obviously, the quinquennial review will still ask the park authorities some tough questions, but we are not introducing the review because we are worried that the parks are not delivering what we hoped they would deliver.

**Elaine Smith:** I asked earlier about consultation with stakeholders and the public on the review. Will that take place?

**Sarah Boyack:** One of the lessons that we have learned from the development of national parks is that people need to be consulted and made to feel part of the process. As a result, I want the process to be transparent.

**The Convener:** I thank the minister for her evidence and declare a short break to allow John Swinney to take his seat.

11:23

*Meeting suspended.*

11:24

*On resuming—*

**The Convener:** I remind members to switch off their mobile phones and BlackBerrys so that we do not get the buzzing that we had throughout the first evidence-taking session. You know who you are.

I welcome to the meeting John Swinney MSP, member in charge of the Cairngorms National Park Boundary Bill, and Scott Martin, who is a solicitor. I invite Mr Swinney to make some brief opening remarks.

**Mr John Swinney (North Tayside) (SNP):**

Given that rather solemn warning, I am glad that I did not come armed with a mobile phone or a BlackBerry.

I thank the committee for this opportunity to give further evidence and reiterate my comment last week that the community of Blair Atholl appreciates the time and trouble that you took to come to the area and see at first hand the issues that have been raised.

First, on the bill's general principles, which the committee is being asked to decide on, the question is whether it is right to extend the boundary of the Cairngorms national park to include eastern and highland Perthshire. I freely accept that certain points of detail need to be addressed, but I encourage the committee to reflect on that general principle and acknowledge that those details could be resolved at stage 2.

Secondly, I utterly refute the minister's statement that further primary legislation would be required if my bill were passed. That is not the case. An election order might be required to deal with the ward boundary issues, but, because I am not in the Scottish Executive, I am not able to introduce such subordinate legislation. However, I do not want the committee to think that further primary legislation is required.

Thirdly, I draw the committee's attention to the document "Public Bodies: Proposals for Change", which was published by the Scottish Executive in June 2001 and sets out the approach that should be taken to quinquennial reviews. Paragraph 22 of the document says:

"The principle of a regular, quinquennial review of each public body by the Executive will be maintained. The focus will be on continuous improvement—trying to identify ways of making the body operate more effectively. The relevant sponsoring Scottish Minister will review the performance management, accountability and governance arrangements in place with the Chair of the body during the review. Each quinquennial review will take into account the recommendations on public appointment procedures and training and on performance management, governance and accountability ... and decide in the light of the review what ... steps need to be taken to improve the arrangements. Ministers will report the outcomes of quinquennial reviews to Parliament."

I have quoted that passage to put into context the traditional purpose of quinquennial reviews which, as I told the committee a fortnight ago, is to examine the governance arrangements of public bodies, not the significant issues that are raised in the bill.

Fourthly, on the minister's comment that, because of my bill, we would have to take the national park plan back to the drawing board and go through the whole process again, I draw the committee's attention to the *Official Report* of last

week's meeting at Blair Atholl. In relation to the national park plan, I asked Jane Hope:

"You are not saying that you would have to go back to the beginning of the process",

to which she replied:

"We would not have to go back to the beginning."—  
[*Official Report, Environment and Rural Development Committee*, 5 February 2007; c 4029.]

We really need some penetrating scrutiny of what will be required. As I said last week, the national park plan is a generic policy document that affects the whole national park area. It does not say, "We'll do this in Aberdeenshire, this in Moray and this in the next place"; it is simply a policy framework. As for whether the national park plan is relevant to the areas of Perthshire that would be included under my bill, the point is that the relevant stakeholders in the area would have to be consulted on whether they accepted the plan's ethos. If there was to be any substantial change, wider consultation would be required, but it strikes me that it is much more about amendment than about going back to the beginning, which Jane Hope confirmed to the committee last week.

11:30

I am sure that we will come on to the issue of costs. The position on costs has fluctuated substantially since the committee first heard from ministers and since it heard from Jane Hope last week. I have seen the note on boundary markers, dated 6 February, that Jane Hope gave the committee. First, the boundary marker to which I referred is in Glen Clova, not Glen Shee—that is in the *Official Report*. Secondly, I cannot for the life of me work out where five additional smaller boundary markers, which are part of the suggested additional costs of the bill, would be required. The roads to accommodate them simply do not exist. Finally, if it is going to cost an extra £87,000 to move a boundary marker at some stage in the future, I suggest that, rather than leaving it in somebody's garage for a couple of years, we should put it in its right and proper place, which is on the A9 at Blair Atholl. I am happy to answer questions.

**Mr Morrison:** Mr Swinney reminded us, not unreasonably, that we are here to consider the general principles of his bill. He was present when the minister—again, not unreasonably—along with her officials outlined the legislative consequences of his bill. She said that there would be a requirement for primary legislation. John Swinney is now utterly refuting that. Given that you are a reasonable man, Mr Swinney, you will appreciate that that puts us in a bit of a bind regarding your bill. That is my first observation, on which I am sure that Mr Swinney will want to comment.

The minister outlined the significant financial implications of the bill, which, again, you refuted in your opening statement. I would appreciate it if you would develop your argument on the finance issue.

I would also like you to reflect on what your colleague Mr Gibson said about the park staff and efficiency savings—he dismissed blithely those sitting behind desks. Do you share Mr Gibson's view that in any efficiency savings review, the staff sitting behind desks are expendable?

**Mr Swinney:** There are three points to answer. The first is on primary legislation. I utterly refute the point that there is a need for primary legislation—I do not see why it is required. There is a provision in my bill that would require a temporary change to the number of members of the Cairngorms National Park Authority. I have said that there might be a need for an elections order in relation to the ward boundaries. That is not primary legislation, and I do not see what primary legislation is required.

There are two aspects to the second point, on finance: one-off costs and running costs. I accept in the financial memorandum to the bill that there are some one-off costs relating to the potential changes to boundary markers, literature and things of that nature. Those costs are not a sizeable sum of money. I estimate them to be about £50,000—I think that the financial memorandum says £48,000. It would be reasonable to find that sum of money in a budget of £4.5 million.

On running costs, there are 58 members of staff of the Cairngorms National Park Authority. I cannot speak definitively about their respective responsibilities, but, having looked at their job titles and the areas of activity in which they are involved, it seems to me that we could quite readily say that 47 of those 58 members of staff have some form of corporate function in which they are dealing with all-park issues. There are 11 members of staff who we could describe reasonably as having a locally-focused function.

To illustrate the point, I return to the national park plan, which is a generic document. It does not set out what the authority will do in Aberdeenshire or Grantown-on-Spey but instead talks about the policy framework for the whole national park. It is therefore reasonable to assume that the 47 members of staff whose work relates to the entire park area would do the same job if the park were larger, because the policies are generic. The 11 members of staff with local functions have titles such as development control officer and outdoor access officer. If we extend the park by about a seventh, we might be looking at 1.5 extra members of staff, tops. Obviously, with a fixed budget, people would have to make decisions to

redeploy and reallocate functions as they see fit, but the running costs are not a big factor in the equation.

The final point that you raised was on efficiency savings. Mr Tom McCabe tells me regularly in the Finance Committee that all public bodies have an efficiency savings target, which is between 1.5 and 2 per cent. The costs that we are talking about do not strike me as being out of kilter with the overall financial envelope within which the national park authority operates.

**Mr Morrison:** I have a brief observation on legislation. I am sure that Mr Swinney would accept that, although in all sincerity he and those advising him believe that there would be no need for further primary legislation, that does not mean that there would not be such a need.

**Mr Swinney:** I stand to be corrected when I read the *Official Report* of the meeting, but I did not hear a single comment from the minister that primary legislation would be required. The minister talked about an elections order. You will understand that I cannot introduce such an order. I accept that secondary legislation may be required to address the outstanding issue of the delineation of ward boundaries, but that is not part of the general principles of the bill; it is an operational detail that is material but which ministers could resolve after the bill was passed.

**Elaine Smith:** The dispute about whether primary legislation would be required is important. It might have been helpful for the committee if you had had a dialogue with the minister on it. Nobody can force you to ask the minister questions, but the convener pointed out that you could have done so although, obviously, it would have been up to the convener to decide whether to call you. I wonder why you did not take that opportunity, as it would have been helpful to the committee if we had had dialogue on the issue.

**Mr Swinney:** I decided to appear today as a witness and not as a member. I took the view that as a member promoting a bill, I should not sit at the committee table as a member but should instead appear as a witness. If the committee had preferred it, I could have sat at the table as a member and tried to catch the convener's eye. That would have been fine and well, but I decided to come to today's meeting as a witness and not as a committee member.

**Elaine Smith:** We could have taken the opportunity to clear up the issue a bit.

**Mr Swinney:** I am sure that the minister could write to you on the issue.

**Scott Martin:** If the ministers' officials want to articulate concerns, as the solicitor who drafted the bill, I am more than happy to discuss the

issues with them. As far as I remember, the minister said that the National Parks (Scotland) Bill would have to be amended. Obviously, that bill is now legislation. The National Parks (Scotland) Act 2000 is enabling legislation that contains no specific reference to the Loch Lomond and the Trossachs national park or to the Cairngorms national park. Mr Swinney's bill would amend the original designation order by changing some of the boundaries and the composition of the park authority. If the minister thinks that amendments to the bill are required, and if her officials articulate them to me, I am more than happy to deal with the issues.

Mr Swinney is correct about the requirement for an elections order to amend the ward boundaries for the national park authority elections. The minister could do that after the bill was passed, or the issue could be dealt with through an amendment to the bill at stage 2.

**The Convener:** Thank you for that offer. We will have to seek clarification, and the clerks will think of the best way of doing that. It is crucial that we know whether or not your bill would entail more primary legislation.

**Rob Gibson:** I want to refer to the letter that we received from the Cairngorms Chamber of Commerce. What do you make of its arguments about carrying out surveys of its members' ideas, and of its suggestion that it carried out surveys outwith the area that it represents?

**Mr Swinney:** Obviously, the chamber of commerce is entitled to carry out whatever consultation it wants to carry out—either within the national park or outwith it. It would be for the chamber of commerce to determine whether that was a valuable exercise.

**Rob Gibson:** The natural way for businesses in Perthshire to express their views would not be through the Cairngorms Chamber of Commerce.

**Mr Swinney:** No. At last Monday's meeting of this committee, a number of businesses were among the witnesses, representing different interests in the tourism sector and the wider economic sector. A major economic player in the area, Atholl Estates, was represented as well. I think that the committee heard at first hand a pretty clear expression of the areas of interest of businesses in the highland Perthshire area. The committee heard how businesses could see opportunities arising out of membership of the Cairngorms national park.

**Rob Gibson:** On the development of the national park plan, will it be possible to deal with matters relating to primary legislation, designation orders and election orders at stage 2, if the bill progresses to that stage?

**Mr Swinney:** I see no reason why the issues raised cannot be addressed at stage 2. As I suggested in my introductory remarks, the general principles of the bill focus on the question whether it is appropriate to extend the boundaries of the national park to include east and highland Perthshire. Of course, a number of operational and procedural issues would follow on from that and—in consultation with Scott Martin—I have done my best to lodge a bill that deals with those issues adequately. Subsequent operational details could be addressed at stage 2, having been identified at stage 1.

**Rob Gibson:** You are suggesting that the bulk of the issues relating to the size and operation of the park could be dealt with in legislation now. The quinquennial review is for the future, but who knows whether it will result in any form of legislation? From what has been said, that review sounds like a simple chat between the minister and the chair of the national park.

**Mr Swinney:** The quinquennial review is a dialogue between the sponsoring minister and the chair of the relevant body. To hope that a quinquennial review will go much beyond the stated purpose in the June 2001 document, "Public Bodies: Proposals for Change", is to hope for something that will not happen. The quinquennial review looks to me to be the type of exercise that looks into whether there is good governance. Of course, such reviews are appropriate. However, for a whole number of different reasons—including economic opportunity, social development, environmental protection and the long-term saving of public money—it would be more effective to address the boundary issue now.

11:45

**Eleanor Scott:** You have talked about the bill addressing questions of principle, one of which is fairness of representation. At the moment, of the 10 local authority representatives on the board of the park authority, five are from Highland Council. Your bill would reduce the number of Highland Council representatives to four, which would mean that two thirds of the people in the park area would be represented by only two fifths of the board. Does your proposal raise an issue of fairness of representation?

**Mr Swinney:** It is important that all areas that are covered by the national park are represented on the park authority board. I accept that my bill would result in a reduction in the proportion of local authority-nominated members of the board that comprised representatives of Highland Council. However, Highland Council would remain the local authority with the highest number of nominees on the board.



As regards the members of the board who are directly elected, it appears to me that three of the five wards for those elections are wholly in the Highland Council area and two of them are divided among the Aberdeenshire Council, Moray Council and Angus Council areas, so my bill would still give the Highland Council area a substantial level of representation on the board.

**Eleanor Scott:** What about community representation from the area that you propose should be included in the park?

**Mr Swinney:** Are you asking how that would be addressed?

**Eleanor Scott:** Yes.

**Mr Swinney:** The minister was factually correct to point out that an election to elect the directly elected members of the national park authority board is under way. I can see no argument for halting that process, or for revisiting it in the short term because it would be too much to ask people to vote again if my bill were passed. However, I am sure that it would be possible to use secondary legislation to extend existing wards to cover the different parts of the area that I propose should be included in the park, to ensure that the 690 new electors in that area had a public representative.

**The Convener:** What consultation on the numbers did you carry out with local authorities in the park area such as Highland Council and Aberdeenshire Council?

**Mr Swinney:** My original consultation document was sent to Aberdeenshire Council, Highland Council, Moray Council and Angus Council, which are the four councils parts of whose areas make up the national park as presently defined. To my certain knowledge, Angus Council, Highland Council and Aberdeenshire Council replied to the consultation document. Off the top of my head, I cannot remember whether Moray Council replied; it was certainly invited to submit its views. Highland Council expressed concern about the proposed diminution of its representation.

**The Convener:** And rightly so, given the imbalance in representation that your bill would result in.

You seem to minimise the amount of work that would have to be done if the park plan had to be revisited. From research that I have done on housing, which is an issue that I am interested in, I know that Communities Scotland has done a great deal of research on the impact of second homes on the availability of affordable housing in the national park. The park authority has considered innovative ways of dealing with the preponderance of second homes in the area, which results in local people being priced out of the market.

What work has Perth and Kinross Council done on that and how could it possibly be assimilated into the national park's work? Has Perth and Kinross Council ever addressed such issues? Surely it would take a lot of consultation with stakeholders in the area that you propose should be subsumed into the park before agreement could be reached on the way forward. I am thinking of issues such as land use and what developers might think about having to meet certain planning conditions and so forth.

**Mr Swinney:** Perth and Kinross Council has done a formidable amount of work on affordable housing. The issues that apply in this regard in the Cairngorms National Park Authority area are exactly the same as those that pertain in the highland Perthshire area of my constituency. For example, in the Rannoch and Atholl ward, which takes in Blair Atholl, Calvine and Struan and which is part of the proposed area, about 27 per cent of properties are second homes. Access to housing is a substantial issue in that area.

Perth and Kinross Council has put in place policy frameworks on affordable housing. It also places requirements on developers to come forward with affordable housing propositions as part of wider housing applications. A number of affordable housing initiatives have been taken in the Blair Atholl area, and in the Calvine and Struan area. The issue is not one that has suddenly come on to the horizon and, as such, will come as a terrible shock to Perth and Kinross Council. It is an issue that is being wrestled with all the time. Affordable housing is as serious an issue in the highland Perthshire area as it is in the Cairngorms National Park Authority area.

**Peter Peacock:** I was not going to raise this point, convener, but I will do so in light of something that John Swinney said. He indicated that there was a conflict between what Jane Hope said about the park plan and what the minister said this morning. With respect, there is no conflict. John Swinney drew attention to a particular answer that Jane Hope gave at our meeting of 5 February, but she also said something else, in response to a question of mine. I asked her to accept that the work that had been done on the current park plan would be incorporated into any new plan—I am paraphrasing column 4031. The key point that I want to make is that, when I asked her whether it was correct to say that people would be required to go back to the beginning of the statutory process—not the work—she answered, "Yes." The minister was not wrong in what she said; neither is Mr Swinney and nor am I. Two issues are involved: the work that is undertaken on the statutory plan and the statutory process—they are two distinct and different things.

**Mr Swinney:** That may all be correct—indeed, we may all be correct. However, my recollection of the committee meeting at Blair Atholl—if I had had the time, I would have looked it up in the *Official Report* of the meeting—is that Eleanor Scott asked what was involved in the statutory process. If my recollection serves me right, the statutory process that Jane Hope explained is one in which she sends the plan to the minister and the minister replies. When I heard her explanation of the statutory process, I did not think that it was an issue that would stall everything. The key point is the fact that we do not need to go back to the start of the whole exercise, if I can call it that. In order for us all to understand what we are talking about, we need some consistency in our terminology.

**Peter Peacock:** There is a key point in all this. I do not think that the statutory process is just the bit when, after the plan is prepared, someone bungs it off to the minister who says “Aye or “No”. I did not want to get into this issue, convener—I have other questions to ask. Surely the statutory process implies the entire process, including the consultation with people. That is what the minister was saying.

**Mr Swinney:** If that is what you are saying, I do not agree. I refer the committee to Eleanor Scott’s question on what the statutory process is all about. Effectively, the answer that Jane Hope gave was, “I, as chief executive of the Cairngorms National Park Authority, send the plan to the minister and the minister replies.”

**Peter Peacock:** I do not want to pursue the matter further. I think that we have teased it out enough.

I return to the conversation that we had, Mr Swinney, at the last meeting at which you gave evidence. I want to take the discussion forward a bit in relation to your argument on the boundaries in order to ensure that I have captured the argument and that I am absolutely clear on your position.

Your broad position, which I accept is legitimate, is that we should ensure that Blair Atholl is in the park, with the economic, social and other benefits that would flow from that. Let us take that as a given. However, you seem to make a case beyond that. Last week, Professor Brown and perhaps others argued that it is illogical to have a park boundary that runs along the tops of mountains. As I understand it, that is one of your arguments for changing the boundary. In other evidence, people talked about coming to a mountain top and finding that they were at the end of the park. They thought that that was illogical, or nonsense—I am paraphrasing.

The second point of your argument is a point of principle. When SNH presented options to

ministers, it recommended the option that gave the largest area, but ministers did not accept that. In your view, that is not only regrettable but somehow wrong—ministers should have accepted SNH’s recommendation. That is the second strand of your argument.

Is that a reasonable summary of your position?

**Mr Swinney:** I have always argued that it would be logical to have the boundary that SNH recommended, which took the Cairngorms massif and applied a buffer zone around it. In the current boundary of the national park, a buffer zone exists except in the highland Perthshire area. I argue that there needs to be logic to the topographical judgment that is applied to define the boundary. The example that I have cited is that, if someone leaves the Angus glens to walk west, they will notice no topographical differences. They will step across the county boundary into Perth and Kinross, but not much else will change.

Your second point was about SNH’s recommendation. I accept that ministers are free to ask whoever they like to carry out a consultation on their behalf and to make a judgment at the end of it. I would not argue for a moment that ministers are obliged to accept the recommendation. Ministers are elected to make decisions and it is perfectly within their power to do so. However, we are entitled to challenge them when their decisions appear illogical.

SNH came up with three options for the boundary. Option A gave the smallest of the three areas. Option B included a significantly larger area including Laggan, Grantown-on-Spey, the forest of Atholl and the Angus glens. That is the option that ministers sort of went for. I suppose we could say that they chose option B-minus. Option C gave the largest area, extending to the Ben Alder forest in the west, slightly further into Rannoch and Tummel to the south-west, as far to the south-east as Kirriemuir and Brechin, and to Tarland in the east. That option gave an even larger area than the one that I argue for. I support option B, which is the middle way, as some people might say. It is not the largest area and not the smallest. However, instead of choosing option B as the ideal middle way, the Government chose option B-minus.

**Peter Peacock:** I am still slightly confused on the point about mountain tops. Some people argue that a boundary should never run along mountain tops and they challenged such boundaries in their evidence. You alluded to that when you said that there needs to be logic to the topographical judgment that is applied. You also said that ministers can and should be challenged on why they did not accept SNH’s recommendation.

First, in making your proposals, why did you not challenge ministers on why they also left out of the Cairngorms national park other areas that SNH recommended should be included? What is the logic in arguing for one area to be included but not the other areas that ministers excluded?

Secondly, the north-west boundary of the park runs almost entirely along the tops of mountains. Why would it be illogical—as some would argue and you would seem to suggest—for ministers to pick a boundary along the top of mountains in the south but logical for them to do so in the west? Why would you not have raised that as a matter of principle in your bill?

12:00

**Mr Swinney:** I am bringing forward a proposition that has arisen out of my pursuit of an issue on behalf of those whom I am elected to represent. I have been involved in this issue for some time and think that I am fulfilling my representative responsibility. It would be rather presumptuous for me to make recommendations about parts of the country for which I have no electoral responsibility.

I have always maintained that there should be topographical unity in the national park. I accept that it might not be possible to define a boundary that does not take in any mountain top. However, the key point that I have made, as is shown in the maps that depict the existing boundaries along with the additional area, is that, as one moves west, there is no topographical difference and that the only thing that changes is the county boundary. I do not think that that makes any sense. The most charitable thing that I can say about the Government's position is that ministers have quite properly exercised a choice, which they are free to do. However, that choice is not driven by much logic.

**Peter Peacock:** May I pursue another issue?

**The Convener:** Very briefly, because one or two members want to join the discussion.

**Peter Peacock:** Mr Swinney, you say that your bill is about general principles and the idea that, broadly speaking, the boundary ought to be moved further south. However, your bill is also about the detail of that boundary. This morning, you have said that you would like the big granite blocks that are hidden in someone's garage to be brought out and put at Blair Atholl rather than at the Drumochter pass.

I would like you to make your proposal clear. It appears to me that, under your proposal, people who come from the south would enter the boundary of the national park just before the turnoff to Blair Atholl, then leave it immediately on the A9 as they cross the river and skirt Blair Atholl

before entering it again. Where do you envisage the big granite signs being placed? Would they be at the south end? Would they say, "You are now entering the national park" or "Turn right to enter the national park"? That is not entirely clear to me.

Secondly, as someone crosses the river into your national park—if I may put it that way—the first thing that they will see is a huge quarry scarring the left-hand side of the road. Do you think that that should be the first sight that people coming to the Cairngorms national park from all over the world should see? What kind of image would that be? It might sound pedantic, but do you agree that there is an issue about the precise placing of the boundaries as well as about the general principles?

**Mr Swinney:** The general principle of the bill is to extend the boundaries to take in highland Perthshire and east Perthshire. If members are troubled by some of the detail of where the boundary line would be, I could not reasonably object to amendments of that detail, provided that the amendments were made within the context of the extension of the boundary to include areas of highland Perthshire and east Perthshire. I envisage that the boundary markers would be at the southern access to the national park on the A9.

In relation to the points that were made by Jane Hope about the other boulders that are to be put out, I can see only three possible places for additional road markers to be placed. The first such location is on the minor road from Trinafour to Dalnacardoch; another is on the B847 from Trinafour to Calvine, which is the road that leads, eventually, to Rannoch. The third possibility is on the B8079, which is the road from Pitlochry to Blair Atholl—the old A9—which goes through Killiecrankie. Where the Cairngorms National Park Authority gets the figure of five boundary markers from is beyond me. I do not know where those roads exist.

You referred to the first thing that people see when they drive north out of Pitlochry. I think—to be blunt—that that is the Cairngorm mountains. They are utterly obvious as one climbs out of Pitlochry—

**Peter Peacock:** At the north end?

**Mr Swinney:** The north end of Pitlochry? Yes.

**Peter Peacock:** Sorry, I thought that you were talking about Blair Atholl.

**Mr Swinney:** No. As you climb out of Pitlochry on the new A9, there is a stretch of dual carriageway—which is another issue, of course—and, as you climb up it towards Blair Atholl, you see the Cairngorm mountains right in front of you. You cannot mistake them.

**Peter Peacock:** But that is not in your boundary.

**Mr Swinney:** Yes, but you see them. You cannot fail to see the Cairngorm mountains; they are blindingly obvious. I accept that you are not driving on a road that is taking you over the top of the first summit of the Cairngorm mountains, but you could not see the mountains any more clearly. You see the quarry only when you bear left to go further north, at which point you have passed the place where I propose that we have a sign that says you are entering the Cairngorms national park.

**Peter Peacock:** Is that not the point, though? The mountain that you see straight in front of you as you drive up the dual carriageway is not within the Cairngorms national park, even according to your boundary; it is south of that.

**Mr Swinney:** No, I think that we are talking about two different places.

Another point that I should mention is that, if you do not have the marker where I suggest it should be, you will see those mountains and then have to drive another 18 miles before someone tells you that you have joined the Cairngorms national park—despite the fact that you have driven past all those mountains that are obviously the Cairngorms. You will find yourself saying, “Well, here I am at Dalwhinnie. Where have the Cairngorms gone?”

**Mr Brocklebank:** As I have indicated, I am broadly in favour of the aspirations that John Swinney expresses. However, as the minister said, and Mr Swinney accepts, a decision has been made—SNH notwithstanding. The minister also gave a categorical assurance that the matter of boundaries would be revisited under the quinquennial review, despite John Swinney's suggestion that that is, perhaps, not the purpose of the review. Of course, nobody knows what parties will be in the Executive at the time of the quinquennial review, but the minister's view is that that is when the boundaries will be revisited. Why is John Swinney not content with that, especially as the minister told us that it is not certain that John Swinney's bill would bring about an extension of the boundaries any more quickly than waiting for the quinquennial review would do?

Mr Swinney, is it not time to accept that the Executive has made a decision—rightly or wrongly—and that it has said it will reconsider the boundaries? Do you agree that we should accept the boundaries that are in place and reconsider the issue of the boundaries at the time of the quinquennial review?

**Mr Swinney:** I heard what the minister said this morning and I understand what Mr Brocklebank is saying. However, the minister also said that she could not commit the Executive in 2008 to

considering the boundary issue in the quinquennial review. She had an expectation—

**Mr Brocklebank:** She could not commit to a judgment, but she could commit the Executive to a consideration of the boundaries.

**Mr Swinney:** We can check in the *Official Report*, but I cannot see how a minister could commit a future Administration to a consideration of the issues around the boundaries of the park. I can see how, under existing statutory procedures, we could form a view about what the quinquennial review was going to be about, which is why I quoted from “Public Bodies: Proposals for Change”. That is the current guidance, which gives us the best impression that we can have of what the quinquennial review might look like. I cannot see how a minister can commit to anything beyond that.

Members may decide to put off a decision or not to support the general principles of the bill because they think that the issue will be tackled in the quinquennial review. However, there is no guarantee that that will be the case and, on the basis of current procedure, I cannot see how the boundary issue can be discussed within the quinquennial review, as the quinquennial review is all about governance arrangements and so on. Even if the boundary issue were to be considered in the quinquennial review, I would be staggered if the boundary was extended any earlier than about 2010—if we were lucky. We are talking about either resolving the issue this year, in 2007, or possibly—with a host of caveats—being in a position to resolve it in 2010, by which stage any change would be more expensive and there would be no guarantee that the change would take place.

**Rob Gibson:** The minister talked about signage. I suspect that she was referring to the application by the Blair Atholl area for a sign that called Blair Atholl the gateway to the Cairngorms and the park authority's objection to such a sign. Was it your impression that she was going to do something about that, or do you think that she just wanted to put on record the fact that it seemed a rather unfortunate decision?

**Mr Swinney:** The issue was explained clearly to the committee last Monday in Blair Atholl. The Blair Atholl area tourism association, supported by Perth and Kinross Council, has expressed a desire to establish on the A9 some brown, visitor signage that says that Blair Atholl is the gateway to the Cairngorms—not the gateway to the Cairngorms national park, but the gateway to the Cairngorms. That request has been refused.

I heard the minister say that she had seen that evidence and had asked her officials to contact Transport Scotland. I do not know whether she went as far as to say that her officials were going

to ask Transport Scotland to reconsider its decision, but they had certainly been asked to have a discussion with Transport Scotland about the matter. Obviously, some dialogue on the issue would be very welcome.

I return to the point that I raised with Peter Peacock: it is blindingly obvious that Blair Atholl has access routes to the Cairngorms. Indeed, some of the most long-standing access routes to the Cairngorms emerge from Glen Tilt. It therefore makes sense to encourage people to think of Blair Atholl as a starting point to their access to the Cairngorms. If there could be further discussion on that, I am sure that the community in Blair Atholl would welcome that, as would Perth and Kinross Council.

**Rob Gibson:** Indeed. That exemplifies the fact that the question of signage is a minor matter that can be discussed between councils and the park authority at a later stage, which is why it does not appear in the bill.

**Mr Swinney:** It would obviously be beneficial to discuss the issue.

**The Convener:** I thank John Swinney and Scott Martin for their attendance and their evidence. They may stand down.

I ask the committee to agree to consider our draft report on the bill in private at future meetings until the report is agreed.

**Members indicated agreement.**

**The Convener:** There will be a short suspension to allow our witnesses to leave.

12:14

*Meeting suspended.*

12:15

*On resuming—*

## Subordinate Legislation

### Prohibition of Fishing with Multiple Trawls (No 2) (Scotland) Amendment Order 2007 (SSI 2007/13)

#### Tweed Regulation Order 2007 (SSI 2007/19)

**The Convener:** We have two negative instruments to consider under agenda item 2.

The Prohibition of Fishing with Multiple Trawls (No 2) (Scotland) Amendment Order 2007 (SSI 2007/13) has been before us previously; this is the amended version. Members should note that, in response to the concerns that were raised by the Subordinate Legislation Committee, the Executive has revoked the previous order, which we considered on 24 and 31 January. The replacement order has exactly the same policy intention as the revoked instrument; therefore, the information that the committee sought previously remains relevant. Letters from the Minister for Environment and Rural Development that respond to the committee's concerns have been circulated with members' papers. The Subordinate Legislation Committee has commented on the new instrument and an extract of its report is also in our papers. Do members have any comments on the instrument?

**Mr Brocklebank:** I note the minister's responses to the two points that I raised at our previous meeting. The first related to the timescale during which some vessels will be given the derogation to continue fishing with multiple trawls. The second concerned whether, if it was found, after that time, that multiple trawls still had beneficial effects in relation to the efficiency of the trawl gear, fuel consumption, the vessels' carbon footprint, and so on, the minister would consider overturning the decision. I am satisfied with the two responses that we have received.

**The Convener:** Are members agreed that we have no comment to make on the instrument?

**Members indicated agreement.**

**The Convener:** Do members have any comments on the Tweed Regulation Order 2007 (SSI 2007/19)?

**Members:** No.

**The Convener:** Okay. So, we are happy to make no recommendation on it.

**Members indicated agreement.**

## Petition

### National Parks (Scotland) Act 2000 (PE1011)

12:17

**The Convener:** Our final item is consideration of petition PE1011, from Ian MacKinnon, on behalf of Action Against Marine Park, which calls on the Scottish Parliament to amend the National Parks (Scotland) Act 2000 to require approval by a majority in a local referendum before any national park can be established. Members have a copy of the petition and a background note from the clerk.

Unfortunately, the petition was referred to us too late to be incorporated in our marine environment inquiry. We now have limited time left in this session, and we need to decide how we will deal with the petition. My feeling is that the petition is more about the consultation process than the marine environment. I suggest that we write to the Minister for Environment and Rural Development, asking which organisations were consulted, why they were chosen and why community councils, for example, were not consulted. We can also ask what other opportunities there will be for consultation as the process rolls out. We will want some fairly detailed explanations from the minister. Are members content with that as a first step?

**Members** *indicated agreement.*

**Eleanor Scott:** We should ask the minister what the Executive has done to inform the communities that could be affected by the national park of any possible benefits to their areas. It is right that people who are suspicious of the idea and who are protesting against it should have a voice. However, as far as I can see, the consultation—which I have a lot of concerns about—did not try to sell the idea: it was just consultation; therefore, people were left without any idea whether they would get anything out of the park. We should ask the minister what the Executive has done to explain to communities why it is thinking of establishing the national park in the first place.

**Nora Radcliffe:** There is the classic tension between consultation—when things are not written in tablets of stone—and people wanting things to be written in tablets of stone, so that they can say whether they like the idea. Part of the problem is in trying to get across to people the idea that consultation is an iterative process.

**The Convener:** Perhaps we can ask the minister to clarify the effect that the establishment of a national park might have on sea industries such as fishing and aquaculture. That might be helpful for the petitioners.

**Rob Gibson:** I do not want to open up any controversy. However, there must be lessons that can be learned from the way in which SNH and others operated the processes that were gone through for the land-based national parks in Loch Lomond and the Trossachs and the Cairngorms. Can we ask the minister if there is any significant difference in the way in which the process has been undertaken this time?

**The Convener:** That is fine. Can members think of anything else to put in the letter?

**Members:** No.

**The Convener:** Okay. Our next meeting will be on 21 February at 10 o'clock in committee room 5.

*Meeting closed at 12:21.*

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