

FINANCE COMMITTEE

Tuesday 12 September 2006

Session 2

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FINANCE COMMITTEE

21st Meeting 2006, Session 2

CONVENER

*Des McNulty (Clydebank and Milngavie) (Lab)

DEPUTY CONVENER

*Mr John Swinney (North Tayside) (SNP)

COMMITTEE MEMBERS

*Ms Wendy Alexander (Paisley North) (Lab)
*Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)
*Mark Ballard (Lothians) (Green)
*Derek Brownlee (South of Scotland) (Con)
*Jim Mather (Highlands and Islands) (SNP)
*Mr Frank McAveety (Glasgow Shettleston) (Lab)
*Dr Elaine Murray (Dumfries) (Lab)

COMMITTEE SUBSTITUTES

Shiona Baird (North East Scotland) (Green)
Robin Harper (Lothians) (Green)
Janis Hughes (Glasgow Rutherglen) (Lab)
Alex Neil (Central Scotland) (SNP)
John Scott (Ayr) (Con)
Iain Smith (North East Fife) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Professor Arthur Midwinter (Adviser)

THE FOLLOWING GAVE EVIDENCE:

Frazer Henderson (Scottish Executive Enterprise, Transport and Lifelong Learning Department)
Emma Sinclair (Scottish Executive Enterprise, Transport and Lifelong Learning Department)

CLERK TO THE COMMITTEE

Susan Duffy

SENIOR ASSISTANT CLERK

Rosalind Wheeler

ASSISTANT CLERK

Kristin Mitchell

LOCATION

Committee Room 1

Scottish Parliament

Finance Committee

Tuesday 12 September 2006

[THE CONVENER *opened the meeting at 09:51*]

11:45

Meeting continued in public.

Budget Process 2007-08

The Convener (Des McNulty): I welcome members of the press and the public to the meeting. I remind people to turn off pagers and mobile phones. The first item on the agenda, which we took in private, was on the report of our accountability and governance inquiry, which we have agreed. The second agenda item is the budget process 2007-08. We have two papers from our adviser, Professor Arthur Midwinter. The first is an analysis of this year's draft budget and the second is guidance to subject committees, which we normally issue. As we have had to reduce the amount of time for this item, I suggest that Arthur Midwinter does not make a presentation but instead that members ask any initial questions. The analysis of the draft budget can be discussed again on 26 September. As the Minister for Finance and Public Service Reform will not come to talk about the budget until our external meeting in November, we still have a bit of time.

Before we begin, I ask Arthur Midwinter to say something about an error that he has found in the draft budget document.

Professor Arthur Midwinter (Adviser): The error is in table 7.03, which shows the capital and revenue grants to local authorities that are outwith the aggregate external finance process. The moneys that are contained in that table are also contained in the appropriate portfolio lines. As you will see in my report, when I looked at those, I found what appears to be a significant drop of around £200 million in the funding that comes through those programmes. I asked my contacts in the Scottish Executive to explain that—it appears that there are errors in the figures for last year. The local government capital figure of £222 million in the current year's budget was just over £100 million in last year's budget. The difficulty is that information was wrongly excluded last year. Although there seems to be a fairly big drop, we should be able to account for it properly. Once I have been able to square all the figures, I will get back to members with a revised note. The error

appears to have been made in last year's documentation—about £100 million of expenditure was excluded in an accounting error.

There are also problems in the local government revenue section in the table, where different categories have been used for the different years—we have categories for transport and for enterprise and lifelong learning and then one category for transport, enterprise and lifelong learning. That figure also varies from last year's. I have had correspondence from the Executive that will help me to explain the matter. In the meantime, we can simply note that the figures need to be revised, which will happen as soon as possible. We should also inform the Local Government and Transport Committee.

The Convener: We should definitely inform the Local Government and Transport Committee that we have picked up that discrepancy.

Do members have any questions about either of the reports that we have received from Arthur Midwinter?

Dr Elaine Murray (Dumfries) (Lab): The Minister for Finance and Public Service Reform made a recent announcement on the local government settlement. Is that reflected in the draft budget or has it been excluded?

Professor Midwinter: There has been no announcement; there has been a leak to the press. When the story appeared, I was aware that the figures were not in the draft budget documents. Any additional money for local government would have to be provided before the November settlement if it were to influence local authority budgets for 2007-08 in March. The information would have to come to the committee around the time it publishes its report on the budget.

The Convener: The provision of additional money, about which there has been speculation, would be in line with the recommendation that the Finance Committee made last year.

Professor Midwinter: The committee noted that there was a shortfall of £85 million, which should be revisited on the basis of the Barnett consequential and any other budgets, with a view to easing the squeeze on local authorities and reducing council tax levels.

Ms Wendy Alexander (Paisley North) (Lab): I seek the convener's guidance. The figure that the Executive gives for the uplift in budgets is £725 million and it is extraordinary that not a single page in all the documents shows where that money came from and where it will go. The issue is not complex; we demand such information from nearly every other public organisation. If the Executive were systematically audited in the way

that is required of other organisations, it would have to show us the baseline and where the money is going.

We are seven years into devolution, but the annual budget for the organisation that probably accounts for slightly less than a twentieth—a significant proportion, at any rate—of the total United Kingdom budget does not outline where the money is being allocated. The utility of much of the rest of the documentation is negated if the Executive cannot say, “We told you that we spent £725 million this year; here is a table that shows how we spent it.” No such table exists and it is extraordinary that the Executive should not impose on itself the accounting discipline that it requires of other organisations.

Professor Midwinter: For information, the argument that we made last year for the rationalisation of the process was intended to allow the Executive to focus on the issue that Wendy Alexander identifies. There might have been a misunderstanding about what was agreed, but I saw the guidance to departments that officials in the Scottish Executive Finance and Central Services Department produced, which asked departments to explain changes from the previous year. I cannot account for why such information has not materialised, but the information that we have been given is certainly not in the format that I had hoped for. We wanted there to be a clear exposition of where and why additional money would be spent, but it seems that the numbers have simply been rolled forward and conventional accounts have been provided of what will be done with the money in the context of the overall budget. There has been no focus on the areas in which choices have been made for the current year.

Ms Alexander: Does the Finance and Central Services Department not know where the £725 million by which it has increased the budget is going, or is it just not telling us? Guidance on the matter would be helpful, but perhaps the budget adviser does not know the answer to my question.

Professor Midwinter: I would imagine that the Finance and Central Services Department knows to which departments the money has gone. There is an official in the Executive who deals directly with each department and they would know the detail of that. I do not know who owns the process and decides what will go in the chapters on each portfolio. The guidance asked departments clearly to state what use they were making of the additional money from last year.

Part of our grievance with the budget documentation was to do with the huge overlap between documents. There was an attempt to streamline the documents this year and make the process easy by focusing only on changes.

However, some of the portfolio chapters continue to repeat page after page of information that is already in the budget document and do not do what we wanted them to do. I would expect any department that was to secure real-terms growth of, for example, £40 million, to be able to explain what it would do differently because it had that money.

The Convener: I suggest that we pursue that information with the Executive officials and see whether we can get something that gives us a relatively easy-to-understand synopsis of where the growth money is going on a portfolio basis.

Professor Midwinter: There is no problem in tracking the money; the problem is in tracking the use that is being made of it. At the moment, the narrative is about the budget as a whole, whereas our concern is about the changes to the budget that require to be approved.

Mr John Swinney (North Tayside) (SNP): As Wendy Alexander suggests, it is important that we know not just the use that is being made of the increased resources, but what impacts and outcomes we can expect to arise from that. It would be useful to have that information on the cash changes and programme implications before the minister comes before us in November.

At various stages in the different reports, we can see that the Government is making choices about the reallocation of resources. Some budgets are declining, in real terms, and we need to know the implications of those reductions in funds. It might be that those funds are reduced and we notice absolutely no difference in the delivery of public services—in which case, we would have questions about how the money was being spent in the first place. We need to have a better understanding of how that happens.

My second point relates to the format of the draft budget documents. A presentation of the budgets in real terms—at 2006-07 prices—is given at level 2, but that is not shown at level 3. At a glance, it is difficult to work out what the implications are of assumptions on inflation in relation to the level 3 budgets. For example, there are some lines that look to be pretty flat in cash terms although they will be quite significant in real terms. That information would give us a better flavour of the pattern of the budget.

My third point relates to the local authority settlement, which Elaine Murray talked about. The committee asked ministers to look again at 2006-07 and 2007-08, so we will be wrestling with a cumulative impact when we consider the issues later in the year.

My final point is a question for Arthur Midwinter. Very close to the summer recess, the minister made a statement about his ability to spend

around £800 million in the course of the 2007-08 financial year. Some people, rather unkindly, related the fact that a lot of money had suddenly been found in the vaults of the Treasury to the fact that an election is coming up. Has that £800 million pot had any implications for the publication of the budget, or is it a roll-forward of what we got last year with no implications for changed spending decisions?

Professor Midwinter: Because I will come before the committee again in a fortnight, I did not look at the matter in detail; I simply put together a quick brief to give members an initial steer. I understand that the £800 million is kept in the central account at the Treasury and that most of it is earmarked. It is money that departments have banked under the various arrangements so that they are able to retain both the central unallocated provision and the end-year-flexibility provision.

From memory, I can recall only £200 million ever being kept that was not earmarked, which was the result of additional yield from business rates at the time of the 2004 spending review. That money was deliberately kept back for use now, as the feeling was that there would be a tight budget this year. Each item will be logged somewhere in the draft budget document or in the revisions, when they are produced. I think that the money amounts to £800 million over two years rather than £800 million over this year. It would be unusual for the minister to account for the whole £800 million, which is what you might have liked to see. Rather, you will get individual items recorded in the changes to the draft budget document from the previous year.

12:00

Mr Swinney: Are the plans for the £800 million for the financial year 2007-08 in the draft budget now?

Professor Midwinter: I will have to look that up and answer the question when I come back to the committee in a fortnight. I think that some of the plans might be, or they might be introduced in the revisions, depending on when the decisions are made and how far advanced the Executive's planning is. The money is usually accounted for item by item—the Executive will lay out how the new £800 million is to be spent.

The Convener: The minister will be here to talk about EYF next week, so members will have an opportunity to quiz him on that issue.

Dr Murray: I was a bit worried when I read paragraph 20 of Professor Midwinter's briefing note, in which he mentions particular portfolios that the Scottish Executive identifies as contributing to the economic growth objective. My worry is that the health portfolio is not mentioned. I

imagine that the Health Department would argue that it makes several contributions. The draft budget contains a section on growing the economy, which is split into direct and indirect contributions. Is the criticism that there is no attempt to quantify the sums of money that are making those contributions?

Professor Midwinter: The programmes that I identify in the first two or three lines of paragraph 20 are those that the Executive has identified in its introduction. The "Framework for Economic Development in Scotland" and the Executive's treatment of public spending and its contribution to economic growth tend to concentrate on investment in infrastructure and skills and support for business. Those are the three main areas, but health is included in the catch-all. I have never been convinced about that, because the vast bulk of health spending is on people in the last three years of their lives, before we pass on to greater things. I am not fully convinced that a connection can easily be made between spending 40 per cent of the budget on health and a boost in economic growth.

My main concern is that health will receive two thirds of the growth, whereas the link between that spending and economic growth is not particularly clear cut. I accept that every department is asked to say how it contributes to economic growth, but making the connections is difficult. The Auditor General for Scotland has told us that health status has improved every year since the national health service was set up. However, it is problematic to disentangle the impact of any particular spend on those matters. My concern is that the percentage growth in the budgets that the Executive has flagged up as important is fairly small in contrast to the growth in the health budget. Although table 1 in my report shows that education is up there at 7.8 per cent, I remind members that that is the specific grants element, which is a small budget that does not include the further and higher education or school education budgets, in which the growth is much less.

Dr Murray: We could also argue that there are difficulties in giving an absolute figure for how much of the money that has been invested in education has made a direct contribution to economic growth. The issue is difficult for all the budget lines. For example, with environment and rural development, there is a suggestion that the £600 million that is being invested in the water industry all contributes to growing the economy, which it clearly does not.

Professor Midwinter: Yes. Trying to attribute that is fraught with difficulties. It is not a particularly helpful way of deciding a budget priority to produce a list of programmes that form more than 80 per cent of the budget and say that

they all contribute to economic growth. That does not take us very far, after we have included education and health, which make up 70 per cent of the budget between them.

Jim Mather (Highlands and Islands) (SNP): In paragraph 1 of your briefing note, you spell out the committee's responsibility in relation to strategic priorities, which you discuss further in paragraphs 15 and 16. Given that responsibility, would it be sensible for us to put down a marker by saying that progress on economic growth, closing the opportunity gap and sustainable development should be measured openly in some way and subjected to external audit?

Professor Midwinter: We have gone down that route before. That takes us back to the discussion that we had last week about whether there is a need for an independent audit of performance.

A glance at the performance report that accompanies the draft budget suggests that, although the draft budget contains a list of targets under each of the portfolio headings, it does not contain any strategic targets for economic growth, closing the opportunity gap or sustainable development. After all, if you are going to use a targets model, you should have targets for the major objectives.

Jim Mather: Perhaps the answer is to have openly recognised measurements that show where we were in 2003, where we are now and where we hope to be next year. We might not even have to have targets; we could simply have aspirations that at least move us along the line and allow us to be seen to measure such matters.

The Convener: We might have that very debate in a couple of weeks' time when we receive the results of the research that we have commissioned.

Professor Midwinter: All that the performance report says about the closing the opportunity gap indicators is that they have been replaced. As a result, we do not have any measurements for 2000-02.

Mark Ballard (Lothians) (Green): Where is that?

Professor Midwinter: Somewhere in the chapter on communities, one of the composite targets for growth in health, employment and so on has been marked as replaced; indeed, it was replaced in the 2004 spending review. However, that means that closing the opportunity gap was not monitored over the period covered by the 2002 spending review.

Derek Brownlee (South of Scotland) (Con): My question is pretty technical. John Swinney has touched on the fact that the document contains a lot of analysis of real-terms growth in the budget.

However, it has always been argued that the appropriate index for health is very different from the retail price index or any of its published variants. Instead of using the same inflation index, could we apply any proxy measures in the Executive's methodology or anything else, either programme by programme or department by department, to find out the underlying real growth in an area?

Professor Midwinter: Five years ago, Jim Stephen and I produced a report that addressed that very question. When we looked at health, we discovered that, in certain years, using the gross domestic product deflator gave a more favourable result than using the health index and concluded that using the GDP deflator—which has become the current practice—had certain advantages. For one, the Treasury would accept it. Given that this is a resource allocation process, the question is whether, for example, one would buy the same amount of health if the rate of inflation for health was growing faster than the rest of the economy. You would not necessarily want to build a projection based on past health inflation into such a process.

I remember that Andrew Wilson was involved in discussions on the matter, and the committee at the time agreed that it was safest to use GDP deflators. Every other approach gives rise to complications. However, it was recognised that in certain years the inflation rate for drugs, say, might go overboard. The question is whether one would buy the same amount of drugs or whether one would seek to control the budget. We felt that it would not be right to advise the Finance Committee to get into such open-ended commitments.

Jim Mather: With regard to taking evidence on the budget process this year, would it be seemly for us to draw on further professorial input and invite Professor David Bell and Professor Sir Donald MacKay to give evidence?

The Convener: I think that we have already agreed our approach to this issue. In any case, that is a matter for the committee, not for Professor Midwinter.

Jim Mather: I simply thought that it would be seemly for us to engage with—or at least to listen to—the material sceptics in the public domain.

The Convener: We can consider that. It is not necessarily for Arthur Midwinter to advise us on it at this point.

Do members agree to the guidance to subject committees, which we have to send out?

Members indicated agreement.

The Convener: I thank Arthur Midwinter for his two papers.

Transport and Works (Scotland) Bill: Financial Memorandum

12:10

The Convener: The third item on the agenda is consideration of the financial memorandum to the Transport and Works (Scotland) Bill. We agreed to adopt level 2 scrutiny for the bill, which involves taking written evidence from bodies on which costs fall. Today, we will take oral evidence from Executive officials. I welcome to the committee Frazer Henderson, who is the bill team leader, and Emma Sinclair, who is the bill team policy official. Frazer will make a brief opening statement before we ask questions.

Frazer Henderson (Scottish Executive Enterprise, Transport and Lifelong Learning Department): I thought that it might be helpful if I clarified two aspects of our proposals. The first relates to the cost of administering the new process. We believe that the savings to the Scottish Parliament and the additional cost to the Scottish Executive of administering the process in effect cancel each other out.

The second issue relates to promoter costs. We are aware that mention of an additional £1 million in costs to promoters of large projects has generated excitement in some quarters. It might be worth explaining the background to that estimate. It is apparent that, given the experience of the private bills process, promoters are becoming more attuned to the need for good consultation and engagement during the pre-application phase. We are also aware that the guidance produced in support of the private bills process promotes such an approach.

The bill's provisions build on that guidance and exhibited best practice. The bill now places all promoters under a statutory requirement to undertake particular pre-application activities. As a consequence, there will be associated costs, which are based on estimates of additional staff required to perform and fulfil pre-application activities and commitments.

In short, the additional £1 million is the difference between a promoter fulfilling the current minimum requirements of consultation under the private bills process and undertaking the statutory requirements under the provisions of the bill. However, we recognise that £1 million is a generous, large figure. On reflection, we think that we are probably the first bill team to overestimate costs. As a consequence of producing draft illustrative secondary legislation, which was shared today with the convener of the Local Government and Transport Committee, we are

able to refine the estimated costs for a large-scale project to around £600,000.

It is important to emphasise that for promoters who had previously planned to apply best practice and had built such costs into their existing budgets, there will be little or no additional cost. In short, additional costs are unlikely to apply to good promoters. It should also be noted that the additional cost is dependent on the scale of the project, whether it is in a rural or an urban area and whether it is involved or straightforward.

In the wider context, it is perhaps worth acknowledging that the process of scrutiny in terms of cross-project analysis and investment decisions will be taken through the strategic transport projects review, which will feed into the infrastructure investment plan and thence to the national planning framework. Given that the process of authorisation that the bill promotes flows in the main from the national planning framework, there should be a greater level of security that the right project is being promoted for the right reasons.

Our colleagues in Transport Scotland have recently commenced the strategic transport projects review, which it is envisaged will progress through to completion in summer 2008. I am sure that there will be ample opportunity for parliamentary scrutiny in the coming months and years.

The bill team's focus has been on designing the authorisation process for transport-related developments. We are happy to answer members' questions on the process as well as we can.

12:15

The Convener: Thank you. Mark Ballard and I have taken on the lead responsibility for considering the bill.

Mark Ballard: In paragraph 110 of the financial memorandum, the Executive says:

"We will cover the details of the fees in secondary legislation".

You mentioned draft secondary legislation, and I am interested in hearing about the criteria that ministers would use in deciding fee levels.

Frazer Henderson: I will pass your question to my colleague, who has been involved in the details about fees. I can answer more general questions on the matter.

Emma Sinclair (Scottish Executive Enterprise, Transport and Lifelong Learning Department): As Frazer Henderson said, we have produced draft illustrative secondary legislation. However, we have not yet produced draft secondary legislation on fees, because we realise

that a number of factors will influence our consideration of the matter. When the bill has been enacted we will produce draft secondary legislation and put it out to consultation.

Frazer Henderson: The aim is that fees should be proportionate. We are giving careful consideration to whether the same level of fee for an application should apply to private developers, public developers and charitable concerns. We do not want to create a fee system that is bureaucratically all-consuming; the system should be fairly straightforward.

We do not want to set a fee level that will act as a disincentive for people to come forward, nor do we want the fee level to encourage proposals that have not been well thought through. We have not agreed a figure, but we expect to go out to consultation on the matter next summer, after which we will reflect accordingly.

Mark Ballard: Your points are well made. However, in footnote 24 to the financial memorandum the Executive says:

“The current Private Bills fee is £1.25k for charities ... On this basis, the”—

new—

“fee may represent an increase of £18.75k”.

Would such a jump in fees create the problem you identified, whereby too many charities might come forward with proposals, or would it have the opposite effect and discourage public bodies and charities from coming forward?

Frazer Henderson: We are seeking to ensure that the level of fee is such that there is no cost—for want of a better term—to the public purse. It is inappropriate that the public purse should meet the costs of an examination that cost £20,000, for example. Those costs should fall to the promoter.

A fee of £20,000 could act as a disincentive to some charities—I am thinking in particular about heritage railways. That is why we deliberately kept the fee issue away from the draft illustrative secondary legislation that we mentioned. The issue is complex and we want a full and frank consultation on fees before we come to a view.

Mark Ballard: The current fee of £1,250 does not bear much relationship to the cost to the public purse. In paragraph 110 of the financial memorandum it is proposed that staff costs will not be included in fees. If the proposal is to move to a system in which there is no cost to the public purse, why are staff costs not included in the calculation? I would have thought that they could be the most substantial element of the cost to the public purse of any new application.

Frazer Henderson: In terms of the public purse, that is our opening principle; however, our

principle can be modified in the light of the consultation that will take place next year, so that we do not dissuade or affect charitable concerns, such as heritage railways.

In relation to the staff costs that are attached to the bill, we must remember that the Scottish ministers will make the decisions and that they will employ staff to assist them with those decisions. Most proposals that will come forward will relate to public transport and will be for the public good anyway. We therefore think that it is reasonable for the staffing costs to be met by the Scottish ministers. The only cost that promoters will have to meet will be the cost of the examinations.

Those are our views as of today; however, they may change following the consultation.

Mark Ballard: I am uncertain of the logic of that position. Either there should be full cost recovery by the public purse—including staff costs—or the current system of a flat-rate fee should be maintained. As you say, the fee is designed to act as a barrier to vexatious applicants but not to be so high as to dissuade genuine applicants. It seems to me that the second option is much more sound than what appears to be quite an arbitrary division, with staff costs not being included and other costs being included in the calculation of the fee.

Frazer Henderson: You have neatly encapsulated some of the questions that we will include in the consultation to help us to decide whether to opt for one position or another.

Mark Ballard: On a separate issue, paragraph 128 of the policy memorandum states that

“one respondent did comment that consideration should be given to financial aid being given to an objector at an inquiry. This issue will be considered further when drafting the rules.”

Can you explain how that might work and how a decision that there should be financial support for objectors might fit into the financial memorandum?

Emma Sinclair: At the moment, we have not set aside a provision in the bill under which objectors could be given financial aid. Currently, objectors can get advice on Scots law from qualified solicitors, and civil legal aid is available to objectors in accordance with certain statutory parameters. We could address the matter in secondary legislation; at the moment, the bill does not enable objectors to receive financial aid.

Mark Ballard: If such a provision were to be made in secondary legislation, would the additional costs of paying for the financial support for objectors be met by promoters as an additional charge on top of the fees or as part of the fees, or would those costs be met by the Scottish Executive's inquiry reporters unit?

Frazer Henderson: We have not yet formed a view on that. I am sorry that that is such a short answer, but it is an honest answer.

Mark Ballard: We can consider the issue if the secondary legislation comes our way.

The Convener: Let us move on a wee bit. In 2005, we spoke to the then Minister for Transport, Nicol Stephen, about the need to identify a better mechanism for tracking the costs of projects. You will be aware that projects are authorised on the basis of a budget but that, sometimes, the budget increases or multiplies. The hope was that we could find a mechanism that not only would allow an initial authorisation process for projects, but would ensure that the costs were followed through. There is no proposal to do any of that in the bill. Have you any thoughts about how it might be achieved and about how the Finance Committee, in particular, may be able to wrestle with the costs of projects and changes to those costs over time?

Frazer Henderson: In the coming months, the Scottish transport appraisal guidance will be reviewed. Everyone agrees that it would be better for the cost structures of particular projects to be fairly fixed at the outset, so that there is a higher degree of security than has existed hitherto. One of the driving mechanisms is to look at the economic bases and the financial assessments that STAG takes forward. It is anticipated that the new STAG proposals will be presented next year. I expect that both the Local Government and Transport Committee and the Finance Committee will subject the new STAG approach to scrutiny.

In my opening remarks, I mentioned the strategic transport projects review that is being undertaken at the moment and which will report in 2008. Both the Local Government and Transport Committee and the Finance Committee will have some interest in the review of cross-project decisions and prioritisation. That is especially relevant to the Finance Committee, as it feeds through into the infrastructure investment plan. The retort to what I have said could be that such opportunities are currently available to both committees. Through the STAG and strategic transport projects reviews, we are seeking to improve the processes, so that there is greater security around some of the figures in budgets, in particular. I cannot say that we will ever get it right, but now a genuine attempt is being made to address the issue. Clearly, we can deliver more projects if we secure correctly the budgets of those that are currently scheduled.

The Convener: I will make two points in response to what you have said. First, the present mechanism for putting projects into play does not seem to have been very good at identifying adequately at an early stage what the actual costs

are likely to be—the costs are rough estimates. Secondly, one occasionally finds part way through the process that a project has been altered—the best example being perhaps the new Aberdeen ring road, the line of which has been changed at significant additional cost. Under the arrangement that is proposed, the authorisation could be changed by ministers without reference to Parliament and without proper control of costs.

I am probing the issues with you. I understand that the bill has a particular purpose, but to make it effective for the purpose on which we and ministers agree, we require that a framework for scrutiny of proposals be put in place beyond the authorisation stage. As proposals change and are modified and as costs increase, we will need a system of accountability for those changes. No provision seems to have been made for that.

Frazer Henderson: That is not included in the processes that are set out in the bill, but we believe that there are existing mechanisms for addressing the issue. The Scottish Executive is the predominant funder of most public transport. We hope that cost overruns will not happen, but if they do, the minister is accountable for them to Parliament at all times. Budget revision, budget scrutiny and the infrastructure plan provide mechanisms for accountability.

12:30

The Convener: I would like to pick the Aberdeen ring road as an example. That project's budget very nearly doubled and then an arrangement was made to find a different route, which further increased costs. I am not aware that that budget went through a parliamentary process at any point. Announcements were made about increasing costs and about changes to the route, but there was no formal process of parliamentary scrutiny.

Frazer Henderson: I cannot comment on that because I do not know the detail of the roads projects. However, in our mechanism for delivering rail projects in the future, a rail project will at the very outset form part of the national planning framework, so there will be an opportunity for Parliament to pass comment. Prior to that, the national planning framework will result from the strategic projects review and the infrastructure implementation plan, both of which can also be subject to scrutiny by committees, so there will be an opportunity to scrutinise individual projects that come forward to the NPF.

We hope that there will be greater security in the budget level for rail projects when an application is made for authorisation by the minister. A project will go through an authorisation process of nine months; we hope that work will commence shortly

thereafter. There are necessary reasons for budget changes, including environmental reasons, shifts in policy and technological changes, and we have to address those factors as and when they arise. The bill will not shift us fundamentally from where we are currently, aside from saying that there should be greater security because major public transport developments will be included with the NPF, which is the distillation of various strategies, policies and plans.

The Convener: I refer you to paragraph 177 of the policy memorandum, which states that "Proposals for a New Approach to Delivering Public Transport Infrastructure Developments" solicited views on whether there should be a mechanism to

"attach express Parliamentary approval to road developments of national significance."

Most respondents agreed that that was a good idea, but

"one respondent suggested that there was no compelling reason to change".

In practice, you seem to have gone with the one respondent rather than with those who said that there should be such a mechanism.

Frazer Henderson: We have said that the mechanism should be for parliamentary scrutiny. Let us use the Aberdeen western peripheral route as an example. That project would feature in the national planning framework and is therefore a development of national significance. All transport developments that are of national significance will, once the minister has made the order, be subject to the affirmative procedure. They will be discussed at the NPF stage and also at the end of the process. We have achieved a degree of conformity by bringing roads and major harbour developments into that process so that they will now be treated in the same way as rail, tramway and canal and other inland waterway developments. We have some conformity in that, but we have not disassembled the roads legislation, which has been designed to address the complexity of roads. We have left that as it is, but the end result is that all national transport developments will be treated in a like manner.

The Convener: Will they continue to be treated as individual projects, or will there be a mechanism through the bill, or through the guidance or procedures that will be attached to the implementation of the bill, that will allow us to ensure that individual projects fit into a priority process and that there are appropriate financial controls? In a sense, that is a different issue. The current private bills procedure allows planning considerations to be dealt with carefully and conscientiously—to too great an extent, some would argue—for individual proposals. To some

extent, the Transport and Works (Scotland) Bill will simplify that process.

I am not clear whether the bill deals with the other aspect on which the current procedure has been criticised, which is that schemes are currently dealt with individually without effective co-ordination of scrutiny to ensure priority setting, financial management and so on. As a committee, we have been calling for such co-ordination for two or three years. We thought that we had secured ministerial agreement that the Executive wished to go down that road.

Frazer Henderson: I hope to answer that.

It is correct to say that the process under the bill will be an authorisation process. Prior to that authorisation, priority setting will have been carried out under the strategic projects review, which will involve examining all the projects to rate them, to see what the interrelationships among them are and to determine the order in which they should be delivered. As I mentioned, that process feeds into our infrastructure implementation plan and hence to the national planning framework. There will be opportunities to address concerns during consideration of the strategic projects review and of the national planning framework.

In effect, the process under the bill is that all those issues should have been addressed in the national planning framework; authorisation of projects should fall out of that quite naturally. There is no mechanism to re-evaluate the priority of an individual rail project, which should have been addressed in the SPR and the NPF. Our process will be the outcome of consideration of the SPR and NPF. That is perhaps where the desired level of scrutiny ought to be addressed.

The Convener: Let me cap that off by suggesting that the committee perhaps needs to seek additional guidance or thoughts from the Executive about how those different preliminary steps should be scrutinised so that we can see how they fit in with the authorisation process. For some time now, the committee has recorded its concern about the fact that projects with cash attached to them suddenly appear that have not gone through a clear process in which Parliament could engage, but which instead seem simply to spring out of ministerial announcements. If the authorisation process is to be backed up with a policy process, we need to consider how scrutiny can be linked in with that policy process.

The other side of that relates to what happens when a project is authorised and circumstances then change or its budget increases. We need a mechanism for reviewing the authorisation and the spend process. Given that not every project will always end up in a perfect position in a line of process—as we know, that never happens—we

need a mechanism that will follow authorisation that allows for a review. I am not sure that such a mechanism is provided for under the bill.

Frazer Henderson: I will be delighted to draft a note to address that point. A similar concern was raised by the Procedures Committee, which wanted to see how the process under the bill will fit in with the SPR and NPF and the considerations that are attached to that. On the NPF, I point out that, as the Planning etc (Scotland) Bill is currently going through Parliament, we will not know what consideration will finally be attached to the NPF until after stage 3 of that bill.

Mark Ballard: I look forward to receiving that note. I want to follow on from, and amplify, the point that Des McNulty made. I understand that the NPF—which, I accept, is still being debated by the Communities Committee—will not necessarily contain a financial component. If that is the case and if a project's first stage is to be the NPF, we might have less financial scrutiny of such projects than we have of projects that go through the private bills procedure, in which value for money and business cases are, we know, some of the most hotly fought-over issues at the first stage.

I am worried that there could, in the situation that you have described, be less financial scrutiny of major infrastructure projects than there is currently because the introductory stages would be purely concerned with planning issues, rather than with issues to do with the business case, value for money and funding, about which discussions on private bills have often focused in this parliamentary session.

Frazer Henderson: As I mentioned, the infrastructure investment plan, which will set out the Executive's funding for projects, is one of the key inputs to the national planning framework. There can be such input only when individual projects have gone through their STAG appraisal and the SPR. There are ample opportunities for scrutinising individual projects and all projects in the round in the SPR and the infrastructure implementation plan. Projects then feed into the NPF, which is clearly a spatial plan that articulates which projects will go forward. However, as I mentioned, the financial regime that sits behind those projects can also be subject to scrutiny through the SPR and STAG.

The Convener: I want to ask about the bill's ambit. The bill is essentially a transport bill, as it focuses principally on transport or transport-linked works. Is there a reason why other linked infrastructure projects cannot be dealt with under the same procedure or a parallel procedure? In particular, I am thinking about significant water and sewerage activities, which are often part of road projects. By excluding the connected aspects of such projects from the bill's scope, will two

procedures have to run, rather than its being possible to run projects through a single incorporated procedure? Does that make sense?

Frazer Henderson: Yes. I suppose that what you have said takes us back to the genesis of the bill. We considered changing the private bills process and giving order-making powers relating to railways, trams and canals to Scottish ministers. Scottish ministers already have order-making powers relating to roads and harbours, but other matters go through planning legislation. Under section 1 of the bill, an order can be made relating to matters that are connected with rail developments. We were thinking about enabling access roads to link to railways and the provision of interchange facilities, for example. Basically, those are transport-related matters. We have not gone further on things such as sewerage, which you mentioned: we think that they can be adequately addressed in the existing planning regime.

The Convener: Many people in Scotland would disagree with you about that.

I want to put a proposition to you. Parliament is dealing with the Planning etc (Scotland) Bill at the same time as it is dealing with the Transport and Works (Scotland) Bill. Is there a conversation that you might want to have with your planning colleagues on whether there are ways in which the systems can be drawn closer together than they appear to be in the description that you have given? I think that if there are water and sewerage works that are analogous to, or which are part of, road works, they should come firmly under the ambit of such legislation because separating appeals, notifications, notices and so on makes no sense.

There is also an argument about whether there is a need for an analogous and more fit-for-purpose procedure for water projects, which would take them out of the ambit of small local authority planning procedures to secure approval so that major schemes can be dealt with in a more streamlined national framework rather than through purely local planning systems. Significant cost and time benefits might be gained from such an approach.

Frazer Henderson: I take on board your comments. We have worked closely with planning colleagues on the bill. When we embarked on that work, an issue arose about why the Planning etc (Scotland) Bill and the Transport and Works (Scotland) Bill are not somehow linked. However, the Planning etc (Scotland) Bill was much further advanced by that stage. We were asked to produce a proposal on a transport and works bill last year; the proposals on planning have had a much longer gestation period.

As members know, the Planning etc (Scotland) Bill seeks to streamline all the processes to do with national, major and local developments. As far as possible, when a proposed transport development has ramifications for other aspects of planning, we will seek to streamline activity. The Transport and Works (Scotland) Bill will allow us to conjoin inquiries so that there can be synergy and so that issues can be discussed and addressed in the round, in particular when Scottish ministers will be the decision makers in both instances.

The Convener: We have no further questions, so I thank the witnesses for attending the meeting and answering our questions. We will discuss our draft report on the financial memorandum on 26 September and—I hope—publish our report shortly after that.

Regulatory Framework Inquiry (Response)

12:46

The Convener: The final item is consideration of a draft response to the Subordinate Legislation Committee's inquiry on the regulatory framework in Scotland. As the clerk's briefing paper says, we made a submission to the inquiry and the Subordinate Legislation Committee has produced a draft report, on which it has invited comments. Our response concentrates on the recommendations that arose from our original comments. Are members content to submit the response to the Subordinate Legislation Committee?

Mark Ballard: Towards the end of the draft response, it is suggested that

"Executive officials ... would be in the best position to alert the Finance Committee to relevant SSIs."

Will you explain that? The proposed approach seems to rely rather heavily on the Executive.

Susan Duffy (Clerk): Although there is a subordinate legislation tracking service, which is operated by Subordinate Legislation Committee clerks, it is difficult for those clerks to know which instruments would particularly interest the Finance Committee. Conversely, it would be difficult for Finance Committee clerks to identify from the reams of subordinate legislation that are published in the business bulletin the instruments that merit particular consideration by the Finance Committee. The Executive bill team would be aware of the Finance Committee's concerns about a bill and would know what subordinate legislation would be produced. We therefore thought that in practice it would be easier for the bill team to alert the committee to relevant instruments.

The Convener: I presume that the bill team would reflect on comments that this committee had made in response to the financial memorandum.

Susan Duffy: As is suggested in the draft response, if the committee indicated in its report on a bill that it wanted to consider the subordinate legislation that arose from the act, we would alert the bill team to that, so that it could flag up to us any instruments that were laid.

Mark Ballard: As long as there are checks and balances in the system, the approach seems to be acceptable.

The Convener: The system will not be entirely foolproof, but we will try to make it as foolproof as possible.

I thank members for their contributions to the meeting.

Meeting closed at 12:48.

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