COMMUNITIES COMMITTEE

Wednesday 22 February 2006

Session 2

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COMMUNITIES COMMITTEE
6th Meeting 2006, Session 2

CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

DEPUTY CONVENER

*Euan Robson (Roxburgh and Berwickshire) (LD)

COMMITTEE MEMBERS

*Scott Barrie (Dunfermline West) (Lab)
*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
*Christine Grahame (South of Scotland) (SNP)
*Patrick Harvie (Glasgow) (Green)
Mr John Home Robertson (East Lothian) (Lab)
Tricia Marwick (Mid Scotland and Fife) (SNP)
*Mary Scanlon (Highlands and Islands) (Con)

COMMITTEE SUBSTITUTES

Shiona Baird (North East Scotland) (Green)
Alex Johnstone (North East Scotland) (Con)
Christine May (Central Fife) (Lab)
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)
*Ms Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Anthony Aitken (Scottish Chambers of Commerce)
Iain Duff (Scottish Council for Development and Industry)
David Lonsdale (Confederation of British Industry Scotland)
Susan Love (Federation of Small Businesses in Scotland)

CLERK TO THE COMMITTEE

Steve Farrell

SENIOR ASSISTANT CLERK

Katy Orr

ASSISTANT CLERK

Catherine Fergusson

LOCATION

Committee Room 2

Scottish Parliament

Communities Committee

Wednesday 22 February 2006

[THE CONVENER *opened the meeting at 09:42*]

Planning etc (Scotland) Bill: Stage 1

The Convener (Karen Whitefield): I open the sixth meeting in 2006 of the Communities Committee and apologise to our witnesses; we have been delayed this morning as a result of the fire alarm going off. I remind everyone present that mobile phones should be turned off. I have received apologies from Tricia Marwick, so I welcome Sandra White as her substitute. John Home Robertson has also sent his apologies.

Item 1 is the Planning etc (Scotland) Bill. The committee will hear evidence from one panel of witnesses, who represent Scottish business interests. We have been joined by David Lonsdale, who is the assistant director of the Confederation of British Industry Scotland; Susan Love, who is the policy development officer at the Federation of Small Businesses in Scotland; Iain Duff, who is the chief economist at the Scottish Council for Development and Industry; and Anthony Aitken of the Scottish Chambers of Commerce. Thank you all for joining us.

The committee has a number of questions to ask; we will be grateful for your answers. At the end, we will give you an opportunity to mention issues that you might want to raise in relation to the bill but which have not been covered.

I start with a general question about the consultation on the bill. Do you believe that the Scottish Executive consulted effectively on its proposals?

Iain Duff (Scottish Council for Development and Industry): Yes. The SCDI is happy with the way in which the Executive has gone about consulting. In the early stages—way back—the Executive approached us about holding an event. We held one in Inverness, in conjunction with the FSB, which the then Deputy First Minister and Minister for Enterprise and Lifelong Learning, Jim Wallace, attended and which was chaired by our chairman in the area, Joe Moore. There was certainly engagement; our members had the opportunity to engage with the Executive on what was proposed in the white paper.

Susan Love (Federation of Small Businesses in Scotland): I agree with that. There has been quite significant consultation over the past few years, but most of it has focused on identifying problems within the existing system. Although a number of proposals have been gone over extensively in consultation, some of the details appeared for the first time in the white paper and, as the committee will be aware, many of the details will emerge only when the relevant subordinate legislation—which of course has not been consulted on yet—is introduced.

09:45

David Lonsdale (Confederation of British Industry Scotland): I endorse what my colleagues have said—I suspect that there will be a bit of that during the meeting, given the nature of the subject that we are discussing. Planning reform has been at the forefront of our interests over the past few years. In 2004, there were two consultations on key aspects of the issue. The year before that, CBI Scotland published a report on the challenges that were being faced in the planning system in Scotland. We have contributed to all the major surveys and have attended events such as workshops.

Anthony Aitken (Scottish Chambers of Commerce): Our sentiments are similar. In our view, there has been extensive consultation and numerous opportunities have been provided to comment. The consultative process on the white paper, which was issued last June, was quite long—it lasted until September. Many seminars and conferences were held, which were well attended and which gave people the opportunity to contribute to the comments that were lodged by the Scottish Chambers of Commerce last September. We feel that the Scottish Executive team did its best to ensure that everyone was informed about the various aspects of the bill.

Scott Barrie (Dunfermline West) (Lab): I found your submissions useful. I will start with a general question. Do you think that the bill's proposals will contribute to business growth and to sustainable economic development in Scotland?

Iain Duff: In general, we support the bill. Since the consultation started, we have conducted a survey of our members' views; their perception is that the planning system has not been working to help sustainable economic development in Scotland and that it has particularly hindered economic growth. That is why we favour a rejigging of the system.

The bill's objectives certainly seem to be a move in the right direction. We approve of measures such as the establishment of a hierarchy of planning, whereby different approaches will be taken to different types of development. The bill's general theme is about streamlining the planning process, making it much more efficient and

ensuring that there is proper engagement and that the delays that we hear so much about are taken out of the system so that it can properly support sustainable economic development and developments in communities.

Susan Love: I agree. Broadly, we think that the bill's proposals will improve the system and solve many of the problems that exist. However, we have made it clear that simply altering the legislation will not bring about the changes in the system that many businesses want to see. It is a cliché to say so, but a big change in the culture of planning departments and how they are run will be required. Extra resources will be needed and planning departments might have to be managed differently if implementation of the bill is to be effective.

David Lonsdale: In my opening remarks, I referred to a policy paper that CBI Scotland published three years ago. At that time, we estimated that the difficulties and challenges that were faced in the planning system were costing the Scottish economy about £600 million a year. That estimate was based on figures from the United Kingdom Department of the Environment, Transport and the Regions. The losses resulted from deferred infrastructure investment, higher housing costs, the impact on salaries of development difficulties and lower turnover as a result of delays in commercial investments. We can feed that information in to the committee. Although we have not updated the £600 million figure, it represents a ball-park estimate of the cost of addressing the issues that need to be addressed.

We are certainly supportive of the bill in principle. I agree with the points that Susan Love made. The Organisation for Economic Co-operation and Development report that came out at the beginning of this month says that Britain needs to do five key things to close the gap in productivity between the UK and other OECD countries. Tackling planning is one of them.

The OECD stated that Government in the UK

"needs to give greater weight to economic considerations in planning decisions".

We endorse that. As Susan Love suggested, the OECD also said that

"the intention to overhaul the planning legislation is good but effective action is better".

In surveys of our members, planning constraints comes out at or near the top of the constraints on business. The bill is encouraging. Obviously, more detail will emerge in due course, but it is a step in the right direction. For a number of years, planning has been an issue for firms in Scotland. That will continue to be the case until real change is delivered.

Anthony Aitken: I believe that the bill is broadly welcomed. Obviously, we will focus on certain aspects, but other aspects may give Scotland an economic advantage. The national planning framework offers the opportunity for major infrastructure projects to go through; that could give Scotland a competitive advantage.

Businesses broadly welcome the bill. Over the past 15 years, the focus has been on development plans. Our experience shows that several plans were out of date, so businesses welcome the requirement in the bill for a five-year review, which will bring certainty.

I turn to some of the other points that we raised in our submission. We welcome the fact that resources will be focused on major planning applications. The situation thus far has seen planning authorities having to deal with an extensive range of minor applications. The extension of permitted development rights has the potential to take the strain out of the planning system. If planning authorities no longer have to deal with those applications, their resources can be focused on the major applications that make an economic difference to their area. We welcome that.

Scott Barrie: A number of different issues were raised in the answers that you have just given, some of which colleagues will return to later.

I have a question for Susan Love. In your submission and your answer, you talked about the need for culture change in the operation of the planning system. How will the current bill achieve that? Your submission suggests that legislative change alone will not bring about the required improvements to the system.

Susan Love: The bill will establish a system that recognises the various strains on the system—which processes require more and which require less input. There is the potential for certain applications to be taken out of the system, so the bill will create a system that is more fit for its purpose. We will then have to ensure the smooth running of planning departments.

In the main, the applications that our members submit for their business premises are fairly minor. Their biggest complaints tend to be about the running of planning departments and not about blockages in the legislative system. Usually, a complaint concerns the lack of staff resources, the need for pre-application meetings with applicants, the way in which applications are handled or delays in officers getting back to the applicant if, for example, the application is incorrect or incomplete. Those are some of the little things that cause problems for small businesses.

That said, we have had warm discussions with the planning authorities. They want to engage with

us because they recognise the problems and want to make a difference.

Patrick Harvie (Glasgow) (Green): Before I put my main line of questioning, I have a supplementary to Scott Barrie's earlier question on sustainable development. Obviously, depending on who is speaking, the language around sustainable development changes slightly. The CBI said in its submission:

"We are delighted to see the First Minister and the Deputy First Minister reiterate that sustainable economic growth is the Executive's 'top' priority."

The Executive's sustainable development strategy, which was published recently, is peppered with references to the fundamental links between the planning system and the objective of making Scotland more sustainable. Why do you think that there is a connection between the planning system and making Scotland a more sustainable place? What needs to change in the planning system if greater sustainability is to be achieved?

David Lonsdale: Those are good questions. We already have environmental impact assessments of major applications and, as we state in our submission, the concept of introducing strategic environmental assessment to development plans and so on has already been accepted in principle. On wider sustainability issues, I appreciate that the member will know more about those than I do.

We believe that the economy and economic growth should be at the top of the agenda. We want people to invest here, to work here and to be able to come back here from outside Scotland. That requires an effective public infrastructure as well as commercial investments. The forthcoming transport and works bill will help to speed up the development of the infrastructure that we need in Scotland, whether that is roads, which Patrick Harvie might not like, or whether it is rail, water or sewerage infrastructure. That will sustain jobs in our economy and attract new ones. I suspect that that might not answer the question—

Patrick Harvie: There is still confusion between the concepts of sustainability and viability, but I will move on.

You say that you are "delighted" with the Executive's commitment to sustainable economic growth. Do you agree that there is a case for sustainable development's being an explicit part of the purpose of the planning system?

Anthony Aitken: Sustainability is at the forefront of the Scottish planning policy guidance, as anyone who cares to read the documents that have been produced by the Scottish Executive will know. People who use the planning system daily are well informed about the Government's commitment to sustainability in transport, economic development and other areas. Your suggestion that sustainability should be included in the Planning etc (Scotland) Bill will not surprise people who use the planning system because sustainability is already at the forefront of Government thought.

Patrick Harvie: So you think that that would not surprise anyone and that it would perhaps be a positive thing.

Anthony Aitken: I do not think that it would surprise anyone.

Patrick Harvie: I move on to a question about the national planning framework, which will be a major document that will have profound consequences for the whole country. Under the bill, there is no commitment to sustainable development in the national planning framework. Other members will ask you about development plans, on which the bill states:

"The planning authority must exercise the function with the objective of contributing to sustainable development."

Should that apply also to the national planning framework?

Susan Love: It is a tad illogical that that is to apply to development plans but not to the national planning framework. That is my simple answer.

Patrick Harvie: I see lots of heads nodding. I am happy with that. Do the other witnesses want to add anything?

Anthony Aitken: Major infrastructure projects that will come within the national planning framework include Scottish Water projects and improvements to public or private transport connections. I do not think that a commitment to sustainability in the process will be a problem for anyone.

Patrick Harvie: In a moment I will ask about the connections with other strategies and policies, but I will refer first to the CBI's written submission, which states:

"Local communities should be able to influence the design/environmental impact of national infrastructure projects"—

that is, specific proposals that will be included in the national planning framework—

"but they should not be able to prevent them going ahead once Ministers and Parliament have approved them in principle."

Many people agree that we should have a national planning framework and that it should include specific developments once they have been granted permission in principle, but does not that place great importance on the efforts, as part of the process of approving the framework, to get

buy-in from communities that will be directly affected by developments?

10:00

David Lonsdale: One aspect of the bill that I am slightly unclear about is how business and others will provide input to the national planning framework. Issues arise regarding how such high-level strategy documents are reflected on the ground. A good example is renewables, on which we have ambitious capacity targets—some people may say that they are not ambitious enough—but there are real problems in certain areas with getting renewable developments through the planning system. I live in the Perth and Kinross area, where there are issues about consents for wind farm developments. For some of our members, it has been four years since they first started talking to the local authority and applied for development consents. The process can be lengthy. Although we have worthy statements at the top end, getting them delivered on the ground is a problem.

That takes us back to the fundamental point about the bill, which is that although it is encouraging and contains some good stuff, we wonder whether it will make a difference on the ground. We can tag on sustainability aspects to the development plans and other tiers of strategies, or we can have them as a key component, but there is a big question about whether that will make a difference at the end of the day.

Patrick Harvie: Yes, but I was asking whether you agree that, if we take away people's ability to influence decisions about national infrastructure projects by including them in the NPF, we must give them more ability to influence the earlier decisions about what goes into the NPF.

David Lonsdale: I do not have a problem with that. We have an interest in that and would like to contribute to the framework too, but at the end of the day, you guys are our elected representatives, so we have a final layer of accountability and democratic oversight.

Iain Duff: A crucial point about the NPF that we have made in our submissions is that there must be early buy-in, as Patrick Harvie put it, and consultation. We must ensure that the people who will be affected by major developments that are to be included in the NPF have the opportunity to give their views, and we must ensure that the process is transparent. People may not like the final decision, but they will have given their views and will know why the decision has been made, irrespective of whether they support it. That is crucial to making the NPF work properly and to making the whole system work more effectively and efficiently.

Patrick Harvie: Yes. In planning, we will not satisfy everybody, but people must feel that they have had a fair kick of the ball.

Susan Love: I do not feel that sufficient thought has been given to the run-up to consultation on the national planning framework. We are all clear that communities often find it harder to engage in something that they see as being a bit abstract. I hope that someone has a really great idea about how to engage communities in the discussion on the national planning framework because that will require serious thought and will be a challenge if the NPF is to be successful.

Patrick Harvie: The FSB has raised a concern about the 40-day period that Parliament will have in which to scrutinise the proposals. One option would be to allow a significantly longer period from when the Executive gives Parliament the draft NPF so that we can initiate a process of engaging communities at some level or appoint someone to do that on our behalf. Do you support that suggestion?

Susan Love: Sure. Our concern about the 40-day period is a wider concern about parliamentary procedures and the time limits that are available to scrutinise subordinate legislation. From our experience of engaging with parliamentary committees, we believe that a 40-day time period is a complete non-starter for getting feedback from membership organisations such as ours, which happens even before consultation of the wider community. We would therefore fully support any process that Parliament initiated on that.

Patrick Harvie: We talked about people feeling as if they had had a fair kick of the ball. Would an examination in public form a reasonable part of that process? Should there be a slightly more formal process in which evidence can be tested against argument, rather than a purely paper-based consultation?

Anthony Aitken: The process would be much more transparent if it allowed examination in public of people who had various interests. That would show that the national planning framework had been well thought out, and people would have the opportunity to participate actively in proposals that would affect their areas. An examination in public would be a means to that end.

Patrick Harvie: The SCDI has some concerns about the linkages with the transport strategies. Do you have anything to add to your written submission?

Iain Duff: The main issue for the SCDI is that we are involved, as others are, in many consultations on lots of high-level strategies for

Scotland. There are strategies such as the regional transport partnerships, the national transport strategy, the national planning framework and other strategies such as the framework for economic development, and the smart, successful Scotland strategy. There are many such strategies from departments across the Executive and they must interlink.

Ministers and the Executive always reassure us that they take cognisance of all the strategies, but a lot of consultation is going on and work is already under way on preparing the strategies in parallel. In the framework that will result at the end of the process—whenever that might be—the strategies must interlink and be cognisant of each other and where they are going, so that strategies such as the national planning framework and the national infrastructure plan are reflected in all the other plans. I am just giving a word of caution; I am not saying that all the strategies will not link up, but rather that if they do not, it will be a bit of a mess if there are different strategies for different organisations and people are working to different guidelines or have different visions of where they are going.

There is a lot of work going on and we all have to take cognisance of that, although we are always reassured that that will be the case.

Patrick Harvie: Thank you.

Christine Grahame (South of Scotland) (SNP): I have a supplementary question on the national planning framework. Your submission makes the absolute statement that

"Local communities should be able to influence the design/environmental impact of national infrastructure projects, but they should not be able to prevent them going ahead once Ministers and Parliament have approved them in principle."

I have difficulties with absolutes such as that. The submission mentions Parliament's having "approved" projects "in principle", but we do not know how approval will be given. The bill simply states:

"Ministers are to have regard to any resolution or report of, or of any committee of, the Scottish Parliament".

Imagine that we have a longer period than 40 days. Let us say that a committee of Parliament takes evidence and it wants certain things in a plan to be revised or amended, but the Executive disagrees. As the bill stands, ministers might have had regard to the committee's decision, but they could proceed nevertheless. In those circumstances there should be room for the public or sections of the public to have a say and to ask for the Executive's decision to be reviewed. Does that proposal attract you?

David Lonsdale: Is that question directed at me?

Christine Grahame: Any of the witnesses can answer, but I quoted from the CBI's written submission.

David Lonsdale: I tried to answer that question when your colleague, Patrick Harvie, asked it.

Christine Grahame: I listened very carefully and you stuck to your guns.

David Lonsdale: Yes. Our submission represents the view that the organisation has taken—our members endorsed our submission because that is the view that they took. I can, however, see that there are arguments on both sides, but we consulted our members and that was their view. There will always be policies in different areas to which people have had the chance to contribute but do not like the end result. Once Parliament has approved a project, I do not—

Christine Grahame: The bill does not say "Parliament"; it says "Scottish ministers". That is my point. You might be at the wrong end of the bill. There might be something that you are not happy about, for instance, in which case you would want a committee of the Parliament to express a view. However, as the bill stands, ministers must only

"have regard to any resolution";

they do not have to agree to it. They do not have to do what the committee or even the Parliament says.

If a committee of the Parliament had expressed a view that was different from Scottish ministers' view and the Scottish ministers—of whichever political party—went ahead anyway, would you have concerns if the public were unable to prevent them from going ahead?

Susan Love: Surely that is the case for other strategies, too. Ministers and the Government are there to take decisions. We may not like the ultimate decision, but the process has been gone through and people have had the opportunity to contribute. The ministers are accountable to Parliament for making that decision.

Christine Grahame: But the CBI's submission does not say that; it talks about

"once Ministers and Parliament have approved them in principle."

My point is that the bill allows for the approval of ministers, not Parliament.

Susan Love: According to the bill, Parliament will not approve projects. We discussed that and decided not to put in a specific suggestion that Parliament should approve them because many other strategies exist for which that does not happen. This gets us into the whole mess of

where exactly the planning framework fits with other strategies that are not subject to the same process, to which Iain Duff referred. I am not saying that we disagree with projects being subject to Parliament's approval, but I am not clear about how that would fit into the process for existing strategies.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I notice from the FSB's submission—and it seems to have come over again this morning—that it considers that the 40-day period is inadequate. Would you expect members to make major changes to the NPF when it comes before Parliament?

Susan Love: It will depend on what structures Parliament sets up to consider it, and whether there is a lead committee, more than one committee or a simple process of taking evidence. The Parliament might want to go out more widely to communities or to have a rapporteur. Whatever Parliament decides to do, 40 days is not long enough to hear the broad range of views that people have. That is particularly the case given that we are stressing the importance of consulting on the national planning framework, which seems to be key to its success.

Cathie Craigie: The bill is about trying to give communities—including the business community—much more influence at the early stages of the process. If the NPF was to be vetoed by the Parliament, would that not be centralising the planning process?

Susan Love: I am not sure. It is a national planning framework so it is appropriate that the Parliament should consult on it centrally. It would be up to the Parliament to decide whether to set up structures at a local level to consider more local issues associated with the national planning framework.

Cathie Craigie: Would the business community be willing to take the time that would be required? Other evidence suggests that the business community wants the planning system to be much more fast and efficient. If the system were to be bogged down for months in parliamentary inquiries, would not that defeat the purpose?

Susan Love: We have accepted that, for the bill to work, the process has to be right at the start. If the national planning framework is not right, I am not sure that everything else will fall into place. To spend the time at the start getting the framework right would be worth it.

David Lonsdale: What we do not want is for a document to be published and the 40 days to be suddenly upon us. I think that that is the point that Patrick Harvie alluded to earlier. We and other interested groups would like to get in there beforehand to discuss what the priorities should be before such a document is published. Then we would have 40 days or whatever to reflect on it.

Cathie Craigie: The fact is that the NPF would have been published and that there would have been involvement by communities, the business community and MSPs too, if they want to be involved. It is not as though the document would be brand new to everybody when it comes to Parliament.

Susan Love: I am assuming that Parliament would implement procedures similar to the existing scrutiny procedures, under which legislation goes through various forms of consultation and we put in responses. Again, I am speaking from the point of view of a representative organisation. If we had to respond to a committee—or whatever other procedure the Parliament had in place—the process that we would have to go through could not be done in 40 days. If we had to go back to our membership, it would really be pushing it to get an effective response back to committee in less than two months.

10:15

Cathie Craigie: On the development plan process, what implications will moving to a two-tier development plan system have on business development?

Anthony Aitken: A two-tier system of structural and local plans is in place. The bill proposes a somewhat more streamlined system, with a strategic overview focused on the four cities and a single tier below that of local development plans. In general, that is to be welcomed. As I stated in my first answer, the fact that the bill includes a statutory duty to review local development plans every five years is welcome. The system will become somewhat more streamlined and efficient.

David Lonsdale: In our submission on the white paper, we stated not only that it is good that the plans will be reviewed after five years but that every planning authority should put in place a new development plan within 18 months of the bill receiving royal assent. That would be a good indicator of the culture change that we want to see emerge with the bill.

There are other questions about sanctions. If we need to bring people in from the private sector to help to draw up development plans, that is preferable to them not being done. You may be surprised to know that we do not have a problem with that, even if others take issue with it. However, the objective should be to get the plans in place as opposed to having Chinese walls.

Cathie Craigie: I noted that from your submission.

Academics and professional planners raised the point that the number of planners is limited and that they have a hard job in encouraging people into the profession. Are there enough planners in the private sector to cope with the additional work that local authorities may ask them to do?

David Lonsdale: I do not know the hard and fast figures for north of the border, but yesterday I read a paper by a colleague from south of the border that stated that the number of planners in the private sector there has more than doubled in the past several years. It is probably reasonable to suspect that that is reflected—to some degree—north of the border.

An argument that one hears when one speaks to planners and local authorities is that they find it difficult to attract or retain staff because many head off to the private sector where they are better paid.

Are there sufficient planners in the round? Local authorities suggest that the private sector is doing better than it otherwise would have done. With any market, one creates opportunities. Different levels of qualification and skills are needed for different types of job. That factor is included in the bill's provisions. It provides for minor developments that might not need a fully qualified, all-singing, all-dancing planner but might need somebody else. It is the same with the provisions on enforcement. I am thinking about having a more proportionate response to different aspects of the work. I do not see a problem with that. My colleague Anthony Aitken knows a little more about the hard and fast figures.

Anthony Aitken: Planning consultancies in Scotland have grown exponentially in the past five to 10 years. If opportunities arose to assist local authorities, the private sector could certainly cope. Many planning consultancies already work on behalf of a range of clients in the public sector.

Iain Duff: Our executive committee discussed this issue and we felt that the private sector should certainly be considered, as long as democratic accountability was maintained. However, we concluded that nothing is better than having planning authorities that are properly resourced to do the job. As has been said, the main issue is getting plans up to date and making them transparent so that communities know what is proposed for their areas. Timescales must be kept to and proper process must be followed. If planning authorities were properly resourced, morale would be raised and efficiency would be improved. That is a big issue for the SCDI.

An issue often raised with us is the shortage not only of planners in general but of mineral planners in particular. There are not enough of them in Scotland and perhaps even in the United Kingdom, so mineral planning is patchy. Within the planning profession in Scotland, there are severe staffing shortages in specific skills.

Mary Scanlon (Highlands and Islands) (Con): We are not comparing like with like, because after this bill goes through, major changes will come in—for example, many directors of planning say that the extension of permitted development will require fewer planning officers.

Iain Duff from the SCDI spoke about planning authorities being properly resourced. However, even if they are properly resourced, your submission says:

"There is a need for better training of local authority elected representatives so that they have the skills and knowledge".

Are you saying that, even with more resources, not only do we need more and better trained planning staff, but we need to educate our councillors?

Iain Duff: I would hope that people who are asked to decide on planning issues could do the job. It is a specialised and technical area and there should be a duty on the people involved to carry out the job effectively. It is all about raising confidence in the system. People should understand the issues, be aware of the system, and be able to carry out the job properly.

Mary Scanlon: I understand that, but is it your experience that many of our elected representatives are not sufficiently trained or do not have sufficient experience to deal with these complex issues?

Iain Duff: Off the top of my head, I cannot think of any specific examples of failings that have been brought to my attention. There may be no big issue. However, we want confidence in the system, and the people who take the decisions will have to be skilled and will have to be aware of the system.

David Lonsdale: Earlier we touched on political leadership and will. To an extent, we are getting that with the bill, but we are also looking for it from councillors in local authorities. It can fall to the business community to stress to councillors and others the importance of planning issues. We have done that with ministers in consultations leading up to the bill. We have business organisations and developers among our members and we have to make the case. If a person is standing for election to become a councillor, that person should be encouraged to put more resources into planning. Councillors can do that quickly if they make the right decisions.

We recognise that we must raise our game and take more interest and that we must encourage and control activity and highlight best practice in

local authorities to try to achieve the changes that we want. Councillors are involved in various aspects. I have no doubt that they would appreciate extra training and all the rest of it. As business organisations, we have a duty to say that planning is important and that we would like local authorities to put resources into it. I suspect that we have not been great at doing that.

Cathie Craigie: The duty that will be placed on local authorities to update development plans regularly has been mentioned. Will an update every five years be sufficient to achieve a relevant plan? Will that benefit business in the long term?

Anthony Aitken: Yes.

David Lonsdale: Yes. The aspiration is good. In fairness to the Executive, a couple of elements of the bill—development plan schemes and action programmes—ought to make the aspiration happen in practice and achieve the buy-in that your colleague Patrick Harvie talked about, to ensure that everyone plays the game, gets involved and has a say. Some structures are beginning to be put in place to achieve that.

Anthony Aitken: I reiterate what David Lonsdale said. The Scottish Chambers of Commerce's experience is that each of the 32 local authorities produces its development plan—its local plan at present—differently and that some are more successful than others. The bill contains provisions for model planning policies, which will expedite the process and make it simpler for local authorities. In that way, business will be able to have confidence in the system and in councils to provide development plans on the five-year cycle. It should be seen as a cycle: as soon as one process ends, the next should begin. We should aim to achieve that and the bill makes the right noises, but much of that will come down to secondary legislation.

Another issue that is worth highlighting is that best practice is not shared enough among local authorities. The development plan picture in Scotland is patchy. Some authorities get it right and some do not. More information must be collated. Authorities that get it right should be highlighted to assist those that, for whatever reason, do not hit the mark to raise their level and to meet the five-year deadline. Authorities must share information about best practice and they must take off the blinkers and look beyond their authority boundaries.

Iain Duff: In our response to the white paper, we supported the five-year cycle. Some plans are very outdated, so anything that will bring plans more up to date will increase everyone's—all stakeholders'—confidence in what is going on in their area. Our submission says that planning is a continuous process and should not be segmented into five-year blocks, which is why the other supporting processing agreements and issues that will move plans along over the five years are to be supported. I would not like the process to be segmented; it is certainly a cycle, but it is continuous.

Cathie Craigie: I noted that from your submission. How will business be involved in the process? A statutory duty will be placed on key agencies to be involved in and to engage with the process. What are your views on that? How will you link into the process?

Susan Love: Everybody has been clear that it is important to pay more attention to the role of the key agencies, which are often the culprits in anecdotes about planning applications that have been held up. That fact has been well established and I am sure that everyone here welcomes the duty.

On the role of the business community in engaging in development plans, we note that the bill does not set out who is to be consulted. I cannot think of an example off the top of my head, but I know that some other bills are a bit more specific about the type of community bodies that should be consulted. Usually, there is guidance on what those community bodies would be, whereas the bill refers to persons to be prescribed, or something like that. I hope that the business community will be one of those, but we will wait and see.

10:30

David Lonsdale: I wonder whether the local economic fora might be appropriate bodies, as they are supposed to be made up of representatives of their areas. Last year, Audit Scotland published a report that said that the LEFs are quite good at communicating with business, and I have not heard a contrary point of view, although I suspect that Susan Love may hold one. That may be something for those who have the power to make these sorts of decisions to think about.

Cathie Craigie: Will the fact that key agencies are to be involved at an early stage help the business community when it is dealing with problems regarding infrastructure for major developments, for example?

Anthony Aitken: It is true that key agencies must become involved at the outset and that the profile of planning must come higher up the key agencies' agenda. For instance, many issues have been raised in relation to Scottish Water. People want Scottish Water to understand the planning process and how it contributes to economic growth for Scotland. It should be involved at the outset and we should be clear about what resources we

require from it to facilitate the growth of towns or cities. It is important that key agencies are in at the outset of development plans.

David Lonsdale: It makes it more realistic if we have them focus on growth and get them all on board.

Patrick Harvie: I have a quick supplementary question on the five-year duty. Much of what you are saying supports the inclusion of measures that will make it more likely that authorities will be able to achieve the five-year update. However, some of them may fail to update their development plans within five years, and it is not clear to me what the consequences will be if they do so. To what extent should the development plan be seen to lose primacy or status if it is more than five years old?

Anthony Aitken: That is a good question. Under section 25 of the Town and Country Planning (Scotland) Act 1997, decisions are taken on the basis of the development plan unless material considerations indicate otherwise. If a development plan is more than five years old, there is a possibility that decisions should not be based on it, and that becomes a material consideration. That is how matters were before the primacy of the development plan was introduced in 1991, when the development plan was one of a series of material considerations on which planning decisions were based.

The proposal that the development plan should lose its primacy after five years would give the bill some teeth, as that would ensure that most local authorities would try to meet the five-year timescale. If a development plan lost its primacy and decisions might not be based on it, that could impact on the various other strategies that a local authority had. The primacy issue is very important, and the bill must have teeth.

Mary Scanlon: Some of you raised the sanctions that could be imposed if local authorities did not keep their development plans up to date. The CBI talked about naming and shaming underperforming councils and said that serious consideration should be given to external improvement teams—hit squads, I might call them—or even fines for councils. Would such measures be draconian, or are they necessary? Do you have little faith in councils' ability to deliver development plans?

David Lonsdale: We would not want to introduce "hit squads"—perhaps the A-team would be a more appropriate name. There could be naming and faming, as opposed to naming and shaming. Last month, the Executive's planning audit unit published a report on performance in relation to various matters, including development plans, which contained the startling statistic that one in five development plans is more than 15 years old, so a sanction would be useful. In an ideal world the sanction would not be deployed, but we should consider whether the existence of a sanction would be an incentive to local authorities to produce their plans. We might be unclear about what sanction might apply, but it is valid to ask whether there would be an incentive if there were no sanction. It is worth considering approaches such as naming and faming local authorities, having an A-team or imposing a levy on planning fees if a plan is not produced on time.

Iain Duff: I take the point that the approach should not be too draconian. There might be a good reason why a plan is late. We should consider such matters in the round.

Mary Scanlon: A plan might be held up by a public inquiry.

Iain Duff: There are many possible reasons for a delay, so we should be careful about imposing a sanction automatically, particularly if the sanction is draconian, such as a fine, which might aggravate a resource issue. We should be wary of having an automatic, three-strikes-and-you-are-out approach. It is a difficult issue. There must be some incentive to complete the plan but I would be uncomfortable with the automatic imposition of sanctions, particularly fines.

Anthony Aitken: A local authority could be required by statute to explain why it had failed to produce a local plan after five years. As Iain Duff said, there might be legitimate reasons for the delay, but such a requirement would create accountability and transparency because the community and the business community would be told why the local authority had failed to provide the plan on time. It might be useful for local authorities to know that they would have to pen a letter to the Scottish Executive or the Scottish Parliament to let everyone know where they stood. That might expedite matters. The local authority could be required to draw up a timetable, to ensure that its objectives were met within 12 months, which would generate public confidence that matters would be taken forward.

Scott Barrie: I have two questions on the proposed move to a three-tier hierarchy of development: national, major and local development. What impact will that have on the business sector? Secondly, do you have views on the criteria that might apply to the different tiers?

David Lonsdale: We are keen that due weight should be given to proposed major developments that would be good for the economy—we hope that they would also be sustainable. There is a question about how the criteria will play out in reality. At the Communities Committee meeting on 11 January, which was attended by the chief planner, a witness from the Executive's planning

division said that a development of 300 houses should be the threshold at which a residential development is regarded as a major development—that was the first time that I had come across such a suggestion. We do not have a hard and fast view on the matter, but we want to be consulted. We want to consult our membership and feed in comments to the decision makers in the Executive.

Anthony Aitken: For major developments the obligation to have processing agreements will offer a degree of confidence to the business community. I understand that an enhanced planning application fee will apply to major developments, so it will be good to know from the start that there will be an opportunity to meet planning authority officials and agree the process and timescale for the application. We welcome that.

Susan Love: We are supportive of the idea of the hierarchy but, in reality, most of our members' applications will fall into the local category, which means that they will not be affected by the proposals for the major application process. Our only concern is that the local process should not become the poor relation and end up suffering as a result of more effort going into major applications. There is the risk of losing the planning fee.

Iain Duff: I support Susan Love's view. We welcome the hierarchy because it is sensible to treat various types of development in different ways. There is a question of the balance of resources, but the major developments tend to be more resource intensive anyway. Taking out many of the smaller issues should release more resources throughout the system, which will be highly positive.

Anthony Aitken: It has been indicated that applications relating to contentious local developments should be determined by a committee of some sort. The bill and the associated documents seem to suggest that that committee will be made up of elected members. However, I think that that would be a missed opportunity. The committee should be more representative and could even include members of the business community, which would give it a greater balance. That is part of the culture change.

Iain Duff: We went further in our submission and suggested that the group could be made up either of experts or of councillors from another area, so that there would be no conflicts of interest. I mentioned that that issue is subject to further consultation and will be dealt with in secondary legislation. We might want to think about who would do that final check or arbitration.

Scott Barrie: Do you have any truck with the earlier suggestion that developers might adapt the size of a development to fit with what they think will be the most favourable conditions in the hierarchy or do you think that that is a bit of a red herring?

Iain Duff: We stated in our submission that, in order to give confidence to people, things should not be moved up and down. That is part of the culture change that we are looking for from the planning authorities and the development community, which must play the game if they are serious about the up-front consultation. We would be disappointed if people were moving around in the way that you describe in order to get around some of the constraints. There must be a culture change so that people are clear and open about what they are proposing.

Anthony Aitken: It would be naive of any developer to do what you suggest as a medium-term strategy. It would not work at all. If everyone is going to buy into the new system, everyone must work with the three tiers and get involved with each of them as appropriate rather than trying to circumvent them in naive ways.

Mary Scanlon: I want to ask about the transfer of the responsibility for neighbour notification to planning authorities. I appreciate that the details will be included in secondary legislation and that it is therefore difficult to comment on the matter, which I think only the submission from the Confederation of British Industry mentioned, although I could be wrong.

How do you think that the proposal will impact on plans? Several local authorities have said that the move will result in a huge responsibility being placed on them. It will cost quite a bit, which will likely be reflected in the fees that your members will pay. The main point, however, relates to time. Do you think that the proposal will lead to delays? The other point that local authorities have raised with me is the question of who the neighbours are. Who is the community? As a member for the Highlands and Islands, this brings to mind the issue of the Cairngorms funicular railway. People from all over the world wrote to express concern about that. I appreciate that there is not much about that in the bill just now, but given that local authorities are concerned, are you also concerned?

10:45

Anthony Aitken: You are right that at the moment neighbour notification is carried out by the developer that submits the application. In England, a system has been in operation for quite some time whereby local authorities take on the obligation to notify people. There is an argument

that local authorities are best placed to know who is within their neighbourhood and there is potential for them to become increasingly well placed through having a databank of that knowledge. There is also an obligation that that notification is undertaken within a couple of days of an application being submitted, which is quite a quick turnaround, and in my experience there are dedicated staff to do that. You are correct that there is a slight resource issue, because the process is labour intensive, but the people who carry out the work have expert knowledge of their area.

Mary Scanlon: You are quite confident about the proposal that planning authorities do that work.

Anthony Aitken: Absolutely.

David Lonsdale: The fundamental point is that people want to know that they can influence the decisions at the planning application stage and at the development plan stage. I live in the Stirling area and I know of people being surprised at suddenly finding that the field next to their house is going to be built on, which they claim not to have known about before. If there are changes to the local development plan and they get a clearer chance to input into it than would otherwise have been the case, that is a good thing. There are examples of boundaries being moved slightly that people did not know about. The bill talks about extending the time for notification of applications from 14 to 21 days. That does not seem unreasonable. I used to be on a community council in Dunblane and I know that meeting cycles are often out of kilter.

Mary Scanlon: Apart from the resource issue you are confident about this measure.

David Lonsdale: Yes. There will clearly be a resource issue. There are questions about the fees and whether the extra planners that one would like will be delivered. The experience from south of the border, as I understand it from the CBI, is that there have been fee increases of up to 350 per cent in the past few years. However, there has been no commensurate increase—in fact there has been little noticeable increase—in the number of planners in local authorities.

Mary Scanlon: We will come to those issues later in our questioning.

Christine Grahame: A great deal of the bill is founded on early participation by communities. You have all rejected out of hand third-party right of appeal—questions about which will be asked by somebody else—on the basis that if we have rigorous up-front consultations, all should be well; we cannot please all the people all the time, but basically the system will be fair. I note what you all said independently about enhanced consultation and local participation. What kind of development do you envisage would have a statutory requirement for that? I know that there are issues to do with scale in different communities.

Susan Love: Are you asking about the mandatory, pre-application consultations?

Christine Grahame: Yes.

Susan Love: I think that bad neighbour-type applications were referred to. The applications that tend to cause problems are anything associated with waste or recycling.

Christine Grahame: So an example would be recycling waste on the edge of a wee town.

I am trying to get at how the process will work. As I understand it, the applicant gives notice of and publicises what he will do. How do you see consultation with the community working? People might suddenly find out about a waste unit development because they did not notice that it was in the development plan.

Anthony Aitken: There are certain community groups in place already and responsible developers will try to engage with them before an application is made. Local authorities are often in contact with those groups. The obvious ones are community councils. One way to proceed is for a group to hold a meeting at which people can be addressed on the proposal that has been made.

Christine Grahame: People do that anyway, do they not? For example, when there is an application for a wind farm, the company will travel around with a roadshow and demonstrate its proposals. That provides people with information, but I do not know whether it amounts to consultation. How will you ensure that there is participation by the community, rather than just a meeting at which some people express grievances before the planner proceeds with the application? How will there be proper engagement?

David Lonsdale: You mentioned wind farms. There is one near me and the developer met the community council, held exhibitions and toured around. It set up a steering group to get people involved. Those things are about information sharing, but they are also a good opportunity for people to say that they have genuine concerns. Any responsible, sensible developer will think about making changes so that the community will find the development more acceptable. I have no problem with that. My experience from talking to developers before coming to the committee today is that they do a lot of those things anyway, whether they are promoting wind farms, housing or whatever.

Susan Love: As far as I am aware, programmes of consultation or engagement with local communities are already established by planning consultants on behalf of applicants for a whole

range of things. They are usually run by larger businesses in relation to larger applications, but they are usually tailored to the local situation. What needs to change under the bill is the quality of that engagement.

Christine Grahame: That is what I was aiming at.

Susan Love: I sometimes get the impression that engagement is about public relations as much as anything else. Under the proposals in the bill, the application will rest on the quality of the consultation, including who has been spoken to, how effective the engagement has been, and whether there is any evidence of changes to the proposals as a result of engagement with the community.

From the small business perspective, I would say that engagement does not have to be formal to be effective. We have examples of businesspeople who make it their business to strike up a relationship with local people if they have, for example, a plot of land and ideas about how they want to develop it. They believe that that is just as effective as employing planning consultants to go and consult the community.

Christine Grahame: When a local person proposes a development they will have a greater commitment to the area—if you will forgive me for saying so—than some of the large commercial organisations who might be here today and gone tomorrow. They do not live in the community and they do not have to go into the local shop and hear people saying, "I'm not very keen on what you're doing." I take your point about small businesses.

The CBI submission states:

"there are examples of good practice across the country that can be drawn down".

Where?

Anthony Aitken: In its local plan, West Lothian Council has major requirements in terms of catering for future employment and housing needs for pretty much the whole of the Lothians and there has been effective consultation and communication with community councils. The developer set up a newspaper that is posted to all members of the community in areas that are subject to development. That is effective because, as Susan Love said, people's views must be seen to be taken into account. The changes that are made are registered and recognised. There are numerous methods by which such involvement takes place and we can point to examples of good practice from throughout the country.

Iain Duff: If changes have not been made, there should be communication about why they have not been made. The feedback loop to participants is important. As our submission states, pre-application discussions should not become talking shops—we are trying to move away from that. There should be feedback to communities on why decisions have been made. Once discussions have taken place, people might not be comfortable, but they should know why a decision has gone one way or the other.

Christine Grahame: I want to talk about a little hobby-horse of mine. Is there room for mediation if the community and the developer have reached an impasse, have chipped bits off proposals and are still consulting? Can an independent party or the local authority come into the consultation process? If there are still problem areas that will not be resolved at that stage, is there room to move on? I am talking about professional mediation, which is used regularly in other countries in considering large planning applications.

Anthony Aitken: It is the role of local authority planning officials to act as mediators and to strike a balance when developments are proposed by recognising what is important to the local community. We must avoid the danger of overcomplicating the process. When an impasse is reached between a developer and a local community, planners must strike a balance in reaching a decision.

Christine Grahame: I know, but a planning officer might be seen to have an interest in the matter. I meant independent mediation with the consent of the parties, rather than mandatory mediation. If we want to tighten up the up-front process, is there a role for such mediation, as there is in other nations? It is regularly used to sort out disputes in Baltimore, for example.

Susan Love: That might be worth examining. The Executive has set up a group to consider community engagement, which I hope will be tremendously helpful. The difficulties of community engagement are clear, as is the importance of the abilities of the people who are involved in it to engage effectively and to understand what is going on at a local level. Those matters have not, however, always been discussed in preparing for the bill. Planning officers are not trained for such things, and elected members are not always trained for them. An outside mediator might be best placed to sort things out, particularly because the local community does not always see planning officers or planning departments as independent arbiters.

Christine Grahame: I know.

I want to move on. There is a balance to be struck between having honest, forthright and substantive consultation and achieving efficacy in the system. I am a bit concerned about the impression that has come through that the process

should not be overprescriptive and that it should not take too much time. Sometimes there will be a difficult balance to strike in hard cases.

I would like you to help me with something that I cannot work out. Let us take as an example the waste management proposal that I mentioned earlier. What would the timescale be for taking that proposal through the process from pre-consultation, to the pre-determination hearings and a decision? Let us say that, although there are a number of objections from people about lorries and about being downwind of the development, bits and bobs get chipped off the proposals and the development is to go ahead. Some people might be in favour of it because it would bring jobs, for example. How long would it take before the modified development proposal was settled, one way or the other? I know that that is a hard question, but you want efficient decision making and I am trying to get an idea of what would happen if the community was engaged at the beginning of the process.

Susan Love: On the pre-application consultation, I think that the bill specifies a period of 12 weeks before the application can be lodged. I am concerned about how the process would work within that timescale. I am not sure how effective engagement would be in such a relatively short period if a proposal has already been well developed when the clock starts ticking at the start of the 12 weeks. I am not clear about how things would work in practice and whether the process would be effective. I suppose that that will depend on how well developed the application is by the time the 12-week process starts.

Anthony Aitken: Twelve weeks is sufficient, because it will focus people who have an objective in mind and who want their views to be taken into account and it will focus the developer in taking local views into account. A prescriptive time period will focus discussions. We do not want a period that could run to 16, 20 or 24 weeks, because the process would drag on and progress would not be made. Your suggestion of a mediator when there is an impasse is not a bad one. If there seems to be an impasse after eight weeks or so, a mediator could be brought in to give expertise and assistance. The process should be focused, so 12 weeks seems reasonable.

11:00

Christine Grahame: I presume that, if a mediator came in, the clock would stop ticking for a while.

Anthony Aitken: Quite possibly.

Christine Grahame: The next part of the process is that a report must be submitted within a certain timescale on what consultation has taken place. There would then be a pre-determination hearing. I am trying to follow the process—is that correct?

Anthony Aitken: Yes.

Christine Grahame: How long would that take?

Anthony Aitken: Any responsible developer who proposes a scheme will produce the report as it goes through the consultation process. A developer should not just decide to write up the report after week 12—it should be done during the 12 weeks. The production of a report will help to reflect what has been said during the process and any concessions that have been made and agreements reached. The production of the report should be part of the 12-week process rather than an additional process.

Christine Grahame: We would then have the pre-determination hearing. I am trying to follow the technicalities.

Susan Love: That depends on whether the planning authority is satisfied with the report or whether it has to go back and changes have to be made. There is also the issue of how long it takes before the authority assesses the application and a pre-determination hearing is held.

Christine Grahame: Who will pay for the various elements of the consultation process, such as hiring halls, advertising, leaflets and meetings? At the end of the day, the public will pay, either through prices or taxes, but who will pay for the process up front to ensure that it is not done on a wing and a prayer?

David Lonsdale: The firms will pick up the tab for events such as the exhibitions that I mentioned. As you say, with a housing development, the costs will be factored in down the line. One of our members, to whom I spoke earlier this week, has proposed a wind farm development in Perth and Kinross, but has been talking to the council for four years. He estimates that there has been an outlay of in the region of £400,000 to £500,000 on the process, on matters such as land, options, legal advisers and staff time, yet the scheme still does not have approval.

Christine Grahame: I think that I read somewhere in your submission a comment that the process must be resourced properly. I assume that you do not mean resourcing by only the developer or applicant and that you are looking for central Government resourcing.

David Lonsdale: There is certainly a burden on local authority planners to complete all the parts of the process.

Iain Duff: That comment might be in our submission. We said that the issue

"will have to be addressed by the Scottish Executive."

That is an open-ended comment; we are not sure where the resources will come from.

Christine Grahame: Yes, it is in the SCDI submission.

Iain Duff: The aim was to point out that the measures have resource implications, although we have not come across anything in the bill or elsewhere that addresses those implications. They must be addressed if we are to ensure that the process is undertaken properly.

Christine Grahame: So you are talking about resources for local authorities.

Iain Duff: Ultimately, the Executive provides the money for local authorities. One hopes that any expectation that authorities will do more will be reflected in the money that is allocated to them.

Anthony Aitken: To take the point a little further, if a developer is to engage with a local community, the community will have to be resourced to allow it to meet timescales and contribute to the process. In the new front-loaded planning system, developers will pick up the tab for a certain amount of the front loading, but the community councils with which they will wish to engage will have to be properly resourced to allow them to meet the 12-week timescale and to have a meaningful pre-application discussion.

Christine Grahame: I have an open question about pre-determination hearings. Would you like to make any comments further to SCDI's written submission? It states:

"SCDI, therefore, welcomes the statutory requirements for pre-application consultation and for hearings into planning applications that are significantly contrary to the development plan."

Do you have anything to add to that?

Iain Duff: The view of professional planners has always been that the hearings play a useful role in the system and that changes can be made through them. We do not want them to disappear, and we feel that there is a place for them within the new system. They can be useful for thrashing out issues.

Christine Grahame: I will leave this hanging here, because somebody else will be dealing with third-party rights of appeal. The SCDI's submission goes on to state:

"It is felt that this is a necessary change in the planning system that will further negate the requirement for any type of third party right of appeal."

I will leave that there, because somebody else will pick that matter up.

The Convener: We will not deal with the third-party right of appeal at the moment.

Christine Grahame: Yes—that will be later.

The Convener: We will return to the issue. Does Ms White's question specifically relate to hearings?

Ms Sandra White (Glasgow) (SNP): Yes. I will not mention the third-party right of appeal—although it will come up later on.

The pre-application consultation is important. Everyone who has replied on the subject has said that it is one of the most important aspects of the bill, and people agree with it. The CBI has mentioned that trust has been lost in communities.

The Convener: Could I ask you to ask a question?

Ms White: I was wanting to ask a question.

The Convener: Ask a question, then.

Ms White: As has already been said, pre-application consultations are one of the most important features of the bill. They cannot be just a talking shop; something must come out of them.

I also want to ask about the 12-week statutory consultation. I agree with it, but would you agree with me that the 12-week period over which people will be consulted must be a time that does not include the Christmas and new year holidays, for instance? Councils can sometimes close down for six weeks—that is the norm.

I also wish to ask about good practice. There is no template for the consultations. Would you envisage that businesses and councils could develop some form of template for consultations to ensure that they are meaningful? The CBI and businesses can go along and listen and pass on information, but you also have the sanction, which others do not. It is easy to go along to a consultation and listen to others if you have the trump card.

Pre-application consultations are the most important part of the Planning etc (Scotland) Bill, but they must be meaningful in order to rectify the anomalies that affect communities. Do you think that communities can have faith in pre-application consultations without having any other right, or rather any other recourse? I will not say the magic phrase. I would like you to clarify some of those issues.

Anthony Aitken: Your initial point, about submitting applications over the festive period or over periods when councils are in recess, is perfectly reasonable. Most responsible developers do not submit applications during those periods. With the focus being on pre-application discussions, that would not be the way to proceed.

Ms White: But that does happen, unfortunately.

Anthony Aitken: It might do in certain circumstances, but I would emphasise the fact that

most responsible developers would not proceed on that basis.

I touched earlier on your question about best practice. With each of Scotland's 32 local authorities carving out a different niche there is an opportunity for models of best practice to be concentrated on and to be publicised. Business would certainly be happy to engage with that and to set some templates, as you suggested, which would provide models of best practice to follow. I do not see that causing anyone any great difficulty.

Susan Love: The important difference is that the quality of the process will now be judged when the report is submitted to the local authority. It is in the applicant's interests to ensure that they have engaged in the process effectively. I would imagine that guidance or training will be provided for the local authority that will assess the report. I am not sure that this needs to be covered in the bill, but I would imagine that the local authority will look at a given report and judge that the approach taken was not effective because the consultation was carried out over Christmas, when nobody was around, for instance. I think that that is the way to deal with that issue.

David Lonsdale: I endorse those points. The issue about holiday periods and so on came up when you were asking the chief planner about the 40-day notice period. For the life of me, however, I cannot remember what the answer was. I think that you were talking about recess periods and so on.

The Convener: I am conscious that you have been sitting before us for quite some time. For that reason, we will have a short comfort break. The committee should reconvene at 11.15.

11:10

Meeting suspended.

11:16

On resuming—

The Convener: I reconvene the meeting and remind members that all mobile phones should be switched off.

Euan Robson (Roxburgh and Berwickshire) (LD): In the bill, there are five new grounds for refusing to determine planning applications which, in essence, relate to repetitious or rejected applications. Do you think that those grounds are appropriate? I am also interested in your views on the timescale within which the new grounds will operate, which is two years from the point of the original decision.

Anthony Aitken: The grounds represent current practice. There is currently a two-year timescale within which repetitious applications can be rejected if they have been refused at a planning appeal. The bill builds on that slightly, allowing local authorities to reject such applications at the outset. It takes what is currently done a little bit further.

Euan Robson: So you would not want that timescale to be increased.

Anthony Aitken: It is widely known that two years is the present timescale. I do not think that it causes anyone great difficulty.

Euan Robson: Thanks. That is helpful.

Let us move on to schemes of delegation. The bill proposes to move a number of items, especially smaller items that are in line with the local development plan, into the category that officers of the authority determine. However, there is the question of the right of appeal—the right of review, as it will be called—to the elected representatives on the council. First, are you content with the proposed schemes of delegation? Are they proportionate? Will they be effective? Do they cover the right sort of areas? There will obviously be more detail in regulations. Secondly, what concerns—if any—do you have about the proposed right of review?

Iain Duff: We welcome the fact that the schemes will take the majority of planning applications out of the system and down to local delegation. As far as we are aware, a lot of authorities already do that; the bill will just spread that practice throughout local authorities.

In answer to a previous question, I said that our issue is that the review body is made up of locally elected members. When our executive committee discussed the matter, it felt strongly that a different proposal should be put forward: local experts or elected members of other authorities—for example, an authority from over the border—should make the decision. That would ensure that there would be no conflict of interest. That is the only issue that we had with the scheme, and we put that forward as a suggestion.

Susan Love: We have no problems with schemes of delegation because they already exist, as Iain Duff said. No problems with them have ever been reported to us. We have yet to learn whether there will be a standardised system.

We see no particular problem with the right of review, mainly because we think that elected members have an important role to play in the planning system and in local decision making. I am aware that since the committee started taking evidence, concerns have been raised about the shape that review committees would take and who

would be on them. I must confess that we have not yet given a great deal of thought to that.

Euan Robson: Iain Duff says that there is a conflict of interest. Let us say that a council is organised on an area committee basis and one committee looks at an issue from another committee's area. Do you see that as a way of involving the local authority rather than a neighbouring authority, or is it a question of the fact that the members employ the officers? What is the nub of your concern?

Iain Duff: All we are suggesting is that to build confidence in the system and to ensure independence, perhaps not only locally elected members should do the job. There could be a combination of independent experts and locally elected members on review committees. We were not too carried away about the exact make-up of committees; we just wanted to ensure that the system as a whole had people's confidence behind it. Our suggestion might be one way to achieve that. We are not too hung up on who makes up a committee per se, but we want to ensure that it has an independent aspect.

Anthony Aitken: I support that view. As I said earlier, review committees should be made up of a broad range of incumbents from the local area—not just elected representatives, but possibly members of the business community or other professional experts.

Knowing that there had been a culture change in the planning system would give confidence. When the Planning etc (Scotland) Bill is enacted, and once it beds down, if people go in front of the planning committee and see the same faces, they will think, "What has really changed here?" There is an opportunity for review committees to be made up of a broader section of the community, including the business sector.

I return to your initial point about delegation. Susan Love touched on the point that every local authority has a different scheme of delegation. Some already delegate a significant number of applications to professional planning officers, whereas others allow very little delegation. We have to make it clear which local developments come under schemes of delegation. There are only 32 local authorities in Scotland. In order to assist the public to understand schemes of delegation, why cannot they be the same for each local authority?

Euan Robson: So, at minimum, you would welcome guidance from the Scottish Executive on schemes of delegation.

Anthony Aitken: At minimum, yes.

Euan Robson: Are the witnesses content with proposals to give Scottish ministers the power to decide on the most appropriate method of deciding on appeals, whether by written submissions or whatever? Do you have any concerns about the proposed restrictions on the introduction of new material at appeals?

Anthony Aitken: The present appeals system allows for written submissions and hearings which, although rarely convened in Scotland, are used more extensively south of the border. It also allows for all-singing, all-dancing public inquiries. That is the process that is most focused on. It should always be an applicant's right to choose the means by which they believe it is appropriate to assess their appeal. The chambers of commerce are not comfortable with the idea of removing that right.

Euan Robson: You do not want ministers to have the exclusive right to formulate how appeals will be heard or dealt with. I take it that you want applicants to have a choice.

Anthony Aitken: That is correct.

Euan Robson: Is that a common view?

Susan Love: We do not have a significant problem with the proposal, but one can ask what giving ministers that power will bring to the process. Is there a significant problem with appellants being able to decide what form they want appeals to take? I am not aware of the problem that that would pose.

Various planning authorities have mentioned to us that significant problems arise with new and additional evidence being introduced in the process. In their view, that prevents the public having all the facts and being able to comment on an application at an earlier stage. We support the proposal to restrict the introduction of new material.

Mary Scanlon: The CBI's submission expresses clear concerns about the reduction in the duration of planning permission time from five years to three years. Your experience informs you how much time it takes to negotiate and clear planning conditions. Other witnesses have raised points about the delays caused by infrastructure providers such as—heaven forfend—Scottish Water. What are your views on that?

What are your views on the proposal to change the time allowed for appeals from six months to three months?

David Lonsdale: One of our members put it to me the other day that the fundamental issue is getting planning permission in the first place, let alone a period of consent.

Mary Scanlon: When you were replying to Christine Grahame, I was thinking about the

period even before planning permission was applied for.

David Lonsdale: We expressed concerns in our submission about the reduction from five years to three years. On your point about infrastructure providers, one example that we have concerns companies that are involved in renewable energy sources, such as wind farms, gaining access to the national grid. By all accounts, it can take nine or 10 years to do that, which can be quite challenging.

Mary Scanlon: That is due to the wait for the Beauly to Denny power line upgrade. I must say that at least once at every committee meeting.

David Lonsdale: I do not want to get into that.

There are circumstances in which I can see the attraction of reducing the period. However, when one is reliant on a third party—an infrastructure provider in some sense—one is not in control. Although we do not support the provision to reduce the period to three years, if the bill is passed some mechanism should be put in place to recognise that external factors are involved.

Mary Scanlon: You claim that a reduction could lead to a logjam, which is not the bill's intention. Your submission states:

"the reduction planned may produce the opposite effect than intended and could lead to a logjam as applicants may lodge on appeal as a matter of course".

We have heard from other witnesses that that is what happened in England and Wales. Can you expand on that?

David Lonsdale: That is our fundamental concern. With the shorter period, applications might be just put in and the details worried about later. Recently, I learned of a case where Scottish Natural Heritage objected to a wind farm application. When it went to a public inquiry, no one turned up. That may be a different aspect of the problem. However, we put that in the submission because it is a concern to our members, and it falls on the back of the planning permission and consent period.

Anthony Aitken: I would like to address the reduction in the duration of a planning permission from five years to three years. Under current legislation, applications are normally for five years, but they can be varied. Outline permissions are usually granted for two years, but the developer of a major development of several thousand houses, for example, could agree with the local authority that the outline planning permission would last for 10 years. That would allow development to take place in phases during that period.

Under current legislation, there is flexibility. Developers can ask for a longer period and the local authority will take the request into account when it makes a decision. Scottish Chambers of Commerce does not have a problem with the reduction from five years to three years, as long as flexibility remains for the period to be changed in specific circumstances.

11:30

Your point about appeals is accurate. The Office of the Deputy Prime Minister, which handles planning matters down south, cut the right of appeal overnight from six months to three months and the Planning Inspectorate, which assesses planning appeals down south, came to a standstill. We are keen to ensure that that does not happen in Scotland.

Under the current system, people have six months in which to appeal. That often causes communities anxiety because it introduces too much uncertainty. My suggestion—for what it is worth—is that we should be more flexible and reduce the period incrementally. We could reduce it to five months a couple of years after the bill comes into force, and see how it works. After another 12 months, we could reduce it to four months. I think that three months is too tight. If the period were reduced incrementally, we could assess the effect and avoid logjamming the system by suddenly cutting the period from six months to three months. That would avoid the fears that you expressed being realised, unlike what happened down south.

Mary Scanlon: If it were not possible to complete a major development within three years—often, that is not possible—that would lead to increased costs. The project might have to be cut into bite-sized chunks that were achievable within three years and be submitted in separate planning applications. Would the industry try to overcome the reduction to three years in that way?

Anthony Aitken: I do not believe that it would. Once development has commenced, it has commenced for all time thereafter, so the scenario that you envisage would not occur once development has commenced.

The reduction in the time period is more to do with outline applications, as I suggested in my example. When outline permission is given for a master plan and a certain number of houses in a particular area, the developer will work through the detail in a master plan exercise. As I said, there is currently flexibility to change the period from two years to three, four or five years, or however long the developer thinks it will take to bring forward the details.

Mary Scanlon: I think that the main issue is the infrastructure. The question of what counts as a

development that has started is a technicality. Scottish Water is often stated as a concern.

What are the implications of replacing the current system of outline planning permission with planning permission in principle? Do you have concerns about that?

Susan Love: We do not have specific concerns about that. We are aware that it addresses an aspect of the planning system that has caused communities concern.

Anthony Aitken: It is an opportunity to be efficient and to streamline the system slightly. If a proposal comes through the local development plan and it is seen to have planning permission in principle, that is to be welcomed, because it will save people from having to go through the outline planning application stage thereafter. The provision is sensible.

Mary Scanlon: That is interesting. That brings me to the third and final part of my questioning. Under the bill, planning obligations will replace planning agreements, which are also known as section 75 agreements or planning gain. The bill will introduce a new system of unilateral obligations. What are your views on the system of planning obligations, which will extend and formalise the current section 75 agreements?

I hope that the convener will bear with me, but I would like you also to address a point that has been made by the Scottish Society of Directors of Planning and others. What will be the consequence of the planning gain supplement? That is not an aspect of the bill, but it is related to the system of planning obligations and, obviously, it will impact on development in Scotland.

Anthony Aitken: Nationally, the Barker review and the proposal that resulted from it for a planning gain supplement, which has been discussed by the Treasury at Whitehall, have profound implications for how planning gain can be dealt with through section 75 agreements. As matters stand, most developers realise that a major development scheme provides opportunities to spread the benefits among the wider community through, for example, the provision of a proportion of affordable housing, a new primary school or new classrooms in an existing school. The advent of the planning gain supplement means that something has got to give. At the moment, when developers enter discussions with local authorities and communities, they outline what planning gain a major development can bring to the wider community, but the new proposals from the Treasury will have a direct impact on that. As yet, the outcome is unknown.

Mary Scanlon: I appreciate that. Do you think that those proposals will undermine the bargaining or negotiating stance of the developer, the local authority or both?

Anthony Aitken: Once the planning gain supplement—which is really a development land tax—comes into play, developers will be clear about what their position is. The requirements will be specified in legislation, so developers will know exactly what is involved. I think that the losers will be local authorities and communities, which at the moment are negotiating benefits for their areas effectively.

Mary Scanlon: I do not want to muddy the waters too much, so perhaps I should ask for your comments only on what is proposed in the bill. However, it is important that we consider the planning gain supplement, too.

Iain Duff: The feedback on the planning gain supplement that we are getting from members is that it seems to clash slightly with what the bill seeks to achieve.

Mary Scanlon: That is my problem too. Another difficulty is that the planning gain supplement is reserved to Westminster, so it is outwith our remit, even though it impacts enormously on the bill.

Iain Duff: I think that submissions to the Treasury on that have to be in by today. The extension of section 75 agreements has a role to play. We do not have a big problem with that, as long as the obligations that are imposed on developers are not too onerous. Boundaries should be set for that but, overall, we are quite relaxed about the increased use of section 75 that the bill proposes.

Mary Scanlon: You are content with the proposed arrangements to extend planning gain and the use of section 75.

Iain Duff: By and large, we are, as long as the burden that is placed on developers is not too great. A balance obviously needs to be struck.

Anthony Aitken: The approach needs to be proportionate.

Susan Love: Our members are not often affected by the issue because the scale of their developments is not usually large enough to warrant the use of section 75 agreements. However, we have heard stories of developers who are involved in the smallest projects being asked to give something to planning gain. Even if they are just extending business premises, they are sometimes being asked to make a contribution that they do not feel is relevant to their development. However, in general, we support the bill's objective of increasing the transparency of section 75 agreements.

David Lonsdale: My only comment on that is about minimising delays. My colleagues south of

the border have done research that shows that 45 per cent of planning obligation negotiations took at least six months to complete. That should be borne in mind.

Anthony Aitken: The most effective way of completing planning agreements in a short timescale is for local authority legal divisions to outsource them. Outsourcing the drafting of such agreements has led to their being concluded quickly.

Iain Duff: I have a point on the duration of planning permissions. A planning permission might last for more than five years because events outwith the control of the developer or the planning authority can sometimes lead to excessive delay. We have some concerns about the proposed reduction to three years. That might sound like a long time, but it is not if it relates to a major infrastructure development.

Mary Scanlon: That is why I mentioned the example of Scottish Water. A huge development is being built in West Lothian. If a new sewage treatment plant were needed, that would have to be consulted on. The time that that might take would be totally outwith the control of the developer.

Iain Duff: Yes, there are some concerns in that regard. Of course, we have heard that Scottish Water has been one of the problems in getting approval for a development, but that was all to do with its quality and standards II programme. Scottish Water has now moved on to Q and S III and we hope that the new standards will allow any constraints to be addressed more quickly. Scottish Water has to have the appropriate resource to do that and there is a whole other debate to be had on that. Scottish Water gets a lot of attention in this area, but sometimes that has more to do with the way in which it is regulated and what it is instructed to do. Other issues are involved.

Patrick Harvie: I am a little unclear about your answer on unilateral obligations. For the life of me, I cannot see how something that is unilateral can be described as an obligation. Surely an obligation is placed on one person by another. Will the proposal for unilateral obligations leave developers unclear as to the value that is placed on a piece of infrastructure? Will it not leave communities suspicious that developers are simply deciding for themselves what they will do as part of a negotiation?

Anthony Aitken: I understand that section 75 agreements are to become part of the planning register. The public will therefore be able to view them. As David Lonsdale outlined, one of the problems in the current development system is that it can take several months, if not the best part of a year, for the lawyers to write the legal agreement and so forth. When the development finally commences, people are left wondering what obligations are in place or what is involved in the section 75 agreements. Putting the section 75 agreements—or unilateral obligations, as they will be known—on the planning register will give communities and people access to information that is lacking or hard to access at present.

Patrick Harvie: So people will be given access to the information, but what about the decision on the kind of obligation that should be undertaken?

Anthony Aitken: That will be done as part of the planning process, before a decision on the application is reached; it will address all the issues that the planning officer believes are relevant. The planning report should set out what the officer envisages the main part of the section 75 agreement to be. Obviously, the developer will have to sign up to that. The local community will be able to see in a transparent manner what is proposed.

Patrick Harvie: Okay. Thank you.

The Convener: The bill is all about creating a planning system that is fit for purpose. You have already touched on the fact that it will be much more difficult to create a culture that embraces the new structure. You indicated that you hope that the local authorities are up for that culture change. Does the business community also have a responsibility to be part of that culture change?

Iain Duff: Most definitely. We have not yet touched on this subject, but if we in the business community are serious about not wishing there to be a third-party right of appeal, we will have to effect culture change, engage and do all the other things that will make the system work in the way that we want to see it work without a third-party right of appeal. Culture change is crucial to all of that. It has to happen on both sides.

The questionnaire that we put to our members talked about culture change; it discussed the changes that private sector businesses and developers will have to make to engage in the process. We have asked our members about how they will do that and how they will change their culture. As I think I said earlier, we have spoken about how our members should play the game, engage properly and make the new system work properly. That is one of the strongest reasons why a third-party right of appeal is not necessary. We have to make the system that is proposed in the bill work. All stakeholders will have to do that.

The Convener: We will return to the third-party right of appeal later in the session, but I am very glad that you answered that question. I suggest to you and to your organisation that one of the ways that we can change culture and give communities confidence is through the use of good neighbour

agreements. I was interested that your organisation disagreed with the introduction of good neighbour agreements. Why do you not think that they will benefit communities and give them much-needed confidence?

11:45

Iain Duff: In our preparation, we were informed—as we have said—that many areas have good forms of engagement with the community, although those might not be called good neighbour agreements. We have touched on examples of best practice; one that has been mentioned to us involves a quarry in Fife. Good practice is available across the board, so we and our members did not know what statutory good neighbour agreements would bring to the party. If proper community engagement is being achieved with the involvement of all parties and seems to work, we do not know why the further step needs to be taken to statutory good neighbour agreements. There are systems that are working, so we see no need to take the statutory further step—we say no more than that. Our members have given examples of proper and good community engagement that has results and gives everybody confidence.

The Convener: A big challenge is that many communities do not have confidence in the planning system. There are undoubtedly examples of good developer practice, but there are as many examples of bad developer practice. Unfortunately, bad practice hits the headlines and leaves communities with a bad taste in the mouth. Making it a statutory requirement to establish a good neighbour agreement gives communities a sense of ownership and confidence that their concerns have been listened to and that the developer has an obligation to engage not just with planners but with communities. I am interested in whether the other panel members think that the proposal has merit.

David Lonsdale: The agreements did not generate flashing lights in our discussions, so they are not covered extensively in our submission. The question that can be extrapolated from what Iain Duff said is whether a case has been made for having the agreements. The good practice that is out there should become common practice, but we do not have a strong view on the issue.

Susan Love: We have not opposed or supported the use of good neighbour agreements. Our only comment is that it might be preferable for planning authorities to go down the planning conditions route first. The convener said that communities have lost faith in the planning system; an important part of regaining that is rebuilding their trust in planning authorities and in elected members to make the right decisions in the right way. It is the responsibility of elected members to lay down conditions on planning permission to help communities. We do not oppose the option of good neighbour agreements and I am sure that it will be used in some circumstances.

The Convener: The good neighbour agreement will in no way replace planning obligations; it will be one of the many planning obligations that a local authority might consider to be appropriate when granting planning consent.

Iain Duff: On reading the bill, I realise that the proposal is meant to be complementary. Before I came into the meeting this morning, I read that processes are in place. We just question why, if that is the case, we need to take the further step. If we can achieve the aim without legislation, the fact that the arrangement is not statutory might help with getting buy-in from both sides. We feel that, because we have section 75 obligations and other voluntary ways of approaching the matter, making these agreements a statutory provision is probably a step too far.

Anthony Aitken: I agree that good neighbour agreements should not be mandatory. After all, the local authority will be able to see what kind of community pre-application discussions have taken place; whether the developer has taken account of them; and what conditions have been attached to any planning permissions that are issued. If, after all that, it appears that there will still be tension between the developer and the local community, the application could be brought in for review. Each and every circumstance has to be assessed on its own merits. Instead of having mandatory agreements, we could introduce them in cases that merited such an approach.

The Convener: On enforcement, what are your views on the proposal to give local authorities the power to issue temporary stop notices on a development?

Anthony Aitken: Enforcement is the Cinderella of the planning profession. It is simply not well represented. Quite extensive enforcement powers are available but, because of resources, local authorities have not been able to enforce certain measures on people who have not taken account of specific planning conditions. Although local authorities can issue stop notices, the proposal to introduce temporary stop notices that will not incur financial penalties might give the enforcement section of the planning profession more teeth than it currently has.

Susan Love: The FSB does not have any problems with the proposal.

The Convener: Will the creation of enforcement charters lead to greater transparency and clear guidelines for developers? Moreover, will they

provide security for communities by letting them know when they can take action if developers act in an unacceptable manner by, for example, breaching the terms of their planning consents?

Anthony Aitken: Many local authorities follow best practice in using enforcement powers. Again, I must emphasise that most responsible developers are only too well aware of the conditions that they have to meet, and that enforcement powers are available to deal with people who, for whatever reason, try to circumvent those conditions. That said, enforcement is a matter of resource and profile, and that section of the planning system must be brought to the fore. Communities must have confidence that local authorities have the resources to allow enforcement officers to take action as and when it is needed.

Christine Grahame: On enforcement in general and temporary stop notices in particular, you have said that planning authorities do not have the resources to enforce stop notices. Should we make it mandatory for the local authority to be able to recover costs from developers who breach the terms of their consents or who have been issued with a temporary stop notice?

Anthony Aitken: As with your previous question, you are applying an absolute principle, which is quite a dangerous thing to do in planning. I do not think that anyone would have any difficulty with making it possible to recover costs from developers who have clearly flouted planning conditions. If that gave the community more confidence in the system, it would be all to the good. However, in the current system, there are financial impediments to local authorities issuing stop notices. After all, enforcement is a legal process and I regret to say that notices are often couched in legally inaccurate terms, which can cost a local authority. As a result, the enforcement regime must be clear about the circumstances under which enforcement notices are issued and about whether they have been served correctly.

Christine Grahame: Let us leave all that aside and assume that temporary stop notices and other enforcement notices have been served properly. Should the enforcers not be able to recover the full costs of issuing such notices? After all, if I were served with something, I would have to pay the full costs of that.

Anthony Aitken: I imagine that that matter will be examined in detail.

Christine Grahame: If developers knew that they would have to pay the full costs, would that not act as a good stick?

Anthony Aitken: The bill proposes increasing fines for flouting enforcement action and things of that nature. All those things in the round will act against unscrupulous developers flouting the system.

Christine Grahame: But fines and costs are different. I am looking for a cost as well.

Anthony Aitken: It would have to be assessed in every circumstance. A mandatory cost could not be applied in every instance.

Christine Grahame: It is worth pursuing the issue of costs.

Ms White: I want to ask about the statutory system that is being brought in to assess the performance of each planning authority. Every one of you has talked about culture change. The CBI's written submission states:

"There are ingrained cultures and these need to be tackled".

Do you think that the statutory system of assessment that the bill will put in place will improve the planning system? Can you elaborate on what you mean by a change in culture and how we can make that change?

David Lonsdale: Sorry, but I did not hear the beginning of your question.

Ms White: It is about the statutory system of assessment that is being introduced. Your written submission talks about the "staff performance appraisal" and the "ingrained cultures" in planning departments, which need to be looked at. Can you clarify and expand on that? How do you think that we should tackle that? If we tackle that, will the new strategy be meaningful? Will it enhance the performance of planning departments and the bill?

David Lonsdale: We talked earlier about the statistics regarding councils' performance on development plans and determining applications. There are some good examples of councils doing exceptionally well, but others are doing less well. We want the situation to improve and we think that the bill will make a substantive contribution to that. There is some best practice, such as the speeding up of the process through e-planning. The point that Iain Duff has highlighted is the question of resources and whether certain individuals who are involved in the process have the skills, capacity and up-to-date experience to deal with that.

I do not know whether I am answering your question as well as I ought. I talked earlier about the responsibility of business to get engaged and made the case that local authorities should put that higher up their agenda. It is not just about planning, development control and regulatory services. Those are not sexy to the wider population and I guess that they are not sexy at election time. However, I am conscious of the fact that we have not done enough to make the case that, for the election next year, local government

has to put those things higher up the agenda. That is something that we need to take on board and rectify.

Susan Love: I am looking at what the bill says about assessment, as I could not recall exactly what it is. A lot of the detail has still to come forward; the bill just sets out the parameters of what the Executive would like to move towards in terms of assessment. We would welcome that. There is no doubt that the existing method is deemed to be unsatisfactory, as it just puts the emphasis on how many applications a local authority gets through in a certain amount of time. It does not delve much deeper than that.

David Lonsdale has partly touched on the change in culture that we would like to see. We would like planning authorities to recognise their role in economic development, to value the role that the planning system can play and to put it on a higher footing within the council in terms of resources and time that is spent on it. We would like planners to understand their role and be given leadership of the role that they have in enabling economic development locally. At the moment, some planners seem to see their role as stopping development. That is not purely what the planning system is there to do. We have talked to planning professionals who have agreed with that point of view. Planners need to understand better the point of planners and why they are there.

12:00

Anthony Aitken: There is currently too much focus on the quantitative assessment of applications. We are looking for a qualitative process and I think that the new hierarchy of major and local developments will help us along. I hope that planning officers will recognise that they have the delegated power to make decisions on local developments. I have touched on that before. As I said earlier, the scheme of delegation should be the same throughout Scotland; it should not be different in each local authority because that confuses the public, communities, professionals and the business community. That is not a radical solution.

On culture change, I think that Susan Love mentioned that the business community often feels that planning officers and local government officials may not understand the implications of delays in decision making and the economic impact that such delays can have on development proposals. A straightforward way of improving understanding and assisting in culture change would be through the secondment of local authority officials to the private sector for a month or two. It would help if there were more of an exchange of views. Most planning consultants have worked in the public sector at some point in their career. You have got to understand the process on the inside before you can work on the outside. That is not replicated enough. If local authority officials had a better understanding of the manner in which the private sector operates, it would assist everyone in a culture change and everyone would be better informed.

Ms White: You mentioned that planning is not a sexy subject. We were talking about pre-determination hearings and consultation. The assessments will consider all planning activity and will look at all planning applications, whether or not they are accepted. You mentioned differences between councils. Would you see the assessments perhaps not as a tool of uniformity but as providing a template of good practice? Will they help to make the planning bill work?

Anthony Aitken: I think that they will. They will give the public, communities and the business community knowledge of the process and they will help the new planning legislation to bed down. There will be a significant period of change while the legislation beds down. It is not too hard a task to have templates and best practice in place that people can point to and that are easily accessible, as long as business and everyone else who uses the planning system buy into that.

Ms White: You have mentioned that private planners may need to be brought in. Bearing in mind that the Executive said that the bill will be broadly cost neutral, will the assessments have cost implications? Will the assessments mean that local authorities will have to contract in private planners or will they have to employ more planners, both of which have cost implications? You can say a yes or a no to that.

Anthony Aitken: The way in which the tiers are set out means that there will be a resource change from the current system, in which there is an obligation on local authorities to determine 80 per cent of applications within eight weeks. What they focus on a lot of the time is small householder applications. From the business point of view, I would hope that the planning resources available will be more focused on major and local developments that have a significant impact. What is proposed for dealing with the many small householder applications means that, as is stated the white paper, the overall effect is neutral. The new system will not be more expensive because it will free up more planners. Instead of getting caught up with the minutiae of Mrs Jones's back extension, they can deal with the economic and business decisions that matter in an area.

Mary Scanlon: You have touched on the financial aspects already, so I wish to focus on the extent to which your members are prepared to pay higher fees for the improved planning system that is proposed in the bill. Do your members feel that

the higher fees will be offset by improvements in the time that will be taken to process applications? The financial memorandum says that the maximum fee to be charged for residential or commercial developments will rise by 300 per cent, from £13,000 to £40,000. There will also be the pre-application consultation costs, which will be about £20,000 per development and which are also paid by the developer. All of that is for what the Executive hopes will be a reduction of 25 per cent in the time that will be taken to process an application. What would have taken two years will go down to 18 months. Is that good enough or are you looking for better? What are the views of your members on the significant increase in fees? Should there be a significant reduction in the time that is taken to process applications?

David Lonsdale: I have spoken to some of our members about that, and we alluded to the subject in our response to the consultation. As Mary Scanlon has pointed out, the bill has implications for our members through the up-front consultation, negotiations, planning timetables with officials and so on. There will be costs to business; you are right to highlight the question of value for money. I made the point earlier when I cited the CBI UK research that said that where there have been increases in fees south of the border—up to 350 per cent in some cases—there has not been a noticeable increase in the number of planners or in the quality of the service, which is our concern.

Mary Scanlon: Are you not confident that the proposals will mean that you will get your money's worth?

David Lonsdale: That is the question we are asking. As we said in our response to the white paper, as long as the fees are sensible and justifiable, and we get a bang for our buck at the end of it, we can see the logic in increasing fees as part of the overall picture.

Mary Scanlon: The financial memorandum says that the Executive "hope" for a 25 per cent reduction in the time that is taken to process applications. Are you satisfied with that?

Anthony Aitken: The Executive has to go beyond that, to be frank. When the legislation is enacted and people are paying the higher fees and the pre-application fees, we should not get any of the delays or intransigence that we see in the current system, so there has to be more than "hope". Perhaps the reduction ought to be a target that must be achieved within a prescribed period. There will be almost an implementation procedure after the bill is enacted. If everyone is going to be willing to buy into it, they will have to see that the hoped-for results will be achieved. Although most of our members will take account of the higher fees for major applications and will, in most instances, be willing to pay them, they will have to believe that what is promised will happen. The word "hope" needs to be replaced with something more substantive.

Mary Scanlon: Thank you; I am pleased to hear that.

I have a final question. Perhaps it should be for David Lonsdale because he is the one who likes the sanctions. Should there be some form of redress in the bill for applicants when a planning authority fails to meet its obligations more generally?

David Lonsdale: I do not know about sending in the A-team, but a refund in fees might be appropriate.

Mary Scanlon: Do you think that a refund would be appropriate if there was a delay for no good reason?

David Lonsdale: Yes—that would be a worthwhile consideration.

Iain Duff: When we surveyed SCDI members prior to the white paper, they accepted that if we are serious about getting more resources into the system, the level of fees is one way to do that. However, as others have said, we want the system to be improved, which is what the Executive is meant to be doing. It must make the system, as it is proposed in the bill, work.

There are many assumptions in the financial memorandum. We were asked to provide data for it, but with so much detail to be put in through secondary legislation, and because the system is not yet up and running, it is very difficult to know what is going on.

Mary Scanlon: If your fees increase by 300 per cent, and on top of that you must pay an average of £20,000 in pre-application consultation costs, what will you expect in return for your money? What increased efficiency in the processing of planning applications will you expect from local authorities?

Iain Duff: We will expect authorities to stick to what has been agreed in the processing agreement. We want the system to work in the way that is envisaged in the bill, so decisions should be made as quickly as possible after the various views have been taken into account. I am not an expert on the planning system, but we hope that the system will improve as a result of the allocation of resources. There should be a connection between what we pay and the product or service that we receive.

Anthony Aitken: Improvements must be measurable, which is why I mentioned the implementation procedure that will be needed after the bill has been passed. We will need to ascertain

whether the bill has achieved what it set out to achieve.

Mary Scanlon: That is reasonable. The increase in fees will be measurable, so the improvement in efficiency should also be measurable.

Ms White: Should the proposals to improve public engagement and strengthen planning authorities' enforcement powers allay public fears that the planning system is inequitable? What are your views on calls for the introduction of a third-party right of appeal? I assume that you think that the proposals on public engagement in the white paper, "Modernising the Planning System", are sufficient to strengthen public confidence in the planning system. Why have other people called for a third-party right of appeal, when you think that such an approach is not needed?

Iain Duff: From the outset, the SCDI acknowledged the lack of confidence in the current system in the community and among developers; we mention that in our submission. We oppose the introduction of a third-party right of appeal because that would be using a sledgehammer to crack a nut. The bill contains other approaches, which reflect our input to the consultation on the white paper. If everything goes as we envisage, the proper engagement and the up-front processes that we have discussed this morning should increase transparency and—ultimately—confidence, and should make the system work better for everyone who is involved. We have no reason to suspect that that will not happen. As long as the proper engagement takes place, there will be no need for what we call the ultimate sanction.

We have been informed that a third-party right of appeal would be used inappropriately and cause delays. It would not increase confidence or create a system that would encourage economic development, increase prosperity or create jobs, which is what we want the proposed new system to do. We want to give it a chance and we think that it will do the business, in that it will engage the community and increase public confidence.

Susan Love: The bill contains proposals that will improve the way in which communities are involved, but a number of areas should be beefed up. It is surely more important to increase community engagement in the early stages than to do so for the end stages, when the problems that arise are often symptoms of problems that have come up earlier. We should fix the system first, rather than tackle reactions to a bad system. The proposals in the bill will achieve that. We do not say that fixing the system will be easy—it will be difficult—but as long as there is commitment from all the players, which I think there is, it should be possible.

12:15

David Lonsdale: The two previous speakers have set out the case well. We are putting a lot of faith in the bill; it reflects much of what our members have suggested. As I said earlier, we have been involved since we produced our planning report three years ago. As Iain Duff said earlier, if the bill does not work, it will not be surprising if the third-party right of appeal is revisited down the line. Certainly from a business perspective, it is crucial that it works and that it delivers the changes that we all want. If it does not, the people who are advocating the third-party right of appeal might feel, somewhere down the line, that they have a stronger case.

Anthony Aitken: I concur with each of the previous speakers. As the bill stands, the system will be quite front-loaded, which will ensure that communities, developers and other infrastructure providers provide the best developments in their areas. That is the most effective way of ensuring that there is community engagement and participation and that our views are taken into account. Susan Love touched on the other option: going to appeal—which is very rare—is a carefully considered decision and to have that veto with the third-party right of appeal would place Scotland at a severe economic disadvantage in the United Kingdom and in Europe.

Ms White: You are all saying, basically, that the up-front changes should be sufficient to stop the third-party right of appeal for other people. Why do you say constantly that Scotland, along with the rest of the UK, would become a backwater or a third-world country if it were to have a third-party right of appeal, when countries that have the third-party right of appeal, such as Sweden, Denmark, New Zealand and Australia, have a gross domestic product that is five times greater than the UK's?

If you are talking about fairness, given that the CBI said that, perhaps, if the bill does not work, we could revisit it and that the situation has been going on for many years—

David Lonsdale: With respect, I did not say that.

Ms White: Sorry, but I think you did. You said that we could revisit the situation.

David Lonsdale: I said that those who advocate the third-party right of appeal might—

The Convener: Ms White, can I—

Ms White: I am asking a question.

The Convener: If you are going to ask a question, it must be factual in its basis.

Ms White: It is.

The Convener: If you are going to ask the witnesses to respond, you can ask them to respond to questions about points that are in the briefing, which might not be personally accredited to them, or about comments that they have made personally. You cannot suggest that they have—

Ms White: Can you let me ask the question, then, convener? The comments are in the—

The Convener: Ms White, I suggest that you wait until I have concluded my comments. At that point, I will allow you to speak.

Ms White: Yes, miss. On you go.

The Convener: I am convening this meeting and I am asking that you show our witnesses some respect and that you use the correct terminology when you put your questions to them.

Ms White: I will use the correct terminology—

Christine Grahame: May I intimate a point of information? I wrote down carefully what was said. Mr Lonsdale said: "If consultation doesn't work in the bill, and it goes through, then this issue of third-party rights of appeal might be revisited and parties who are going for it might revisit it."

Ms White: Thank you, Christine. We have clarified that—

The Convener: If Mr Lonsdale wants to respond to that point, he can. However, I do not think that that was the point that he was making.

Ms White: I wanted to ask him another—

The Convener: Mr Lonsdale, you may respond.

David Lonsdale: I am happy to clarify my position. What I thought I said was that, if the bill does not over the next few years deliver the changes that we want, people who are advocating the introduction of a third-party right of appeal might feel that they have a stronger case. No one came back on that point at that time, so I assumed that that was clear. I apologise if it was not. I appreciate that Ms White's point of view is different from ours.

Ms White: I was just being well mannered and letting the four witnesses make their points. I did not think that it was right to interrupt you before the other witnesses had spoken.

I have asked you about your view that a third-party right of appeal would turn Scotland into a backwater. I could read out the relevant part of your submissions word for word, but I am sure that you know what you have said in your submissions. Basically, you say that major investors would be scared off and that economic development would be stopped. However, some countries that have a third-party right of appeal have a higher GDP than the UK has.

Other folk want in, so this is my final question. Given that the process is supposed to be transparent and democratic and that there is supposed to be accountability, would developers be prepared to give up their right of appeal, so that there would be a level playing field for everyone in the planning system?

David Lonsdale: One of the things about which we at CBI Scotland have been greatly encouraged in recent months is the fact that the economy is now at the top of the agenda in public policy. We have seen improvements in relation to water bills, business rates, red tape and transport infrastructure such as the M74, which I know some members of the committee do not like. Some of what is happening is heading in the right direction. There are a number of issues involved in getting a thriving and developing economy. The OECD report, which was published earlier this month and which I mentioned at the beginning of the meeting, set out five key policy areas.

Ms White: What about the GDP of other countries?

Anthony Aitken: The GDP of other countries is determined by more than the third-party right of appeal.

Ms White: That is just one aspect. The economy of this country is determined by more than just the third-party right of appeal.

David Lonsdale: That is right.

Ms White: It is a wide-ranging issue. I am asking you just to clarify why other countries are seemingly not frightened by the third-party right of appeal. Their economies are growing, but you say constantly that our economy will collapse if we have a third-party right of appeal.

Anthony Aitken: The planning system in other countries is vastly different from that in the United Kingdom, and has been historically. That is the simple reason. I can only point to my experience and that of other chambers of commerce. You should have no doubt that institutional investors have portfolios of property and investment in land in Scotland and that they plan to invest many millions of pounds in this country. On our having a competitive marketplace, if there were, because of a third-party right of appeal, uncertainty about whether developments would proceed, there is little doubt that those developers' investments would be channelled elsewhere, because Scotland would be a less attractive place in which to invest.

Ms White: You have to quantify that. Give us evidence.

Anthony Aitken: I can only give you accounts of briefings that we have had. I am not talking just about institutional investors but developers, retailers, house builders and landowners—

everyone is singing from the same hymn sheet. There is little doubt that the third-party right of appeal would put Scotland at an economic disadvantage.

Susan Love: I do not think that we have taken an unreasonable position on this. We have simply said that we are trying to improve this country's GDP. We want our businesses to expand and invest and we want more businesses to start up. We believe that the planning system is creating a problem for expanding economic growth and the regulatory impact assessment on a wider right of appeal suggested that it would add to delays, which is one of the main problems in the planning system. Therefore, on balance, we are not convinced that a third-party right of appeal would help our GDP. We understand Ms White's argument, but we do not believe that the case has been made for a third-party right of appeal.

Patrick Harvie: I am not going to pick up on the M74 point, because the recent decisions on that were made under roads legislation, not planning legislation. However, I want to pick up on one of Iain Duff's earlier comments. A lot is contingent on the assumption that everything goes according to plan, with the up-front involvement or front loading—call it what you will. Many of the people who have made the case to the committee for a third-party right of appeal are not talking just about what happens at the end of the system in the last chance saloon, but about changing some of the rights and the power balance as an attempt to influence the whole system from the word go and to ensure that up-front involvement happens and is meaningful.

Does the panel understand the argument that if someone is angry about a local development, goes through the system's processes, including the consultation and objection stages, and succeeds with their objection, but the developer is—months later—granted permission on appeal to implement its proposals while the objector does not have the same right, objectors will in the future be less willing and less motivated to engage in the system? People will be less willing to become involved in consultations on the next round of development plans. Is not there a real sense that such perceived injustice—even if it is only perceived—will undermine all our efforts to encourage meaningful up-front involvement?

Anthony Aitken: There are relevant proposals in the bill. Under the current system, local authorities produce a local development plan that is subject to a local plan inquiry and people can object to it. Thereafter, a Scottish Executive reporter will produce a local plan report and make recommendations. It is then up to the local authority to decide which recommendations to take into account. The bill suggests that local plan reports will become almost binding. There would have to be very good reasons for departing from a local plan reporter's reasoning and recommendations. I think that there will be security against Patrick Harvie's fears.

I have been involved in many local plan inquiries in which people have participated. When people's objections go back to the local authority, they think that those objections have been upheld, but the local authority can say that it will not accept the recommendation that has been made. Under the bill, a recommendation will almost be like a planning appeal decision—it will become binding on the local authority.

Patrick Harvie: I want to pick up on the point about the up-to-date nature of development plans. You will be aware that one argument about the proposed limited third-party right of appeal relates to proposed developments that conflict with local plans. Why not have a third-party right of appeal only when the local plan is more than five years out of date? Would that act as an incentive for planning authorities to keep their plans up to date? Planning authorities also want to avoid going to the appeal stage. When local plans are out of date, would a limited third-party right of appeal act as an incentive for developers to engage properly with communities? Developers will also want to avoid appeals. Would the resulting sense of justice give communities a greater incentive to get involved in consultations on plans and the up-front negotiations? How would such a proposal work for everybody?

Anthony Aitken: The bill is framed so that there is community engagement at the outset. We are heading along the right path. As I said earlier, there is almost an implementation procedure to follow through to measure the suggested improvements that we all want. Perhaps a limited third-party right of appeal that would be introduced if plans were not kept up to date would be a step too far.

Patrick Harvie: Members of the panel do not appear to have any other comments to make, so I am not going to get that little toe in the door, am I? I will leave it at that, convener.

Christine Grahame: I know that panel members are fixed in their views, but this is not an either/or issue. Every committee member wants successful early consultation, modifications to proposals and for communities to go along with things. However, can you not foresee—as my colleagues have mentioned—that there may be injustices in certain very limited circumstances? Perhaps there would be an injustice to a member of the Federation of Small Businesses in Scotland, for example, with a proposal for a major retail development. Something could happen along the way that results in a perceived injustice.

We are talking about a very limited right. The neighbour of someone who is putting up a conservatory would not have that right—it would apply in very specific circumstances, through the regulations. Although people would perhaps hardly require to use it, having that very limited right would increase robust up-front consultation. That is my point. We want things to succeed. One does not want conflict, and one does not want to spend money unnecessarily and cause unhappiness and so on. I am suggesting that, in some circumstances, having the right, even as a limited backstop, helps to tighten up the early consultation process. I simply put that suggestion to you. Did you consider that and dismiss it?

12:30

Iain Duff: You seem to be suggesting that, before the bill is even enacted, there will be a failure of some sort, even if—

Members: Yes.

Christine Grahame: There will be—there could be.

Iain Duff: I cannot tell now; the bill has not yet been enacted. We have faith that what has been proposed will do the job that we want it to do. We want the proposals to work.

Christine Grahame: You say that you have faith in the proposals, but you have also said that the large resources that will be required are not there. I suggest that there are an awful lot of ifs and buts about how the bill will work in practice. All that we have is a framework, in the form of amendments to existing legislation. However, if the proper framework is put in place at the beginning, we will not need to revisit the legislation three or four years down the road. Instead of the early consultation procedure having problems because of a lack of resources, or because it does not work for whatever reason, a provision could be built in at the start that could be used in very limited circumstances—probably very rarely—but it would give the push to get things to work up front and to provide the money for that.

Susan Love: Of the business organisations concerned, we have been in one of the more difficult situations when considering this issue. Clearly, a right of appeal might affect small businesses because of the type of situation that you outlined. However, we have discussed it, and we just do not accept the principle behind the third-party right of appeal because, in our view, the planning system exists to exert a democratic control over property owners' right to develop their land. The local authority is accountable for the decisions that it makes to protect the public interest. That is our view; I know that you do not agree with it. However, those are our reasons for opposing the principle behind the third-party right of appeal.

Anthony Aitken: You make a point about limited circumstances. The perception could be that the right might drain resources that would be better placed at the front end of the system. You speak about limited or rare use of the right, but who knows what Pandora's box it could open up?

Christine Grahame: I make this point in political terms. Resources would have to go up front and a robust consultation process would have to be ensured. That is absolutely what one wants. However, I do not get the sense—from your evidence—that the money or the resources, including planners, will be there.

The Convener: I think that that was a statement, rather than a question. I call Scott Barrie.

Scott Barrie: Christine Grahame pursued a line of questioning using phrases such as "very limited", and referred to unusual circumstances or a very small set of circumstances. Would the panel agree that the difficulty with that lies in definitions, as one person's "limited" is another person's toe in the door to open up—

Christine Grahame: Read my response to the white paper.

Scott Barrie: Let me finish the question, Christine.

Christine Grahame: Read my response to the white paper.

The Convener: Members of the committee really must be courteous, not only to our witnesses, but to one another. Just because we have different views on the subject does not mean that we can badger one another and drown each other out. That is unacceptable and it is impolite for anyone to behave in that manner.

Christine Grahame: I made a full response to the white paper and, if my colleague had read it, he would see exactly what I meant by "limited".

The Convener: Ms Grahame, I do not care whether or not you made a full response to the white paper. It is the responsibility of every committee member to give due consideration to all the evidence that is put in front of us and to reach a conclusion. It is unacceptable for any of us to have reached conclusions before the completion of our evidence taking. I call Mr Barrie.

Scott Barrie: Would the panel agree that the difficulty with the definition of "limited" is that it means different things to different people and that, in exploring the proposals before us, people should be careful to ensure that they are all talking about the same thing?

David Lonsdale: That is right. There is already some debate about the clarity of definitions in the bill and various other aspects of it. Our stance on third-party rights is transparent and it has been consistent. There is a whole host of issues there, which can throw up lots of concerns.

The Convener: I call Sandra White, but only if this is a new point and not something that has already been covered. You have been allowed to ask a considerable number of questions on the third-party right of appeal.

Ms White: I thank you greatly, convener.

I want to ask the witnesses to answer the very first question that I asked.

The Convener: With all due respect, Ms White, the panel answered your question and we are not—

Ms White: Convener, I asked the question—

The Convener: I am afraid that—

Ms White: Would the witnesses be prepared to give up their third-party right of appeal for the sake of democracy? They have not answered.

Scott Barrie: They do not have that.

Ms White: They have a right of appeal.

Scott Barrie: They do not have a third-party right of appeal.

Ms White: They would be looking for a third-party right of appeal.

It has been said that the planning system is there for democracy for everyone. Could you answer the question that I asked at the very beginning? For democracy, would you be prepared to give up your right of appeal?

Anthony Aitken: I do not believe that it is a matter of democracy. As Susan Love said before—

Ms White: Yes or no? Can I—

Anthony Aitken: If you ask me a question—

Ms White: Am I allowed—

The Convener: Excuse me, Ms White. First of all, my recollection of the question that you asked at the beginning is that it was not the question that you are asking now.

Ms White: It was.

The Convener: I am afraid that, whether or not you liked the witnesses' answers—

Ms White: If you look at—

The Convener: Whether or not you—

Ms White: I asked that question, convener. Please. If you are talking about manners, please have the manners to listen to members.

Euan Robson: On a point of order.

Ms White: I asked that question at the very beginning.

Mary Scanlon: There is a point of order.

The Convener: There is a point of order.

Euan Robson: On a point of order, convener. I do not think it appropriate for members to interrupt the convener when she is talking. What is the advice on that?

The Convener: I am not sure whether there is any advice, Mr Robson—unfortunately—but the rules of the Parliament do not allow bad manners or impoliteness, and that applies to everyone in the committee.

I ask the witnesses to conclude their comments. If you wish to respond to the points made by Ms White, you should feel free to do so. If you have any comments on issues that you feel have not been covered during our questioning, you should feel free to make them.

Susan Love: No, in answer to Sandra White's question.

As for comments, it is important that the committee does not view the roles of business and the community as being completely polarised, as they are often portrayed. An applicant can often be a small business that is causing no harm to anyone, but the impression can be given that businesses are doing things that completely contravene what communities want.

The system is there to help businesses grow, and we want it to be fit for purpose. We think that the bill will largely achieve that, but it will require commitment from the Executive—especially in resources—and it will require commitment from everyone else to help to implement the bill's provisions.

Iain Duff: There is one thing that I should have mentioned to do with strategic and local development plans. Rural and peripheral areas might be included only in local plans, and I would like parity of esteem in the different plans and in the allocation of resources. Cities and city regions are acknowledged as the main economic drivers, but in a system that encompasses all Scotland, and that seeks the sustainability of communities, local plans should link with strategic plans. Peripheral areas should be recognised and resources should be allocated to them. We do not want to focus resources only on strategic plans; we need parity of esteem between the two types of plan.

David Lonsdale: The bill will help to facilitate growth and enterprise in Scotland. I will reflect on today's meeting and put any additional comments in writing to the convener before the deadline at the beginning of next month. I thank the committee for today's opportunity.

Anthony Aitken: I echo those sentiments. The Planning etc (Scotland) Bill offers a great opportunity to do something distinct and different in Scotland, and the opportunity of gaining a competitive economic advantage over other parts of the United Kingdom. I reiterate the point that a third-party right of appeal would be a retrograde step that would have a major impact on businesses and jobs.

The Convener: On behalf of the committee, I thank the witnesses very much for their attendance. It is important that all stakeholders in the planning process are given an opportunity to engage with the committee and have their views taken into account as we consider the legislative proposals.

I am disappointed that the committee perhaps did not conduct itself to the high standards of professionalism that the Parliament should display at all times. I hope that the committee will reflect such standards in its conduct towards future witnesses.

12:40

Meeting suspended.

12:41

On resuming—

The Convener: The second agenda item is consideration of supplementary evidence on the Planning etc (Scotland) Bill that the committee has received from the Scottish Executive. The committee has received a letter from the chief planner, Jim Mackinnon, that provides more information on stage 2 amendments that the Scottish Executive may lodge. The amendments will introduce two new parts to the bill: one on national scenic areas and one on developments in which local authorities have an interest. Details are also provided on additional measures that will be introduced on enforcement, good neighbour agreements and boundaries for strategic development plans. I invite members to note the information that has been provided and to make any comments on it.

Ms White: I have a comment on good neighbour agreements. Obviously, the agreements will be between appropriate community bodies and developers and the letter says that either of those parties will have the right of appeal. However, the letter also states that it cannot be a statutory requirement for parties to engage in good neighbour agreements. I seek clarification on that. If a developer does not want to enter into an agreement, it will not have to do so. I wonder what the point of the agreements is if developers will be able to decide that they do not wish to enter into them with communities.

The Convener: You may want to pursue that question with the minister or deputy minister when he or she comes before the committee.

Ms White: I just wanted to raise the issue.

Patrick Harvie: It is good that we have some detail on the proposed stage 2 amendments, rather than simply seeing them at that stage. On the proposals on developments in which local authorities have an interest, it would be helpful if the Executive told us something about what the phrase "substantial body of objection" means. It would be useful to know whether that will be clarified in the amendments that we will consider at stage 2 or defined in guidance. I would also like to know about the criteria on which ministers will base their decision on whether an application is to be determined by

"public local inquiry, hearing or written submissions, or any combination that is appropriate to resolving the issues".

Will ministers give information about those criteria and, if so, will that be in the bill or in guidance?

The Convener: Like the point that Ms White raised, those questions are valid, but we should pursue them with the minister or the deputy minister when he or she comes before the committee.

As the letter from Jim Mackinnon highlights the issue of national scenic areas, on which we have not taken much evidence, do members agree that it would be appropriate for us, once we have concluded our stage 1 report, to take evidence on that subject prior to our stage 2 consideration of amendments? Do members have any objection to that or do you think that that would be wise?

Mary Scanlon: The letter mentions that the consultation paper, "Enhancing our Care of Scotland's Landscapes", was published on 30 January. Can you or the clerks say when the consultation period ends?

The Convener: We think that it ends at the end of April, but the clerks will make inquiries and confirm that.

Scott Barrie: Your suggestion is valid, convener. It would be useful to take brief evidence on that issue.

Mary Scanlon: I support that.

Patrick Harvie: Is the letter from Jim Mackinnon formally part of our written evidence and therefore a public document as of today?

The Convener: Yes.

That ends our consideration of agenda item 2 and concludes our meeting.

Meeting closed at 12:46.

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