

# **LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE**

Wednesday 19 December 2007

Session 3

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## LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

14<sup>th</sup> Meeting 2007, Session 3

### CONVENER

\*Duncan McNeil (Greenock and Inverclyde) (Lab)

### DEPUTY CONVENER

\*Kenneth Gibson (Cunninghame North) (SNP)

### COMMITTEE MEMBERS

\*Alasdair Allan (Western Isles) (SNP)

\*Bob Doris (Glasgow) (SNP)

\*Patricia Ferguson (Glasgow Maryhill) (Lab)

\*Johann Lamont (Glasgow Pollok) (Lab)

\*David McLetchie (Edinburgh Pentlands) (Con)

Jim Tolson (Dunfermline West) (LD)

### COMMITTEE SUBSTITUTES

\*Robert Brown (Glasgow) (LD)

Rhoda Grant (Highlands and Islands) (Lab)

Tricia Marwick (Central Fife) (SNP)

Margaret Mitchell (Central Scotland) (Con)

\*attended

### CLERK TO THE COMMITTEE

Martin Verity

### SENIOR ASSISTANT CLERK

Jane-Claire Judson

### ASSISTANT CLERK

Ian Cowan

### LOCATION

Committee Room 6



## Scottish Parliament

### Local Government and Communities Committee

Wednesday 19 December 2007

[THE CONVENER opened the meeting at 10:00]

### Decision on Taking Business in Private

**The Convener (Duncan McNeil):** Good morning and welcome to the Local Government and Communities Committee. Item 1 on our agenda is a proposal to take items 4 and 5 in private—they are our future work on fuel poverty and the committee's work programme. We have generally taken such items in private in the past. Do we agree to take items 4 and 5 in private?

**Alasdair Allan (Western Isles) (SNP):** I am not sure whether Mr McLetchie, who is just entering the room, will have a view on this. As there has been significant public interest in one of the items in our potential work programme—the business of planning applications in Aberdeenshire—I would like that to be discussed in public rather than in private.

**Bob Doris (Glasgow) (SNP):** I am happy to support that. It would be good for transparency if that item were taken in public.

**The Convener:** We could issue a statement afterwards. I am concerned that we will discuss a range of work and that we might be seen to be ruling out or including certain groups and areas of work, which could cause us problems. I do not know whether we could separate that issue out.

**Kenneth Gibson (Cunninghame North) (SNP):** I think that that would be advantageous, convener.

**The Convener:** Can we do that? We will separate that issue out—

**David McLetchie (Edinburgh Pentlands) (Con):** As a possible inquiry.

**The Convener:** Yes. I might want to bring the issue forward. Item 4 is discussion of our future work on fuel poverty. I seek the committee's agreement to make that agenda item 5 and to make our work programme agenda item 4.

**Members indicated agreement.**

**The Convener:** Does that help? [Interruption.] I am advised by the clerk that we should take that item after item 2 on the agenda and before consideration of the budget process.

**David McLetchie:** We can then have a clear run in private thereafter.

**The Convener:** Sorry about the confusion.

I welcome Robert Brown, who is here as the substitute member for Jim Tolson. I ask you to declare any interests.

**Robert Brown (Glasgow) (LD):** I draw members' attention to my declaration in the register of members' interests. The only relevant interest is my membership of the Law Society of Scotland.

## Subordinate Legislation

### Registration Services (Fees, etc) (Scotland) Amendment Regulations 2007 (SSI 2007/531)

10:03

**The Convener:** Item 2 is consideration of a statutory instrument under the negative resolution procedure. The Subordinate Legislation Committee has not drawn the Parliament's attention to the instrument on any of the grounds within its remit. No members have raised points on the instrument and no motion to annul has been lodged. Are we agreed that the committee has nothing to report on the instrument?

**Members indicated agreement.**

## Work Programme

10:04

**The Convener:** As previously agreed, we will address the issue that has been raised by David McLetchie. I ask him to take the lead on that.

**David McLetchie:** As we are all aware, there has been considerable interest in and controversy surrounding the planning application that has been submitted by the Trump Organization in relation to the Menie estate in Aberdeenshire, the manner in which the application was disposed of by Aberdeenshire Council, and the subsequent involvement in the process of the Scottish Executive and the First Minister.

As members will be aware, there have been oral questions on the subject in Parliament and a significant number of written questions have been lodged by members from across the parties. Also, a number of requests have been submitted under the Freedom of Information (Scotland) Act 2002.

This committee would be an appropriate body to examine some of the issues that have arisen. It is important to stress that it would not be our role to consider the merits or demerits of the particular application; our sole role would be to look at the process by which it has been handled. There are genuine public concerns, not just in north-east Scotland but throughout Scotland, about what that process entails for the planning process and its pending reforms, which were enacted in primary legislation in the previous session. We will consider the secondary legislation that follows on from it.

The First Minister has helpfully indicated publicly his willingness to answer questions that the committee might put to him about his involvement in the matter. I propose that, for our first meeting in the new year, we invite the First Minister; the Cabinet Secretary for Finance and Sustainable Growth, Mr Swinney; the chief planning officer, Mr Mackinnon; and the chief executive of Aberdeenshire Council to give evidence to the committee on the processes surrounding the application.

**The Convener:** Thank you. That was helpful.

**Kenneth Gibson:** I endorse what Mr McLetchie said. This thing has been rumbling on for long enough. It is important that we put as much information as we can into the public domain. There is no better way to do that than to have the cabinet secretary and the First Minister at the committee. It is also important that that is done at the earliest possible opportunity. If it is done at our first meeting of the new year, on 9 January, I hope that we can have the matter aired so that

everyone concerned can ask whatever questions they wish and we can get the matter resolved once and for all.

**The Convener:** David McLetchie mentioned a number of people: the First Minister, the cabinet secretary—

**David McLetchie:** Mr Mackinnon, the chief planning officer, and, I thought, the chief executive of Aberdeenshire Council. Forgive me, but I have forgotten the gentleman's name. I think that he would be an appropriate official to speak about the processes as far as the council is concerned.

**The Convener:** Do you agree, Kenny?

**Kenneth Gibson:** I am happy with that.

**Robert Brown:** I support that as well. I hasten to say that I also agree with David McLetchie's suggestion of who might be called to give evidence, at least in the first instance. It is important that the inquiry has a tight remit—nobody wants to get entrapped in the planning application arrangements. It is important that those arrangements are determined as quickly as possible, but it is also important that the inquiry has a remit that defines precisely what we are trying to find out.

When I considered the matter previously, I lodged a motion that called for the establishment of a commission, but I think that that proposal has been overtaken by the proposal that the Local Government and Communities Committee take evidence on the matter, which I support. The remit that I drafted in the context of my proposal has something to be said for it, at least as a start point. I would appreciate the clerks' guidance on how tight the inquiry remit needs to be, given the limitations on everybody.

My motion called for a commission to examine

"all aspects of the Scottish Government's handling of the planning application."

It refers to the crucial period between the decision by Aberdeenshire Council and ministers calling in the application. I think that the issue is restricted to that period.

I also said in my motion that we should examine

"the decision-making process of ministers and officials, the legal advice relied upon and the transparency of their actions".

In that context, it would be necessary—we should give some attention to this—for the Local Government and Communities Committee to have access to, as I said in my motion,

"relevant briefing papers, notes, transcripts, emails and records",

so that we can have a clear view of what took place.

This is a matter for questions to ministers in the first instance, but it may be necessary to take it a bit further by asking them to produce other documents that cast light on matters. The object of the exercise is to make transparent what has gone on, to allow the planning application to proceed clear of those issues and to have light cast on the other issues around planning legislation and procedures, which David McLetchie mentioned. The committee has been interested in those issues, and it will be interested in them in the future.

**The Convener:** You have raised several issues, and Kenny Gibson raised the matter of how quickly we can get an inquiry up and running and how quickly we can conclude evidence taking and produce a report.

You are correct: we need to take legal advice on the remit. I see from today's newspapers that a number of questions on the matter are due to be asked. They may be answered before the Christmas recess, which would be helpful for us. There are also practical issues to do with good practice and giving people two or three weeks' notice of being called as witnesses and allowing them to prepare. A lot of preparation goes into such an inquiry. We should also speak to the legal team and allow the Scottish Parliament information centre to prepare.

This week, the Parliament and all its resources effectively shut down for a couple of weeks—so we have a couple of dead weeks ahead of us. Taking into account the Christmas recess and the fact that we will have to consider the legal situation, confirm a remit and so on—I do not know how we can progress the remit—16 January might offer a better opportunity, and a final report could be concluded on 23 January. I throw that in for consideration.

**Johann Lamont (Glasgow Pollok) (Lab):** That seems to make sense. It strikes me that the degree of abuse that has been directed at the councillors who took the decision has been significant. I would be interested to know about the process: what did the councillors do, in what form was it done and what authority did they have. It has been suggested that the process was not clear. I would like some briefing on that. Can we point to the legislation that allows call-in? My understanding is that the only people who can notify are local authorities. The local authority had not agreed the proposal, so how could it be notified?

We need briefing on a lot of practical, factual stuff before we start asking questions. We need to get a sense of what the process was. That would presumably require SPICe to reflect on the answers to the relevant parliamentary questions—

if we are to get a brief that makes sense to us with regard to the process.

What options were available other than call-in? This is stating the obvious, but the developer would have had a right of appeal. Significantly, if the Scottish National Party had had its way in the previous session, the objectors would have had a right of appeal—even if Aberdeenshire Council had upheld the proposal and it had been notified.

It is important to get quite a tight briefing about the process. We also need to know where we are able to go—what questions we are able to ask about the planning application. I welcome the proposal, which should ensure that SPICe has the space to prepare a briefing and enable the other information to be absorbed. It makes sense to pick 16 January.

**The Convener:** There is a fair degree of agreement. Can we agree to proceed on that basis?

**Members indicated agreement.**

**The Convener:** Martin Verity, the clerk, has pointed out that if we agree to hear from five witnesses, some planning will be required. We will need to see how we can do that, perhaps by speaking to the Cabinet Secretary for Finance and Sustainable Growth and referring to the "Firm Foundations" report. We might need to take some of our evidence on 23 January. However, we will proceed as best we can with the suggested witnesses. We will do what we can to get some effective briefing for the committee, and we will take the appropriate legal advice as quickly as possible. We have agreed to Robert Brown's suggestion.

**Robert Brown:** It will need some tempering at the edges. I have had my go, but the clerks and other officials will need to have a look at it.

**The Convener:** Thank you. We will now move into private session to consider our report on the budget process. I ask those who are not members of the committee to leave us and allow us to get on with our work.

10:15

*Meeting continued in private until 13:05.*





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