

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Wednesday 19 March 2008

Session 3

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE 10th Meeting 2008, 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

THE FOLLOWING ALSO ATTENDED:

Stewart Maxwell (Minister for Communities and Sport)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Jane-Claire Judson

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 5

Scottish Parliament

Local Government and Communities Committee

Wednesday 19 March 2008

[THE CONVENER *opened the meeting at 10:00*]

Planning Application Processes (Menie Estate)

The Convener (Duncan McNeil): Welcome to the 10th meeting this year of the Local Government and Communities Committee. I remind everyone to switch off their mobile phones and BlackBerrys.

Agenda item 1 concerns the inquiry into the Menie estate planning application process. Following the publication last week of the inquiry report, there has been feedback from members on a number of issues. The committee has various options for action to discuss, the first of which is whether to request a debate on the report in the chamber. To do that, we would need to agree to write a note requesting a debate to the Conveners Group, which will meet this Thursday. We would need to get its agreement on a time for a committee debate in the chamber. Can we discuss the options one at a time?

Kenneth Gibson (Cunninghame North) (SNP): I suggest that we wait until the Government responds to the report, which will take a maximum of seven weeks, although I hope that it will be sooner.

The Convener: We need to get to the next stage first, which is to agree to request that the Government responds. We have not done that yet. However, I take your point. Are there any other views?

David McLetchie (Edinburgh Pentlands) (Con): I was very disappointed that all the information that was released yesterday in response to freedom of information requests was not released and made available to the committee in the context of its inquiry. Had that information been released then, we would have had a number of pertinent questions that we might have been able to ask witnesses. There are certainly other factors that we might have taken into account in framing our conclusions, although the information that was released gives me no cause to review the conclusions because, by and large, it confirmed the judgments that the majority of the committee made. Nonetheless, it would have been better for the evidential record had all this new information been put into the public domain earlier.

Clearly, there was a division of opinion on the committee on the conclusions that we reached, and I am sure that there will be a similar division in the Parliament. Given the inquiry's importance and given the further information that has been put into the public domain since our inquiry reported, it is only appropriate that Parliament and, indeed, the Government should have an opportunity to respond and that we should have a chamber debate on our conclusions and recommendations. I see no reason why we should not set the ball rolling with the Conveners Group and ask for a debate to be scheduled. If the Government produced a written response to our report in the interim, that would be well and good, and highly desirable. It would allow the debate to be informed by our report, the Government's response and the information that has now been put into the public domain, which would be eminently sensible.

However, we do not need to wait for all that to happen, because it would just protract the process. As members will know, the Government constantly states, or tries to imply, that this committee is somehow slowing down the process, so I am sure that it would be keen for us to accelerate the process in this instance.

Bob Doris (Glasgow) (SNP): I would like to ask a few questions, particularly about the amount of time that committees usually get for a committee debate in the chamber. It would be more appropriate for the committee to have a debate on the findings of our forthcoming child poverty inquiry. If we are to bid for chamber time for a committee debate, I can think of subjects that are far more worthy of debate than the investigation into the Menie estate application processes, which has dragged on. Child poverty is a much more important issue for this committee to discuss in the chamber.

The Convener: I am sure that the committee will be able to discuss in the chamber the report that we will agree in future following completion of our evidence taking on child poverty. I do not think that asking for a committee debate in the chamber on the Menie estate report would militate against our getting a debate on child poverty—it would not be a case of getting one or the other, Bob.

Bob Doris: I hoped that we could seek guidance on whether a bid from this committee for a debate in the chamber would be likely to succeed, given the pressures on time in the chamber, and on whether we could get one debate only, or two or three. Instead of burning up our time in the chamber with a debate on the Trump application, I would prefer us to have a debate on child poverty, fuel poverty or some other issue. Do committees get a number of parliamentary debates over a session?

The Convener: The Conveners Group will welcome bids for debates from committees. There is a lot of time for committees to have debates, and it is very wrong to suggest that any inquiry or work that we have not yet completed would be put at risk if we ask for a debate on this issue.

Bob Doris: That is not what I was trying to say, convener. I am trying to get some—

The Convener: Bob, other members have indicated that they want to speak. Given what the Scottish National Party group and you in particular have said over the past couple of weeks, I fully understand why you are anxious not to debate the issue in the chamber. I certainly understand your strong views on the matter—

Bob Doris: Perhaps we could finish our discussion—

The Convener: I call Patricia Ferguson.

Bob Doris: That is very unhelpful, convener.

Patricia Ferguson (Glasgow Maryhill) (Lab): Given that, apart from the odd legislative consent motion, practically no legislation is going through the chamber—which, incidentally, also means that there are very few committee reports to debate—I suspect that the Conveners Group will be almost grateful if we ask for a debate on this report. I, too, hope that we will have debates on the reports that we might produce on fuel poverty, child poverty, housing or any other issues that fall within our remit.

However, I find it very disappointing that committee members who, in fact, participated fully in the inquiry are suddenly commenting here and elsewhere that they think that it dragged on. We should request a debate, get the Government's response and put all the facts before Parliament so that it can reach its own view. After all, other MSPs have as much of an interest in this issue as anyone around this table.

Alasdair Allan (Western Isles) (SNP): Convener, I believe that you said that the SNP group was anxious about this report coming before the chamber. With respect, I want to put that right. As Bob Doris has indicated, we feel that having such a debate is probably not the best use of parliamentary time, but we are in no way anxious about having a debate on such a thin and poor report.

Kenneth Gibson: If we are going to have a debate, we should wait until we have received the Government's response so that our discussion is fully informed. We are certainly not anxious about the issue; indeed, I think that most people are bored rigid by the whole thing. The application has now gone to a public inquiry and I do not think that there is any great clamour outside this building for a debate. To me, it is all about feeble party-

political point scoring. Given that no rules or laws were broken, I do not see why there is such pressure for a debate on the matter. After all, one of the party leaders in the Parliament actually broke the law, and I see no one clamouring for a debate on that.

I am relaxed about having a debate in the chamber, but I think that we should wait until the Government responds to ensure that it is more fully informed.

The Convener: It is incorrect to say that no rules were broken. The committee could not come to that conclusion because, as it recognises in its report, it has no powers to investigate the ministerial code.

I do not think that we are getting anywhere. Yet again, the committee splits along party-political lines. I find it unfortunate that, over the past week, people have decided to brief against the committee and politicise the whole process.

The question is, that the committee agrees to request a debate in the chamber on the report.

Kenneth Gibson: My view is that it is not about having a debate—

The Convener: So you will vote against the proposal.

Kenneth Gibson: Well, I will, because it is not the right time for a debate.

The Convener: There will be a division.

FOR

Patricia Ferguson (Glasgow Maryhill) (Lab)
Johann Lamont (Glasgow Pollok) (Lab)
David McLetchie (Edinburgh Pentlands) (Con)
Duncan McNeil (Greenock and Inverclyde) (Lab)
Jim Tolson (Dunfermline West) (LD)

AGAINST

Kenneth Gibson (Cunninghame North) (SNP)

ABSTENTIONS

Alasdair Allan (Western Isles) (SNP)
Bob Doris (Glasgow) (SNP)

The Convener: The result of the division is: For 5, Against 1, Abstentions 2. The proposal is agreed to.

Kenneth Gibson: Of course, only the SNP group was politically motivated in that vote.

The Convener: The second matter, which Kenny Gibson mentioned earlier, is whether the committee agrees to request a formal response from the Scottish Government to the report. As he pointed out, if we request that, the Government will be obliged to provide a report within eight weeks. That would provide us with an opportunity to get by the behind-the-hands briefings that have been taking place against the integrity of the committee in the past couple of weeks. We would

wish any report to be considered and to address the concerns raised in the inquiry about the transparency of the process, the quality of the decision making and the legal advice that was taken. We look forward to that.

I hope that we now also have an opportunity to get submissions from those who have sought to use the situation to suggest that there is chaos in the planning system in Scotland. I hope that those who have made such comments over the past few weeks—the Confederation of British Industry, the Institute of Directors and others—will write to the committee, highlighting any problems or perceived problems that they have with the planning process. I remind everyone that we have not, at any stage in our inquiry, received any factual evidence or suggested in our conclusions that the planning process in Scotland is in chaos. We asked the Trump Organization to make some comment about the process and I hope that those other organisations will do that as well.

Is the committee agreed to request a formal response to the report from the Scottish Government?

Members *indicated agreement.*

The Convener: That concludes item 1. I suspend the meeting for a few minutes until the minister comes.

10:12

Meeting suspended.

10:16

On resuming—

Glasgow Commonwealth Games Bill: Stage 2

The Convener: For agenda item 2, we welcome Stewart Maxwell, the Minister for Communities and Sport. The committee has a marshalled list of amendments to consider.

Section 1—The Glasgow Commonwealth Games

The Convener: Amendment 1, in the name of Stewart Maxwell, is grouped with amendments 2 to 12, 27, 34, 39 and 42.

The Minister for Communities and Sport (Stewart Maxwell): The grouping on games locations includes a number of amendments that respond to requests from the Commonwealth Games Council for Scotland and the Subordinate Legislation Committee. The committee asked that we limit the type of events that can be designated as games events by requiring them to have a connection with the games. We propose such a requirement in amendment 2. However, we also propose a change in terminology from games events to games locations.

As drafted, the bill protects events rather than places from unauthorised advertising and outdoor trading. The Commonwealth Games Council for Scotland has requested that we ensure that the protections that are offered by the bill should cover the games village and live sites. Those are not places at which competitive events will take place, but they will be so closely associated with the games that they may be vulnerable to unauthorised advertising and outdoor trading. Therefore, amendments 1 and 2 change the definition from games events to games locations.

Amendment 39 is an amendment to the definition of games tickets, which maintains a reference to tickets being for events.

The other amendments in the group are proposed in consequence of the change in terminology.

I move amendment 1.

Patricia Ferguson: A question occurred to me while the minister was explaining the importance of the definition of games events. There will be a cultural component to the games, which I am sure has not been finally tied down yet. Will the legislation also cover venues associated with that?

Jim Tolson (Dunfermline West) (LD): I welcome the change in terminology to games locations. Some of the facilities in my constituency

will be used for training—certainly for the Olympics but also, I hope, for the Commonwealth games. I would like to know whether training establishments will also be covered by the provisions on advertising.

Stewart Maxwell: In answer to Patricia Ferguson's question, cultural and other events could be covered. Effectively, live sites will be such things as fan zones where games events will not take place but where other things that are associated with the games will take place. Cultural events would fall into that category and the regulations could be used to protect those events as well.

To be honest, I had not considered the issue in relation to training sites and I cannot see any reason why we would use the provisions for that. I would not expect there to be any unauthorised trading or advertising at those locations. Nevertheless, that is possible, so we will consider the matter.

Amendment 1 agreed to.

Amendment 2 moved—[Stewart Maxwell]—and agreed to.

Section 1, as amended, agreed to.

Section 2—Ban on outdoor trading in the vicinity of Games events

Amendments 3 and 4 moved—[Stewart Maxwell]—and agreed to.

Section 2, as amended, agreed to.

Section 3—Trading activities, places and prohibited times

Amendments 5 and 6 moved—[Stewart Maxwell]—and agreed to.

Section 3, as amended, agreed to.

Sections 4 to 8 agreed to.

Section 9—Guidance and information about trading

Amendment 7 moved—[Stewart Maxwell]—and agreed to.

Section 9, as amended, agreed to.

Section 10—Ban on advertising in the vicinity of Games events

Amendments 8 and 9 moved—[Stewart Maxwell]—and agreed to.

Section 10, as amended, agreed to.

Section 11—Advertising activities, places and prohibited times

Amendments 10 and 11 moved—[Stewart Maxwell]—and agreed to.

Section 11, as amended, agreed to.

Sections 12 to 15 agreed to.

Section 16—Guidance and information about advertising

Amendment 12 moved—[Stewart Maxwell]—and agreed to.

Section 16, as amended, agreed to.

Sections 17 to 20 agreed to.

Section 21—Enforcement of Games offences

The Convener: Amendment 13, in the name of Stewart Maxwell, is grouped with amendments 14, 15, 19, 22, 25, 26, 40 and 41.

Stewart Maxwell: At present, section 21(1) enables ministers to make enforcement regulations that may make provision for the enforcement of games offences in addition to the provisions that are already set out in the bill. Section 21(2) defines what is meant by enforcing a games offence. Amendment 13 removes section 21 from the bill. At stage 1, committees expressed concern that the enforcement regulations that are set out in section 21 look rather wide and unspecific. The amendment addresses that concern.

The term “enforcement regulations” is no longer used in the bill. Amendment 14 reflects that and allows ministers to specify criteria for appointment as enforcement officers in regulations.

By virtue of amendment 22, ministers may also still make provision through regulations for the procedure by which people can claim compensation for damage to property that has been caused by enforcement officers in the course of their duties.

Amendment 25 allows ministers to make regulations specifying further procedure, in addition to that already set down in the bill, that must be followed by enforcement officers or constables in taking enforcement action under the bill. It clarifies that such regulations will be about procedural matters only. Amendments 40 and 41 are in consequence of amendment 13. They remove the interpretation of “enforce” and “enforcement regulations”, as these terms will be deleted from the bill.

At present, section 23(1) of the bill allows an enforcement officer to take such reasonable steps as the officer considers appropriate to enforce a games offence. Amendment 13 will remove the

definition of enforcing a games offence from the bill. Amendment 15 is therefore necessary to clarify the purposes for which an enforcement officer can take action under section 23(1). Amendment 19 is consequential on the introduction of new wording to replace the concept of enforcing a games offence.

Amendment 26 clarifies that penalties for ticket touting and for obstruction offences are imposed on summary conviction and not on indictment.

I move amendment 13.

Amendment 13 agreed to.

Section 22—Enforcement officers

Amendment 14 moved—[Stewart Maxwell]—and agreed to.

Section 22, as amended, agreed to.

Section 23—General enforcement power

Amendment 15 moved—[Stewart Maxwell]—and agreed to.

Section 23, as amended, agreed to.

Section 24 agreed to.

Section 25—Power to enter and search

The Convener: Amendment 16, in the name of Stewart Maxwell, is grouped with amendments 17 and 18.

Stewart Maxwell: At present, section 25(1) of the bill provides that an enforcement officer may enter and search any place in connection with a games offence. Amendment 16 clarifies that a warrant will not be required to exercise such powers of entry and search. Should reasonable force be required to enter and search premises, a warrant will still be required in accordance with section 26, unless a police officer reasonably believes that there is a real and substantial risk that the delay of seeking a warrant would defeat the purpose of taking action. A warrant will still be required for entering houses in accordance with section 27.

Amendment 17 clarifies that an enforcement officer may search vehicles, vessels, containers or any other thing at a place in which he reasonably believes a games offence has been or is being committed, or which the officer reasonably believes has been or is being used in connection with a games offence. Amendment 18 is a drafting amendment.

I move amendment 16.

Amendment 16 agreed to.

Amendments 17 and 18 moved—[Stewart Maxwell]—and agreed to.

Section 25, as amended, agreed to.

Sections 26 and 27 agreed to.

Section 28—Power to obtain information

Amendment 19 moved—[Stewart Maxwell]—and agreed to.

Section 28, as amended, agreed to.

Sections 29 and 30 agreed to.

10:30

Section 31—Compensation and recovery of costs

The Convener: Amendment 20, in the name of Stewart Maxwell, is grouped with amendments 21, 23 and 24.

Stewart Maxwell: The amendments in the group on police powers respond to issues that the Association of Chief Police Officers in Scotland raised in its evidence to the committee. It said that, in some circumstances, enforcement officers would have greater powers than the police. Although the primary responsibility for dealing with games offences will lie with enforcement officers, there might be circumstances in which police officers wish to act independently of enforcement officers when dealing with such offences.

Amendment 24 gives the police equivalent powers to those that enforcement officers will have in dealing with games offences. That will ensure that the police have the powers that they require to respond to offences under the bill. The amendment also gives the police a power of arrest that is similar to the one that they will have during the 2012 Olympic games and Paralympic games. That responds to a request from ACPOS.

Section 31 makes provision in relation to compensation for damage that is caused as a result of enforcement action. At present, the bill states that the organising committee is responsible for paying compensation. However, police officers might take enforcement action independently of enforcement officers. Amendment 20 makes it clear that, when action is taken by an enforcement officer or a constable who is accompanying such an officer, the organising committee will be responsible for paying compensation. Amendment 21 provides that, when a constable acts independently, it is not the organising committee but the police who will be responsible for paying compensation.

Section 32 provides that it is an offence

“without reasonable cause to fail to comply with a requirement made by an enforcement officer”

to provide information under section 28.

Amendment 23 brings requirements that are made by constables under section 28 within the ambit of the obstruction offence in section 32.

I move amendment 20.

Amendment 20 agreed to.

Amendments 21 and 22 moved—[Stewart Maxwell]—and agreed to.

Section 31, as amended, agreed to.

Section 32—Obstructing an enforcement officer

Amendment 23 moved—[Stewart Maxwell]—and agreed to.

Section 32, as amended, agreed to.

Section 33—Police powers

Amendment 24 moved—[Stewart Maxwell]—and agreed to.

Section 33, as amended, agreed to.

After section 33

Amendment 25 moved—[Stewart Maxwell]—and agreed to.

Section 34 agreed to.

Section 35—Penalties

Amendment 26 moved—[Stewart Maxwell]—and agreed to.

Section 35, as amended, agreed to.

Section 36 agreed to.

Section 37—Transport plan

Amendment 27 moved—[Stewart Maxwell]—and agreed to.

The Convener: Amendment 28, in the name of Stewart Maxwell, is in a group on its own.

Stewart Maxwell: Section 37 requires the organising committee to consult certain persons in relation to the games transport plan. Amendment 28 requires the organising committee, during development of the plan, also to consult

“every chief constable of a police force maintained for an area in which a Games location is situated”.

The police will play a key role in implementing the transport plan and enforcing games traffic regulation orders. The amendment responds to a request made by ACPOS.

I move amendment 28.

Johann Lamont (Glasgow Pollok) (Lab): I have a general question, and this might be the appropriate place to ask it. Has the bill been

equality proofed, particularly in relation to transport? What consultation has there been or is required with, for example, disability groups on access to transport, signage and so on? Obviously, it is not possible to outline the whole programme in the bill, but should there be an obligation to consult other groups as well as the chief constables? Has that been considered?

Stewart Maxwell: We did consider the matter but we have not put such obligations in the text of the bill. We would expect a wide range of organisations, including disability groups, to be consulted during the development of the transport plan. We believe that to be the appropriate place for such consultation to be mentioned, and I fully expect such groups to be consulted at that stage.

Amendment 28 agreed to.

Section 37, as amended, agreed to.

Section 38—Games traffic regulation orders

The Convener: Amendment 29, in the name of Stewart Maxwell, is in a group on its own.

Stewart Maxwell: Provisions in the Road Traffic Act 1991 decriminalise parking offences in relation to traffic regulation orders, leaving them to be enforced through the local authority. Amendment 29 removes the decriminalisation of parking offences in relation to games traffic regulation orders. That will allow the police to deal with anyone waiting or loading or unloading a vehicle in a games lane, as well as with those who are driving in a games lane.

I move amendment 29.

Amendment 29 agreed to.

Section 38, as amended, agreed to.

Sections 39 to 42 agreed to.

Section 43—Orders and regulations

The Convener: Amendment 30, in the name of Stewart Maxwell, is grouped with amendments 31 to 33 and 35 to 38.

Stewart Maxwell: The group of amendments entitled “Regulations: procedure” delivers on the commitments that we made in correspondence with the Subordinate Legislation Committee. Section 43 currently provides that all regulations are subject to the negative procedure. Amendment 31 will require affirmative procedure to be used for the first use of the advertising, street trading and internet regulations, which will be the substantive use of the powers. Amendment 30 is in consequence of that change in procedure.

We will require flexibility to react to events in the lead-up to and during the games. If the regulations are not having their intended effect, the

Government will have to react immediately to protect the integrity of the games. We consider that to be the most practical way to operate the powers.

Amendments 32 to 38 apply the requirements to consult and issue public notice only to the first use of the power to make street trading and advertising regulations. As it is anticipated that subsequent use would be in urgent circumstances, it would not be practical to retain the bill's consultation or public notice requirements for such changes.

I would expect the consultation on the advertising and street trading regulations to last at least 12 weeks and to involve a wide range of interested bodies, including those representing the advertising industry.

I move amendment 30.

Amendment 30 agreed to.

Amendment 31 moved—[Stewart Maxwell]—and agreed to.

Section 43, as amended, agreed to.

Section 44—Consultation

Amendments 32 and 33 moved—[Stewart Maxwell]—and agreed to.

Section 44, as amended, agreed to.

Section 45—Factors for Ministers to consider

Amendment 34 moved—[Stewart Maxwell]—and agreed to.

Section 45, as amended, agreed to.

Section 46—Notice

Amendments 35 to 38 moved—[Stewart Maxwell]—and agreed to.

Section 46, as amended, agreed to.

Section 47 agreed to.

Section 48—Interpretation

Amendment 39 moved—[Stewart Maxwell]—and agreed to.

Section 48, as amended, agreed to.

Schedule

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Amendments 40 to 42 moved—[Stewart Maxwell]—and agreed to.

Schedule, as amended, agreed to.

Sections 49 to 51 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank the minister and members of the committee.

Meeting closed at 10:42.

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