

COMMUNITIES COMMITTEE

Wednesday 14 June 2006

Session 2

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CONTENTS

Wednesday 14 June 2006

	Col.
SUBORDINATE LEGISLATION	3691
Planning (National Security Directions and Appointed Representatives) (Scotland) Rules 2006 (SSI 2006/265)	3691
Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Amendment) (Scotland) Regulations 2006 (SSI 2006/266)	3691
Planning and Compulsory Purchase Act 2004 (Transitional Provisions) (Scotland) Order 2006 (SSI 2006/269)	3692
Town and Country Planning (Applications of Subordinate Legislation to the Crown) (Scotland) Order 2006 (SSI 2006/270)	3692
PLANNING ETC (SCOTLAND) BILL: STAGE 2	3694

COMMUNITIES COMMITTEE 20th 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)
*John Home Robertson (East Lothian) (Lab)
*Tricia Marwick (Mid Scotland and Fife) (SNP)
*Dave Petrie (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 ALSO ATTENDED:

Jackie Baillie (Dumbarton) (Lab)
Bruce Crawford (Mid Scotland and Fife) (SNP)
Donald Gorrie (Central Scotland) (LD)
Johann Lamont (Deputy Minister for Communities)
Alex Neil (Central Scotland) (SNP)
Iain Smith (North East Fife) (LD)

CLERK TO THE COMMITTEE

Steve Farrell

SENIOR ASSISTANT CLERK

Katy Orr

ASSISTANT CLERK

Catherine Fergusson

LOCATION

Committee Room 6

Scottish Parliament

Communities Committee

Wednesday 14 June 2006

[THE CONVENER *opened the meeting at 09:34*]

Subordinate Legislation

The Convener (Karen Whitefield): I open the 20th meeting of the Communities Committee in 2006. I remind all those present that mobile phones should be turned off.

The first item on the agenda is subordinate legislation. The committee will consider four negative instruments relating to the removal of Crown immunity from planning controls in accordance with the provisions of the Planning and Compulsory Purchase Act 2004. Once the powers are brought into force, all Crown bodies will need to seek planning permission or listed building consent. The removal of Crown immunity will also place the requirements of the European environmental impact assessment on a statutory footing in relation to Crown development.

Planning (National Security Directions and Appointed Representatives) (Scotland) Rules 2006 (SSI 2006/265)

The Convener: The rules make provisions for the procedure that Scottish ministers are to follow when they are considering giving a national security direction to require that a planning inquiry should not be held in public on the ground of national security. The rules include provisions on publicity, written representations, hearings and notification of their decision, as well as on the functions of appointed representatives. The Subordinate Legislation Committee did not raise any points in relation to the instrument. Does any member have any comment to make?

Members: No.

The Convener: Is the committee content with the rules?

Members *indicated agreement.*

The Convener: The committee will not make any recommendation on the rules in its report to Parliament.

Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Amendment) (Scotland) Regulations 2006 (SSI 2006/266)

The Convener: The regulations prescribe that

when an application is made to ministers for urgent works to buildings on Crown land that are listed or in conservation areas, the Scottish ministers must publicise them in the same way as planning authorities do, with the exception of applications for works affecting only the interior of category B and C(S) listed buildings.

The Subordinate Legislation Committee has drawn the instrument to the attention of the committee on the grounds of defective drafting and failure to follow proper legislative practice. The Executive has acknowledged the errors and intends to produce an amending instrument as soon as possible. In particular, the Subordinate Legislation Committee has raised doubts about whether proposed new subparagraph (ii), which is inserted by regulation 2, is *intra vires*. Do members have any comments to make?

Members: No.

The Convener: Is the committee content with the regulations?

Members *indicated agreement.*

The Convener: The committee will not make any recommendation on the regulations in its report to Parliament.

Planning and Compulsory Purchase Act 2004 (Transitional Provisions) (Scotland) Order 2006 (SSI 2006/269)

The Convener: The order makes transitional provision for proposed developments by the Crown that were previously dealt with by way of non-statutory arrangements. It also contains transitional provisions in relation to hazardous substances consent, for which there are currently no administrative arrangements in relation to the Crown. The Subordinate Legislation Committee did not raise any points in relation to the instrument. Do members have any comments?

Members: No.

The Convener: Is the committee content with the order?

Members *indicated agreement.*

The Convener: The committee will not make any recommendations on the order in its report to Parliament.

Town and Country Planning (Applications of Subordinate Legislation to the Crown) (Scotland) Order 2006 (SSI 2006/270)

The Convener: The order sets out a list of subordinate legislation that relates to the planning system and applies each instrument to the Crown. The Subordinate Legislation Committee identified a number of drafting errors in relation to the order,

which the Executive has undertaken to correct by way of an amending instrument. Do members have any comments?

Members: No.

The Convener: Is the committee content with the order?

Members *indicated agreement.*

The Convener: The committee will not make any recommendation on the order in its report to Parliament.

I ask members to agree that we will report to the Parliament on our decisions on the statutory instruments that we have considered today. Are we agreed?

Members *indicated agreement.*

The Convener: I suspend the meeting briefly to allow the Deputy Minister for Communities and her officials to join us.

09:40

Meeting suspended.

09:41

On resuming—

Planning etc (Scotland) Bill: Stage 2

The Convener: The second item on the agenda is the Planning etc (Scotland) Bill. The committee will consider amendments to the bill at stage 2. Members should have before them copies of the bill, the marshalled list and the groupings. I welcome to the committee other members of the Parliament, the minister and her officials, whom the minister would perhaps like to introduce. It is my understanding that some of the officials will change, depending on the groupings.

The Deputy Minister for Communities (Johann Lamont): I assure you that the changeover will be so smooth that you will hardly notice it—we are a slick operation. Norman MacLeod is from the office of the solicitor to the Scottish Executive, and Tim Barraclough and Graeme Purves are from the planning division.

The Convener: Thank you.

It may be helpful if I point out a few things before we commence, in order to speed things along. If a member does not wish to move their amendment, they should simply say, “Not moved.” Any other member can move the amendment at that point, but I will not specifically invite other members to do so. Assuming that no other member moves the amendment, I will simply go to the next amendment on the marshalled list. If a member wishes to withdraw an amendment, I will put the question, “Does anyone object to amendment X being withdrawn?” If any member objects, I will immediately put the question on the amendment. If I am required to use my casting vote, I intend to vote for the status quo. On this occasion, that is the bill as it stands.

Before section 1

The Convener: Amendment 72, in the name of Donald Gorrie, is in a group on its own.

Donald Gorrie (Central Scotland) (LD): The subject of amendment 72 is very important; whether or not members like the amendment is up to them. The question of how we insert more local democracy into planning—how we tap into local knowledge and opinion and give the local community, however we define that, a proper voice—is one that exercised the committee in its stage 1 report. Several amendments from different colleagues deal with various aspects of that. The amendment is a suggestion for a mechanism for achieving at least a certain amount of proper local input.

I am suggesting that each council should form a local planning forum—there could be more than one, if the geography of the area suited that. The objective would be not for those people to be consulted but for the forum to become a partner with the council in drawing up plans and things of that sort. At the moment, planning is seen as a negative activity and, on the whole, the public do not get involved in it until a proposal is made that they dislike, which is when they mobilise against it. I think that planning should be a positive activity to create a better society and that we should try to harness the energies and knowledge of local people to create a better society locally.

The local planning forum would include representatives of the community. If there were community councils, obviously they would be represented but, failing that, other community groups would be represented. There would be representatives of business and of other public bodies. There would also be representatives of other council departments, which should be involved in planning but often are not because councils do not co-operate any better internally than Governments do. The forum could also include young people—who often have a certain attitude to these things—as well as older people, and so on. The representatives of the different groups could consult their friends and colleagues and could feed in what they felt the general view was after explaining the proposals to people. The forum might become quite a large group, so it should be able to work through sub-committees, but the mechanism would be up to the forum to decide once it is established.

The basic idea is to have a genuine local group that would supplement the council. It would not be anti-council; it would be a wider, informed group that would help the council and that, together with the council, would formulate plans and deal with major planning applications. It is important to create a real, local, democratic and bottom-up approach to planning. Colleagues have aimed at that in different ways; this is my suggestion of a mechanism to achieve it. I hope that members will support my amendment or, if they do not, come up with a better idea.

I move amendment 72.

09:45

The Convener: I refer members to the notes that we have on pre-emptions. Although pre-emption does not apply here, each amendment has a reference about pre-emptions, which members will be able to follow through the proceedings. I open the discussion up to members.

Dave Petrie (Highlands and Islands) (Con): How local is local? In a fairly wide-ranging local authority area such as Argyll and Bute, which has one planning authority for an extensive area, how many local planning forums would there be?

Scott Barrie (Dunfermline West) (Lab): I have some sympathy with what Donald Gorrie is trying to achieve. He is absolutely right that we should try to engender greater public involvement in the planning system. If the bill does not do that, it will have failed. However, I wonder whether what he suggests is not too bureaucratic a means of trying to achieve that. It seems that it would duplicate a system that already exists, whereby councils consult on their planning decisions, by having a formal body. That would be fine for people who were on the body, but people who were not might feel just as excluded as they feel under the current planning system. That is where the difficulty lies.

It will be all very well for the representatives of statutory organisations such as community councils who are on the body, but if we are not going to involve every community council or every member of a community council, we will exclude people in a formal way rather than include people, which is what we are trying to achieve. In a strange way, by setting up this slightly bureaucratic body, we could be striking against what we are trying to achieve, which is the involvement of far more people in the planning process at a much earlier stage. Because of that, I am not sure that Donald Gorrie's specific proposal would work, although I agree with the intention of involving more people in the planning process.

Patrick Harvie (Glasgow) (Green): Amendment 72 is consistent with what the Executive says it wants to do with the bill, which is to involve and include people. Scott Barrie suggested that the amendment merely reproduces procedures that will already be in place through consultation, but it goes further than that. It seeks to involve people in the process and bring them closer to the decision making, but it also gives them a responsibility to carry out their functions on the forum in a way that includes as many people as possible in the wider community. I support the amendment.

Christine Grahame (South of Scotland) (SNP): I am sympathetic to Donald Gorrie's intention, but I accept some of what Scott Barrie said. What is proposed could be quite bureaucratic and I am concerned that it would be rather inflexible. The amendment states not just that

"Each planning authority must establish at least one Local Planning Forum"

but that

"The members of a Local Planning Forum must include representatives ... of ... community councils"

and so on. Those things are mandatory. What would happen if those people did not join the forum? I would prefer to see them being encouraged to join rather than their involvement being mandatory. That is my only problem with the amendment.

Euan Robson (Roxburgh and Berwickshire) (LD): As other members have said, the amendment encompasses a good idea. However, like others, I have some reservations about the wording. The matter could be incorporated in secondary legislation or in guidance. It sets out a way in which the bill's objectives could be further pursued. The detail in the amendment might not be quite right but the concept should be further explored. Perhaps the minister will have some comments on that.

The Convener: Minister, would you like to contribute anything at this point?

Johann Lamont: Indeed. Amendment 72 would place on planning authorities a statutory requirement to set up local planning forums in their areas. The Executive consulted on a similar proposal for local planning forums in 2001 in its consultation called "Getting Involved in Planning" and there was clear support for the idea from voluntary and public bodies, although less than half of local authorities favoured it.

Although we still see some merit in the concept, we do not consider it necessary or appropriate to legislate for it, for a number of reasons. The consultation responses emphasised that, given the differences in local circumstances and priorities, it would not be helpful to have a standard remit and composition for forums. A requirement to set up new local planning forums might cut across effective arrangements that are already in place. For example, we would want to avoid any duplication of other mechanisms such as local community planning networks or regular involvement with community councils. Local planning forums might cause confusion as well as being an additional resource burden on local authorities and community groups.

To be effective, forums would need to be truly representative of local interests and not just a platform for single-issue or pressure groups. I fully support mechanisms to get communities and other bodies fully involved at an early stage in the planning process, but I do not think that legislation is necessary in all cases. Given the different arrangements that are already in place, the various community groups and the different geographical circumstances throughout the country, I believe that it would be more effective for us to work with planning authorities and others to develop good practice in the area rather than to place an additional legal requirement on local authorities.

There is also a general issue about community involvement and engagement. We should not separate planning from all the other things in which people should be involved in their local communities. Planning should be understood to be a part of that and should be integrated into other community processes. Also, local authorities should be challenged not just to have a mechanism for planning but to have engagement throughout the range of their departments.

As we discussed at stage 1, the issue is partly about the nature of effective engagement. It would be easy for a local authority to set up a forum and so tick the box to say that it had done that, but it might be more difficult to make the engagement real. For example, the only people who would go along to a meeting in a hall at this time of year are people who have no interest whatever in the world cup. The rest of the community would be entirely disengaged. We are talking about more imaginative ways of encouraging involvement.

I absolutely agree with Donald Gorrie that it is critical that planning should be seen as a positive part of shaping the local community and that people should not have to react against it or feel that they have to defend their community against individual planning proposals. We are looking to work with local authorities to challenge their community engagement process, of which the development plan is a critical part. Therefore, I recommend that the committee rejects amendment 72, although I recognise the critical issues that it has flagged up.

Donald Gorrie: I am obliged to members and the minister for taking the issue as seriously as they do.

Dave Petrie raised the question of how many forums there should be. In an area such as Argyll, there might be one based in each of the larger towns. There could be as many as people like.

There seems to be an idea that the proposal is exclusive but the idea behind it is that the people who are on the local planning forum would consult the people they represent. It might be possible to do that better but it is important that the people from the community, businesspeople and people from different local government departments get round the table together.

It might be a fair criticism to say that the amendment is too prescriptive. As everyone is well aware, some councils do that sort of thing quite well and others do it very badly, so we should set out a basic rule that would force the ones that do it badly to do it better. My amendment might not give the ideal way of achieving that but it is helpful to lay down a template.

The minister indicated that there might be other ways of doing these things better, but I do not

know. Ministers and civil servants like guidance and guidelines, but as an ordinary back-bench member, I like stuff to be in bills because then we have to attend to it. We just seem to be coming from different angles and I accept that.

I believe that something similar—perhaps improved—to my amendment 72 in the bill could have a good effect on councils. They could develop their own way of doing things but base them on something similar to what is in the amendment. Naturally, I would prefer the amendment to be in the bill so that the provisions could be improved at stage 3 rather than having to start again at stage 3, so I will press amendment 72.

The Convener: The question is, that amendment 72 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Home Robertson, John (East Lothian) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Robson, Euan (Roxburgh and Berwickshire) (LD)

The Convener: The result of the division is: For 1, Against 7, Abstentions 1.

Amendment 72 disagreed to.

The Convener: Amendment 39, in the name of Patrick Harvie, is grouped with amendments 10, 10A, 23, 23A, 52, 24, 25 and 26. I refer members to the note on pre-emptions in this group that is provided in the groupings list.

10:00

Patrick Harvie: This is an extremely important group of amendments. For those of us who have been using terms such as “sustainable development” for many years and knocking on other people’s doors, it is a great source of reassurance and joy that political leaders from across the spectrum now also talk the language of sustainable development.

The Executive’s sustainable development strategy is peppered with references to the planning system and the role of planning in sustainable development. I have argued that in the devolved context the planning system is one of the most important and powerful tools at our disposal to help to steer society in a more sustainable

direction, so we must ensure that the bill takes the right approach to sustainable development.

The amendments in the group present a number of options, which I will set out, starting with the status quo. I am hopeful that we will not maintain the status quo in the bill as introduced, given that the Executive has lodged amendment 23.

The first option for improving the approach in the bill would be provided by amendment 23, which would apply the existing sustainable development duty to the national planning framework. Euan Robson’s amendment 10 takes the same approach and I am glad that the principle has gained considerable support.

The next level up in improving the bill would be achieved if we were to beef up the duty in amendments 23 and 10, which would require the Scottish ministers to exercise their functions

“with the objective of contributing to sustainable development.”

Other legislation uses a stronger form of words, and I use the stronger wording in amendments 10A and 23A and in other amendments, which would require ministers to exercise their functions

“in the way best calculated to contribute to the achievement of”

sustainable development. That approach would require there to be a test, so that if it could be shown that there was a better option that would be more in keeping with sustainable development, ministers and planning authorities would have to take that option. Amendments 10A and 23A would therefore beef up the duty that is proposed in amendments 10 and 23.

Amendments 24 and 25 could operate as stand-alone amendments, if members did not want to agree to other amendments in the group. The amendments would apply the existing sustainable development duty to ministers in relation to the provisions on development plans. As introduced, the bill confers on planning authorities a duty to contribute to sustainable development, but amendments 24 and 25 would extend the duty to ministers. The approach would not apply to ministers’ functions in relation to the NPF.

Finally, amendment 39, which I commend to members as providing for a gold-plated sustainable development duty, would apply the duty to the whole concept of planning. Amendment 39 would require ministers and planning authorities to exercise their functions

“in the way best calculated to contribute to the achievement of sustainable development.”

If amendment 39 were agreed to, we would have to test and assess planning functions, to ensure that we use the planning tool not just in a slightly

helpful way but to the best effect. I commend to members the amendments in my name, particularly amendment 39.

I move amendment 39.

Euan Robson: I lodged amendment 10 so that we could continue our stage 1 discussion about sustainable development. I thought that it would be worth considering the matter at stage 2, particularly given that the concept of sustainability will be embedded in strategic and local development plans. The committee should consider whether sustainable development should also be incorporated into the national planning framework, although I appreciate that there is a considerable difference between the three levels of plan.

I would not insist on maintaining the form of words that I used in amendment 10, which seemed to be sufficient to allow debate on the subject. The minister might approve the wording or she might object to it—I shall be interested to hear about that in due course. It is important that we give some substance to the concept of sustainable development, and that is achievable in the context of the national planning framework. I am particularly interested to hear the minister's views on amendment 10 and, indeed, on the whole area, which is of concern to the committee.

Johann Lamont: We indicated our intention during the stage 1 debate to extend the duty to contribute to sustainable development to the preparation of the national planning framework.

Executive amendment 23 places a duty on ministers to exercise

"their functions of preparing and revising the National Planning Framework ... with the objective of contributing to sustainable development."

Amendment 23 also ties the interpretation of the expression "sustainable development" to the ministerial guidance on sustainable development that we intend to provide under proposed new section 3D(3) of the Town and Country Planning (Scotland) Act 1997. It will set out our view of how planning authorities are to exercise their development planning functions

"with the objective of contributing to sustainable development"

and will apply in more general terms to the preparation of the national planning framework. I hope that that meets the requirements of the committee, and I therefore encourage members to accept amendment 23.

Patrick Harvie's amendments 39 and 52 would have a much more widespread effect and would apply the duty to all parts of the bill in relation to both planning authorities and Scottish ministers. We do not think that that broad-brush approach is

appropriate. We want to see a focus on the need for sustainability in the forward planning stages of the planning system. If we attempt to apply the duty to the detailed determination of planning applications and associated activities, there could be legal uncertainty and conflict over whether individual developments contributed to sustainable development. As there are about 50,000 planning applications in Scotland every year, amendments 39 and 52 could affect the efficiency of the system. In any case, our reforms will mean that applications for developments that are not reflected in development plans are subject to much greater scrutiny. I urge the committee to reject amendments 39 and 52.

The Executive's amendment 23 is to be preferred to Euan Robson's amendment 10 because it ties the interpretation of the expression "sustainable development" to the ministerial guidance on sustainable development, which, as I said, we intend to provide for under proposed new section 3D(3). I therefore ask Euan Robson to consider withdrawing amendment 10 in favour of amendment 23.

Patrick Harvie's amendments 10A, 23A and 26 would significantly alter the wording of the sustainable development duty. The terms in the existing drafting of the bill are consistent with the sustainable development duties imposed on public bodies and Government departments by other legislation. They are well understood and straightforward. Patrick Harvie's amendments would introduce further concepts related to calculating the best way to contribute to the achievement of sustainable development. The amendments would specifically require planning authorities to contribute to the achievement of sustainable development in the preparation of development plans. If such wording were used, there would be greater legal uncertainty about the interpretation of the provision.

We think that it is better to use the existing form of words and then to explain the issues further in guidance to planning authorities, in which we will indicate how we expect them to carry out their development planning functions. I therefore ask the committee to reject amendments 10A, 23A and 26.

Amendments 24 and 25, which are also in Patrick Harvie's name, seek to achieve a different outcome from our amendment 23, which is drafted to apply specifically to the preparation of the national planning framework. Amendments 24 and 25 would have the effect of applying the duty to Scottish ministers' functions under part 2 of the bill. It is better to be clear that we are applying sustainable development duties to the preparation of plans by planning authorities and to the

preparation of the national planning framework by Scottish ministers.

We have accepted the force of the argument in favour of a statutory sustainable development duty in relation to the preparation of an integrated plan, such as the NPF or a development plan, but the extension of the duty across a wide variety of individual decisions and determinations by ministers could increase legal uncertainty. I therefore ask the committee to reject amendments 24 and 25, and to support amendment 23 in the name of Malcolm Chisholm.

Tricia Marwick (Mid Scotland and Fife) (SNP): I have every sympathy with all the amendments in the group. However, in Patrick Harvie's amendment 39, I do not understand the words:

"in the way best calculated to".

He should consider better wording unless he can explain the exact meaning of "best calculated to".

The amendments in the names of Euan Robson and Malcolm Chisholm are wishy-washy. The objective of "contributing to sustainable development" is meaningless.

For those reasons, the provisions need to be beefed up at stage 3. I ask ministers to rethink them and I ask Patrick Harvie to give us a better explanation of the meaning of "best calculated to".

John Home Robertson (East Lothian) (Lab): I congratulate members of all parties on raising the subject, which could not be more important. The constituency that I represent is obviously under a great deal of pressure from developments and encroachment on the landscape and greenfield areas. Such issues need to be considered carefully by the Executive, local authorities and developers, whom we should not leave out, as the issue concerns housing and changes in land use.

Concern must be felt about what is happening in many parts of Scotland and it is right to address that. I welcome amendment 23, which the Executive has produced. It puts an appropriate provision in the bill and ensures that sustainability is properly taken into account. The key point is that the issue must get into the mindset of not only planners, but developers, who should be sent a message that they should not produce proposals that are not sustainable. I welcome the fact that the Executive has taken that on board and I am inclined to support amendment 23, in the name of the Minister for Communities.

Johann Lamont: I welcome the recognition that the Executive has attended to what the committee said at stage 1. Extending the duty to the national planning framework is important in order to recognise the concerns that have been identified.

Patrick Harvie: Two main issues have been raised in objection to some of my amendments. The first, to which the minister referred, is potential legal uncertainty about individual applications if the sustainable development duty is applied throughout the planning system. Amendment 39 seeks to insert proposed new section 3ZA(2) into the 1997 act, which would deal with that, as ministers would still be able to issue guidance to planning authorities on what the sustainable development duty means and how it is to be put into practice. Applying the duty throughout the system would reinforce the idea that the planning system is to be used for the purpose of promoting sustainable development. That is the reason why we want a planning system. I ask members to look favourably on amendment 39.

The other objection was to the words

"the way best calculated to".

As I said, such language is used in existing legislation—in the Water Environment and Water Services (Scotland) Act 2003, which members of the Parliament passed in the previous session, before I was a member. That act contains those words in relation to a sustainable development duty. The words imply that a test must be performed to assess the alternatives and to be sure that we choose the option that is most likely to contribute to sustainable development, rather than merely one of various options that goes some way in the direction that we would like to go.

I will press amendment 39. If my amendments are defeated, I will speak to members about that form of words in the coming months and lodge similar amendments at stage 3.

The Convener: The question is, that amendment 39 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Grahame, Christine (South of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 2.

Amendment 39 disagreed to.

Section 1—National Planning Framework

10:15

The Convener: Amendment 10, in the name of Euan Robson, has already been debated with amendment 39. I ask Mr Robson to move the amendment.

Euan Robson: Is it possible for me not to move the amendment at this stage? Having listened to what the minister and other members have said, I feel that the Executive amendment is preferable to amendment 10 because its purpose is clearer.

Amendment 10 not moved.

The Convener: Amendment 17, in the name of Euan Robson, is grouped with amendments 40, 41, 73, 42 and 74.

Euan Robson: I want to understand more about what is meant by the phrase “in broad terms”. Amendment 17 is therefore a probing amendment. It seems to me that the phrase “in broad terms” might in effect clash with proposed new section 3A(4) of the Town and Country Planning (Scotland) Act 1997, which suggests some degree of detail. For example, proposed new subparagraph 3A(4)(b)(ii) indicates that the framework may describe

“a class of development and designate each development within that class”.

How could that be done in broad terms? I think that I understand what is meant by the phrase, but I want to be clear about its general meaning. The amendment is a probing amendment rather than a detailed proposal.

I move amendment 17.

Christine Grahame: I will speak first to amendments 40 and 41. Proposed new section 3A(3) of the 1997 act states that there are mandatory duties when the national planning framework is lodged, but proposed new section 3A(4) moves on to discretionary provisions. Donald Gorrie wanted to beef the legislation up a bit, and I want to beef up proposed new section 3A(4). My amendments would delete “may” and make it mandatory that the national planning framework contains

“an account of such matters as the Scottish Ministers consider affect, or may come to affect, the development and use of land”.

Similarly, my amendment 41 would amend the bill to state that the framework must

“contain a statement by the Scottish Ministers as regards that designation.”

That would reinforce this Parliament’s duty to be transparent and accountable and to give fair

scrutiny to the framework, which will be a very important document.

On amendment 42, I know that I did not support Donald Gorrie when he talked about putting provisions in the bill rather than in guidance, but I feel that in relation to the national planning framework it is necessary to make clear the particular developments that can be designated only as national. That is why I have listed such developments in the amendment. Of course, the list is without prejudice to the classes described in proposed new section 3A(4)(b), so others could be added to the list. I appreciate that ministers will, I think, specify in regulations the classes of developments that must be designated as national developments, but that is not satisfactory. It is important that we know exactly what will be designated as national developments. In particular, amendment 42 refers to

“bridges of strategic importance to transport infrastructure.”

That would include, for example, a new Forth road bridge.

The aim of amendments 40 to 42 is to tighten up the national planning framework, as other members have tried to do elsewhere in the bill.

I am quite sympathetic to Euan Robson’s amendment 17 and want to hear what the minister has to say. I do not know what “in broad terms” means either.

I obviously support Alex Neil’s amendment 74. I know that some local authorities have started to change their practice, but there remain huge issues regarding developments on flood-plains. I understand that some of the development relating to the Edinburgh Airport Rail Link Bill, with which we are dealing at the moment, will be on a flood-plain. It is pertinent for us to consider the issue in the context of designation in the national planning framework.

Jackie Baillie (Dumbarton) (Lab): I am grateful for the opportunity to speak to this group of amendments; I will focus my comments specifically on amendment 73 and attempt to be succinct. The purpose of this small amendment is to ensure that ministers include a statement about the designation of any national development in the national planning framework and to require that the statement explains Government policy behind the designation—in other words, a statement of need.

The national planning framework should set out the consequences of policies and programmes that the Executive and Parliament have already determined. It should not be about reopening debate, but I think that a statement of need would helpfully set the context for the spatial relationships that need to be considered in the

planning framework. I hope that the minister will find considerable merit in amendment 73.

Alex Neil (Central Scotland) (SNP): I will restrict my comments to my amendment 74. Members might remember that I attended the committee about a month ago specifically to discuss the issues arising from a planning application. South Lanarkshire Council approved a proposal, which it submitted, to build a school on a functional flood-plain, which has raised a number of concerns. As Christine Grahame pointed out, there is wider concern about councils' ability to approve the siting of buildings on functional flood-plains.

Flood-plains vary in category. Based on a scientific calculation, some are likely to flood once every 200 years and others are likely to flood once every 150, 100 or 50 years. Of course, we never know when a flood will happen. Sometimes, even though a plain is scientifically calculated to be likely to flood once every 200, 50 or 100 years, flooding is not restricted to that timescale.

The existing legislation is totally unsatisfactory in relation to restricting the ability to build on a functional flood-plain. John Home Robertson emphasised, quite rightly, the need to consider sustainability when we are talking about developments. I submit that building something as important as a school, hospital or rail line on a functional flood-plain flies in the face of our objectives on sustainability. I hope that what I propose in amendment 74 will be incorporated in the bill, either through the amendment being agreed to, or as a result of a better proposal from the Executive. I do not think that the issue can be dodged during the passage of the bill.

Dave Petrie: I agree totally with what Alex Neil said and with the principle behind amendment 74. My only concern is about the definition of development, which could include civil engineering structures near the shore that have to be constructed within the flood-plain area. To take a broad-brush approach and ban all development on the flood-plain is not sustainable.

Patrick Harvie: Alex Neil is quite right to say that the issue cannot be dodged, but I wonder why he has lodged an amendment that seems to prohibit all development, including structures that are not intended to be anything but temporary.

I am sympathetic to Jackie Baillie's amendment 73, but, even if we agreed to it, I would be left with the concern that people would still feel that they were unable to challenge specific national developments on the ground of need. Merely having a statement of need is perhaps not enough. We need to discuss that further as we move on to other sections.

Is the implication of Christine Grahame's

amendment 40 that the provisions in proposed new section 3A(4)(b) will also be mandatory? It seems that changing that "may" to a "must" would require the Executive to designate national developments within the NPF, rather than leaving that optional.

Christine Grahame: I will be honest—I had not considered the implications for that provision. However, I do not intend to move amendment 40. I will perhaps address the issue at stage 3.

Johann Lamont: It is our intention that the national planning framework should set out a broad strategy for Scotland's long-term spatial development. As far as the generality of development is concerned, it is for development plans to set the land-use policy framework. The national planning framework is intended to be a top-level document concerned with spatial and land-use matters of national strategic importance, which would not be the case if we were to accept Euan Robson's amendment 17. I therefore ask him to consider withdrawing amendment 17, as it is important that the NPF should not stray into matters that are properly the preserve of planning authorities in preparing their development plans. We consider it important that the bill should provide discretion as to what the national planning framework should contain, including whether it should describe and designate national developments.

Christine Grahame's amendments 40 to 42 would make the legislation too prescriptive about the matters that the national planning framework must contain. In our view, it would not be helpful for legislation to define the categories of development that must be described and designated as national developments. The national planning framework is a statement of Scottish ministers' strategic development priorities and it is important that ministers should have discretion as to the projects to be designated as national developments. The essential test is whether a project is of strategic importance to Scotland's development. Not all developments within the categories included in amendment 42 would necessarily meet that test. For example, some trunk road and rail developments may be only of regional or local importance.

Ministers will make a statement to Parliament on the considerations that they will take into account in deciding whether a particular development will be described and designated as a national development in the national planning framework. I therefore ask the committee to reject amendments 40 to 42.

Jackie Baillie will be relieved to know that we have every sympathy with her amendment 73. However, it may not necessarily be helpful to define the nature of any statement on a national

development that may be included in a national planning framework as narrowly as is proposed in amendment 73. In addition to the question of need, it may, for example, be appropriate to include guidance on the considerations that should be taken into account in implementing the development. It is important that the legislation does not preclude that. We would prefer a formulation that encompasses need but does not preclude any statement from addressing matters other than need. If Jackie Baillie is happy not to move amendment 73, we will undertake to consider the matter further.

Finally I turn to Alex Neil's amendment 74. He will of course understand that it is not possible for me to comment on individual planning applications.

We are committed to an extensive programme of participation and consultation over the policy content of the national planning framework. To prescribe specific elements of the framework's policy content in legislation would undermine that process. The Scottish Executive has already published a Scottish planning policy on planning and flooding—which, like all Scottish planning policies, would be a material consideration in any planning application. I therefore ask the committee to reject amendment 74.

Euan Robson: I listened carefully to the minister, and I appreciated her comments, which it was helpful to have on the record. In the circumstances, I will seek leave to withdraw amendment 17.

I do not particularly wish to refer to the other amendments in the group, apart from Mr Neil's amendment 74, with which I have considerable sympathy, having just experienced serious flooding in my own constituency. However, ironically, the wording of amendment 74 might actually prevent flood prevention works from being constructed. I know that drafting amendments is always difficult, but Mr Neil might wish to return to the issue at a later date.

Amendment 17, by agreement, withdrawn.

Amendments 40 and 41 not moved.

10:30

The Convener: Does Jackie Baillie wish to move amendment 73?

Jackie Baillie: In the light of the minister's positive comments—and in anticipation of something better coming back at stage 3—I am happy to not move the amendment.

Amendments 73 and 42 not moved.

The Convener: Does Alex Neil wish to move amendment 74?

Alex Neil: Am I entitled to say a word or two?

The Convener: No. [*Laughter.*]

Alex Neil: I always like to reply to the minister. I will not move the amendment on the basis that I will lodge another amendment at stage 3.

Amendment 74 not moved.

The Convener: Amendment 75, in the name of Patrick Harvie, is grouped with amendments 76, 44, 77, 18, 11, 19, 78, 45, 12, 20, 13, 46, 79, 21 and 22. I refer members to the notes on pre-emptions in the group that are provided in the groupings list.

Patrick Harvie: I will pick out amendment 77, which stands alone because it is not about examination in public. It goes some way towards meeting the concerns about national developments that Jackie Baillie expressed while we were discussing the previous group.

Amendment 77 would require specific attention to be paid during consultations to people or bodies that are likely to be affected by developments that are designated as national developments. If a national development is to be included in the NPF and if its general location is known—for example, because the infrastructure can be in only one place—it is reasonable to make a particular effort to consult people who live nearby and will be affected by it. As the bill stands, the process for approving controversial national infrastructure projects will give people less ability and fewer opportunities to challenge decisions than they have at present. Amendment 77 addresses that concern.

The other amendments in my name—amendments 75 to 79—are about examination in public. I am sure that members will recall in gory detail the debate that we had at stage 1 on the concept of examination in public. The process would not unduly delay the NPF. In other, similar jurisdictions the process takes only a few months and it does not necessarily add dramatically to any delay that is encountered in preparing the NPF. The process would ensure that we give people, organisations, community groups and others an opportunity to test the arguments in a formal process, particularly in the case of national infrastructure projects that will be designated as national developments. Of course, it would also allow some formal public scrutiny of the entire NPF. That is why I included flexibility in the format of an examination in public.

Although it is reasonable to have a less formal—and perhaps shorter—process to address any challenges or objections to the NPF's broad spatial policies, a formal public process will be important for any challenges to specific development proposals. I welcome the fact that

Bruce Crawford has also lodged amendments on examination in public, and I am happy for members to debate the relative merits of the two models that have been presented.

I move amendment 75.

Donald Gorrie: My amendment 44 seeks to cover some of the same ground as Patrick Harvie's amendments and tries to draw a distinction between the model proposed in the bill in which, after talking to some people now and then, the Executive introduces a national planning framework for consultation—I dislike that particular model, myself—and the model set out in amendment 44 in which others, including

"relevant committees of the Scottish Parliament ... local authorities ... statutory bodies and ... relevant commercial and voluntary bodies"

are involved with civil servants, ministers, experts and so on in drawing up the framework.

One of the defects of the current democratic system is the lack of development of the Parliament's potential as a creative beast. The Parliament should be working with civil servants and ministers to develop policies, frameworks and so on instead of the current system in which the Executive produces documents that we are then supposed to snipe at. Although that is quite entertaining, it is extremely unproductive. Parliament, local authorities, statutory bodies and so on should be positive contributors to the framework.

One minor point about amendment 44 is that proposed new subsection (7B) sets out more fully the minister's duty to ensure that the framework is properly publicised and that everyone who might reasonably contribute to the consultation is allowed to do so.

Amendments 45 and 46 are consequential. Amendment 45 is merely technical, whereas amendment 46 seeks to make it clear that if the consultation raises reservations, the various minority views will be publicised in addition to the majority view.

In summary, the main point of amendment 44 is that the Parliament and others with a serious involvement in planning should be genuine partners with the Executive in drawing up the planning framework. I hope that it commends itself to members.

Johann Lamont: Part 2 of the bill imposes a duty on planning authorities to prepare and publish an account of the steps that they will take to involve the public at large in the preparation of development plans. Executive amendment 18 seeks to place Scottish ministers under a similar obligation in relation to the NPF's preparation by embodying a commitment to "participation" rather

than simply "consultation"; requiring the publication of a statement before the participation exercise begins; and requiring ministers to identify the steps taken to involve the public at large. Of course, the persons or bodies likely to be affected by national developments could be identified in the NPF participation statement.

Amendment 22 requires ministers to include a report on participation as one of the documents to be laid before Parliament along with the published NPF. It specifies that the report should set out the extent to which consultation and public involvement have conformed with, or have gone beyond the requirements of, the participation statement. I hope that the committee will accept these amendments, as they indicate our willingness to be open and constructive in the NPF's preparation.

Amendments 75, 76, 78 and 79, in Patrick Harvie's name, seek to apply procedures designed for the preparation of development plans to the preparation of the national planning framework. We do not feel that it is appropriate to apply procedures designed for a potentially complex technical policy document such as a development plan—the provision for formal modification, for instance—to a broad statement of spatial strategy such as the national planning framework.

As for Euan Robson's amendments 19 and 20 and Donald Gorrie's amendment 44, we believe that primary legislation should establish principle rather than seek to prescribe practice in detail. Specifying the detail of participation and consultation in primary legislation reduces the flexibility to improve practice in the light of experience.

Ministers are fully committed to ensuring that key agencies, planning authorities, the general public and other relevant bodies have the opportunity to participate in the preparation of the national planning framework. The programme of participation to which we are committed will provide ample time for public and stakeholder engagement with the framework.

Stakeholders, the public and MSPs will have the opportunity to participate in the preparation process at several stages. The process will involve initial consultation on scope and content; the issue of a draft for public consultation; revision in the light of reaction to the draft; and scrutiny of the final draft in Parliament. The process will include two rounds of regional and thematic seminars.

The draft framework will have been in the public domain long before it is laid before Parliament. Any projects identified as national developments will already have been subject to scrutiny as part of the development of other strategies or programmes.

With particular reference to amendments 76 and 77 in Patrick Harvie's name, stakeholders, including persons or bodies likely to be affected by national development, will have the opportunity to scrutinise and make representations on the consultative draft. Any unresolved concerns can be pursued during the period of parliamentary consideration. There will be opportunity for scrutiny, comment and debate throughout the preparation process.

Executive amendment 18 will place a duty on ministers to prepare and publish a participation statement setting out when consultation on the framework will take place, the stakeholders to be consulted and the

"steps to be taken to involve the public at large".

Executive amendment 22 will require ministers to report to Parliament on the participation exercise.

The terms of the Executive amendments are to be preferred to those of Euan Robson's amendment 21, Donald Gorrie's amendments 44 and 45, and Patrick Harvie's amendments 75 to 79, because they explicitly embody the principle of participation rather than consultation, require the publication of a statement before the participation exercise begins, and require ministers to identify the

"steps to be taken to involve the public at large".

The publication of a participation statement will mean that stakeholders and the public will know exactly how the preparation process for the framework is to be conducted and what opportunities they will have to engage with it.

In relation to Donald Gorrie's amendment 46, we do not consider it appropriate to introduce into the participation process the concept of notes of reservation, applicable in relation to the representations of certain specified bodies, particularly when it is not clear what the import of any such notes of reservation would be.

Donald Gorrie might have identified the following problem, which is the fault line of his argument. The term "note of reservation" suggests a model in which ministers, Parliament, local authorities, statutory bodies and relevant commercial and voluntary bodies are participating in the preparation of the framework on some sort of partnership basis. However, the national planning framework is a statement of Government policy; it is not plucked from the ether. It aims to engage everyone in political and election processes. There is dispute about which model should apply, but we are creating a Government policy that will be opened up to the scrutiny of a range of organisations. I suspect that even if we strove to reach consensus on what a national planning

framework should be, achieving it would not be possible. There are even differences in the committee and the Parliament on what members could and could not sign up to. We recognise that how people see the national planning framework is a critical matter. Executive amendments 18 and 22 reflect the Scottish ministers' commitment to a full and comprehensive participation programme for the national planning framework, but responsibility for preparing the framework is ultimately theirs.

We do not believe that a separate technical examination, as set out in Bruce Crawford's amendments 11 to 13 and Patrick Harvie's amendment 76, is required to inform parliamentary scrutiny of a broad strategic policy document such as the national planning framework. Unlike the technical and detailed regional spatial strategies prepared elsewhere in the UK, the national planning framework will not allocate land for specific developments. Although some of the issues raised by the framework will be politically contentious, they will be issues of principle rather than technical complexity. The programme of participation and parliamentary scrutiny to which we are committed will provide ample opportunity for the issues raised by the framework to be examined critically.

I ask the committee to reject all the amendments in the group apart from the Executive amendments.

10:45

Bruce Crawford (Mid Scotland and Fife) (SNP): I will speak to amendment 11, to which amendments 12 and 13 are consequential. Forgive me if, in this stage 2 process, I repeat arguments that were made at stage 1.

Clearly, there will always be a need to determine national policy objectives at a national level. I welcome the fact that the publication of future planning frameworks will be enshrined in legislation. Although what constitutes a national development is not described in the bill, an indication of the type of developments envisaged was given in the planning white paper "Modernising the Planning System", which stated:

"the legislation will provide for national developments to be called in by Scottish Ministers, where it is necessary to expedite decisions in the national interest. Major transport, water and drainage, energy and waste infrastructure projects, major areas of urban regeneration or expansion and large strategic business or industrial investments may fall within this category of development."

Although the minister said that the framework will not allocate land for specific developments, once a development is classified as a national development within the national planning framework, the development will in effect be agreed in principle and development plans that are

produced by local authorities will be expected to reflect that. In itself, that will be no bad thing but, unfortunately, the bill as drafted will not allow local people, local authorities, national organisations and statutory consultees to object to the final national planning framework document or to be consulted on the final position. Yes, the bill provides for lots of scrutiny, comment and engagement during the consultation process, but there will be no consultation specifically on the final document before it comes to Parliament.

Other spatial strategies across the UK take a different approach and are tested by examination in public. That means that, as is proposed in amendment 11, independent persons can be appointed to examine the issues raised during the consultation process. Such examinations are short, non-adversarial, focused sessions that last only a few weeks, at the end of which a report is produced that sets out any recommended modifications. The regional development strategy for Northern Ireland—which was outlined in the document “Shaping our Future”—sets out development in Northern Ireland until 2025. The Northern Ireland strategy is subject to a public consultation and then to a five-week-long public examination by an independent panel. The London spatial strategy, for an area that covers 7.3 million people and 32 boroughs, provides a strategic framework for London for the next 10 to 20 years. It is subject not only to an extensive public consultation, but to an examination in public by a Government-appointed panel for a period of seven weeks. Every regional strategy in England is subject to an examination in public unless exceptional circumstances indicate that that should not happen.

Why should Scottish citizens not have similar rights? Why should people in Scotland be treated as second-class citizens in such processes? An examination in public would allow citizens to have their views on the Executive’s proposals heard in an open and structured fashion. It would enable proposed policies to be robustly tested. An important point is that the final decision on which policies and proposals should be adopted would continue—rightly, I believe—to sit with the Scottish ministers. If the national planning framework is subject to an examination in public before being submitted to Parliament, all MSPs will be able to scrutinise it accompanied by the examination in public and will be much better informed as a result.

Given that Parliament will have only 40 days to reach a view on the content of the national planning framework, an examination in public would be an effective opportunity for in-depth scrutiny. The reality is that 40 days could never be long enough for Parliament to scrutinise effectively the detailed and complex issues that will be

involved in considering the national planning framework. Inevitably, Parliament will focus on the most politically contentious issues, such as—God forbid—the building of a new nuclear power station. Forty days is less time than some local authorities currently have to consider an application for a house extension. I recommend to my colleagues on the Communities Committee that, if we are to achieve public acceptance of national projects that because of their nature are bound to be controversial, we must do all that we can to ensure that individuals and organisations are provided with an open and robust process to participate in and engage with.

I agree with Scott Barrie that greater public involvement can only strengthen the planning process and I am trying to increase that involvement. An examination in public of the national planning framework would provide an opportunity to reduce the conflict and tension that could exist between the Government and the citizens of Scotland; I ask the committee to take that on board. I may be proposing a different model from Patrick Harvie’s, but we are both trying to achieve something similar. My amendments would give the minister more power to decide what the process would be.

Euan Robson: My amendment 19 is substantive and amendment 20 is consequential to it. Having listened carefully to the minister, I will not move amendment 21. She encompassed the detail of amendment 21 adequately within her remarks.

The purpose of amendment 19 is to give substance to the period before the national planning framework comes to Parliament. In discussing amendment 11, Bruce Crawford presumed that the period of consideration in Parliament would be 40 days; we may later extend that period. Even if we do that, however, it is necessary to give some assurance that the period before the national planning framework’s introduction to Parliament will be better defined.

It may be that in the future there will be consensus that the national planning framework is simply a continuation and that the framework will be a simple, straightforward, amended document; one cannot predict what might happen. In the first instance, however, there is concern that the period before the framework’s introduction to Parliament should be given some substance. That period is when, as the minister said, consultation will take place and when there will be detailed discussion. A period of no less than three months will give assurance that there will be adequate time in which to consider the details of the framework.

I trust that I have drafted amendment 19 correctly; if I have not, I stand to be corrected. Amendment 20 is consequential to amendment

19. In the light of the minister's comments I will not move amendment 21.

John Home Robertson: I think that Bruce Crawford is at it, but that is part of his role in the Parliament—as in life, I suppose. He revived one or two old canards, starting with the 40 days' discussion. The minister has moved the debate on from that. That was only ever going to relate to parliamentary consideration of the draft national planning framework; clearly, there will be a far longer public debate about it before it gets to that stage. The minister has now moved an amendment that makes it abundantly clear that there will be the fullest public and parliamentary debate about the national planning framework.

Bruce Crawford next went for a soundbite on Scots being treated as second-class citizens, which is plainly nonsense. The whole thrust of the bill is to ensure that our citizens are fully involved, proactively, in decisions relating to planning in Scotland. He then got on to his favourite subject of nuclear power stations. I just wish that he would come to my constituency so that we could get into that issue. He is welcome in Dunbar some time to discuss that.

The fundamental point is that with the national planning framework, as indeed with individual developments, you can consult until you are blue in the face, but at the end of the day somebody will have to decide. In our framework, in a democratic Scotland, the buck stops with the Executive, which is fully accountable to the democratically elected Parliament. We are never going to get absolute unanimity on any issue. Knowing Scotland, as we all do, we know that there will always be somebody who will go on objecting to any framework or decision. However, it is right and proper that we should have a robust system for consultation and involvement. That is what the minister is proposing and that is what we have in amendment 18. We do not need the distractions that Bruce Crawford is trying to introduce into the committee's deliberations.

Christine Grahame: I have every sympathy with the thrust of Donald Gorrie's and Patrick Harvie's amendments, but I find myself agreeing with the minister—it had to happen some time. It is appropriate that arrangements for such detailed examination in public should be made in regulations. The point is well made that if we include those arrangements in the bill and there is any difficulty, we will have to bring the bill back and amend it.

Bruce Crawford makes the important point that we must

"specify a date by which the persons or bodies being consulted may make representations with regard to the framework."

The only thing I have to say about amendment 18 is that I do not like the words:

"likely to take place and ... of its likely form".

I do not know whether that is good drafting language—I wonder whether that might be looked at. That is a technical point.

Bruce Crawford makes a fair point; he is proposing bringing forward regulations—that is the issue. I am supportive of people knowing what procedures there will be for addressing planning issues in public and when to make a representation. Everybody should know that there is a level playing field. I support Bruce Crawford's amendments. I will support the minister's amendments, notwithstanding my comment about the phrasing. Regrettably for Patrick Harvie and Donald Gorrie, I would like to see what they would have put into regulations instead.

Scott Barrie: A listener to this debate, as opposed to a reader of the amendments, would think that we were debating whether to have a national planning framework that just appeared, or a full public consultation. It is patently nonsense to suggest that Scotland would not have been involved in the formulation of the national planning framework. Some people have conflated the parliamentary scrutiny of the draft with the question how the draft would have been arrived at. We must disassociate the two issues. The national planning framework will be a major consultation event, involving almost everyone in Scotland who has a view on the formulation of the planning framework. It will then be up to Parliament to discuss the draft and the timescale. As Euan Robson said, there is an amendment to alter the timescale.

The key issue is that the national planning framework will not just appear out of nowhere. That is the debate that we had during stage 1 consideration of the bill. It is not as if people will be surprised about where the major contentious issues and the major areas of agreement lie. If we get that mindset right, some of the amendments before us become superfluous. Irrespective of some of this morning's rhetoric, it is not the case that there will not have been public consultation or that the public will not have been involved. Christine Grahame is right. We must be careful and consider clearly what it is that we are being asked to agree or not agree in the amendments. If we put something in the bill that is too restrictive, the only way in which it can be changed is by further amendment. The minister was right: we need to ensure that we get the process right. We have amendments before us that do that.

11:00

Johann Lamont: We are different from the rest of the UK on this issue, but I argue that that is

because we made a conscious decision to set the national planning framework up in that way. We are not second-class citizens; we are producing an appropriate policy for Scotland. Unlike the technical and detailed regional spatial strategies prepared elsewhere in the UK, the national planning framework will not allocate land for specific developments. Those developments will not be plucked out of the air; they will be designed in the context of the waste, transport and other strategies that the Government will develop in the context of our political debate.

I thought that Bruce Crawford would have known that the national planning framework will be more like the national spatial strategies prepared in the Republic of Ireland, Denmark and the Netherlands. He cannot say that we do not have the same as the rest of the UK because we did not intend to in the first place. He will also know that local people will continue to play a critical role in any specific development planning issue.

I am interested in the notion that effective scrutiny is independent scrutiny and that the parliamentary process and the role of MSPs is to be limited to a time defined by the parliamentary authorities. As an MSP, I would be engaged long before that; even if I did not want to be, my communities would ensure that I was. It is possible to be involved at every stage of the process, not just during the period identified for parliamentary scrutiny, although it is also critical for those of us who represent communities to be part of that scrutiny. I will not delegate that role to an independent body appointed by Parliament, as Bruce Crawford suggests. We are talking about our understanding of the role of politicians in opening up to their local communities. If something is acceptable only because it has been done independently, Mr Crawford might want to reflect on some of the things that some of his and some of my colleagues might have to say about some of the decisions made by an independent body with delegated responsibility—the Scottish Executive inquiry reporters unit. Independence is not necessarily a test of acceptability, although independent scrutiny can have a role in some cases. However, the parliamentary process is critical in relation to planning, and national developments will have received critical scrutiny at every stage.

I understand the time issue and the importance of consultations. Our amendments have set out a clear commitment to participation and to involving people in shaping the national planning framework, which, as I said, remains an expression of Government priorities, and we hope that people will become engaged in shaping those.

I understand the intention of Euan Robson's amendment 19, but it is superfluous. It is not

necessary to describe the participation and parliamentary processes; we have outlined those and the detail is not appropriate for the bill.

Christine Grahame made a point about the language of the amendment, but the amendment would not use that language if it was not deemed appropriate by the officials who advise us. Conflict in the committee often comes because people have to decide whether to accept the advice that we are given on legal matters. I am content that our amendment 18 does what it says on the tin.

I urge support for the Executive's amendments 18 and 22 and rejection of the other amendments.

Patrick Harvie: The debate has been very full and I appreciate that.

I agree with Christine Grahame about Executive amendment 18. When I read the amendment, I was at a loss to work out whether it commits the Executive to doing anything meaningful at all.

I was disappointed to hear John Home Robertson dismiss the idea of examination in public as a distraction. Clearly if we went down this road—

John Home Robertson: I do not think that I said that.

Patrick Harvie: I am sorry if I misquoted you, but I think that you did say that.

If we gave people the opportunity to engage formally with the NPF, we would see that opportunity taken up by many people in Scotland and it would not be seen as a distraction.

Scott Barrie and the minister are quite right to say that the NPF and its contents will not simply be plucked out of the air or arrive suddenly without involving anyone in the prior process. However, I do not think that that is a legitimate reason for saying that there should be no formal process after the draft NPF is published. The minister is also quite right to say that MSPs and other elected politicians at all levels will be able to engage with their communities and the Executive and will be able to examine the policies and the strategies that might lead specific developments to be included in the NPF at some stage.

However, when the draft NPF is published and we come together as a Parliament—not as active members of a community whose job it is as MSPs to engage with our communities—to take a view on the NPF and all its contents, I agree with Bruce Crawford that it would be better to take that view with the additional resource of a report from an examination in public to better inform our debate.

The minister said that it is not appropriate to apply such processes to the NPF. Putting the NPF on a statutory footing and allowing the possibility of it including specific national developments

shows the Executive taking a new kind of planning function to itself and it is therefore appropriate to apply new processes to allow people to engage with that decision making. As the bill stands, the public will have opportunities to engage and consult, but I do not think that they are sufficient. We need to give people a formal role in the process and we need to give public authorities a duty to carry that out.

If the committee does not support my amendment 75, I will happily support Bruce Crawford's amendments on examination in public. For the moment, I will press amendment 75.

The Convener: The question is, that amendment 75 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Home Robertson, John (East Lothian) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 1, Against 8, Abstentions 0.

Amendment 75 disagreed to.

The Convener: I think that this is an appropriate time to suspend the committee. We will reconvene at 11.15.

11:07

Meeting suspended.

11:16

On resuming—

The Convener: Amendment 43, in the name of Scott Barrie, is in a group on its own.

Scott Barrie: Amendment 43 seeks to establish a clear timetable to ensure that the national planning framework is reviewed in a similar timescale to development plans. It does not require a new national planning framework to be written; it regulates the timeframe for considering whether that is necessary. Amendment 43 would provide more certainty around the national planning framework process as it would have a similar timeframe to local authorities' timetable for their development plans.

I move amendment 43.

Johann Lamont: We have a lot of sympathy with Scott Barrie's amendment 43 and we are comfortable with the principle that ministers should be required to consider regularly the need to revise the national planning framework. That is very much with the grain of our thinking on planning. If Mr Barrie is prepared to withdraw his amendment 43, we will undertake to lodge an amendment at stage 3 to address the issue.

The Convener: Mr Barrie, would you like to wind up the debate and indicate whether you wish to press or withdraw your amendment?

Scott Barrie: It might be a bit grandiose to say that I am going to wind up the debate.

Two thirds of the way is better than none of the way. I accept the minister's offer and I will work with the Executive to bring forward a suitable amendment at stage 3. I seek the committee's approval to withdraw amendment 43.

Amendment 43, by agreement, withdrawn.

Amendment 76 not moved.

Amendment 44 moved—[Donald Gorrie].

The Convener: The question is, that amendment 44 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Home Robertson, John (East Lothian) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 1, Against 8, Abstentions 0.

Amendment 44 disagreed to.

Amendment 77 moved—[Patrick Harvie].

The Convener: The question is, that amendment 77 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Home Robertson, John (East Lothian) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)

Petrie, Dave (Highlands and Islands) (Con)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 1, Against 8, Abstentions 0.

Amendment 77 disagreed to.

Amendment 18 moved—[Johann Lamont]—and agreed to.

The Convener: Amendment 11, in the name of Bruce Crawford, has already been debated with amendment 75.

Bruce Crawford: Even though John Home Robertson thinks that I am a bad man, I move amendment 11.

The Convener: I am sure that he will not lose sleep over that tonight, Mr Crawford.

Bruce Crawford: He will be devastated, I am sure.

The Convener: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 11 disagreed to.

Amendments 19, 78, 45, 12, 20, 13, 46, 79 and 21 not moved.

The Convener: Amendment 80, in the name of Patrick Harvie, is grouped with amendments 49, 50, 50C, 50A, 50B, 81, 51 and 82.

Patrick Harvie: We will discuss the time limit that will be imposed on parliamentary consideration of the draft NPF, but amendments 80 to 82 deal not with that timescale but with what will happen after parliamentary consideration. During discussions at stage 1, we agreed that it would be absurd if the Parliament's consideration of the NPF did not lead to a vote. In its stage 1 report, the committee recommended that the draft NPF should be

"the subject of a debate in the Parliament on a substantive motion".

Amendments 80 to 82 would include in the bill a clear requirement that the NPF would have to be approved by a resolution of the Scottish Parliament before the Executive's adoption of the NPF could be completed.

Amendments 80 to 82 reflect the democratic principle, to which the minister referred today and which we have discussed in other meetings. It is clear that the NPF is a creature of the Executive, not the Parliament, but the Executive is accountable to the Parliament. Towards the end of stage 1, I asked the minister where democratic accountability would lie if no majority coalition was in charge of the Executive and a minority Administration was operating—we can all see that that might arise. In such a situation, the democratic view would be represented by the Parliament, not by the minister who approved the NPF or by the Cabinet that agreed to it. The inclusion in the bill of a requirement that the Parliament pass a resolution on the NPF would lock in democratic accountability and ensure that no minister and Executive, whatever their political persuasion, could impose on Scotland developments of national importance—to that Executive—unless the Parliament had agreed to the NPF. The committee agreed in principle to such an approach when it recommended in its stage 1 report that there be a vote on a substantive motion, so I ask simply that we make that approach a requirement in the bill.

I move amendment 80.

11:30

Donald Gorrie: I lodged two substantive amendments—amendments 49 and 50—and three consequential amendments in the group.

Amendments 49 and 50 address some of the points that Patrick Harvie's amendments address. Amendment 49 would enable the Scottish Parliament to act as a court of appeal for people who had serious reason to believe that the national planning framework was unacceptable. The Parliament would follow a process and decide whether the objectors were just a bunch of nimbys who need not be taken seriously or whether they were raising a genuine issue that merited further consideration. If the Parliament wanted to consider the matter properly, it could appoint someone to hold an inquiry to assist it in its study.

Amendment 49 seeks to make what I think is an important point in proposed new subsection (2C), which I hope is taken up even if the amendment is not agreed to. At the moment, much of the consideration of planning matters is adversarial—people hire lawyers who abuse the other side, whose lawyers return the abuse. The truth is supposed to emerge miraculously out of that

process. There is a place for such adversarial law, but the process that I propose for an inquiry is not such a place. The person who conducts the inquiry would do so in a more informal, non-confrontational style. I hope that that approach will be adopted whatever system is chosen. In amendment 49 I also propose that if the inquiry involves more time than has been set out for parliamentary consideration, flexibility should be allowed. However, the main thrust of the amendment is that Parliament has a role to play when bodies are unhappy about the national planning framework.

Amendment 50 sets out that if Parliament should, at an appropriate time, vote to insist on a major amendment to the framework, ministers would have to attend to that, which I presume they would do by negotiating with Parliament and amending the framework in such a way that the reasons for members' opposition were removed. The second part of amendment 50 relates to other reports and so on to which Scottish ministers would have to respond. Basically, amendment 50 proposes that if Parliament voted against the framework or voted for it to be amended in a major way, ministers would have to pay attention to that and respond.

The national planning framework is a major issue—it is as important as a budget, for example, although it is a sort of land budget rather than a money budget. If ministers could not carry Parliament with them on it, they would be in serious trouble. Either they would amend their proposals or they would cease to be ministers—although that would be up to them. In my view, failure to respond to Parliament would be a matter of confidence.

I accept that in future Parliament's composition may be different. Parliament has a significant role to play in considering the national planning framework, both as a court of appeal, as amendment 49 proposes, and as a body with the power to make Scottish ministers amend the framework, as amendment 50 proposes. I hope that those ideas commend themselves to colleagues. Parliament has an important role to play in that regard. If someone has a better idea, they can put it forward, but I am content to support my proposals.

Christine Grahame: I am highly sympathetic towards the amendments of Patrick Harvie and Donald Gorrie, especially amendments 80 and 50. However, something is missing from amendment 50, which is why I propose in amendment 50C that

“the Scottish Ministers must seek approval by resolution of the Scottish Parliament for the proposed framework.”

Amendment 50 proposes that Parliament can oppose the framework “by resolution”; my simple

amendment to it specifies that it must be ministers who seek approval. It would be open to the Opposition or to a committee that produced a report to seek to hold a debate on the framework, but ministers would have to seek approval of the NPF by resolution.

I like the idea behind amendment 49, but I have a wee problem with the process that it proposes. Amendment 49 states that any person or body could object to any framework. It goes on to say:

“The Scottish Parliament may appoint one or more persons as an assessor for the purpose of examining and reporting on timeous objections”.

In other words, the only requirement is that objections would have to be submitted on time, which would not prevent frivolous or vexatious objections. Under Donald Gorrie's system, there would be no sifting process. Although one would like to be as democratic as possible, if amendment 49 were incorporated in the bill we might find ourselves in a situation in which hundreds of frivolous or vexatious objections were duplicated because there was no sifting process. That is my main point about amendment 49. If it were amended before stage 3 to solve that problem, I would be sympathetic to it.

John Home Robertson: It is right and proper that Opposition members—indeed, all back benchers—should be deeply suspicious of the Executive. However, the question is whether the perceived flaw in the bill is real or imaginary. Proposed new section 3B(1) of the principal act states:

“the Scottish Ministers—

(a) are to lay the proposed National Planning Framework ... before the Scottish Parliament, and

(b) are not to complete their preparation or revision of the framework until the period for Parliamentary consideration has expired.”

It is unthinkable that the Parliament would not express a view. Even if the Executive did not lodge a motion, somebody else surely would. I am not sure whether we are talking about a real problem. We can safely assume that there would be a debate and probably a resolution if that were what the majority of members wanted. I assume that that would happen inevitably, but I look to the minister for a steer on the matter. If it is necessary or desirable that there should be an amendment to specify that that should be done, fair enough. However, the amendments in the group do not take us any further forward.

Johann Lamont: Patrick Harvie's amendments 80 to 82 fail to recognise that the national planning framework is a statement of Government policy and that it is for the Scottish ministers to determine its final content, having taken account of the views of Parliament and the public at large. For that

reason, I ask the committee to reject the amendments.

We recognise the political context in which we operate. Why do people seek coalition? Because, under minority Government, one cannot get one's programme through. Patrick Harvie paints a picture of a minority Government imposing its will on the Parliament without being accountable. If that were the case, the largest group would presumably not bother with the delicate process of coalition Government but would simply seek to impose its will. However, in the parliamentary process people have to construct a majority for their programme and for their proposals. There are issues of accountability and of the confidence of the Parliament.

I suppose that the question is whether the committee wants the bill to state explicitly whether there needs to be a motion. Surely it is for the parliamentary process to determine whether a motion is required, who would lodge it and so on. Stating explicitly that there must be a motion would remove the national planning framework from the normal rules of government and the Executive's normal rules of engagement in the parliamentary process. I cannot envisage a set of circumstances in which it would be possible to govern without the will of the majority of the Parliament in which one sits.

I turn to amendment 49. Executive amendment 18 reflects our commitment to a full and comprehensive programme of stakeholder and public participation in the national planning framework. As I said, any person or body will have the opportunity to make representations on a consultative draft before the Parliament considers the framework. We do not consider it necessary to make further provision for objections to be made during the period of parliamentary consideration.

As Donald Gorrie said, we cannot prevent people objecting through their elected representatives or through direct representation to the Parliament. That is the food and drink of the parliamentary process as we know it. However, I do not accept that the Parliament is a court of appeal. If it were, it would be an interesting court of appeal. I am sure that many of my constituents would want to use it as a court of appeal for a number of issues outwith planning, but that would create challenges for us in relation to the division of powers in Scotland.

I note that Donald Gorrie's amendment 49 states that an inquiry may be conducted. As things stand, parliamentary committees can hold inquiries into any matter as they see fit. I do not see that the amendment adds to that.

I understand the need to take confrontation out of the planning process, but I am not sure how we

could legislate to ensure that people are not confrontational. Perhaps someone could advise me how I could do that myself on occasion. As a general rule, people have the right to be robust. One person's confrontation is another person's simple, straightforward, robust expression of views. We could all sign up to the general principle of being non-confrontational—being involved and engaged and so on—but it is a challenge for us to put that in legislation. It is perhaps part of the necessary culture change that has been identified elsewhere.

As I have said, we do not believe that a separate technical examination is required to inform parliamentary scrutiny of a broad strategic policy document such as the national planning framework. We understand that the framework may be politically contentious, but the issues that it raises will be issues of principle rather than of technical complexity. The programme of participation and parliamentary scrutiny to which we are committed will provide ample opportunity to examine critically the issues that are raised by the framework. I have already described the process by which the framework will finally arrive in the Parliament, after a great deal of debate and discussion. Indeed, if the parliamentary process is to be effective, it must be predicated on full engagement at a local level.

As we do not believe that a separate technical examination is required to inform parliamentary scrutiny of the national planning framework, we are opposed to making legislative provision to extend the period for parliamentary consideration of the framework to accommodate such an examination. In relation to Christine Grahame's point, a provision giving the Parliament power to extend the period for parliamentary scrutiny would allow the process of preparing the framework to be prolonged indefinitely.

For those reasons, I ask the committee to reject amendment 49, in the name of Donald Gorrie.

Amendments 50, 50A, 50B, 50C and 51 fail to recognise that the national planning framework is a statement of Government policy and that it is for Scottish ministers to determine its final content, having taken account of the views of Parliament and the public at large, and to be accountable for the framework through the parliamentary process. I indicated in relation to amendment 49 that we are opposed to making legislative provision to extend the period for parliamentary consideration to accommodate a technical examination of the framework. The bill as introduced places a duty on ministers to make a statement to Parliament on the actions that they have taken to address the issues that have been raised in any resolution or report on the framework by Parliament. I therefore ask the committee to reject those amendments.

Patrick Harvie: I do not want to anticipate the committee's decision, but a pattern seems to be developing. Throughout our scrutiny of the bill, the debate on the national planning framework has helped to raise its status and profile—it is more than a strategy on this or that. The minister may be technically correct in calling the NPF a statement of policy, but it has a higher status than that. The debate in the committee has helped to raise the profile of the NPF—I hope that our stage 3 discussions after the summer continue to raise it—which is a positive step, even if the committee does not support the amendments.

If, as John Home Robertson says, it is unthinkable that no vote would be taken on the NPF, we should make it impossible not to take a vote on it. I go further than that: not only do amendments 80, 81 and 82 require a resolution, they say something about what should happen when it falls, that is, when the Parliament does not support the NPF. They make it clear that the Executive would have to go back and think again about the Parliament's concerns.

My last point is on the democratic legitimacy of decision making. There is no problem with ministerial powers in general—we all accept that there is a role for ministers in making some decisions without having to come back to Parliament—but when we introduce new powers and functions that the Executive will take on in relation to the NPF, we need to think about whether there is an appropriate level of parliamentary scrutiny. I argue strongly that, in the case of the NPF, we have something that should not go through the same process that any piece of subordinate legislation goes through, that is, with ministers signing things off and cursory parliamentary scrutiny. We need a process that is much more robust—to use a word that the minister likes—and that ends with the Parliament expressing its view. If we say that the process needs to end with that, we should put that in the bill.

I press amendment 80.

11:45

The Convener: The question is, that amendment 80 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Grahame, Christine (South of Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Home Robertson, John (East Lothian) (Lab)

Petrie, Dave (Highlands and Islands) (Con)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 80 disagreed to.

The Convener: Amendment 47, in the name of Donald Gorrie, is grouped with amendments 48 and 1. I refer members to the note on pre-emption in the group that is provided in the groupings document.

Donald Gorrie: Amendment 47 is about the time that Parliament should have in which to consider proposals for the national planning framework. I suggest that the time could be flexible. Under my amendment, 60 days—which is the figure that other members are aiming at—would be a minimum, but if Parliament feels for any reason that it needs more time, it should be allowed that. If there is consensus in the committee that a fixed period of 60 days is appropriate, I could live with that, but it would be helpful to allow Parliament room for manoeuvre.

I move amendment 47.

Patrick Harvie: Amendment 48 has much the same intention as amendment 47. We have debated at length whether the period should be 40 or 60 days. However, whatever time limit we set on Parliament's consideration, it is extraordinary to include such a limit in the bill if we are not prepared to include other requirements about how we deal with the framework. If members feel that it is perfectly okay to have a discretionary parliamentary vote, it seems reasonable also to have a discretionary period for parliamentary consideration. Any time limit that is included in the bill will be an arbitrary guillotine.

The Executive might suggest a proposed revision to the national planning framework that would make relatively straightforward changes and be merely a refinement of previous policy, but the document might equally involve a great deal of changes to policy and include a significant number of major and controversial specific developments. In that situation, we should, through our representatives on the Parliamentary Bureau or through some other process, be able to decide what is appropriate, given the material that will be in front of us. Several months might be required in some cases, but a shorter period might be adequate in others. I argue strongly that members vote either for Donald Gorrie's amendment 47 or my amendment 48, in order to remove the arbitrary guillotine.

The Convener: I will speak to amendment 1, which is in my name. This process will probably teach me why the convener should not lodge amendments.

Amendment 1 reflects discussions that the committee had during our stage 1 deliberations, as do amendments 47 and 48. Amendment 1 would extend the period for parliamentary scrutiny to 60 days, which is the suggestion in the committee's majority recommendation on the issue. If we extend the consideration period to 60 days, the committee that has responsibility for considering the NPF will have the required flexibility to do so, and necessary parliamentary scrutiny will not have to be rushed. I hope that the minister has reflected on the committee's sensible representations in its stage 1 report and that she will support amendment 1.

Christine Grahame: Although I am sympathetic to amendment 47, which is in Donald Gorrie's name, I very much support Patrick Harvie's amendment 48. After all, if the first NPF is under consideration or if it is subject to contentious or difficult revision, we need Parliament—through the Parliamentary Bureau—to decide how much time is needed to give us flexibility. However, as I think Euan Robson said earlier, the NPF might need only to be tweaked, which would mean that 60 days would not be needed.

Scott Barrie: Amendment 48 says that consideration of the NPF should last

"not less than 60 days".

Christine Grahame: I have just noticed that. In that case, I might lodge an amendment that would provide more flexibility.

I do not think that the minister should find this matter so difficult. The bureau has often made mistakes about the length of time for stage 3 consideration and other debates, and we are learning from the process. I know that the subject is dear not only to Donald Gorrie's heart but to the hearts of other members. Why are we fixing ourselves to a time period when we can leave it to a cross-party group of business managers to decide the appropriate length of time for Parliament to examine and debate the NPF? Of course, there would be a built-in majority for whoever was in power; after all, we are legislating not for the Labour Party or the coalition but for whoever happens to be in Government. I am thinking on my feet a bit, but if Parliament decides that the Executive has to make revisions to the NPF, would they have to be finalised and signed off within the same period? We need flexibility in that respect.

Scott Barrie: Something that seemed to be relatively straightforward when we drafted our stage 1 report seems to have become immensely complicated. The committee had been concerned about the 40-day period for parliamentary scrutiny of the NPF and was keen for an amendment to be lodged to address those concerns. That is

certainly what amendment 1 does. Given that amendment 47 turns out not to be what Christine Grahame thought it was—

Christine Grahame: It is very hot in here.

Scott Barrie: Ms Grahame is now making the matter more complex than necessary. If the national planning framework has only to be tweaked, it can simply lie for 60 days. If nothing happens to it, so what? Such a move would not hold things up or be absolutely disastrous. It would instead be a problem if Parliament was not given enough time to scrutinise the NPF adequately, which was why the committee was concerned about the initial 40-day proposal.

Johann Lamont: Let me say first that I always reflect on and try to act on sensible comments from whatever source. Secondly, I have never in my working life signed things off in a cursory way—I expect that no one else in the room would do so. If less time is given to parliamentary scrutiny, it is because parliamentarians have deemed that less time is required. I do not want to give any substance to the idea that we sign off things without thinking about them; we take our responsibilities more seriously than that.

I am tempted to say that, on this matter, I will be damned if I do and damned if I don't. However, as we acknowledge the widespread view that the bill should prescribe a longer period for parliamentary scrutiny of the NPF, we support amendment 1, which seeks to extend the period to 60 days.

Committee members will be aware that I felt that 40 days would be sufficient, given the amount of work that would have been done beforehand. However, we accept the committee's view, which has been taken after serious consideration, that the period should be extended to 60 days.

In the parliamentary process, committees often ask for more time. However, we still have to manage our business, and we have to balance the time that we spend on separate issues. I would therefore be most concerned if people were to argue for an open-ended process, in which things could simply be spun out and no resolution reached.

I am intrigued by Christine Grahame's notion that it is the job of legislators to legislate for whoever is in government. We will all have legislative priorities that depend on our political priorities, but they have to be underpinned by the parliamentary process, no matter who is in power. The Opposition must have a real opportunity to scrutinise legislation—I am therefore concerned by the notion that things could simply be left to the Parliamentary Bureau. If a majority can be achieved in the bureau, I presume that affirmative orders or anything else could be closed down in one day, if the bureau decided that one day was

sufficient. The period of 40 days—or 60 days—gives us the security of having sufficient time for due process, but it also reflects the fact that Parliament has to deal with a number of different issues.

The Executive supports amendment 1 in the name of Karen Whitefield, but we do not accept the need for the period of parliamentary consideration to be open-ended, because that would risk prolonging unnecessarily—or even indefinitely—the process of framework preparation. As has been discussed elsewhere, the crucial role of the national planning framework, and of development plans, is to bring certainty, preparedness and security to the planning process. We do not want everything to come in at the end, when late applications are made.

I have already described the importance of initial engagement prior to the parliamentary process, and I am confident that 60 days will provide adequate time for scrutiny of the framework by Parliament. I therefore ask the committee to reject amendments 47 and 48, and to accept amendment 1.

Donald Gorrie: There is a clear choice between two arguments. The first is that 60 days is better than 40 days; the second is that 60 days is okay for a minimum but that Parliament should be able to take more time if complicated issues arise.

My amendment 47 and Patrick Harvie's amendment 48 are very similar. That confuses the issue, but his amendment will get at least one vote, whereas mine will not because I do not have a vote.

I seek leave to withdraw amendment 47.

Christine Grahame: I would like to press amendment 47.

The Convener: In that case, the question is, that amendment 47 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Grahame, Christine (South of Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Home Robertson, John (East Lothian) (Lab)
Petrie, Dave (Highlands and Islands) (Con)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 47 disagreed to.

Scott Barrie: Donald is not very good at predicting votes.

Christine Grahame: I just pressed the amendment to show you, Donald.

The Convener: Amendment 47 is not agreed to, but at least it got a little bit of support.

If amendment 48, in the name of Patrick Harvie, is agreed to, I cannot call amendment 1 because it will have been pre-empted.

Patrick Harvie: I will accept in principle the two votes that Donald got, but I will not move amendment 48.

Amendment 48 not moved.

The Convener: Amendment 1 is in my name and it has been debated with amendment 47. Unsurprisingly, I wish to move it.

Amendment 1 moved—[Karen Whitefield]—and agreed to.

Amendment 49 moved—[Donald Gorrie].

12:00

The Convener: The question is, that amendment 49 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Grahame, Christine (South of Scotland) (SNP)
Home Robertson, John (East Lothian) (Lab)
Petrie, Dave (Highlands and Islands) (Con)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 49 disagreed to.

Amendment 50 moved—[Donald Gorrie].

Amendment 50C moved—[Christine Grahame].

The Convener: The question is, that amendment 50C be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Grahame, Christine (South of Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Home Robertson, John (East Lothian) (Lab)

Petrie, Dave (Highlands and Islands) (Con)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 50C disagreed to.

Amendment 50A moved—[Donald Gorrie].

The Convener: The question is, that amendment 50A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 50A disagreed to.

Amendment 50B moved—[Donald Gorrie].

The Convener: The question is, that amendment 50B be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 50B disagreed to.

The Convener: The question is, that amendment 50 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Home Robertson, John (East Lothian) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Robson, Euan (Roxburgh and Berwickshire) (LD)

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

Amendment 50 disagreed to.

Amendment 81 not moved.

Amendment 22 moved—[Johann Lamont]—and agreed to.

Amendments 51 and 82 not moved.

Amendment 23 moved—[Johann Lamont].

Amendment 23A moved—[Patrick Harvie].

The Convener: The question is, that amendment 23A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Grahame, Christine (South of Scotland) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 1.

Amendment 23A disagreed to.

Amendment 23 agreed to.

Section 1, as amended, agreed to.

Section 2—Development plans

The Convener: Amendment 52, in the name of Patrick Harvie, has already been debated with amendment 39. If amendment 52 is agreed to, I cannot call amendments 24, 25 and 26 because they will have been pre-empted.

Amendment 52 not moved.

Amendment 24 moved—[Patrick Harvie].

The Convener: The question is, that amendment 24 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Grahame, Christine (South of Scotland) (SNP)

Harvie, Patrick (Glasgow) (Green)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 24 disagreed to.

Amendments 25 and 26 not moved.

The Convener: Amendment 2, in the name of Iain Smith, is grouped with amendments 84, 3, 27 and 4 to 9. I refer members to the notes on pre-emption.

Iain Smith (North East Fife) (LD): I thank the convener for the opportunity to speak to my amendments and I thank committee members for keeping business going long enough to allow me to get here in time.

All my amendments are linked to the same purpose. They form a single group, an obvious effect of which would be to remove ministers' power to designate a strategic development planning authority. Instead, they would give a permissive power to a group of local authorities to agree to form such a body. It will come as no surprise to the minister and other members that I have serious concerns about the proposed establishment of strategic development planning authorities; I will speak about my three key reasons for that in a moment.

I have made my position clear to ministers on a number of occasions over several years and have received considerable support from my constituents in North East Fife—and indeed elsewhere in Fife—who share my concerns about proposals that could see Fife being split in four for strategic development purposes and their consequences.

The primary aim of my amendments is to ensure that there is proper democratic accountability of, and community buy-in to, the proposed strategic development planning process and any subsequent plan that arises from it.

The approach in the bill is contrary to the bill's key policy objectives of enhancing community involvement and sustainability. As I said, there would also be a particular impact on Fife, which lies between and within two proposed strategic development plan areas. In the context of the national planning framework, there is no need for a further sub-national tier. The NPF should set national planning objectives in a way that allows local planning authorities to address issues of concern.

It is hard enough to achieve effective community involvement in the current structure and local plan process, as recent experience in Fife demonstrates. Many communities have lost confidence in the planning process and think that it fails to take sufficient account of community views. People think that the process is largely developer-led and so meets the needs of developers rather than communities. The creation of a more remote and less accountable strategic development plan authority would be unlikely to help to build confidence in the system. Currently, decisions about development policy and land allocation are at least taken by councillors who are elected by, and therefore directly accountable to, the affected communities. Under the SDPA proposals, decisions would be taken by councillors, the majority of whom would not necessarily represent the affected area and would not be accountable for their decisions. Indeed, a proposal might be opposed by all the representatives of the local council but voted through by councillors from other areas, perhaps because they did not want a particular development on their own doorsteps. Such an approach would not enhance community involvement or confidence in the planning process.

The overwhelming opposition to the proposed city planning regions in various consultations in Fife was discounted—I think that means it was ignored—in the analysis of the consultation responses. Despite that, the analysis still showed no overwhelming majority support for the proposals for city regions other than from business. I fear that the proposals are another example of creeping centralisation of public services in Scotland.

There is a risk that the city region approach is inherently unsustainable, in that it will suck development into city cores and leave the peripheries to struggle. If members consider the effect of Dublin's development on wider Ireland, they will understand what I mean. The approach also bears the hallmarks of a self-fulfilling prophecy: if we plan on the basis that cities are the drivers we will reduce the scope for any other outcome. The concentration of economic opportunities on city cores will reduce outlying areas to dormitories, which are not sustainable communities. All communities need a mix of housing, commercial and employment opportunities, but shops and health and education services will be sucked into the centre as people find it easier to access facilities close to where they work, rather than close to their homes, where facilities are unlikely to be open at hours that suit them. More people will travel further to access employment, which is also unsustainable. Instead of such an approach, we need a balanced development strategy, which will sustain people in their communities.

Fife currently enjoys coterminous boundaries for many public services, which has advantages for community planning. However, Fife would fall between and within the proposed strategic development planning areas for Edinburgh and Dundee. The approach in the bill could result in there being three different planning areas and regimes in Fife if some parts of Fife fell into neither the Edinburgh nor the Dundee strategic development planning area, so there could be different priorities and planning policies in three parts of Fife. There are no obvious logical boundaries for such areas, because such boundaries will vary depending on their purpose and over time. The approach would lead inexorably to changes in the structure of other public services, for example economic development, health or even police and fire services, as future reviews of the services would inevitably take account of strategic development planning area boundaries.

There is overwhelming opposition to the approach from the people of Fife, as the responses to the consultations demonstrated. I urge the committee to support the amendments in my name.

I move amendment 2.

12:15

Donald Gorrie: Amendment 84 approaches the problem that Iain Smith's amendments address, but it does so from a different angle. Jackie Baillie has lodged an amendment that tackles the same issue in a slightly different way, which we will consider when we consider another section in the bill. However, we all think that a group of authorities should not be told, "You must get together and be a strategic development planning authority." Co-operation between councils and planning on a wider level voluntarily is good but, if there is compulsion and councils are reluctant, that is a recipe for things to be done wrong.

In amendment 84, I suggest that the Scottish ministers would designate a group of authorities but that the authorities would have to agree. I also suggest that authorities that are contiguous to the proposed strategic development plan area should have some say in the proceedings. Iain Smith raised issues about Fife Council's being worried about being in too many strategic development plan areas. However, Falkirk Council, for example, is worried about falling down a hole between the wider Edinburgh region and the wider Glasgow region. Falkirk Council's concerns are the opposite of Fife Council's, but it should have a say in what is done.

I propose that councils that do not wish to be part of the strategic development planning

authority or which object to the designated strategic development plan area should be allowed to make representations to Parliament, which would vote on whether to support the dissidents or, in the cause of the greater good, to support the proposal to which they object. I also say that the Scottish ministers must take account of that and cannot designate an authority as part of a strategic development planning authority if Parliament has voted against that.

Iain Smith advanced arguments against the concept of city regions—we all have our views on those. That is not my point, however, which is to say that participation of authorities in a strategic development planning authority must be voluntary and based on public opinion in their area. Amendment 84 tries to deal with that. I hope that members will support it.

Euan Robson: I, too, have had concerns about which authority will be in what strategic development planning authority. There are some difficulties, which Iain Smith in particular has outlined. Amendment 27 proposes to address the situation in which an authority is sandwiched between potential strategic development plan areas so that it is possible for a local authority to be a member of more than one strategic development planning authority. Instead of the local authority's interests being represented in only one of the strategic development planning authorities or there being a need for some artificial division somewhere in the middle of Fife or another local authority area, the local authority's interests could be represented in both strategic development planning authorities.

There is also concern about compulsion and which authority will belong in which strategic development planning authority. Would it not be better for local authorities to combine themselves? There are also issues about the detail of what a strategic development planning authority will discuss. It may address issues that are confined to a certain geographical area, but it might need to discuss issues that are much broader and cover a bigger geographical area, so it is not possible to make a clear definition of a strategic development plan area unless one includes whole local authorities.

Amendment 27 is an attempt to address the issue that Iain Smith raised in relation to Fife. I also have considerable sympathy with Donald Gorrie's point about compulsion and am interested to hear what the minister has to say about it.

Scott Barrie: It will come as no surprise to the rest of the committee or the minister to hear that I, too, want to focus primarily on the issue as it affects Fife. However, what I say can be applied to the other proposed strategic development planning areas. Iain Smith summed up the view of

most people in Fife on the proposal. Often in Fife—probably because we are a bit different from everyone else—the only time that we get unanimity is when it seems that Fife is being attacked from the outside. We may not like things that are happening in Fife, but as soon as someone from outwith Fife suggests something, people tend to say that a development is okay and that they want it to go ahead.

It is clear that most people in Fife, as in the rest of Scotland, do not view the current planning regime in the best light. In the formation of the previous strategic development plan, there were clear examples of people feeling that their opinions were not heard and were not taken on board by the council. I am not sure that we can extrapolate from that that the system is working, which Iain Smith seemed to suggest by saying that he was opposed to the proposal for new strategic development planning authorities.

The devil is in the detail of the proposal. There is considerable fear that the new authorities will remove democratic accountability. We must make clear that that will not happen if we go down this road. At the same time, it is impossible for the planning decisions and strategic planning decisions that are taken in the city of Edinburgh not to affect what happens in the north and, in particular, the south of Fife—the area that I represent. There are good examples of that at South Queensferry, where permitted developments have had a knock-on effect on people who live in and travel from Fife, especially south Fife. Not having a say or any involvement in such decisions would be a retrograde step for people who live in areas on the periphery of the current planning authorities.

John Home Robertson will speak about East Lothian, but people in West Lothian have similar concerns about a takeover by Edinburgh. I do not think that that is the intention of the proposal for strategic development planning authorities, although it is often portrayed in that way. I ask members to cast their minds back a couple of months, to when we took evidence on the green belt. Both Tricia Marwick and I made clear that decisions that were or were not taken in Edinburgh have had an absolute, 100 per cent effect on south Fife, because land for development was available and new housing development was planned there. That has caused major problems for transport infrastructure.

Although I accept the concerns that Iain Smith and my constituents have expressed, the establishment of strategic development planning authorities offers the possibility of having decisions taken on a much more concerted basis, rather than having one authority do things that have direct effects on another area that has no say in

what happens. As I said, the devil is in the detail, but strategic development planning authorities could enable us to have a much more joined-up planning process, in which decisions are not taken in isolation and contiguous authorities are able to have a say in them.

I remain open minded on the issue and am keen to hear what the minister has to say. She gave evidence on the matter at stage 1, when we pressed her on how city regions will be developed.

John Home Robertson: I hope that there will be unanimity on the need for a co-ordinated approach to strategic planning. That makes sense. If it is necessary to make plans for regional developments, it is important that the local authorities that serve the areas concerned should be engaged and involved in working up those plans and planning decisions. We seek assistance from the minister on how that will be achieved, because there is anxiety on the issue. I fully understand the anxiety of colleagues from Fife, which falls within the orbit of two—perhaps more—strategic planning areas, one based on Dundee and one based on Edinburgh. The same probably applies around all the great cities.

For me, the issue, again, is Edinburgh. There is anxiety in East Lothian, Midlothian and West Lothian about total domination by the city, so it is important that there should be a clear understanding of how strategic development planning authorities will be constituted. It is important that a consensual approach is taken within such authorities. If the authority simply became the City of Edinburgh Council writ large because it was the biggest authority with the most members and the biggest population—if the City of Edinburgh Council could simply dictate that some things that it did not want in the city should be located somewhere else and could overrule the neighbouring smaller authorities—that would be intolerable. It is important that we are careful about how we approach the issue.

We all understand where the Executive wants to go and the need for co-ordinated planning, but we must ensure that a structure is established, that there is consensus about boundaries, and that there is a consensual approach towards decision making on strategic regional plans. It would be helpful if the minister could reassure us all on those points, so that we can go forward together.

Tricia Marwick: I have sympathy with Iain Smith's amendment 2. Even at this stage, we need much more clarity from the minister. John Home Robertson mentioned the fact that we need co-ordinated planning—I think that we all accept that. Those of us who represent Fife—either a constituency or the area—recognise the deep disquiet that exists there about the current proposals. There are also fears that Fife may be

swamped by either the Dundee area or the Edinburgh area.

Like Scott Barrie, I ask members to cast their minds back a few months to an example of local authorities working together in the Forth Estuary Transport Authority. City of Edinburgh Council councillors bludgeoned through a decision that there would be an increase in tolls on the Forth bridge, against the wishes of all the parties in Fife Council. We cannot afford to have similar situations arising in which the City of Edinburgh Council can go forward without taking account of the needs and aspirations of the people of Fife.

We cannot have areas such as Fife being dominated by either Edinburgh or Dundee to the extent that certain parts of Fife are mere dormitory areas for the cities. Economic development must be progressed in Fife—we have problems with that. We will probably need a new Forth bridge at some point in the future. The people of Fife would want a Forth bridge, but the jury is out on whether the people of Edinburgh would want it.

Given that there are a number of strategic issues that need to be dealt with, the minister should tread very carefully in talking about how she sees the situation developing and should take on board the real concerns that some of us in Fife have.

12:30

Johann Lamont: I assure members that I take seriously the points that have been made here and at stage 1 on this issue. I have no desire to bludgeon any local authority or any local community. The strategic development plan has been designed not only to make the process smoother but to ensure that city authorities recognise the implications of their decisions on local authorities round about them. That, not the opposite, is the purpose of the strategic development plans. I am more than happy to engage with members around the challenges that they face on this, to ensure that we reach a resolution. I am mindful of the critical issue of cross-boundary matters, which is what strategic development plans seek to address.

I certainly do not want to support creeping centralisation. Indeed, in other places the bill resists positions that would seek to centralise more planning decisions rather than make local decision making central to the planning process. I do not accept the assertion that strategic development plans are more remote or less accountable, and I am more than happy to work on ways in which we can give that assurance.

Before I go on to make comments on the amendments, which I am keen to put on the record, it is important to say that if there were

concerns about an individual authority, it would not be possible for a strategic development plan to come to ministers without an alternative proposal. Alternative proposals and concerns would be submitted at the same time as the plan, so there would be no opportunity for a strategic development plan to be represented as unanimously agreed. If it were felt that someone was simply being silenced and that critical concerns were not being addressed, that would be a matter for ministers.

It is important to remind ourselves that the speedy establishment of effective joint working arrangements between planning authorities is critical to the existence of the new strategic development plans that we propose. The bill currently allows ministers to designate, in secondary legislation, the groups of planning authorities that will work together to prepare the plans following consultation with the authorities and others. It does not define specific boundaries, which we believe should be a key initial task for the designated group of authorities.

Amendment 2 would allow authorities to decide to form a strategic development planning authority, only if they wished to do so. It would remove the ability to place a clear and immediate requirement on a group of authorities to work together to prepare a plan. That is a challenge not just for authorities that feel themselves being ignored, but for the cities, too. Given that there will undoubtedly be a range of views on who should be involved and how working arrangements should be organised, and there will be no mechanism for arbitration on a final decision, we believe that the amendment would increase the likelihood of disagreement and delay. We want the debate between authorities to focus on where the boundaries will lie and what the key issues are that each area faces; we do not want it to falter on who should be involved from the outset. We believe that the amendment provides greater uncertainty over whether effective joint working arrangements would be set up and, as a result, whether effective plans would be drawn up quickly.

Therefore, we consider that amendment 2 should be rejected, as should the consequential changes to wording that are proposed in amendments 3 to 5 and 7 to 9, as we strongly believe that they do not represent a clear or effective mechanism for delivering joint working on strategic development plans.

Section 48(14) of the bill amends section 277 of the 1997 act to introduce a definition of “strategic development planning authority”. That definition relies on the words that amendment 6 would remove. The term “strategic development planning authority” is used throughout the new part 2 and it

is not clear why that is considered necessary, although it may simply be considered as being consequent to Iain Smith's other amendments to the section. The provision in new section 4(4) to describe the group of authorities as a strategic development planning authority does not confer any specific powers on that authority; instead it attaches a term to the group of authorities as a whole, which for ease is then referred to in the rest of the development planning provisions. For that reason, as well as for the reasons for recommending that the committee reject amendments 2 to 5 and 7 to 9, I recommend that the committee reject amendment 6.

Amendment 84 would place a statutory requirement on Scottish ministers to consult authorities before designating the strategic development planning authorities and would give the Parliament the final say in deciding which authorities were and were not included.

We have already indicated to the Communities Committee our intention to consult planning authorities on the designation orders for the new strategic development planning authorities. That will follow on from a series of consultations and discussions with authorities that have already taken place, including the consultation "Making Development Plans Deliver", which set out the proposed groups of authorities. We believe that it is right that Scottish ministers should lead the consultation process on the designation orders and should have the opportunity to listen to all views before deciding on the final groupings. Scottish ministers will ensure that authorities have every opportunity to make their views known. Therefore, we recommend that the committee reject amendment 84.

On amendment 27, I am conscious of the significant issues that Euan Robson has highlighted today and before. Amendment 27 would allow planning authorities to form part of more than one strategic development planning authority. In fact, we have already consulted on our intention that Fife Council should form part of the strategic development planning authorities for the Dundee city region and the Edinburgh city region. The bill, as presently drafted, allows for that.

I understand the concerns about where the boundaries would be drawn for some of the strategic development planning areas, particularly in relation to Fife. I am also aware of the suggestion that only whole authorities should make up the strategic development planning authorities. However, amendment 27 would not require whole authorities to be part of each strategic development planning authority. If that is the intention, I urge Euan Robson to withdraw the

amendment to allow for further consideration and amendment at stage 3.

I am certainly happy to commit to further discussion with Euan Robson on the issue and to discuss with other members any anxieties that they have about the implications that strategic development plans might have for particular areas. However, it is in the interest of all local authorities to ensure that local authorities work together on cross-boundary issues.

Iain Smith: I thank members for their contributions to a debate on what is an important issue for my constituents and the people of Fife, although I am sure that it also has implications for other parts of Scotland.

I do not dispute that there might be advantages to having strategic development planning authorities, but I argue that they should not be a matter of compulsion. The bill should not provide ministers with the power to designate that an authority is to be part of an SDPA without the authority's agreement that that is in the interests of its area.

The issue needs to be considered in the context of the national planning framework. When authorities consider how they can deliver on that framework, they might come to the conclusion that they can do so only by working together across boundaries. That is why, rather than go down the road of proposing the removal of the proposed new section on strategic development planning authorities, my amendments would remove only those provisions that give ministers powers to designate which authorities form part of an SDPA. My amendments would make it clear that councils can come together on a voluntary basis to form such authorities.

As Tricia Marwick pointed out in relation to the operation of FETA, the people of Fife fear that the local authorities on the south of the Forth will gang up against Fife. If the local authorities on the north of the Tay also gang up against Fife, we might lose out in both directions. Although that is not the intention of the bill, the genuine fear that things will operate in that way does not build confidence in the planning system as the bill is meant to do.

I will press amendment 2. If the amendments in my name are not agreed to, I ask that the committee support those in the name of Donald Gorrie and Euan Robson.

The Convener: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)

Marwick, Tricia (Mid Scotland and Fife) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Home Robertson, John (East Lothian) (Lab)

Petrie, Dave (Highlands and Islands) (Con)

Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Barrie, Scott (Dunfermline West) (Lab)

Robson, Euan (Roxburgh and Berwickshire) (LD)

The Convener: The result of the division is: For 2, Against 4, Abstentions 2.

Amendment 2 disagreed to.

The Convener: Amendment 83 is in the name of Jackie Baillie, who has sat here extremely patiently. Amendment 83 is grouped with amendments 85, 28, 86 and 29. I refer members to the note on pre-emptions that is provided in the list of groupings.

Jackie Baillie: It has been very enjoyable to be with the committee and the minister at this morning's meeting. It has saved me from attending the Public Petitions Committee.

I will speak to amendments 83, 85 and 86. To avoid the misrepresentation of my position that was made earlier, let me say at the outset that I am comfortable with the Executive's provisions to require local authorities to prepare strategic development plans. I believe that we need city region planning. We cannot have a voluntary approach to that or an approach that allows authorities to opt out if it does not suit them. I am heartened by the minister's comment that there will be consultation in advance.

That said, I want to focus on the process and the mechanism that will deliver the outcome of a robust strategic development plan. In the words of the minister, we need to ensure that we have effective joint working relationships. The essential difference between my position and that of the Executive is that I favour the statutory establishment of joint committees of local authorities whereas the Executive favours providing a power simply to appoint a development plan manager and staff. Such an appointment alone would not, I believe, constitute effective joint working. John Home Robertson was absolutely right to say that the mechanism needs to be spelled out. That is exactly what amendments 83, 85 and 86 seek to do.

I will briefly set out my thinking. I propose that there should be a statutory joint committee comprising the local authorities identified by ministers in an order, with equal representation from the authorities concerned and with delegated powers to prepare the strategic development plan.

Any dedicated team of officers would naturally sit under that umbrella and in that context. We

know that that can work effectively because when we consider the Glasgow and Clyde valley joint structure plan and the Ayrshire joint structure plan, what we see are radical, positive, cross-border solutions being arrived at—some of them quite difficult, it has to be said—that relate closely to strategic delivery mechanisms. The consequence is that not only would there be a permanent strategic development plan team in place but, importantly, it would have local authority oversight and would make the right connections with other strategic delivery agencies such as enterprise agencies and regional transport partnerships.

Having worked in local government, I am clear that unless we attach importance to something, perhaps through a statutory joint committee, we will not get ownership of the strategic development plan by the constituent authorities. Such is the importance that we attach to them, I think that that is worthy of further consideration. Naturally, I hope that the minister will accept that the amendments are intended to be helpful—as I always try to be with amendments—but if for some strange reason she is unable to accept them, I urge her to consider the matter in future, so that we ensure that we have the best, most robust mechanism to secure the desired outcome, which is a shared one.

I move amendment 83.

Johann Lamont: I am happy both that Jackie Baillie is entertained and that she feels that she is being constructive. I share her desire for a robust mechanism and effective ways of working on whatever we are tackling, although she is being rather mischievous in implying that the Executive position is that we wish to establish who is the development manager for a particular proposal. I will go on to explain why that slightly misrepresents our position.

Effective joint working is essential to the early preparation of the strategic development plans. We want those arrangements to be put in place voluntarily, but where that fails, there needs to be a mechanism to ensure that arrangements are established relatively quickly. On the basis of good practice, for example in Glasgow and the Clyde valley and in Ayrshire, we believe that the most effective arrangement is joint committees with equal membership and staff dedicated to the task of preparing the plans in the interest of the wider city region. However, if it was necessary to use the powers, we would not intend to name specific people. It is about identifying an authority for legal purposes that will act as the employing authority so that funding and employment rights—which members would accept are critical—are channelled through that authority.

Section 4 allows ministers to issue guidance to planning authorities on strategic development

planning. We would intend that to include guidance on the issues of funding, membership and staffing.

Amendment 28 seeks to restrict ministers' powers to direct the assignment of staff to give the new strategic development planning authorities time to agree on effective joint working arrangements. In order to establish whether that has been achieved, amendment 29 gives ministers powers to request information from an authority in the strategic development planning authority on what progress has been made. In most cases, that should show that effective arrangements have been established and avoid the need for any direction from ministers. I therefore recommend that members accept the amendments.

Amendment 83 places a statutory requirement on the group of authorities designated as a strategic development planning authority to form a joint committee with equal membership. Although it is our intention that joint committees with dedicated staff should be set up to prepare and review the strategic development plans, we do not think that it should be a statutory requirement. Instead, we want those arrangements to be set up on a voluntary basis and local authorities to have some discretion in putting in place arrangements that work best for them. As I have said, ministers intend to issue guidance to the constituent authorities on the arrangements, for example recommending equal membership and voting rights. I therefore recommend that members reject amendment 83, as it represents a reduction in discretion for planning authorities.

Amendment 85 removes the powers for Scottish ministers to direct the assignment of staff for the preparation of the strategic development plan. We recognise the concerns of the Convention of Scottish Local Authorities about the involvement of ministers in staffing arrangements. However, effective arrangements for joint working are essential to getting plans in place quickly that are meaningful and fully address the issues facing the wider city regions. As I have stated, we want those arrangements to be put in place voluntarily with the agreement of all the constituent authorities. Where that is not possible, we think it is essential for ministers to be able to intervene and move the process forward. We hope, however, that that will not be necessary. Amendments 28 and 29 help to clarify when the powers could be used and to ensure that ministers have clear and accurate information about what progress is being made. In that light, I do not consider it appropriate to withdraw those backstop powers. I therefore recommend that the committee reject amendment 85.

12:45

Amendment 86 would change the definition of "strategic development planning authority", so that it related only to the joint committee. The definition in the bill is a general one that relates to the group of authorities that will act jointly to prepare a plan. By changing the definition, amendment 86 would confer on the joint committee all the functions that will be exercisable by the strategic development planning authority under part 2. The result, it would appear, would be to give the joint committee a higher role than the planning authorities would have, which would not be correct, either legally or as a matter of policy. Furthermore, even if, with further refinement and changes to the Local Government (Scotland) Act 1973, the proposed change could be made to work, redefining the strategic development planning authority as the joint committee would remove the identity of individual planning authorities from the process. Members have already highlighted that concern.

Amendment 86 would also remove the ability to attribute the title of strategic development plan manager to one of the officials who is assigned to prepare the plan. Given the importance of the plan and the need to manage the preparation process effectively, we consider that it will be helpful to identify one official who can act as a focus for the process and who can recommend the assignment of additional staff or resources as required. For those reasons, the two elements of amendment 86 would be detrimental to the aim of achieving effective plans. I therefore recommend that the amendment be rejected.

John Home Robertson: We are making useful headway on the issue. I am grateful for what the minister has just told us. Earlier, I mentioned the anxiety in small neighbouring authorities about, to put it bluntly, the power and domination that the cities tend to have. I think that the minister talked about equal membership and equal voting rights. I presume that that means equality for each authority that is involved in the partnership, which would be helpful, as it would do away entirely with that threat and anxiety. The concern is that small neighbouring authorities tend to see the good developments sucked into the cities, while the developments that nobody wants in their back yard are lumbered on them.

Johann Lamont: It does not feel like that to people who are in the cities.

John Home Robertson: I am sure that that is the case—such matters always look different depending on which side of the fence one is on. However, if the minister said that there will be equal voting rights and membership, that will allow the authorities to proceed only on the basis of consensus, which will be useful.

The Convener: The minister may want to respond to that specific point.

Johann Lamont: As I said earlier, we intend to issue guidance to the constituent authorities on the arrangements, which will recommend, for example, equal membership and voting rights.

The Convener: Ms Baillie, would you like to wind up the debate?

Jackie Baillie: Thank you, convener—I am good at winding up.

The minister has acknowledged that the one example of a system that works effectively is the Glasgow and Clyde valley joint structure plan. We are seeking to put in statute a mechanism that will deliver the same structure throughout Scotland to enable people to work in that consensual fashion. We know what works. I am a great believer that if we in government know what works and have evidence of it, we should apply that evidence in our policy making. I say to John Home Robertson, who seeks assurances on the issue, that although the minister will set out the mechanism in guidance, I am keen for it to be set out in statute. That would give us absolute assurance rather than just hope that local authorities will co-operate in the manner that we all desire.

Fundamentally, the issue is about the importance that local authorities accord to strategic development plans. It would be unhelpful if some local authorities considered the plans as an afterthought because we did not have robust mechanisms in place to ensure that the plans were central to their thinking. I welcome the backstop powers that the minister could exercise to ensure the kind of change that we all want, but I am unclear of their nature. I do not want to fall out unduly with the minister, so I will withdraw amendment 83, but I give notice that there is further discussion to be had to reflect genuinely on the concerns that have been raised, although not in an unhelpful way.

Amendment 83, by agreement, withdrawn.

Amendment 84 moved—[Donald Gorrie].

The Convener: The question is, that amendment 84 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)

The Convener: The result of the division is: For 0, Against 5, Abstentions 2.

Amendment 84 disagreed to.

The Convener: Does Iain Smith wish to move amendment 3?

Iain Smith: As amendment 3 and the other amendments in my name were consequential to amendment 2, there is no point in moving any of them.

Amendment 3 not moved.

The Convener: Does Euan Robson wish to move amendment 27?

Euan Robson: In the light of the minister's remarks about further discussion for an amendment at stage 3, I will not move amendment 27.

Amendment 27 not moved.

The Convener: If amendment 85 is agreed to, I will be unable to call amendments 4 and 5 because they will have been pre-empted. However, as Ms Baillie has left the meeting, I assume that amendment 85 is not being moved.

Amendments 85, 4 and 5 not moved.

Amendment 28 moved—[Johann Lamont]—and agreed to.

The Convener: I was going to point out that there is an issue about pre-emption involving amendment 6, but members do not need to know that because Mr Smith does not wish to move his amendment.

Amendments 6, 86 and 7 not moved.

Amendment 29 moved—[Johann Lamont]—and agreed to.

Amendment 8 not moved.

The Convener: Amendment 87, in the name of Donald Gorrie, is grouped with amendment 30.

Donald Gorrie: Amendment 87 requires that if alternative plans for the boundaries are put forward by those involved in the strategic development planning authority, the Parliament as well as other people are sent both versions of the plans. The Parliament would have the opportunity to make representations on its views on the alternative plans and, when ministers made their decision, they would have to pay attention to the views of Parliament and its committees.

As I suggested in my comments on other amendments, the Scottish Parliament should have a role to play in the matter. Ministers have to make the final decision, but those who are involved in a dispute about borders should have the chance to put their point to the Scottish Parliament. In

particular, MSPs for the affected area have a legitimate role to play. They are not as bound up in the issue as the councillors are, but they represent the area and should be able to contribute a well-informed but more dispassionate view and should be involved. Therefore, amendment 87 says that the alternative plans should be submitted to the Parliament and that the ministers have to pay some attention to the Parliament's views.

I move amendment 87.

Johann Lamont: At stage 1, the deputy convener, Euan Robson, questioned why there was no requirement for ministers to give reasons for their decisions on the boundaries of the strategic development plan areas, given that the final boundary may be different from that proposed by the strategic development planning authority or one of the constituent authorities. I recognise that that was also an issue for other members.

We acknowledge that that was an omission on our part and agree that it is sensible and fair for ministers to give their reasons. Amendment 30 would require ministers to give notice to the strategic development planning authority of their decision on the boundary and to include with it a statement of their reasons for making the determination. I therefore recommend that the committee should accept amendment 30.

Amendment 87 seeks to involve the Parliament in decisions on boundaries. However, I believe that the final say on boundaries should be for the Scottish ministers, based on the submissions received by the strategic development planning authority or, if there is disagreement, by individual authorities. We hope that there will be consensus on boundaries but, if that does not happen, ministers will carefully consider all sides—I emphasise that phrase—before making a decision. As set out in amendment 30, we would give full reasons for all decisions, whether there was consensus or not. I therefore consider that amendment 87 is not appropriate and recommend that the committee should reject it.

Euan Robson: I am grateful to the minister for her remarks about the issues that were raised at stage 1. I am content with amendment 30, which seems to cover the issue more than adequately and I will be pleased to support it.

Donald Gorrie: I stress to the minister that I am not suggesting that the Scottish Parliament should make the decision about boundaries; I am suggesting that it should have a legitimate role in commenting on the decision and that the ministers should have regard to those comments. A tug-of-war between the ministers and dissident groups within a strategic development planning authority that disagree about boundaries is less satisfactory than having the Scottish Parliament's views for the

ministers to take account of. Amendment 87 has merit and I press it.

The Convener: The question is, that amendment 87 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 87 disagreed to.

Amendment 9 not moved.

Amendment 30 moved—[Johann Lamont]—and agreed to.

The Convener: As it is almost 1 o'clock, I propose that the committee should end its stage 2 considerations for today. We will consider the groups that we did not arrive at next week.

Meeting closed at 12:59.

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